

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 596

Introduced by Assembly Member Daly

February 24, 2015

An act to ~~amend~~ *amend, repeal, and add* Sections 5300 and 5810 of the Civil Code, relating to common interest developments.

LEGISLATIVE COUNSEL'S DIGEST

AB 596, as amended, Daly. Common interest developments: annual budget report.

Existing law governing common interest developments, the Davis-Stirling Common Interest Development Act, requires the association of a common interest development to prepare and distribute to all of its members certain documents, including an annual budget report that includes, among other items of information, a pro forma operating budget. The act requires a notice to be provided if an insurance policy described in the annual budget report lapses, is canceled, or is not immediately renewed, restored, or replaced, or if there is a significant change as to the policy.

This bill ~~would~~ *would, beginning January 1, 2017*, require the annual budget report to also include a statement describing the status of the common interest development as a Federal Housing Administration (FHA)-approved *condominium project and as a federal Department of Veterans Affairs (VA)-approved* condominium project.

This bill ~~would~~ *would, beginning January 1, 2017*, also require the association of a common interest development to provide a notice to its members if there is any change in the status of the common interest development as an FHA-approved condominium project pursuant to

FHA guidelines or as a VA-approved condominium project pursuant to VA guidelines.

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 5300 of the Civil Code is amended to
2 read:

3 5300. (a) Notwithstanding a contrary provision in the
4 governing documents, an association shall distribute an annual
5 budget report 30 to 90 days before the end of its fiscal year.

6 (b) Unless the governing documents impose more stringent
7 standards, the annual budget report shall include all of the
8 following information:

9 (1) A pro forma operating budget, showing the estimated
10 revenue and expenses on an accrual basis.

11 (2) A summary of the association’s reserves, prepared pursuant
12 to Section 5565.

13 (3) A summary of the reserve funding plan adopted by the board,
14 as specified in paragraph (5) of subdivision (b) of Section 5550.
15 The summary shall include notice to members that the full reserve
16 study plan is available upon request, and the association shall
17 provide the full reserve plan to any member upon request.

18 (4) A statement as to whether the board has determined to defer
19 or not undertake repairs or replacement of any major component
20 with a remaining life of 30 years or less, including a justification
21 for the deferral or decision not to undertake the repairs or
22 replacement.

23 (5) A statement as to whether the board, consistent with the
24 reserve funding plan adopted pursuant to Section 5560, has
25 determined or anticipates that the levy of one or more special
26 assessments will be required to repair, replace, or restore any major
27 component or to provide adequate reserves therefor. If so, the
28 statement shall also set out the estimated amount, commencement
29 date, and duration of the assessment.

30 (6) A statement as to the mechanism or mechanisms by which
31 the board will fund reserves to repair or replace major components,
32 including assessments, borrowing, use of other assets, deferral of
33 selected replacements or repairs, or alternative mechanisms.

1 (7) A general statement addressing the procedures used for the
2 calculation and establishment of those reserves to defray the future
3 repair, replacement, or additions to those major components that
4 the association is obligated to maintain. The statement shall
5 include, but need not be limited to, reserve calculations made using
6 the formula described in paragraph (4) of subdivision (b) of Section
7 5570, and may not assume a rate of return on cash reserves in
8 excess of 2 percent above the discount rate published by the Federal
9 Reserve Bank of San Francisco at the time the calculation was
10 made.

11 (8) A statement as to whether the association has any outstanding
12 loans with an original term of more than one year, including the
13 payee, interest rate, amount outstanding, annual payment, and
14 when the loan is scheduled to be retired.

15 (9) A summary of the association’s property, general liability,
16 earthquake, flood, and fidelity insurance policies. For each policy,
17 the summary shall include the name of the insurer, the type of
18 insurance, the policy limit, and the amount of the deductible, if
19 any. To the extent that any of the required information is specified
20 in the insurance policy declaration page, the association may meet
21 its obligation to disclose that information by making copies of that
22 page and distributing it with the annual budget report. The
23 summary distributed pursuant to this paragraph shall contain, in
24 at least 10-point boldface type, the following statement:

25
26 “This summary of the association’s policies of insurance provides
27 only certain information, as required by Section 5300 of the Civil
28 Code, and should not be considered a substitute for the complete
29 policy terms and conditions contained in the actual policies of
30 insurance. Any association member may, upon request and
31 provision of reasonable notice, review the association’s insurance
32 policies and, upon request and payment of reasonable duplication
33 charges, obtain copies of those policies. Although the association
34 maintains the policies of insurance specified in this summary, the
35 association’s policies of insurance may not cover your property,
36 including personal property or real property improvements to or
37 around your dwelling, or personal injuries or other losses that occur
38 within or around your dwelling. Even if a loss is covered, you may
39 nevertheless be responsible for paying all or a portion of any
40 deductible that applies. Association members should consult with

1 their individual insurance broker or agent for appropriate additional
2 coverage.”

3
4 (c) The annual budget report shall be made available to the
5 members pursuant to Section 5320.

6 (d) The summary of the association’s reserves disclosed pursuant
7 to paragraph (2) of subdivision (b) shall not be admissible in
8 evidence to show improper financial management of an association,
9 provided that other relevant and competent evidence of the financial
10 condition of the association is not made inadmissible by this
11 provision.

12 (e) The Assessment and Reserve Funding Disclosure Summary
13 form, prepared pursuant to Section 5570, shall accompany each
14 annual budget report or summary of the annual budget report that
15 is delivered pursuant to this article.

16 (f) *This section shall remain in effect only until January 1, 2017,*
17 *and as of that date is repealed, unless a later enacted statute, that*
18 *is enacted before January 1, 2017, deletes or extends that date.*

19 SEC. 2. Section 5300 is added to the Civil Code, to read:

20 5300. (a) *Notwithstanding a contrary provision in the*
21 *governing documents, an association shall distribute an annual*
22 *budget report 30 to 90 days before the end of its fiscal year.*

23 (b) *Unless the governing documents impose more stringent*
24 *standards, the annual budget report shall include all of the*
25 *following information:*

26 (1) *A pro forma operating budget, showing the estimated*
27 *revenue and expenses on an accrual basis.*

28 (2) *A summary of the association’s reserves, prepared pursuant*
29 *to Section 5565.*

30 (3) *A summary of the reserve funding plan adopted by the board,*
31 *as specified in paragraph (5) of subdivision (b) of Section 5550.*
32 *The summary shall include notice to members that the full reserve*
33 *study plan is available upon request, and the association shall*
34 *provide the full reserve plan to any member upon request.*

35 (4) *A statement as to whether the board has determined to defer*
36 *or not undertake repairs or replacement of any major component*
37 *with a remaining life of 30 years or less, including a justification*
38 *for the deferral or decision not to undertake the repairs or*
39 *replacement.*

1 (5) A statement as to whether the board, consistent with the
2 reserve funding plan adopted pursuant to Section 5560, has
3 determined or anticipates that the levy of one or more special
4 assessments will be required to repair, replace, or restore any
5 major component or to provide adequate reserves therefor. If so,
6 the statement shall also set out the estimated amount,
7 commencement date, and duration of the assessment.

8 (6) A statement as to the mechanism or mechanisms by which
9 the board will fund reserves to repair or replace major
10 components, including assessments, borrowing, use of other assets,
11 deferral of selected replacements or repairs, or alternative
12 mechanisms.

13 (7) A general statement addressing the procedures used for the
14 calculation and establishment of those reserves to defray the future
15 repair, replacement, or additions to those major components that
16 the association is obligated to maintain. The statement shall
17 include, but need not be limited to, reserve calculations made using
18 the formula described in paragraph (4) of subdivision (b) of Section
19 5570, and may not assume a rate of return on cash reserves in
20 excess of 2 percent above the discount rate published by the
21 Federal Reserve Bank of San Francisco at the time the calculation
22 was made.

23 (8) A statement as to whether the association has any
24 outstanding loans with an original term of more than one year,
25 including the payee, interest rate, amount outstanding, annual
26 payment, and when the loan is scheduled to be retired.

27 (9) A summary of the association's property, general liability,
28 earthquake, flood, and fidelity insurance policies. For each policy,
29 the summary shall include the name of the insurer, the type of
30 insurance, the policy limit, and the amount of the deductible, if
31 any. To the extent that any of the required information is specified
32 in the insurance policy declaration page, the association may meet
33 its obligation to disclose that information by making copies of that
34 page and distributing it with the annual budget report. The
35 summary distributed pursuant to this paragraph shall contain, in
36 at least 10-point boldface type, the following statement:

37
38 "This summary of the association's policies of insurance
39 provides only certain information, as required by Section 5300 of
40 the Civil Code, and should not be considered a substitute for the

1 *complete policy terms and conditions contained in the actual*
2 *policies of insurance. Any association member may, upon request*
3 *and provision of reasonable notice, review the association's*
4 *insurance policies and, upon request and payment of reasonable*
5 *duplication charges, obtain copies of those policies. Although the*
6 *association maintains the policies of insurance specified in this*
7 *summary, the association's policies of insurance may not cover*
8 *your property, including personal property or real property*
9 *improvements to or around your dwelling, or personal injuries or*
10 *other losses that occur within or around your dwelling. Even if a*
11 *loss is covered, you may nevertheless be responsible for paying*
12 *all or a portion of any deductible that applies. Association members*
13 *should consult with their individual insurance broker or agent for*
14 *appropriate additional coverage."*

15
16 *(10) A statement describing the status of the common interest*
17 *development as a Federal Housing Administration (FHA)-approved*
18 *condominium project pursuant to FHA guidelines, including*
19 *whether the common interest development is an FHA-approved*
20 *condominium project. The statement shall be in at least 10-point*
21 *font and in the following form:*

22
23 *"Certification by the Federal Housing Administration may*
24 *provide benefits to members of an association, including an*
25 *improvement in an owner's ability to refinance a mortgage or*
26 *obtain secondary financing and an increase in the pool of potential*
27 *buyers of the separate interest.*

28 *This common interest development [is/is not (circle one)] a*
29 *condominium project. The association of this common interest*
30 *development [is/is not (circle one)] certified by the Federal*
31 *Housing Administration."*

32
33 *(11) A statement describing the status of the common interest*
34 *development as a federal Department of Veterans Affairs*
35 *(VA)-approved condominium project pursuant to VA guidelines,*
36 *including whether the common interest development is a*
37 *VA-approved condominium project. The statement shall be in at*
38 *least 10-point font and in the following form:*

39

1 *“Certification by the federal Department of Veterans Affairs*
2 *may provide benefits to members of an association, including an*
3 *improvement in an owner’s ability to refinance a mortgage or*
4 *obtain secondary financing and an increase in the pool of potential*
5 *buyers of the separate interest.*

6 *This common interest development [is/is not (circle one)] a*
7 *condominium project. The association of this common interest*
8 *development [is/is not (circle one)] certified by the federal*
9 *Department of Veterans Affairs.”*

10
11 *(c) The annual budget report shall be made available to the*
12 *members pursuant to Section 5320.*

13 *(d) The summary of the association’s reserves disclosed*
14 *pursuant to paragraph (2) of subdivision (b) shall not be admissible*
15 *in evidence to show improper financial management of an*
16 *association, provided that other relevant and competent evidence*
17 *of the financial condition of the association is not made*
18 *inadmissible by this provision.*

19 *(e) The Assessment and Reserve Funding Disclosure Summary*
20 *form, prepared pursuant to Section 5570, shall accompany each*
21 *annual budget report or summary of the annual budget report that*
22 *is delivered pursuant to this article.*

23 *(f) This section shall become operative on January 1, 2017.*

24 *SEC. 3. Section 5810 of the Civil Code is amended to read:*

25 5810. The association shall, as soon as reasonably practicable,
26 provide individual notice pursuant to Section 4040 to all members
27 if any of the policies described in the annual budget report pursuant
28 to Section 5300 have lapsed, been canceled, and are not
29 immediately renewed, restored, or replaced, or if there is a
30 significant change, such as a reduction in coverage or limits or an
31 increase in the deductible, as to any of those policies. If the
32 association receives any notice of nonrenewal of a policy described
33 in the annual budget report pursuant to Section 5300, the
34 association shall immediately notify its members if replacement
35 coverage will not be in effect by the date the existing coverage
36 will lapse.

37 *This section shall remain in effect only until January 1, 2017,*
38 *and as of that date is repealed, unless a later enacted statute, that*
39 *is enacted before January 1, 2017, deletes or extends that date.*

40 *SEC. 4. Section 5810 is added to the Civil Code, to read:*

1 5810. The association shall, as soon as reasonably practicable,
 2 provide individual notice pursuant to Section 4040 to all members
 3 if any of the following occur:

4 (a) Any of the policies described in the annual budget report
 5 pursuant to Section 5300 have lapsed, been canceled, and are not
 6 immediately renewed, restored, or replaced, or if there is a
 7 significant change, such as a reduction in coverage or limits or
 8 an increase in the deductible, as to any of those policies. If the
 9 association receives any notice of nonrenewal of a policy described
 10 in the annual budget report pursuant to Section 5300, the
 11 association shall immediately notify its members if replacement
 12 coverage will not be in effect by the date the existing coverage will
 13 lapse.

14 (b) Any change in the status of the common interest development
 15 as a Federal Housing Administration (FHA)-approved
 16 condominium project pursuant to FHA guidelines, including a
 17 description of the type of change, such as the approval,
 18 cancellation, or other nonrenewal of the approval.

19 (c) Any change in the status of the common interest development
 20 as a federal Department of Veterans Affairs (VA)-approved
 21 condominium project pursuant to VA guidelines, including a
 22 description of the type of change, such as approval, cancellation,
 23 or other nonrenewal of the approval.

24 ~~SECTION 1. Section 5300 of the Civil Code is amended to~~
 25 ~~read:~~

26 ~~5300. (a) Notwithstanding a contrary provision in the~~
 27 ~~governing documents, an association shall distribute an annual~~
 28 ~~budget report 30 to 90 days before the end of its fiscal year.~~

29 ~~(b) Unless the governing documents impose more stringent~~
 30 ~~standards, the annual budget report shall include all of the~~
 31 ~~following information:~~

32 ~~(1) A pro forma operating budget, showing the estimated~~
 33 ~~revenue and expenses on an accrual basis.~~

34 ~~(2) A summary of the association's reserves, prepared pursuant~~
 35 ~~to Section 5565.~~

36 ~~(3) A summary of the reserve funding plan adopted by the board,~~
 37 ~~as specified in paragraph (5) of subdivision (b) of Section 5550.~~
 38 ~~The summary shall include notice to members that the full reserve~~
 39 ~~study plan is available upon request, and the association shall~~
 40 ~~provide the full reserve plan to any member upon request.~~

1 ~~(4) A statement as to whether the board has determined to defer~~
2 ~~or not undertake repairs or replacement of any major component~~
3 ~~with a remaining life of 30 years or less, including a justification~~
4 ~~for the deferral or decision not to undertake the repairs or~~
5 ~~replacement.~~

6 ~~(5) A statement as to whether the board, consistent with the~~
7 ~~reserve funding plan adopted pursuant to Section 5560, has~~
8 ~~determined or anticipates that the levy of one or more special~~
9 ~~assessments will be required to repair, replace, or restore any major~~
10 ~~component or to provide adequate reserves therefor. If so, the~~
11 ~~statement shall also set out the estimated amount, commencement~~
12 ~~date, and duration of the assessment.~~

13 ~~(6) A statement as to the mechanism or mechanisms by which~~
14 ~~the board will fund reserves to repair or replace major components,~~
15 ~~including assessments, borrowing, use of other assets, deferral of~~
16 ~~selected replacements or repairs, or alternative mechanisms.~~

17 ~~(7) A general statement addressing the procedures used for the~~
18 ~~calculation and establishment of those reserves to defray the future~~
19 ~~repair, replacement, or additions to those major components that~~
20 ~~the association is obligated to maintain. The statement shall~~
21 ~~include, but need not be limited to, reserve calculations made using~~
22 ~~the formula described in paragraph (4) of subdivision (b) of Section~~
23 ~~5570, and may not assume a rate of return on cash reserves in~~
24 ~~excess of 2 percent above the discount rate published by the Federal~~
25 ~~Reserve Bank of San Francisco at the time the calculation was~~
26 ~~made.~~

27 ~~(8) A statement as to whether the association has any outstanding~~
28 ~~loans with an original term of more than one year, including the~~
29 ~~payee, interest rate, amount outstanding, annual payment, and~~
30 ~~when the loan is scheduled to be retired.~~

31 ~~(9) A summary of the association's property, general liability,~~
32 ~~earthquake, flood, and fidelity insurance policies. For each policy,~~
33 ~~the summary shall include the name of the insurer, the type of~~
34 ~~insurance, the policy limit, and the amount of the deductible, if~~
35 ~~any. To the extent that any of the required information is specified~~
36 ~~in the insurance policy declaration page, the association may meet~~
37 ~~its obligation to disclose that information by making copies of that~~
38 ~~page and distributing it with the annual budget report. The~~
39 ~~summary distributed pursuant to this paragraph shall contain, in~~
40 ~~at least 10-point boldface type, the following statement:~~

1 ~~“This summary of the association’s policies of insurance provides~~
2 ~~only certain information, as required by Section 5300 of the Civil~~
3 ~~Code, and should not be considered a substitute for the complete~~
4 ~~policy terms and conditions contained in the actual policies of~~
5 ~~insurance. Any association member may, upon request and~~
6 ~~provision of reasonable notice, review the association’s insurance~~
7 ~~policies and, upon request and payment of reasonable duplication~~
8 ~~charges, obtain copies of those policies. Although the association~~
9 ~~maintains the policies of insurance specified in this summary, the~~
10 ~~association’s policies of insurance may not cover your property,~~
11 ~~including personal property or real property improvements to or~~
12 ~~around your dwelling, or personal injuries or other losses that occur~~
13 ~~within or around your dwelling. Even if a loss is covered, you may~~
14 ~~nevertheless be responsible for paying all or a portion of any~~
15 ~~deductible that applies. Association members should consult with~~
16 ~~their individual insurance broker or agent for appropriate additional~~
17 ~~coverage.”~~

18 ~~(10) A statement describing the status of the common interest~~
19 ~~development as a Federal Housing Administration (FHA)-approved~~
20 ~~condominium project pursuant to FHA guidelines, including~~
21 ~~whether the common interest development is an FHA-approved~~
22 ~~condominium project.~~

23 ~~(c) The annual budget report shall be made available to the~~
24 ~~members pursuant to Section 5320.~~

25 ~~(d) The summary of the association’s reserves disclosed pursuant~~
26 ~~to paragraph (2) of subdivision (b) shall not be admissible in~~
27 ~~evidence to show improper financial management of an association,~~
28 ~~provided that other relevant and competent evidence of the financial~~
29 ~~condition of the association is not made inadmissible by this~~
30 ~~provision.~~

31 ~~(e) The Assessment and Reserve Funding Disclosure Summary~~
32 ~~form, prepared pursuant to Section 5570, shall accompany each~~
33 ~~annual budget report or summary of the annual budget report that~~
34 ~~is delivered pursuant to this article.~~

35 ~~SEC. 2. Section 5810 of the Civil Code is amended to read:~~

36 ~~5810. The association shall, as soon as reasonably practicable,~~
37 ~~provide individual notice pursuant to Section 4040 to all members~~
38 ~~if either of the following occur:~~

39 ~~(a) Any of the policies described in the annual budget report~~
40 ~~pursuant to Section 5300 have lapsed, been canceled, and are not~~

1 immediately renewed, restored, or replaced, or if there is a
2 significant change, such as a reduction in coverage or limits or an
3 increase in the deductible, as to any of those policies. If the
4 association receives any notice of nonrenewal of a policy described
5 in the annual budget report pursuant to Section 5300, the
6 association shall immediately notify its members if replacement
7 coverage will not be in effect by the date the existing coverage
8 will lapse.

9 (b) Any change in the status of the common interest development
10 as a Federal Housing Administration (FHA)-approved
11 condominium project pursuant to FHA guidelines, including a
12 description of the type of change, such as the approval,
13 cancellation, or other nonrenewal of the approval.