

## Memorandum 2011-32

**2011 Legislative Program (Status Report)**

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The attached table summarizes the status of the Commission's 2011 legislative program. The staff will supplement that information orally, if necessary, at the August meeting.

As can be seen, the 2011 legislative program was successful. All of the Commission-recommended bills have been enacted, except for AB 805 and AB 806 (Torres) (which are proceeding as two-year bills, as planned).

The remainder of this memorandum discusses possible amendments to AB 805 and AB 806, which were introduced to implement the Commission's recommendation to recodify the Davis-Stirling Common Interest Development Act. See *Statutory Clarification and Simplification of CID Law* (Feb. 2011).

Unless otherwise indicated, statutory references in this memorandum are to the Civil Code.

**BILL COORDINATION AMENDMENTS**

As planned, AB 805 (Torres) and AB 806 (Torres) are proceeding as two-year bills. They have both been approved by the Assembly and will be considered by the Senate in 2012.

In 2011, a number of bills were enacted that made changes to provisions contained within the two bills. See AB 657 (Gordon); AB 771 (Butler); AB 887 (Atkins); AB 1298 (Blumenfield); SB 53 (Calderon); SB 150 (Correa); SB 209 (Corbett); SB 563 (Committee on Transportation and Housing).

A draft of the necessary amendments, with changes shown in strikeout and underscore, is attached to this memorandum.

For the most part, the draft simply adopts the new language of the 2011 bills verbatim. However, there are a few points of divergence, which are noted below (and in notes following the sections in the attached draft).

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Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

## **Conformity with Improvements Made in AB 805**

Assembly Bill 805 makes the following minor improvements to existing law:

- Commonly used terms are defined and used consistently.
- Document delivery rules are standardized.
- Some references to a “majority” of directors are replaced with references to a number of directors sufficient to constitute a quorum (to more reliably reflect the number required to take official action as a body).

Some of the provisions in the attached draft include changes necessary to implement those improvements in the affected provisions. These changes are indicated in notes following those provisions.

### **Reference Error Corrected**

Assembly Bill 771 added Section 1368.2, which sets out a form to be used to disclose costs charged by an association when providing documents pursuant to Section 1368. In the attached draft amendments, that provision would be continued in proposed Section 4528.

One element of the form refers to the existing requirement that the association provide copies of board meeting minutes. However, the form mistakenly cites Section 1368(a)(9) as the source of that requirement. It should have cited Section 1368(a)(10). The attached draft corrects that error.

### **Restatement for Clarity**

There is one provision that the staff believes should be restated, to make it easier to understand. As amended by SB 563, Section 1363.05(f) now reads as follows:

Unless the bylaws provide for a longer period of notice, members shall be given notice of the time and place of a meeting as defined in subdivision (k), except for an emergency meeting or a meeting that will be held solely in executive session, at least four days prior to the meeting. Except for an emergency meeting, members shall be given notice of the time and place of a meeting that will be held solely in executive session at least two days prior to the meeting. Notice shall be given by posting the notice in a prominent place or places within the common area and by mail to any owner who had requested notification of board meetings by mail, at the address requested by the owner. Notice may also be given by mail, by delivery of the notice to each unit in the development, by newsletter or similar means of communication, or,

with the consent of the member, by electronic means. The notice shall contain the agenda for the meeting.

The staff believes that the various conditions and cases provided in that subdivision could be stated more clearly, without making any substantive change. In the attached draft, that provision would be restated as follows:

4920. (a) Except as provided in subdivision (b), the association shall give notice of the time and place of a board meeting at least four days before the meeting.

(b) (1) If a board meeting is an emergency meeting held pursuant to Section 4923, the association is not required to give notice of the time and place of the meeting.

(2) If a non-emergency board meeting is held solely in executive session, the association shall give notice of the time and place of the meeting at least two days prior to the meeting.

(3) If the association's governing documents require a longer period of notice than is required by this section, the association shall comply with the rule stated in its governing documents.

(c) Notice of a board meeting shall be given by general delivery pursuant to Section 4045.

(d) Notice of a board meeting shall contain the agenda for the meeting.

The staff will consult with legislative staff to determine if that restatement is acceptable. **If there is no objection to the change, the staff recommends that it be made.**

## **Conclusion**

**The staff recommends that the Commission approve the amendments and Comment revisions set out in the attached draft.**

Because we have not yet published a final version of our recommendation on *Statutory Clarification and Simplification of CID Law*, any amendments or Comment revisions approved by the Commission can be incorporated directly into the final version of the recommendation. It will not be necessary to publish a supplemental report to memorialize those revisions.

## STAFF-RECOMMENDED AMENDMENTS

The staff has identified a number of minor amendments that should probably be made to AB 805 (and the Commission's recommendation). Those possible amendments are discussed below.

## Application of Proposed Law

In Memorandum 2011-30, on pages 31 and 32, the staff discussed concerns about the meaning and effect of proposed Section 6505, which would govern the retroactive application of the proposed law on Commercial and Industrial CIDs. The Commission approved the following clarifying revisions:

6505. Nothing in the act that added this part shall be construed to invalidate a document prepared or action taken before January 1, 2014, if the document or action was proper under the law governing common interest developments at the time that the document was prepared or the action was taken. For the purposes of this section, "document" does not include a governing document.

**Comment.** Section 6505 is new. It makes clear that any changes to former law made by enactment of this act shall not be construed to retroactively invalidate documents prepared or actions taken prior to the operative date of the act.

The term "documents" is used to describe notices, forms, and other procedural or transactional instruments. It is not meant to include the governing documents of the association. Governing documents must conform to the law. See Section 6600.

See Minutes (Aug. 2011), p. 4.

Assembly Bill 805 contains a parallel provision, which presents exactly the same interpretive concern discussed in Memorandum 2011-30. For the reasons discussed in that memorandum, **the staff recommends the following revisions to proposed Section 4010:**

4010. Nothing in the act that added this part shall be construed to invalidate a document prepared or action taken before January 1, 2014, if the document or action was proper under the law governing common interest developments at the time that the document was prepared or the action was taken. For the purposes of this section, "document" does not include a governing document.

**Comment.** Section 4010 is new. It makes clear that any changes to former law made by enactment of this act shall not be construed to retroactively invalidate documents prepared or actions taken prior to the operative date of the act.

The term "documents" is used to describe notices, forms, and other procedural or transactional instruments. It is not meant to include the governing documents of the association. Governing documents must conform to the law. See Section 4205.

## Scope of Notice Provision

Proposed Section 5305 governs the distribution of a review of an association's annual financial statement:

5305. Unless the governing documents impose more stringent standards, a review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars (\$75,000). A copy of the review of the financial statement shall be distributed within 120 days after the close of each fiscal year, by individual delivery pursuant to Section 4040.

That provision specifies the manner in which the document is to be distributed, but does not specify the recipients. That omission could create problems. **The staff recommends that the gap be filled by amending proposed Section 5305 as follows:**

5305. Unless the governing documents impose more stringent standards, a review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars (\$75,000). A copy of the review of the financial statement shall be distributed to the members within 120 days after the close of each fiscal year, by individual delivery pursuant to Section 4040.

## Technical Drafting Problems

There are a small number of technical drafting problems that should probably be addressed while AB 805 is being amended:

- In AB 805, proposed Section 5375 is misnumbered as Section 5370. That error should be corrected.
- Consistent with the general practice in AB 805, the phrase "board of directors" should be replaced with the defined term "board" in proposed Section 5570(a)(3).
- Consistent with the general practice in AB 805, the phrase "pro forma operating budget" should be replaced with the defined term "annual budget report" in proposed Section 5570(b)(3).
- An erroneous reference to "this article" should be replaced with "Section 5300" in proposed Section 5570(b)(3).

**The staff recommends that those corrections be made.**

## OTHER POSSIBLE AMENDMENT

The staff has received an email from attorney Duncan McPherson, who recently made a presentation on AB 805 at a conference attended by over 300 CID homeowners, board members, attorneys, managers, and other interested persons. Mr. McPherson related three concerns that were raised by conference participants. The first involves a change that AB 805 would make to existing law. It is discussed below.

The other two involve problems with existing law, which would not be created by AB 805. The Commission is not in a position to address these issues in connection with AB 805. The staff has noted the issues for possible future study.

### **Governing Document Hierarchy**

Proposed Section 4205 was included in the proposed law to establish a clear hierarchy of authority between the law and the most common types of CID governing documents, thus:

4205. (a) The governing documents may not include a provision that is inconsistent with the law. To the extent of any inconsistency between the governing documents and the law, the law controls.

(b) The articles of incorporation may not include a provision that is inconsistent with the declaration. To the extent of any inconsistency between the articles of incorporation and the declaration, the declaration controls.

(c) The bylaws may not include a provision that is inconsistent with the declaration or the articles of incorporation. To the extent of any inconsistency between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration control.

(d) The operating rules may not include a provision that is inconsistent with the declaration, articles of incorporation, or bylaws. To the extent of any inconsistency between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation, or declaration control.

According to Mr. McPherson, a number of people at the conference were concerned about whether that language would impose an affirmative duty to purge superseded language from existing documents. This is particularly a concern where document amendment is difficult and expensive (as it can be).

The Commission has discussed this question before. See Memorandum 2011-30, pp. 25-26. As explained there, it was the staff's view that the language would make clear that associations should not add contradictory language to its

governing documents and, to the extent practicable, should remove such language.

However, the staff does not believe that the Commission ever intended to create an enforceable legal duty to amend a governing document that contains language contradicting a superior document. To the extent that the provision is being read as imposing such a duty, it could create unnecessary problems.

This issue could be addressed quite simply, by deleting the first sentence of each subdivision, thus:

~~4205. (a) The governing documents may not include a provision that is inconsistent with the law. To the extent of any inconsistency between the governing documents and the law, the law controls.~~

~~(b) The articles of incorporation may not include a provision that is inconsistent with the declaration. To the extent of any inconsistency between the articles of incorporation and the declaration, the declaration controls.~~

~~(c) The bylaws may not include a provision that is inconsistent with the declaration or the articles of incorporation. To the extent of any inconsistency between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration control.~~

~~(d) The operating rules may not include a provision that is inconsistent with the declaration, articles of incorporation, or bylaws. To the extent of any inconsistency between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation, or declaration control.~~

That would preserve the main purpose of the provision, while eliminating any inference that the section imposes a mandatory duty to delete superseded language. **Should such a change be made?**

**If the Commission makes this change, it should make a parallel change in the separate recommendation on commercial and industrial CIDs.**

Respectfully submitted,

Brian Hebert  
Executive Director

# Status of 2011 Commission Legislative Program

As of November 8, 2011

		AB 805	AB 806	AB 1402		SB 190	SB 284	SB 647			
<b>Introduced Last Amended</b>		2/17/11	2/17/11	3/2/11		2/8/11	2/14/11	2/18/11			
				3/30/11		3/16/01	3/29/11	6/16/11			
<b>First House</b>	Policy Committee	4/6/11	4/6/11	4/12/11		3/29/11	3/29/11	5/3/11			
	Second Committee	4/26/11	4/26/11	—		—	—	—			
	Passed House	5/2/11	5/2/11	4/28/11		4/7/11	4/7/11	5/27/11			
<b>Second House</b>	Policy Committee	2-Year Bill	2-Year Bill	6/7/11		6/14/11	6/14/11	6/21/11			
	Second Committee			—		—	—	8/17/11			
	Passed House			8/18/11		6/20/11	6/20/11	8/25/11			
<b>Concurrence</b>				8/22/11				9/6/11			
<b>Governor</b>	Received Approved			8/26/11		6/22/11	6/22/11				
				9/7/11		6/29/11	6/29/11	9/21/11			
<b>Secretary of State</b>	Date Chapter #			9/7/11		7/1/11	7/1/11	9/21/11			
				285		44	46	308			

**Bill List:** AB 805 (Torres): Statutory Clarification and Simplification of CID Law  
 AB 806 (Torres): Statutory Clarification and Simplification of CID Law (Conforming Revisions)  
 AB 1402 (Committee on Public Safety): Deadly Weapons: Clean-Up Legislation  
 SB 190 (Lowenthal): Mechanics Lien Law: Clean-Up Legislation  
 SB 284 (Harman): Marketable Record Title: Notice of Option  
 SB 647 (Committee on Judiciary): Obsolete Cross-References to former Code Civ. Proc. § 116.780(d)

KEY

*Italics:* Future or speculative

“—”: Not applicable

\*: Double referral, not fiscal

[date]: Deadline



ASSEMBLY BILL 805 (TORRES) BILL COORDINATION AMENDMENTS

1 **Staff Note.** This document sets out draft amendments to implement 2011 legislation affecting  
2 provisions contained within AB 805 (Torres). Where necessary, revised Comment language  
3 is also set out.

4 **Civ. Code § 4090 (amended) (implementing amendment of Civ. Code § 1363.05(k)(2) by SB**  
5 **563). “Board meeting” defined**

6 4090. “Board meeting” means ~~any~~ either of the following:

7 (a) A congregation at the same time and place, of a sufficient number of  
8 directors to establish a quorum of the board, to hear, discuss, or deliberate upon  
9 any item of business scheduled to be heard by the board, except those matters that  
10 may be discussed in executive session. of business that is within the authority of  
11 the board. For the purposes of this subdivision, “item of business” means any  
12 action within the authority of the board, except those actions that the board has  
13 validly delegated to any other person or persons, managing agent, officer of the  
14 association, or committee of the board comprising less than a quorum of the board.

15 (b) A teleconference in which a sufficient number of directors to establish a  
16 quorum of the board, in different locations, are connected by electronic means,  
17 through audio or video or both. A teleconference meeting shall be conducted in a  
18 manner that protects the rights of members of the association and otherwise  
19 complies with the requirements of this title. Except for a meeting that will be held  
20 solely in executive session, the notice of the teleconference meeting shall identify  
21 at least one physical location so that members of the association may attend and at  
22 least one member of the board of directors shall be present at that location.  
23 Participation by directors in a teleconference meeting constitutes presence at that  
24 meeting as long as all directors participating in the meeting are able to hear one  
25 another and members of the association speaking on matters before the board.

26 **Comment.** Section 4090 continues former Section 1363.05~~(j)~~(k)(2) without change, except as  
27 indicated below.

28 The following substantive change is made:

- 29 • The number of directors required to establish a board meeting is changed from a  
30 majority of the members to a number constituting a quorum.

31 The following nonsubstantive changes are made:

- 32 • The word “meeting” is replaced with “board meeting,” to distinguish between a board  
33 meeting and a member meeting. See Section 4090 (“board meeting”).
- 34 • The words “board member” are replaced with “director.” See Section 4140  
35 (“director”).

36 See also Section 4085 (“board”).

1 **Staff Note.** This section replaces references to a “majority” of the board with references to a  
2 sufficient number of directors to establish a quorum. In addition, the terms “board member”  
3 and “member of the board of directors” have been replaced with the defined term “director.”

4 **Civ. Code § 4202 (amended) (implementing amendment of 1373 by SB 150). Commercial**  
5 **and industrial CIDs**

6 4202. (a) The following provisions do not apply to a common interest  
7 development that is limited to industrial or commercial uses by zoning or by a  
8 declaration of covenants, conditions, and restrictions that has been recorded in the  
9 official records of each county in which the common interest development is  
10 located:

11 (1) Section 4275.

12 (2) Article 5 (commencing with Section 4340) of Chapter 3.

13 (3) Article 2 (commencing with Section 4525), and Article 3 (commencing with  
14 Section 4575), of Chapter 4.

15 (4) Section 4600.

16 (5) Section 4740

17 (6) Section 4765.

18 ~~(7)~~ (7) Sections 5300, 5305, 5565, and 5810, and paragraph (7) of subdivision  
19 (a) of Section 5310.

20 ~~(8)~~ (8) Sections 5500 through 5560, inclusive.

21 ~~(9)~~ (9) Subdivision (b) of Section 5600.

22 ~~(10)~~ (10) Subdivision (b) of Section 5605.

23 (b) The Legislature finds that the provisions listed in subdivision (a) are  
24 appropriate to protect purchasers in residential common interest developments,  
25 however, the provisions may not be necessary to protect purchasers in commercial  
26 or industrial developments since the application of those provisions could result in  
27 unnecessary burdens and costs for these types of developments.

28 **Comment.** Section 4202 continues former Section 1373 without change, except as indicated  
29 below.

30 The following nonsubstantive changes are made:

- 31 • Former Section 1373(a)(3) is superfluous and is not continued.
- 32 • Cross-references are updated to reflect the new location of the referenced provisions.
- 33 • Subdivision (a)(4) is added to continue the substance of former Section  
34 1363.07(a)(3)(F).
- 35 • Subdivision (a)~~(9)~~ (10) refers only to Section 5605(b). It does not refer to the  
36 emergency exception provisions of Section 5610, which were also part of former  
37 Section 1366(b).

38 See also Sections 4100 (“common interest development”), 4135 (“declaration”).

39 **Civ. Code § 4280 (amended) (implementing amendment of Civ. Code § 1363.5 by AB 657).**  
40 **Articles of incorporation**

41 4280. (a) The articles of incorporation of an association filed with the Secretary  
42 of State on or after January 1, 1995, shall include a statement, which shall be in

1 addition to the statement of purposes of the corporation, that does all of the  
2 following:

3 (1) Identifies the corporation as an association formed to manage a common  
4 interest development under the Davis-Stirling Common Interest Development Act.

5 (2) States the business or corporate office of the association, if any, and, if the  
6 office is not on the site of the common interest development, states the ~~nine digit~~  
7 ZIP Code, front street, front street and nearest cross street for the physical location  
8 of the common interest development.

9 (3) States the name and address of the association’s managing agent, if any.

10 (b) The statement of ~~principal business activity contained in the annual~~  
11 ~~statement~~ filed by an incorporated association with the Secretary of State pursuant  
12 to Section ~~4502~~ 8210 of the Corporations Code shall also contain ~~the statement~~  
13 ~~specified in subdivision (a)~~ a statement identifying the corporation as an  
14 association formed to manage a common interest development association under  
15 the Davis-Stirling Common Interest Development Act.

16 **Comment.** Section 4280 continues former Section 1363.5 without change, except as indicated  
17 below.

18 The following nonsubstantive changes are made:

- 19 • A cross-reference to the definition of “managing agent” is not continued. See Section  
20 4155 (“managing agent”).
- 21 • The words “common interest development association” are replaced with  
22 “association.”

23 See also Corp. Code §§ ~~4502 (annual statement)~~, 7130-7135 (content of articles of  
24 incorporation), 7810-7820 (amendment of articles of incorporation), 7150-7153 (content and  
25 amendment of bylaws), 8210 (biennial filing).

26 See also Sections 4080 (“association”), 4100 (“common interest development”).

27 **Civ. Code § 4525 (amended) (implementing amendment of Civ. Code § 1368(a) by AB 771).**

28 **Seller disclosure**

29 4525. (a) The owner of a separate interest shall provide the following documents  
30 to a prospective purchaser of the separate interest, as soon as practicable before the  
31 transfer of title or the execution of a real property sales contract, as defined in  
32 Section 2985:

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

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

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

1 (4) A true statement in writing obtained from an authorized representative of the  
2 association as to the amount of the association's current regular and special  
3 assessments and fees, any assessments levied upon the owner's interest in the  
4 common interest development that are unpaid on the date of the statement, and any  
5 monetary fines or penalties levied upon the owner's interest and unpaid on the  
6 date of the statement. The statement obtained from an authorized representative  
7 shall also include true information on late charges, interest, and costs of collection  
8 which, as of the date of the statement, are or may be made a lien upon the owner's  
9 interest in a common interest development pursuant to Article 2 (commencing  
10 with Section 5650) of Chapter 8.

11 (5) A copy or a summary of any notice previously sent to the owner pursuant to  
12 Section 5855 that sets forth any alleged violation of the governing documents that  
13 remains unresolved at the time of the request. The notice shall not be deemed a  
14 waiver of the association's right to enforce the governing documents against the  
15 owner or the prospective purchaser of the separate interest with respect to any  
16 violation. This paragraph shall not be construed to require an association to inspect  
17 an owner's separate interest.

18 (6) A copy of the ~~preliminary~~ initial list of defects provided to each member  
19 pursuant to Section 6000, unless the association and the builder subsequently enter  
20 into a settlement agreement or otherwise resolve the matter and the association  
21 complies with Section 6100. Disclosure of the ~~preliminary~~ initial list of defects  
22 pursuant to this paragraph does not waive any privilege attached to the document.  
23 The ~~preliminary~~ initial list of defects shall also include a statement that a final  
24 determination as to whether the list of defects is accurate and complete has not  
25 been made.

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

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

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

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


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

39 **Comment.** Section 4525 continues the substance of former Section 1368(a) without change,  
40 except as indicated below.

41 The following nonsubstantive changes are made:

- 42 • Cross-references are updated to reflect the new location of the referenced provisions.

- 1 • The words “association’s board of directors” are replaced with “board.” See Section
- 2 4085 (“board”).
- 3 • A reference to a meeting of the board of directors is replaced with “board meeting.”
- 4 See Section 4090 (“board meeting”).
- 5 • Subdivision (a)(1) is revised to make clear that all governing documents must be
- 6 provided. See Section 4150 (“governing documents”).
- 7 • The words “member of the association” are replaced with “member.” See Section 4160
- 8 (“member”).
- 9 See also Sections 4080 (“association”), 4100 (“common interest development”), 4185
- 10 (“separate interest”).

11  **Staff Note.** Subdivision (a)(10) has been revised to use the defined terms “board meeting”

12 and “board.”

13 **Civ. Code § 4528 (added) (implementing addition of Civ. Code § 1368.2 by AB 771).**

14 **Disclosure document charges**

15 4528. The form for billing disclosures required by Section 4525 shall be in

16 substantially the following form:

CHARGES FOR DOCUMENTS PROVIDED AS REQUIRED BY SECTION 4525\*

Property Address

Owner of Property

Owner’s Mailing Address (If known or different from property address.)

Provider of the Section 4525 Items:

Print Name \_\_\_\_\_ Position or Title \_\_\_\_\_ Association or Agent

Date Form Completed

Check or Complete Applicable Column or Columns Below

Document	Civil Code Section	Included	Not Available (N/A) or Not Applicable (N/App)
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Articles of Incorporation or statement that not Section 4525(a)(1)

incorporated	
CC&Rs	Section 4525(a)(1)
Bylaws	Section 4525(a)(1)
Operating Rules	Section 4525(a)(1)
Age restrictions, if any	Section 4525(a)(2)
Annual budget report or summary, including reserve study	Sections 5300 and 4525(a)(3)
Assessment and reserve funding disclosure summary	Sections 5300 and 4525(a)(4)
Financial statement review	Sections 5305 and 4525(a)(3)
Assessment enforcement policy	Sections 5310 and 4525(a)(4)
Insurance summary	Sections 5300 and 4525(a)(3)
Regular assessment	Section 4525(a)(4)
Special assessment	Section 4525(a)(4)
Emergency assessment	Section 4525(a)(4)
Other unpaid obligations of seller	Sections 5675 and 4525(a)(4)
Approved changes to assessments	Sections 5300 and 4525(a)(4), (8)
Settlement notice regarding common area defects	Sections 4525(a)(6), (7) and 6100
Preliminary list of defects	Sections 4525(a)(6), 6000, and 6100
Notice(s) of violation	Sections 5855 and 4525(a)(5)
Required statement of fees	Section 4525
Minutes of regular board meetings conducted over the previous 12 months, if requested	Section 4525(a)(10)

Total fees for these documents:


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

1 **Comment.** Section 4528 continues former Section 1368.2 without change, except as indicated  
2 below.

3 The following nonsubstantive changes are made:

- 4 • An erroneous reference to former Section 1368(a)(9) is corrected to refer to Section  
5 4525(a)(10) (which continues former Section 1368(a)(10)).
- 6 • A reference to the “pro forma operating budget” is replaced with the defined term  
7 “annual budget report.” See Section 4076 (“annual budget report”).
- 8 • A reference to a meeting of the board of directors is replaced with the defined term  
9 “board meeting.” See Section 4090 (“board meeting”).

10 See also Section 4095 (“common area”).

11  **Staff Note.** The reference to the provision relating to board meeting minutes erroneously  
12 refers to Section 1368(a)(9). It should refer to (a)(10). That reference has been corrected in  
13 the draft amendments. In addition, the phrases “pro forma operating budget” and “meeting of  
14 the board of directors” have been replaced with the defined terms “annual budget report” and  
15 “board meeting,” respectively.

16 **Civ. Code § 4530 (amended) (implementing amendment of Civ. Code § 1368(b) by AB 771).**

17 **Information to be provided by association**

18 4530. (a) Upon written request, an association shall, within 10 days of the  
19 mailing or delivery of the request, provide the owner of a separate interest with a  
20 copy of the requested items specified in Section 4525.

21 ~~(b) The items required to be made available pursuant to this section may be~~  
22 ~~maintained in electronic form and requesting parties shall have the option of~~  
23 ~~receiving them by electronic transmission or machine readable storage media if~~  
24 ~~the association maintains these items in electronic form.~~

25 ~~(c) The association may charge a reasonable fee for this service based upon the~~  
26 ~~association’s actual cost to procure, prepare, and reproduce the requested items.~~

27 (1) Upon receipt of a written request, the association shall provide, on the form  
28 described in Section 4528, a written or electronic estimate of the fees that will be  
29 assessed for providing the requested documents. The documents required to be  
30 made available pursuant to this section may be maintained in electronic form, and  
31 may be posted on the association’s Internet Web site. Requesting parties shall  
32 have the option of receiving the documents by electronic transmission if the  
33 association maintains the documents in electronic form. The association may  
34 collect a reasonable fee based upon the association’s actual cost for the

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

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

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

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

12 (5) The association shall also provide a recipient authorized by the owner of a  
13 separate interest with a copy of the completed form specified in Section 4528 at  
14 the time the required documents are delivered.

15 **Heading of Article 1 of Chapter 4 of Part 5 (amended) (facilitating the addition of proposed**  
16 **Civ. Code §§ 4740 and 4745)**

17 **Article 1. ~~Use of Separate Interest Protected Uses~~**

18 **Civ. Code § 4740 (added) (implementing addition of Civ. Code § 1360.2 by SB 150). Rental**  
19 **restrictions**

20 4740. (a) An owner of a separate interest in a common interest development  
21 shall not be subject to a provision in a governing document or an amendment to a  
22 governing document that prohibits the rental or leasing of any of the separate  
23 interests in that common interest development to a renter, lessee, or tenant unless  
24 that governing document, or amendment thereto, was effective prior to the date the  
25 owner acquired title to his or her separate interest.

26 (b) Notwithstanding the provisions of this section, an owner of a separate  
27 interest in a common interest development may expressly consent to be subject to  
28 a governing document or an amendment to a governing document that prohibits  
29 the rental or leasing of any of the separate interests in the common interest  
30 development to a renter, lessee, or tenant.

31 (c) For purposes of this section, the right to rent or lease the separate interest of  
32 an owner shall not be deemed to have terminated if the transfer by the owner of all  
33 or part of the separate interest meets at least one of the following conditions:

34 (1) Pursuant to Section 62 or 480.3 of the Revenue and Taxation Code, the  
35 transfer is exempt, for purposes of reassessment by the county tax assessor.

36 (2) Pursuant to subdivision (b) of, solely with respect to probate transfers, or  
37 subdivision (e), (f), or (g) of, Section 1102.2, the transfer is exempt from the  
38 requirements to prepare and deliver a Real Estate Transfer Disclosure Statement,  
39 as set forth in Section 1102.6.

40 (d) Prior to renting or leasing his or her separate interest as provided by this  
41 section, an owner shall provide the association verification of the date the owner



1 acquired title to the separate interest and the name and contact information of the  
2 prospective tenant or the prospective tenant’s representative.

3 (e) Nothing in this section shall be deemed to revise, alter, or otherwise affect  
4 the voting process by which a common interest development adopts or amends its  
5 governing documents.

6 (f) This section shall apply only to a provision in a governing document or a  
7 provision in an amendment to a governing document that becomes effective on or  
8 after January 1, 2012.

9 Comment. Section 4740 continues former Section 1360.2 without change.  
10 See also Sections 4100 (“common interest development”), 4150 (“governing document”), 4185  
11 (“separate interest”).

12 **Civ. Code § 4745 (added) (implementing addition of Civ. Code § 1353.9 by SB 209). Electric**  
13 **vehicle charging station**

14 4745. (a) Any covenant, restriction, or condition contained in any deed, contract,  
15 security instrument, or other instrument affecting the transfer or sale of any  
16 interest in a common interest development, and any provision of a governing  
17 document, as defined in Section 4150, that effectively prohibits or restricts the  
18 installation or use of an electric vehicle charging station is void and unenforceable.

19 (b)(1) This section does not apply to provisions that impose reasonable  
20 restrictions on electric vehicle charging stations. However, it is the policy of the  
21 state to promote, encourage, and remove obstacles to the use of electric vehicle  
22 charging stations.

23 (2) For purposes of this section, “reasonable restrictions” are restrictions that do  
24 not significantly increase the cost of the station or significantly decrease its  
25 efficiency or specified performance.

26 (c) An electric vehicle charging station shall meet applicable health and safety  
27 standards and requirements imposed by state and local permitting authorities.

28 (d) For purposes of this section, “electric vehicle charging station” means a  
29 station that is designed in compliance with the California Building Standards Code  
30 and delivers electricity from a source outside an electric vehicle into one or more  
31 electric vehicles. An electric vehicle charging station may include several charge  
32 points simultaneously connecting several electric vehicles to the station and any  
33 related equipment needed to facilitate charging plug-in electric vehicles.

34 (e) If approval is required for the installation or use of an electric vehicle  
35 charging station, the application for approval shall be processed and approved by  
36 the association in the same manner as an application for approval of an  
37 architectural modification to the property, and shall not be willfully avoided or  
38 delayed. The approval or denial of an application shall be in writing. If an  
39 application is not denied in writing within 60 days from the date of receipt of the  
40 application, the application shall be deemed approved, unless that delay is the  
41 result of a reasonable request for additional information.

1 (f) If the electric vehicle charging station is to be placed in a common area or an  
2 exclusive use common area, as designated in the common interest development's  
3 declaration, the following provisions apply:

4 (1) The homeowner first shall obtain approval from the common interest  
5 development to install the electric vehicle charging station and the common  
6 interest development shall approve the installation if the homeowner agrees in  
7 writing to do all of the following:

8 (A) Comply with the common interest development's architectural standards for  
9 the installation of the station.

10 (B) Engage a licensed contractor to install the station.

11 (C) Within 14 days of approval, provide a certificate of insurance that names the  
12 common interest development as an additional insured under the homeowner's  
13 insurance policy.

14 (D) Pay for the electricity usage associated with the station.

15 (2) The homeowner and each successive homeowner of the parking stall on  
16 which or near where the electric vehicle charging station is placed shall be  
17 responsible for all of the following:

18 (A) Costs for damage to the station, common areas, exclusive common areas, or  
19 adjacent units resulting from the installation, maintenance, repair, removal, or  
20 replacement of the station.

21 (B) Costs for the maintenance, removal, repair, and replacement of the electric  
22 vehicle charging station until it has been removed from the common area or  
23 exclusive use common area.

24 (C) The cost of electricity associated with the station.

25 (D) Disclosing to prospective buyers the existence of any electric vehicle  
26 charging station and the related responsibilities of the homeowner.

27 (3) The homeowner and each successive homeowner, at all times, shall maintain  
28 an umbrella liability coverage policy in the amount of one million dollars  
29 (\$1,000,000) covering the obligations of the owner under paragraph (2), and shall  
30 name the common interest development as an additional insured under the policy  
31 with a right to notice of cancellation.

32 (g) An association that willfully violates this section shall be liable to the  
33 applicant or other party for actual damages, and shall pay a civil penalty to the  
34 applicant or other party in an amount not to exceed one thousand dollars (\$1,000).

35 (h) In any action to enforce compliance with this section, the prevailing plaintiff  
36 shall be awarded reasonable attorney's fees.

37 (i) An association may create a new parking space where one did not previously  
38 exist to facilitate the installation of an electric vehicle charging station.

39 **Comment.** Section 4745 continues former Section 1353.9 without change, except as indicated  
40 below.

41 The following nonsubstantive change is made:

- 42 • A statutory cross-reference is updated to reflect the new location of the referenced  
43 provision.

1 See also Sections 4080 (“association”), 4095 (“common area”), 4100 (“common interest  
2 development”), 4145 (“exclusive use common area”), 4150 (“governing document”).

3 **Civ. Code § 4920 (amended) (implementing amendment of Civ. Code § 1363.05(f) by SB**  
4 **563). Notice of board meeting**

5 ~~4920. Unless the governing documents provide for a longer period of notice,~~  
6 ~~members shall be given notice of the time and place of a board meeting, except for~~  
7 ~~an emergency meeting held pursuant to Section 4923, at least four days prior to~~  
8 ~~the meeting. Notice shall be given by general delivery pursuant to Section 4045.~~  
9 ~~The notice shall contain the agenda for the meeting.~~

10 4920. (a) Except as provided in subdivision (b), the association shall give notice  
11 of the time and place of a board meeting at least four days before the meeting.

12 (b)(1) If a board meeting is an emergency meeting held pursuant to Section  
13 4923, the association is not required to give notice of the time and place of the  
14 meeting.

15 (2) If a non-emergency board meeting is held solely in executive session, the  
16 association shall give notice of the time and place of the meeting at least two days  
17 prior to the meeting.

18 (3) If the association’s governing documents require a longer period of notice  
19 than is required by this section, the association shall comply with the rule stated in  
20 its governing documents.

21 (c) Notice of a board meeting shall be given by general delivery pursuant to  
22 Section 4045.

23 (d) Notice of a board meeting shall contain the agenda for the meeting.

24 **Comment.** Section 4920 ~~continues~~ restates former Section 1363.05(f) without change, except  
25 as indicated below.

26 The following substantive ~~changes are~~ change is made:

- 27 • ~~An exception for an association with a fixed meeting schedule is not continued.~~
- 28 • Specific rules on delivery of notice are replaced with a functionally equivalent  
29 requirement that notice be given by “general delivery,” pursuant to Section 4045.
- 30 • The word “bylaws” is replaced with “governing documents,” to broaden the scope of  
31 the provision.

32 The following nonsubstantive changes are made:

- 33 • The word “meeting” is replaced with “board meeting.” See Section 4090 (“board  
34 meeting”).
- 35 • ~~The word “bylaws” is replaced with “governing documents,” to broaden the scope of~~  
36 ~~the provision.~~
- 37 • A reference is added to Section 4923, which continues the emergency meeting  
38 provisions of former Section 1363.05(g).

39 See also Sections 4080 (“association”), 4150 (“governing documents”), 4160 (“member”).

1 **Staff Notes.** (1) Section 4920 has been restructured to make it easier to understand, without  
2 changing its substantive effect. Consistent with the general approach in AB 805, specific  
3 language relating to the manner of notice delivery has been replaced with a reference to the  
4 equivalent provisions of Section 4045.

5 (2) SB 563 implemented one of the Commission’s substantive reform recommendations, by  
6 deleting an exception for an association with a fixed meeting schedule. Consequently,  
7 reference to that change should be deleted from the Comment. In addition, the preliminary  
8 part to the Commission’s recommendation should be revised to delete reference to that  
9 reform.

10 (3) The proposal to change “bylaw” to “governing document” is probably better  
11 characterized as a substantive change. The Comment is revised to that effect.

12 **Civ. Code § 4925 (amended) (implementing amendment of Civ. Code § 1363.05(b) by SB**  
13 **563). Board meeting open**

14 4925. (a) Any member may attend board meetings, except when the board  
15 adjourns ~~to~~ to, or meets solely in executive session. As specified in subdivision (a)  
16 of Section 4090, a member of the association shall be entitled to attend a  
17 teleconference meeting or the portion of a teleconference meeting that is open to  
18 members, and that meeting or portion of the meeting shall be audible to the  
19 members in a location specified in the notice of the meeting.

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

24 **Civ. Code § 4930 (amended) (implementing addition of Civ. Code § 1363(j)-(k)(1) by SB**  
25 **563). Limitation on meeting content**

26 4930. (a) Except as described in subdivisions (b) to (e), inclusive, the board may  
27 not discuss or take action on any item at a nonemergency meeting unless the item  
28 was placed on the agenda included in the notice that was distributed pursuant to  
29 subdivision (a) of Section 4920. This subdivision does not prohibit a member or  
30 resident who is not a director from speaking on issues not on the agenda.

31 (b) Notwithstanding subdivision (a), a director, a managing agent or other agent  
32 of the board, or a member of the staff of the board, may do any of the following:

33 (1) Briefly respond to statements made or questions posed by a person speaking  
34 at a meeting as described in subdivision (b) of Section 4925.

35 (2) Ask a question for clarification, make a brief announcement, or make a brief  
36 report on the person’s own activities, whether in response to questions posed by a  
37 member or based upon the person’s own initiative.

38 (c) Notwithstanding subdivision (a), the board or a director, subject to rules or  
39 procedures of the board, may do any of the following:

40 (1) Provide a reference to, or provide other resources for factual information to,  
41 its managing agent or other agents or staff.

1 (2) Request its managing agent or other agents or staff to report back to the  
2 board at a subsequent meeting concerning any matter, or take action to direct its  
3 managing agent or other agents or staff to place a matter of business on a future  
4 agenda.

5 (3) Direct its managing agent or other agents or staff to perform administrative  
6 tasks that are necessary to carry out this section.

7 (d) Notwithstanding subdivision (a), the board may take action on any item of  
8 business not appearing on the agenda distributed pursuant to subdivision (a) of  
9 Section 4920 under any of the following conditions:

10 (1) Upon a determination made by a majority of the board present at the meeting  
11 that an emergency situation exists. An emergency situation exists if there are  
12 circumstances that could not have been reasonably foreseen by the board, that  
13 require immediate attention and possible action by the board, and that, of  
14 necessity, make it impracticable to provide notice.

15 (2) Upon a determination made by the board by a vote of two-thirds of the  
16 directors present at the meeting, or, if less than two-thirds of total membership of  
17 the board is present at the meeting, by a unanimous vote of the directors present,  
18 that there is a need to take immediate action and that the need for action came to  
19 the attention of the board after the agenda was distributed pursuant to subdivision  
20 (a) of Section 4920.

21 (3) The item appeared on an agenda that was distributed pursuant to subdivision  
22 (a) of Section 4920 for a prior meeting of the board that occurred not more than 30  
23 calendar days before the date that action is taken on the item and, at the prior  
24 meeting, action on the item was continued to the meeting at which the action is  
25 taken.

26 (e) Before discussing any item pursuant to subdivision (d), the board shall  
27 openly identify the item to the members in attendance at the meeting.

28 (f) The board shall not take action on any item of business outside of a meeting.

29 (g)(1) Notwithstanding Section 7211 of the Corporations Code, the board shall  
30 not conduct a meeting via a series of electronic transmissions, including, but not  
31 limited to, electronic mail, except as specified in paragraph (2).

32 (2) Electronic transmissions may be used as a method of conducting an  
33 emergency meeting if all directors, individually or collectively, consent in writing  
34 to that action, and if the written consent or consents are filed with the minutes of  
35 the board meeting. Written consent to conduct an emergency meeting may be  
36 transmitted electronically.

37 (h) As used in this section, “item of business” means any action within the  
38 authority of the board, except those actions that the board has validly delegated to  
39 any other person or persons, managing agent, officer of the association, or  
40 committee of the board comprising less than a quorum of the board.

41 **Comment.** Section 4930 continues former Section 1363.05(i)-(k)(1) without change, except as  
42 indicated below.

43 The following substantive change is made:

- Subdivision (h) is revised to refer to a quorum of the board, rather than a “majority” of the board.

The following nonsubstantive changes are made:

- References to “posting” of notice are not continued. Section 4920 does not require that notice be “posted.”
- The numbering of the paragraphs of the former provision is simplified.
- Statutory references are updated to reflect the new location of the referenced provision.
- In subdivision (b)(2), the words “his or her” are replaced with “the person’s.”
- Subdivision (d)(2) is revised to make clear that the “members” referenced in that paragraph are members of the board.
- The words “board of directors” are replaced throughout with “board.” See Section 4085 (“board”).
- The words “board member” are replaced with “director” throughout. See Section 4140 (“director”).
- The word “member” is added to the second sentence of subdivision (a) to make clear that the section applies to nonresident members. See Section 4160 (“member”).

See also Sections 4080 (“association”), 4155 (“managing agent”).

**Staff Note.** This section replaces a reference to a “majority” of the board with a reference to a quorum. In addition, the defined terms “board” and “director” have been used in place of “board of directors” and “member of the board,” respectively.

**Civ. Code § 5000 (amended) (implementing amendment of Civ. Code § 1363(e) by SB 563).**

**Member meeting**

5000. (a) Meetings of the membership of the association shall be conducted in accordance with a recognized system of parliamentary procedure or any parliamentary procedures the association may adopt.

~~(b) Notwithstanding any other provision of law, notice of meetings of the members shall specify those matters the board intends to present for action by the members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action.~~

~~(c)~~ (b) The board shall permit any member to speak at any meeting of the membership of the association. A reasonable time limit for all members to speak at a meeting of the association shall be established by the board.

**Civ. Code § 5200 (amended) (implementing amendment of Civ. Code § 1365.2(a) by SB**

**563). Definitions**

5200. For the purposes of this article, the following definitions shall apply:

(a) “Association records” means all of the following:

(1) Any financial document required to be provided to a member in Article 7 (commencing with Section 5300) or in Sections 5565 and 5810.

(2) Any financial document or statement required to be provided in Article 2 (commencing with Section 4525) of Chapter 4.

(3) Interim financial statements, periodic or as compiled, containing any of the following:

- 1 (A) Balance sheet.
- 2 (B) Income and expense statement.
- 3 (C) Budget comparison.
- 4 (D) General ledger. A “general ledger” is a report that shows all transactions that
- 5 occurred in an association account over a specified period of time.

6 The records described in this paragraph shall be prepared in accordance with an

7 accrual or modified accrual basis of accounting.

- 8 (4) Executed contracts not otherwise privileged under law.
- 9 (5) Written board approval of vendor or contractor proposals or invoices.
- 10 (6) State and federal tax returns.
- 11 (7) Reserve account balances and records of payments made from reserve
- 12 accounts.
- 13 (8) Agendas and minutes of meetings of the members, the board and any
- 14 committees appointed by the board pursuant to Section 7212 of the Corporations
- 15 Code; excluding, however, ~~agendas, minutes,~~ minutes and other information from
- 16 executive sessions of the board as described in Article 2 (commencing with
- 17 Section 4900).

18 (9) Membership lists, including name, property address, and mailing address,

19 but not including information for members who have opted out pursuant to Section

20 5220.

- 21 (10) Check registers.
- 22 (11) The governing documents.
- 23 (12) An accounting prepared pursuant to subdivision (b) of Section 5520.
- 24 (13) An “enhanced association record” as defined in subdivision (b).

25 (b) “Enhanced association records” means invoices, receipts and canceled

26 checks for payments made by the association, purchase orders approved by the

27 association, credit card statements for credit cards issued in the name of the

28 association, statements for services rendered, and reimbursement requests

29 submitted to the association.

30 **Civ. Code § 5215 (amended) (implementing amendment of Civ. Code § 1365.2(d) by SB**

31 **563). Withholding and redaction**

32 5215. (a) Except as provided in subdivision (b), the association may withhold or

33 redact information from the association records if any of the following are true:

34 (1) The release of the information is reasonably likely to lead to identity theft.

35 For the purposes of this section, “identity theft” means the unauthorized use of

36 another person’s personal identifying information to obtain credit, goods, services,

37 money, or property. Examples of information that may be withheld or redacted

38 pursuant to this paragraph include bank account numbers of members or vendors,

39 social security or tax identification numbers, and check, stock, and credit card

40 numbers.

41 (2) The release of the information is reasonably likely to lead to fraud in

42 connection with the association.

1 (3) The information is privileged under law. Examples include documents  
2 subject to attorney-client privilege or relating to litigation in which the association  
3 is or may become involved, and confidential settlement agreements.

4 (4) The release of the information is reasonably likely to compromise the  
5 privacy of an individual member of the association.

6 (5) The information contains any of the following:

7 (A) Records of ~~a la carte~~ a la carte goods or services provided to individual  
8 members of the association for which the association received monetary  
9 consideration other than assessments.

10 (B) Records of disciplinary actions, collection activities, or payment plans of  
11 members other than the member requesting the records.

12 (C) Any person's personal identification information, including, without  
13 limitation, social security number, tax identification number, driver's license  
14 number, credit card account numbers, bank account number, and bank routing  
15 number.

16 (D) ~~Agendas, minutes,~~ Minutes and other information from executive sessions  
17 of the board as described in Article 2 (commencing with Section 4900), except for  
18 executed contracts not otherwise privileged. Privileged contracts shall not include  
19 contracts for maintenance, management, or legal services.

20 (E) Personnel records other than the payroll records required to be provided  
21 under subdivision (b).

22 (F) Interior architectural plans, including security features, for individual homes.

23 (b) Except as provided by the attorney-client privilege, the association may not  
24 withhold or redact information concerning the compensation paid to employees,  
25 vendors, or contractors. Compensation information for individual employees shall  
26 be set forth by job classification or title, not by the employee's name, social  
27 security number, or other personal information.

28 (c) No association, officer, director, employee, agent, or volunteer of an  
29 association shall be liable for damages to a member of the association or any third  
30 party as the result of identity theft or other breach of privacy because of the failure  
31 to withhold or redact that member's information under this section unless the  
32 failure to withhold or redact the information was intentional, willful, or negligent.

33 (d) If requested by the requesting member, an association that denies or redacts  
34 records shall provide a written explanation specifying the legal basis for  
35 withholding or redacting the requested records.

36 **Civ. Code § 5405 (amended) (implementing amendment of Civ. Code § 1363.6 by AB 657).**

37 **State registry**

38 5405. (a) To assist with the identification of common interest developments,  
39 each association, whether incorporated or unincorporated, shall submit to the  
40 Secretary of State, on a form and for a fee not to exceed thirty dollars (\$30) that  
41 the Secretary of State shall prescribe, the following information concerning the  
42 association and the development that it manages:



1 (1) A statement that the association is formed to manage a common interest  
2 development under the Davis-Stirling Common Interest Development Act.

3 (2) The name of the association.

4 (3) The street address of the business or corporate office of the association, if  
5 any.

6 ~~(4)~~ The street address of the association's onsite office, or, if none, of the if  
7 different from the street address of the business or corporate office, or if there is  
8 no onsite office, the street address of the responsible officer or managing agent of  
9 the association.

10 ~~(4)~~ (5) The name, address, and either the daytime telephone number or e-mail  
11 address of the president of the association, other than the address, telephone  
12 number, or e-mail address of the association's onsite office or managing agent.

13 ~~(5)~~ (6) The name, street address, and daytime telephone number of the  
14 association's managing agent, if any.

15 ~~(6)~~ (7) The county, and if in an incorporated area, the city in which the  
16 development is physically located. If the boundaries of the development are  
17 physically located in more than one county, each of the counties in which it is  
18 located.

19 ~~(7)~~ (8) If the development is in an unincorporated area, the city closest in  
20 proximity to the development.

21 ~~(8)~~ The nine digit ZIP Code, front street, (9) The front street and nearest cross  
22 street of the physical location of the development.

23 ~~(9)~~ (10) The type of common interest development managed by the association.

24 ~~(10)~~ (11) The number of separate interests in the development.

25 (b) The association shall submit the information required by this section as  
26 follows:

27 (1) By incorporated associations, within 90 days after the filing of its original  
28 articles of incorporation, and thereafter at the time the association files its ~~biennial~~  
29 statement of principal business activity with the Secretary of State pursuant to  
30 Section 8210 of the Corporations Code.

31 (2) By unincorporated associations, in July of 2003, and in that same month  
32 biennially thereafter. Upon changing its status to that of a corporation, the  
33 association shall comply with the filing deadlines in paragraph (1).

34 (c) The association shall notify the Secretary of State of any change in the street  
35 address of the association's onsite office or of the responsible officer or managing  
36 agent of the association in the form and for a fee prescribed by the Secretary of  
37 State, within 60 days of the change.

38 (d) The penalty for an incorporated association's noncompliance with the initial  
39 or biennial filing requirements of this section shall be suspension of the  
40 association's rights, privileges, and powers as a corporation and monetary  
41 penalties, to the same extent and in the same manner as suspension and monetary  
42 penalties imposed pursuant to Section 8810 of the Corporations Code.

1     (e) The statement required by this section may be filed, notwithstanding  
2 suspension of the corporate powers, rights, and privileges under this section or  
3 under provisions of the Revenue and Taxation Code. Upon the filing of a  
4 statement under this section by a corporation that has suffered suspension under  
5 this section, the Secretary of State shall certify that fact to the Franchise Tax  
6 Board and the corporation may thereupon be relieved from suspension, unless the  
7 corporation is held in suspension by the Franchise Tax Board by reason of Section  
8 23301, 23301.5, or 23775 of the Revenue and Taxation Code.

9     (f) The Secretary of State shall make the information submitted pursuant to  
10 paragraph ~~(4)~~ (5) of subdivision (a) available only for governmental purposes and  
11 only to Members of the Legislature and the Business, Transportation and Housing  
12 Agency, upon written request. All other information submitted pursuant to this  
13 section shall be subject to public inspection pursuant to the California Public  
14 Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title  
15 1 of the Government Code). The information submitted pursuant to this section  
16 shall be made available for governmental or public inspection.


17     (g) Whenever any form is filed pursuant to this section, it supersedes any  
18 previously filed form.

19     (h) The Secretary of State may destroy or otherwise dispose of any form filed  
20 pursuant to this section after it has been superseded by the filing of a new form.

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ASSEMBLY BILL 806 (TORRES) BILL COORDINATION AMENDMENTS

1  **Staff Note.** This document sets out draft amendments to implement 2011 legislation affecting  
2 provisions contained within AB 806 (Torres). The draft amendments also include the changes  
3 that are proposed in AB 806. Where necessary, revised Comment language is also set out.

4 **Bus. & Prof. Code § 10177 (amended) (implementing SB 53). Suspension, revocation, or**  
5 **denial of real estate license**

6 10177. The commissioner may suspend or revoke the license of a real estate  
7 licensee, or may deny the issuance of a license to an applicant, who has done any  
8 of the following, or may suspend or revoke the license of a corporation, or deny  
9 the issuance of a license to a corporation, if an officer, director, or person owning  
10 or controlling 10 percent or more of the corporation's stock has done any of the  
11 following:

12 (a) Procured, or attempted to procure, a real estate license or license renewal, for  
13 himself or herself or a salesperson, by fraud, misrepresentation, or deceit, or by  
14 making a material misstatement of fact in an application for a real estate license,  
15 license renewal, or reinstatement.

16 (b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or  
17 been convicted of, a felony, or a crime substantially related to the qualifications,  
18 functions, or duties of a real estate licensee, and the time for appeal has elapsed or  
19 the judgment of conviction has been affirmed on appeal, irrespective of an order  
20 granting probation following that conviction, suspending the imposition of  
21 sentence, or of a subsequent order under Section 1203.4 of the Penal Code  
22 allowing that licensee to withdraw his or her plea of guilty and to enter a plea of  
23 not guilty, or dismissing the accusation or information.

24 (c) Knowingly authorized, directed, connived at, or aided in the publication,  
25 advertisement, distribution, or circulation of a material false statement or  
26 representation concerning his or her designation or certification of special  
27 education, credential, trade organization membership, or business, or concerning a  
28 business opportunity or a land or subdivision, as defined in Chapter 1  
29 (commencing with Section 11000) of Part 2, offered for sale.

30 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing  
31 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or  
32 the rules and regulations of the commissioner for the administration and  
33 enforcement of the Real Estate Law and Chapter 1 (commencing with Section  
34 11000) of Part 2.

35 (e) Willfully used the term "realtor" or a trade name or insignia of membership  
36 in a real estate organization of which the licensee is not a member.

37 (f) Acted or conducted himself or herself in a manner that would have warranted  
38 the denial of his or her application for a real estate license, or has either had a

1 license denied or had a license issued by another agency of this state, another state,  
2 or the federal government revoked or suspended for acts that, if done by a real  
3 estate licensee, would be grounds for the suspension or revocation of a California  
4 real estate license, if the action of denial, revocation, or suspension by the other  
5 agency or entity was taken only after giving the licensee or applicant fair notice of  
6 the charges, an opportunity for a hearing, and other due process protections  
7 comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with  
8 Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5  
9 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
10 Government Code), and only upon an express finding of a violation of law by the  
11 agency or entity.

12 (g) Demonstrated negligence or incompetence in performing an act for which he  
13 or she is required to hold a license.

14 (h) As a broker licensee, failed to exercise reasonable supervision over the  
15 activities of his or her salespersons, or, as the officer designated by a corporate  
16 broker licensee, failed to exercise reasonable supervision and control of the  
17 activities of the corporation for which a real estate license is required.

18 (i) Has used his or her employment by a governmental agency in a capacity  
19 giving access to records, other than public records, in a manner that violates the  
20 confidential nature of the records.

21 (j) Engaged in any other conduct, whether of the same or a different character  
22 than specified in this section, which constitutes fraud or dishonest dealing.

23 (k) Violated any of the terms, conditions, restrictions, and limitations contained  
24 in an order granting a restricted license.

25 (l)(1) Solicited or induced the sale, lease, or listing for sale or lease of residential  
26 property on the ground, wholly or in part, of loss of value, increase in crime, or  
27 decline of the quality of the schools due to the present or prospective entry into the  
28 neighborhood of a person or persons having a characteristic listed in subdivision  
29 (a) or (d) of Section 12955 of the Government Code, as those characteristics are  
30 defined in Sections 12926 and 12926.1, subdivision (m) and paragraph (1) of  
31 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

32 (2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1)  
33 shall not be construed to apply to housing for older persons, as defined in Section  
34 12955.9 of the Government Code. With respect to familial status, nothing in  
35 paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
36 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)  
37 of Section 51 and Section ~~1360~~ 4760 of the Civil Code and subdivisions (n), (o),  
38 and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

39 (m) Violated the Franchise Investment Law (Division 5 (commencing with  
40 Section 31000) of Title 4 of the Corporations Code) or regulations of the  
41 Commissioner of Corporations pertaining thereto.

1 (n) Violated the Corporate Securities Law of 1968 (Division 1 (commencing  
2 with Section 25000) of Title 4 of the Corporations Code) or the regulations of the  
3 Commissioner of Corporations pertaining thereto.

4 (o) Failed to disclose to the buyer of real property, in a transaction in which the  
5 licensee is an agent for the buyer, the nature and extent of a licensee's direct or  
6 indirect ownership interest in that real property. The direct or indirect ownership  
7 interest in the property by a person related to the licensee by blood or marriage, by  
8 an entity in which the licensee has an ownership interest, or by any other person  
9 with whom the licensee has a special relationship shall be disclosed to the buyer.

10 (p) Violated Article 6 (commencing with Section 10237).

11 (q) Violated or failed to comply with Chapter 2 (commencing with Section  
12 2920) of Title 14 of Part 4 of Division 3 of the Civil Code, related to mortgages.

13 If a real estate broker that is a corporation has not done any of the foregoing  
14 acts, either directly or through its employees, agents, officers, directors, or persons  
15 owning or controlling 10 percent or more of the corporation's stock, the  
16 commissioner may not deny the issuance of a real estate license to, or suspend or  
17 revoke the real estate license of, the corporation, provided that any offending  
18 officer, director, or stockholder, who has done any of the foregoing acts  
19 individually and not on behalf of the corporation, has been completely  
20 disassociated from any affiliation or ownership in the corporation.

21 This section shall become inoperative on July 1, 2012, and, as of January 1,  
22 2013, is repealed, unless a later enacted statute, that becomes operative on or  
23 before January 1, 2013, deletes or extends the dates on which it becomes  
24 inoperative and is repealed.

25 **Bus. & Prof. Code § 10177 (as added by 2011 Cal. Stat. ch. 711, § 9) (amended)**

26 **(implementing SB 53). Suspension, revocation, or denial of real estate license**

27 10177. The commissioner may suspend or revoke the license of a real estate  
28 licensee, delay the renewal of a license of a real estate licensee, or deny the  
29 issuance of a license to an applicant, who has done any of the following, or may  
30 suspend or revoke the license of a corporation, delay the renewal of a license of a  
31 corporation, or deny the issuance of a license to a corporation, if an officer,  
32 director, or person owning or controlling 10 percent or more of the corporation's  
33 stock has done any of the following:

34 (a) Procured, or attempted to procure, a real estate license or license renewal, for  
35 himself or herself or a salesperson, by fraud, misrepresentation, or deceit, or by  
36 making a material misstatement of fact in an application for a real estate license,  
37 license renewal, or reinstatement.

38 (b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or  
39 been convicted of, a felony, or a crime substantially related to the qualifications,  
40 functions, or duties of a real estate licensee, and the time for appeal has elapsed or  
41 the judgment of conviction has been affirmed on appeal, irrespective of an order  
42 granting probation following that conviction, suspending the imposition of

1 sentence, or of a subsequent order under Section 1203.4 of the Penal Code  
2 allowing that licensee to withdraw his or her plea of guilty and to enter a plea of  
3 not guilty, or dismissing the accusation or information.

4 (c) Knowingly authorized, directed, connived at, or aided in the publication,  
5 advertisement, distribution, or circulation of a material false statement or  
6 representation concerning his or her designation or certification of special  
7 education, credential, trade organization membership, or business, or concerning a  
8 business opportunity or a land or subdivision, as defined in Chapter 1  
9 (commencing with Section 11000) of Part 2, offered for sale.

10 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing  
11 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or  
12 the rules and regulations of the commissioner for the administration and  
13 enforcement of the Real Estate Law and Chapter 1 (commencing with Section  
14 11000) of Part 2.

15 (e) Willfully used the term “realtor” or a trade name or insignia of membership  
16 in a real estate organization of which the licensee is not a member.

17 (f) Acted or conducted himself or herself in a manner that would have warranted  
18 the denial of his or her application for a real estate license, or either had a license  
19 denied or had a license issued by another agency of this state, another state, or the  
20 federal government revoked or suspended for acts that, if done by a real estate  
21 licensee, would be grounds for the suspension or revocation of a California real  
22 estate license, if the action of denial, revocation, or suspension by the other agency  
23 or entity was taken only after giving the licensee or applicant fair notice of the  
24 charges, an opportunity for a hearing, and other due process protections  
25 comparable to the Administrative Procedure Act (Chapter 3.5 (commencing with  
26 Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5  
27 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the  
28 Government Code), and only upon an express finding of a violation of law by the  
29 agency or entity.

30 (g) Demonstrated negligence or incompetence in performing an act for which he  
31 or she is required to hold a license.

32 (h) As a broker licensee, failed to exercise reasonable supervision over the  
33 activities of his or her salespersons, or, as the officer designated by a corporate  
34 broker licensee, failed to exercise reasonable supervision and control of the  
35 activities of the corporation for which a real estate license is required.

36 (i) Used his or her employment by a governmental agency in a capacity giving  
37 access to records, other than public records, in a manner that violates the  
38 confidential nature of the records.

39 (j) Engaged in any other conduct, whether of the same or a different character  
40 than specified in this section, that constitutes fraud or dishonest dealing.

41 (k) Violated any of the terms, conditions, restrictions, and limitations contained  
42 in an order granting a restricted license.

1 (l)(1) Solicited or induced the sale, lease, or listing for sale or lease of residential  
2 property on the ground, wholly or in part, of loss of value, increase in crime, or  
3 decline of the quality of the schools due to the present or prospective entry into the  
4 neighborhood of a person or persons having a characteristic listed in subdivision  
5 (a) or (d) of Section 12955 of the Government Code, as those characteristics are  
6 defined in Sections 12926 and 12926.1, subdivision (m) and paragraph (1) of  
7 subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

8 (2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1)  
9 shall not be construed to apply to housing for older persons, as defined in Section  
10 12955.9 of the Government Code. With respect to familial status, nothing in  
11 paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11,  
12 and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d)  
13 of Section 51 and Section ~~4360~~ 4760 of the Civil Code and subdivisions (n), (o),  
14 and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

15 (m) Violated the Franchise Investment Law (Division 5 (commencing with  
16 Section 31000) of Title 4 of the Corporations Code) or regulations of the  
17 Commissioner of Corporations pertaining thereto.

18 (n) Violated the Corporate Securities Law of 1968 (Division 1 (commencing  
19 with Section 25000) of Title 4 of the Corporations Code) or the regulations of the  
20 Commissioner of Corporations pertaining thereto.

21 (o) Failed to disclose to the buyer of real property, in a transaction in which the  
22 licensee is an agent for the buyer, the nature and extent of a licensee's direct or  
23 indirect ownership interest in that real property. The direct or indirect ownership  
24 interest in the property by a person related to the licensee by blood or marriage, by  
25 an entity in which the licensee has an ownership interest, or by any other person  
26 with whom the licensee has a special relationship shall be disclosed to the buyer.

27 (p) Violated Article 6 (commencing with Section 10237).

28 (q) Violated or failed to comply with Chapter 2 (commencing with Section  
29 2920) of Title 14 of Part 4 of Division 3 of the Civil Code, related to mortgages.

30 If a real estate broker that is a corporation has not done any of the foregoing  
31 acts, either directly or through its employees, agents, officers, directors, or persons  
32 owning or controlling 10 percent or more of the corporation's stock, the  
33 commissioner may not deny the issuance or delay the renewal of a real estate  
34 license to, or suspend or revoke the real estate license of, the corporation, provided  
35 that any offending officer, director, or stockholder, who has done any of the  
36 foregoing acts individually and not on behalf of the corporation, has been  
37 completely disassociated from any affiliation or ownership in the corporation. A  
38 decision by the commissioner to delay the renewal of a real estate license shall toll  
39 the expiration of that license until the results of any pending disciplinary actions  
40 against that licensee are final, or until the licensee voluntarily surrenders his, her,  
41 or its license, whichever is earlier.

42 This section shall become operative on July 1, 2012.

1 **Comment.** Section 10177, as added by 2011 Cal. Stat. ch. 711, § 9, is amended to correct a  
2 cross-reference to former Civil Code Section 1360.

3 **Gov't Code § 12956.1. (amended) (implementing AB 887). Restrictive covenant based on**  
4 **discriminatory grounds**

5 12956.1. (a) As used in this section, “association,” “governing documents,” and  
6 “declaration” have the same meanings as set forth in ~~Section 1351~~ Sections 4080,  
7 4135, and 4150 of the Civil Code.

8 (b)(1) A county recorder, title insurance company, escrow company, real estate  
9 broker, real estate agent, or association that provides a copy of a declaration,  
10 governing document, or deed to any person shall place a cover page or stamp on  
11 the first page of the previously recorded document or documents stating, in at least  
12 14-point boldface type, the following:

13 “If this document contains any restriction based on race, color, religion, sex,  
14 gender, gender identity, gender expression, sexual orientation, familial status,  
15 marital status, disability, genetic information, national origin, source of income as  
16 defined in subdivision (p) of Section 12955, or ancestry, that restriction violates  
17 state and federal fair housing laws and is void, and may be removed pursuant to  
18 Section 12956.2 of the Government Code. Lawful restrictions under state and  
19 federal law on the age of occupants in senior housing or housing for older persons  
20 shall not be construed as restrictions based on familial status.”

21 (2) The requirements set forth in paragraph (1) shall not apply to documents  
22 being submitted for recordation to a county recorder.

23 (c) Any person who records a document for the express purpose of adding a  
24 racially restrictive covenant is guilty of a misdemeanor. The county recorder shall  
25 not incur any liability for recording the document. Notwithstanding any other  
26 provision of law, a prosecution for a violation of this subdivision shall commence  
27 within three years after the discovery of the recording of the document.

28 **Gov't Code § 12956.2. (amended) (implementing AB 887). Restrictive covenant modification**

29 12956.2. (a) A person who holds an ownership interest of record in property that  
30 he or she believes is the subject of an unlawfully restrictive covenant in violation  
31 of subdivision (l) of Section 12955 may record a document titled Restrictive  
32 Covenant Modification. The county recorder may choose to waive the fee  
33 prescribed for recording and indexing instruments pursuant to Section 27361 in  
34 the case of the modification document provided for in this section. The  
35 modification document shall include a complete copy of the original document  
36 containing the unlawfully restrictive language with the unlawfully restrictive  
37 language stricken.

38 (b) Before recording the modification document, the county recorder shall  
39 submit the modification document and the original document to the county  
40 counsel who shall determine whether the original document contains an unlawful  
41 restriction based on race, color, religion, sex, gender, gender identity, gender



1 expression, sexual orientation, familial status, marital status, disability, genetic  
2 information, national origin, source of income as defined in subdivision (p) of  
3 Section 12955, or ancestry. The county counsel shall return the documents and  
4 inform the county recorder of its determination. The county recorder shall refuse  
5 to record the modification document if the county counsel finds that the original  
6 document does not contain an unlawful restriction as specified in this paragraph.

7 (c) The modification document shall be indexed in the same manner as the  
8 original document being modified. It shall contain a recording reference to the  
9 original document in the form of a book and page or instrument number, and date  
10 of the recording.

11 (d) Subject to covenants, conditions, and restrictions that were recorded after the  
12 recording of the original document that contains the unlawfully restrictive  
13 language and subject to covenants, conditions, and restrictions that will be  
14 recorded after the Restrictive Covenant Modification, the restrictions in the  
15 Restrictive Covenant Modification, once recorded, are the only restrictions having  
16 effect on the property. The effective date of the terms and conditions of the  
17 modification document shall be the same as the effective date of the original  
18 document.

19 (e) The county recorder shall make available to the public Restrictive Covenant  
20 Modification forms.

21 (f) If the holder of an ownership interest of record in property causes to be  
22 recorded a modified document pursuant to this section that contains modifications  
23 not authorized by this section, the county recorder shall not incur liability for  
24 recording the document. The liability that may result from the unauthorized  
25 recordation is the sole responsibility of the holder of the ownership interest of  
26 record who caused the modified recordation.

27 (g) This section does not apply to persons holding an ownership interest in  
28 property that is part of a common interest development as defined in ~~subdivision~~  
29 ~~(e) of Section 1351~~ 4100 of the Civil Code if the board of directors of that  
30 common interest development is subject to the requirements of subdivision (b) of  
31 Section ~~1352.5~~ 4225 of the Civil Code.

32 **Veh. Code § 22651 (amended) (implementing AB 1209). Circumstances in which removal of**  
33 **vehicle is permitted**

34 22651. A peace officer, as defined in Chapter 4.5 (commencing with Section  
35 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried  
36 employee, who is engaged in directing traffic or enforcing parking laws and  
37 regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is  
38 located, may remove a vehicle located within the territorial limits in which the  
39 officer or employee may act, under the following circumstances:

40 (a) When a vehicle is left unattended upon a bridge, viaduct, or causeway or in a  
41 tube or tunnel where the vehicle constitutes an obstruction to traffic.

1 (b) When a vehicle is parked or left standing upon a highway in a position so as  
2 to obstruct the normal movement of traffic or in a condition so as to create a  
3 hazard to other traffic upon the highway.

4 (c) When a vehicle is found upon a highway or public land and a report has  
5 previously been made that the vehicle is stolen or a complaint has been filed and a  
6 warrant thereon is issued charging that the vehicle was embezzled.

7 (d) When a vehicle is illegally parked so as to block the entrance to a private  
8 driveway and it is impractical to move the vehicle from in front of the driveway to  
9 another point on the highway.

10 (e) When a vehicle is illegally parked so as to prevent access by firefighting  
11 equipment to a fire hydrant and it is impracticable to move the vehicle from in  
12 front of the fire hydrant to another point on the highway.

13 (f) When a vehicle, except highway maintenance or construction equipment, is  
14 stopped, parked, or left standing for more than four hours upon the right-of-way of  
15 a freeway that has full control of access and no crossings at grade and the driver, if  
16 present, cannot move the vehicle under its own power.

17 (g) When the person in charge of a vehicle upon a highway or public land is, by  
18 reason of physical injuries or illness, incapacitated to an extent so as to be unable  
19 to provide for its custody or removal.

20 (h)(1) When an officer arrests a person driving or in control of a vehicle for an  
21 alleged offense and the officer is, by this code or other law, required or permitted  
22 to take, and does take, the person into custody.

23 (2) When an officer serves a notice of an order of suspension or revocation  
24 pursuant to Section 13388 or 13389.

25 (i)(1) When a vehicle, other than a rented vehicle, is found upon a highway or  
26 public land, or is removed pursuant to this code, and it is known that the vehicle  
27 has been issued five or more notices of parking violations to which the owner or  
28 person in control of the vehicle has not responded within 21 calendar days of  
29 notice of citation issuance or citation issuance or 14 calendar days of the mailing  
30 of a notice of delinquent parking violation to the agency responsible for processing  
31 notices of parking violations, or the registered owner of the vehicle is known to  
32 have been issued five or more notices for failure to pay or failure to appear in  
33 court for traffic violations for which a certificate has not been issued by the  
34 magistrate or clerk of the court hearing the case showing that the case has been  
35 adjudicated or concerning which the registered owner's record has not been  
36 cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17,  
37 the vehicle may be impounded until that person furnishes to the impounding law  
38 enforcement agency all of the following:

39 (A) Evidence of his or her identity.

40 (B) An address within this state at which he or she can be located.

41 (C) Satisfactory evidence that all parking penalties due for the vehicle and all  
42 other vehicles registered to the registered owner of the impounded vehicle, and all  
43 traffic violations of the registered owner, have been cleared.

1 (2) The requirements in subparagraph (C) of paragraph (1) shall be fully  
2 enforced by the impounding law enforcement agency on and after the time that the  
3 Department of Motor Vehicles is able to provide access to the necessary records.

4 (3) A notice of parking violation issued for an unlawfully parked vehicle shall  
5 be accompanied by a warning that repeated violations may result in the  
6 impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full  
7 amount of parking penalties or bail has been deposited, that person may demand to  
8 be taken without unnecessary delay before a magistrate, for traffic offenses, or a  
9 hearing examiner, for parking offenses, within the county in which the offenses  
10 charged are alleged to have been committed and who has jurisdiction of the  
11 offenses and is nearest or most accessible with reference to the place where the  
12 vehicle is impounded. Evidence of current registration shall be produced after a  
13 vehicle has been impounded, or, at the discretion of the impounding law  
14 enforcement agency, a notice to appear for violation of subdivision (a) of Section  
15 4000 shall be issued to that person.

16 (4) A vehicle shall be released to the legal owner, as defined in Section 370, if  
17 the legal owner does all of the following:

18 (A) Pays the cost of towing and storing the vehicle.

19 (B) Submits evidence of payment of fees as provided in Section 9561.

20 (C) Completes an affidavit in a form acceptable to the impounding law  
21 enforcement agency stating that the vehicle was not in possession of the legal  
22 owner at the time of occurrence of the offenses relating to standing or parking. A  
23 vehicle released to a legal owner under this subdivision is a repossessed vehicle  
24 for purposes of disposition or sale. The impounding agency shall have a lien on  
25 any surplus that remains upon sale of the vehicle to which the registered owner is  
26 or may be entitled, as security for the full amount of the parking penalties for all  
27 notices of parking violations issued for the vehicle and for all local administrative  
28 charges imposed pursuant to Section 22850.5. The legal owner shall promptly  
29 remit to, and deposit with, the agency responsible for processing notices of  
30 parking violations from that surplus, on receipt of that surplus, the full amount of  
31 the parking penalties for all notices of parking violations issued for the vehicle and  
32 for all local administrative charges imposed pursuant to Section 22850.5.

33 (5) The impounding agency that has a lien on the surplus that remains upon the  
34 sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4)  
35 has a deficiency claim against the registered owner for the full amount of the  
36 parking penalties for all notices of parking violations issued for the vehicle and for  
37 all local administrative charges imposed pursuant to Section 22850.5, less the  
38 amount received from the sale of the vehicle.

39 (j) When a vehicle is found illegally parked and there are no license plates or  
40 other evidence of registration displayed, the vehicle may be impounded until the  
41 owner or person in control of the vehicle furnishes the impounding law  
42 enforcement agency evidence of his or her identity and an address within this state  
43 at which he or she can be located.

1 (k) When a vehicle is parked or left standing upon a highway for 72 or more  
2 consecutive hours in violation of a local ordinance authorizing removal.

3 (l) When a vehicle is illegally parked on a highway in violation of a local  
4 ordinance forbidding standing or parking and the use of a highway, or a portion  
5 thereof, is necessary for the cleaning, repair, or construction of the highway, or for  
6 the installation of underground utilities, and signs giving notice that the vehicle  
7 may be removed are erected or placed at least 24 hours prior to the removal by a  
8 local authority pursuant to the ordinance.

9 (m) When the use of the highway, or a portion of the highway, is authorized by a  
10 local authority for a purpose other than the normal flow of traffic or for the  
11 movement of equipment, articles, or structures of unusual size, and the parking of  
12 a vehicle would prohibit or interfere with that use or movement, and signs giving  
13 notice that the vehicle may be removed are erected or placed at least 24 hours  
14 prior to the removal by a local authority pursuant to the ordinance.

15 (n) Whenever a vehicle is parked or left standing where local authorities, by  
16 resolution or ordinance, have prohibited parking and have authorized the removal  
17 of vehicles. Except as provided in ~~subdivision (v)~~, subdivisions (v) and (w), a  
18 vehicle shall not be removed unless signs are posted giving notice of the removal.

19 (o)(1) When a vehicle is found or operated upon a highway, public land, or an  
20 offstreet parking facility under the following circumstances:

21 (A) With a registration expiration date in excess of six months before the date it  
22 is found or operated on the highway, public lands, or the offstreet parking facility.

23 (B) Displaying in, or upon, the vehicle, a registration card, identification card,  
24 temporary receipt, license plate, special plate, registration sticker, device issued  
25 pursuant to Section 4853, or permit that was not issued for that vehicle, or is not  
26 otherwise lawfully used on that vehicle under this code.

27 (C) Displaying in, or upon, the vehicle, an altered, forged, counterfeit, or  
28 falsified registration card, identification card, temporary receipt, license plate,  
29 special plate, registration sticker, device issued pursuant to Section 4853, or  
30 permit.

31 (2) When a vehicle described in paragraph (1) is occupied, only a peace officer,  
32 as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of  
33 the Penal Code, may remove the vehicle.

34 (3) For the purposes of this subdivision, the vehicle shall be released ~~to the~~  
35 under either of the following circumstances:

36 (A) To the registered owner or person in control of the vehicle only after the  
37 owner or person furnishes the storing law enforcement agency with proof of  
38 current registration and a currently valid driver's license to operate the vehicle.

39 (B) To the legal owner or the legal owner's agency, without payment of any  
40 fees, fines, or penalties for parking tickets or registration and without proof of  
41 current registration, if the vehicle will only be transported pursuant to the  
42 exemption specified in Section 4022 and if the legal owner does all of the  
43 following:

1        (i) Pays the cost of towing and storing the vehicle.

2        (ii) Completes an affidavit in a form acceptable to the impounding law  
3 enforcement agency stating that the vehicle was not in possession of the legal  
4 owner at the time of occurrence of an offense relating to standing or parking. A  
5 vehicle released to a legal owner under this subdivision is a repossessed vehicle  
6 for purposes of disposition or sale. The impounding agency has a lien on any  
7 surplus that remains upon sale of the vehicle to which the registered owner is or  
8 may be entitled, as security for the full amount of parking penalties for any notices  
9 of parking violations issued for the vehicle and for all local administrative charges  
10 imposed pursuant to Section 22850.5. Upon receipt of any surplus, the legal owner  
11 shall promptly remit to, and deposit with, the agency responsible for processing  
12 notices of parking violations from that surplus, the full amount of the parking  
13 penalties for all notices of parking violations issued for the vehicle and for all local  
14 administrative charges imposed pursuant to Section 22850.5.

15        (4) The impounding agency that has a lien on the surplus that remains upon the  
16 sale of a vehicle to which a registered owner is entitled has a deficiency claim  
17 against the registered owner for the full amount of parking penalties for any  
18 notices of parking violations issued for the vehicle and for all local administrative  
19 charges imposed pursuant to Section 22850.5, less the amount received from the  
20 sale of the vehicle.

21        ~~(4)~~ (5) As used in this subdivision, “offstreet parking facility” means an offstreet  
22 facility held open for use by the public for parking vehicles and includes a publicly  
23 owned facility for offstreet parking, and a privately owned facility for offstreet  
24 parking if a fee is not charged for the privilege to park and it is held open for the  
25 common public use of retail customers.

26        (p) When the peace officer issues the driver of a vehicle a notice to appear for a  
27 violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, 14601.5,  
28 or 14604 and the vehicle is not impounded pursuant to Section 22655.5. A vehicle  
29 so removed from the highway or public land, or from private property after having  
30 been on a highway or public land, shall not be released to the registered owner or  
31 his or her agent, except upon presentation of the registered owner’s or his or her  
32 agent’s currently valid driver’s license to operate the vehicle and proof of current  
33 vehicle registration, or upon order of a court.

34        (q) When a vehicle is parked for more than 24 hours on a portion of highway  
35 that is located within the boundaries of a common interest development, as defined  
36 in ~~subdivision (c) of Section 1351~~ 4100 of the Civil Code, and signs, as required  
37 by paragraph (1) of subdivision (a) of Section 22658 of this code, have been  
38 posted on that portion of highway providing notice to drivers that vehicles parked  
39 thereon for more than 24 hours will be removed at the owner’s expense, pursuant  
40 to a resolution or ordinance adopted by the local authority.

41        (r) When a vehicle is illegally parked and blocks the movement of a legally  
42 parked vehicle.

1 (s)(1) When a vehicle, except highway maintenance or construction equipment,  
2 an authorized emergency vehicle, or a vehicle that is properly permitted or  
3 otherwise authorized by the Department of Transportation, is stopped, parked, or  
4 left standing for more than eight hours within a roadside rest area or viewpoint.

5 (2) Notwithstanding paragraph (1), when a commercial motor vehicle, as  
6 defined in paragraph (1) of subdivision (b) of Section 15210, is stopped, parked, or  
7 left standing for more than 10 hours within a roadside rest area or viewpoint.

8 (3) For purposes of this subdivision, a roadside rest area or viewpoint is a  
9 publicly maintained vehicle parking area, adjacent to a highway, utilized for the  
10 convenient, safe stopping of a vehicle to enable motorists to rest or to view the  
11 scenery. If two or more roadside rest areas are located on opposite sides of the  
12 highway, or upon the center divider, within seven miles of each other, then that  
13 combination of rest areas is considered to be the same rest area.

14 (t) When a peace officer issues a notice to appear for a violation of Section  
15 25279.

16 (u) When a peace officer issues a citation for a violation of Section 11700 and  
17 the vehicle is being offered for sale.

18 (v)(1) When a vehicle is a mobile billboard advertising display, as defined in  
19 Section 395.5, and is parked or left standing in violation of a local resolution or  
20 ordinance adopted pursuant to subdivision (m) of Section 21100, if the registered  
21 owner of the vehicle was previously issued a warning citation for the same  
22 offense, pursuant to paragraph (2).

23 (2) Notwithstanding subdivision (a) of Section 22507, a city or county, in lieu of  
24 posting signs noticing a local ordinance prohibiting mobile billboard advertising  
25 displays adopted pursuant to subdivision (m) of Section 21100, may provide  
26 notice by issuing a warning citation advising the registered owner of the vehicle  
27 that he or she may be subject to penalties upon a subsequent violation of the  
28 ordinance, that may include the removal of the vehicle as provided in paragraph  
29 (1). A city or county is not required to provide further notice for a subsequent  
30 violation prior to the enforcement of penalties for a violation of the ordinance.

31 (w)(1) When a vehicle is parked or left standing in violation of a local ordinance  
32 or resolution adopted pursuant to subdivision (p) of Section 21100, if the  
33 registered owner of the vehicle was previously issued a warning citation for the  
34 same offense, pursuant to paragraph (2).

35 (2) Notwithstanding subdivision (a) of Section 22507, a city or county, in lieu of  
36 posting signs noticing a local ordinance regulating advertising signs adopted  
37 pursuant to subdivision (p) of Section 21100, may provide notice by issuing a  
38 warning citation advising the registered owner of the vehicle that he or she may be  
39 subject to penalties upon a subsequent violation of the ordinance that may include  
40 the removal of the vehicle as provided in paragraph (1). A city or county is not  
41 required to provide further notice for a subsequent violation prior to the  
42 enforcement of penalties for a violation of the ordinance.