

AMENDED IN ASSEMBLY MAY 5, 2015

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, repeal, and add ~~Sections 5300 and 5810~~ *Section 5300* 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, beginning ~~January 1, 2017~~, *July 1, 2016*, require the annual budget report to also include a *separate* 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, 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,

1 including assessments, borrowing, use of other assets, deferral of
2 selected replacements or repairs, or alternative mechanisms.

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

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

17 (9) A summary of the association's property, general liability,
18 earthquake, flood, and fidelity insurance policies. For each policy,
19 the summary shall include the name of the insurer, the type of
20 insurance, the policy limit, and the amount of the deductible, if
21 any. To the extent that any of the required information is specified
22 in the insurance policy declaration page, the association may meet
23 its obligation to disclose that information by making copies of that
24 page and distributing it with the annual budget report. The
25 summary distributed pursuant to this paragraph shall contain, in
26 at least 10-point boldface type, the following statement:
27

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

1 nevertheless be responsible for paying all or a portion of any
 2 deductible that applies. Association members should consult with
 3 their individual insurance broker or agent for appropriate additional
 4 coverage.”

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

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

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

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

21 *(f) This section shall become inoperative on July 1, 2016, and,*
 22 *as of January 1, 2017, is repealed, unless a later enacted statute,*
 23 *that becomes operative on or before January 1, 2017, deletes or*
 24 *extends the dates on which it becomes inoperative and is repealed.*

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

19
 20 (10) A statement describing the status of the common interest
 21 development as a Federal Housing Administration (FHA)-approved
 22 condominium project pursuant to FHA guidelines, including
 23 whether the common interest development is an FHA-approved
 24 condominium project. The statement shall be in at least 10-point
 25 font *on a separate piece of paper* and in the following form:

26
 27 “Certification by the Federal Housing Administration may
 28 provide benefits to members of an association, including an
 29 improvement in an owner’s ability to refinance a mortgage or
 30 obtain secondary financing and an increase in the pool of potential
 31 buyers of the separate interest.

32 This common interest development [is/is not (circle one)] a
 33 condominium project. The association of this common interest
 34 development [is/is not (circle one)] certified by the Federal Housing
 35 Administration.”

36
 37 (11) A statement describing the status of the common interest
 38 development as a federal Department of Veterans Affairs
 39 (VA)-approved condominium project pursuant to VA guidelines,
 40 including whether the common interest development is a

1 VA-approved condominium project. The statement shall be in at
2 least 10-point font *on a separate piece of paper* and in the
3 following form:

4

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

10 This common interest development [is/is not (circle one)] a
11 condominium project. The association of this common interest
12 development [is/is not (circle one)] certified by the federal
13 Department of Veterans Affairs.”

14

15 (c) The annual budget report shall be made available to the
16 members pursuant to Section 5320.

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

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

27 (f) This section shall become operative on ~~January 1, 2017.~~ *July*
28 *1, 2016.*

29 ~~SEC. 3. Section 5810 of the Civil Code is amended to read:~~

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

1 coverage will not be in effect by the date the existing coverage
2 will lapse.

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

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

7 5810. The association shall, as soon as reasonably practicable,
8 provide individual notice pursuant to Section 4040 to all members
9 if any of the following occur:

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

20 (b) Any change in the status of the common interest development
21 as a Federal Housing Administration (FHA)-approved
22 condominium project pursuant to FHA guidelines, including a
23 description of the type of change, such as the approval,
24 cancellation, or other nonrenewal of the approval.

25 (c) Any change in the status of the common interest development
26 as a federal Department of Veterans Affairs (VA)-approved
27 condominium project pursuant to VA guidelines, including a
28 description of the type of change, such as approval, cancellation,
29 or other nonrenewal of the approval.