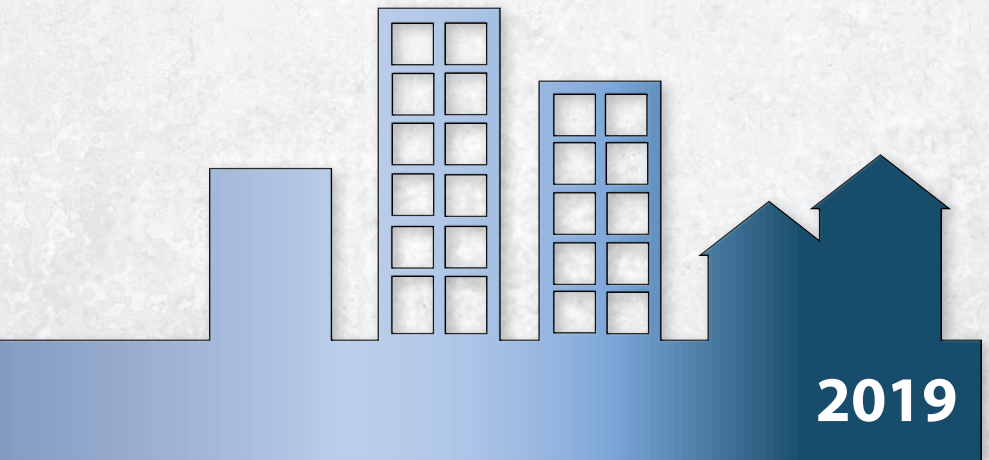




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2019 **COMMERCIAL & INDUSTRIAL**
COMMON INTEREST DEVELOPMENT
ACT



2019

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**COMMERCIAL AND INDUSTRIAL COMMON INTEREST DEVELOPMENT ACT
EFFECTIVE JANUARY 1, 2018**

INTRODUCTION

This booklet contains the Commercial and Industrial Common Interest Development Act enacted in the 2013 Legislative Session as part of SB-752. Starting January 1, 2014, this statute will apply to all common interest developments that are limited to industrial or commercial uses by law or by a recorded declaration. The Davis-Stirling Common Interest Development Act will no longer apply to such developments.

In this booklet, brackets at the end of each section show the legislative year in which the section was enacted or last amended, in this case 2017 for the entire statute. In the brackets we are also showing a cross-reference to the comparable former section or sections of the Davis-Stirling Act that will remain in effect through December 31, 2017. The brackets will look something like this: “[2018 – Based on former § ____].”

The symbol ■ in the text of this act indicates the location of key words or topics that appear in the key word index at the back. When ■ is located at the left margin, it means that the paragraph in question concerns that index topic. However, when ■ is located at the left margin of the first paragraph, it may also indicate that the entire section or section heading relates to that index topic.

If a statute states something like “as provided in this subdivision,” the word “subdivision” does not mean the entire section or some other larger portion of the act. Government Code §10 states: “‘Subdivision’ means a subdivision of the section in which the term occurs unless some other section is expressly mentioned.” Thus subparagraph (a) or (b)(3) or (c)(5)(A) would be referred to as a “subdivision” of that section, rather than as a subparagraph or subsection.

For a complete listing of legislation see the Official California Legislative Information website at <http://leginfo.legislature.ca.gov> (or “Home Page”). From there, click on “California Law” where all the current California codes are available. You can search for any current California code and section there. To view the bills introduced in any given year, click on “Bill Information” from the Home Page. To view enacted legislation or “chaptered bills” by year, see <http://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml> and enter the chapter number, statute year and/or key words.

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**COMMERCIAL AND INDUSTRIAL COMMON INTEREST DEVELOPMENT ACT
EFFECTIVE JANUARY 1, 2018**

CHAPTER 1. GENERAL PROVISIONS

ARTICLE 1. PRELIMINARY PROVISIONS

§6500. Title - Commercial and Industrial Common Interest Development Act

■ This part shall be known, and may be cited, as the Commercial and Industrial Common Interest Development Act. In a provision of this part, the part may be referred to as the act. [2013 - Based on former §1350]

§6502. Effect of Topic Headings

■ Division, part, title, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of this act. [2013 - Based on former §1350.5]

§6505. Applicability; Construction

■ 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. [2013 - New language]

§6510. Effect of Local Zoning Ordinances

■ Unless a contrary intent is clearly expressed, a local zoning ordinance is construed to treat like structures, lots, parcels, areas, or spaces in like manner regardless of the form of the common interest development. [2013 - Based on former §1372]

§6512. Document Delivery Methods

(a) If a provision of this act requires that a document be delivered to an association, the ■ document shall be delivered to the person designated to receive documents on behalf of the association, in a written notice delivered by the association to members by individual delivery. If notice of this designation has not been given, the document shall be delivered to the president or secretary of the association.

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

(1) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier.

(2) By email, facsimile, or other electronic means, if the association has assented to that method of delivery.

(3) By personal delivery, if the association has assented to that method of delivery. If the association accepts a document by personal

delivery it shall provide a written receipt acknowledging delivery of the document. [2013 - New language]

§6514. Individual Document Delivery

(a) If a provision of this act requires that an association ■ deliver a document by “individual delivery” or “individual notice,” the document shall be delivered by one of the following methods:

(1) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier. The document shall be addressed to the recipient at the address last shown on the books of the association.

■ (2) Email, facsimile, or other electronic means, if the recipient has consented, in writing, to that method of delivery. The consent may be revoked, in writing, by the recipient.

(b) For the purposes of this section, an unrecorded provision of the governing documents providing for a particular method of delivery does not constitute agreement by a member to that method of delivery. [2013 - Based on former §§1350.7, 1365.1(c) & 1367.1(k)]

§6518. Completion of Document Delivery

(a) This section governs the ■ delivery of a document pursuant to this act.

(b) If a document is delivered by mail, delivery is deemed to be complete on deposit into the United States mail.

(c) If a document is ■ delivered by electronic means, delivery is complete at the time of transmission. [2013 - Based on former §1350.7(b) (2) & (3)]

§6520. Electronic Delivery

If the association or a member has consented to receive information by ■ electronic delivery, and a provision of this act requires that the information be in writing, that requirement is satisfied if the information is provided in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record. [2013 - Based on former §1350.7(b)(3)]

§6522. Approval by Majority of All Members

■ If a provision of this act requires that an action be approved by a majority of all members, the action shall be approved or ratified by an affirmative vote of a majority of the votes entitled to be cast. [2013 - cf. Corp. Code §5033]

§6524. Approval by Majority of a Quorum of Members

■ If a provision of this act requires that an action be approved by a majority of a quorum of the members, the action shall be approved or ratified by an affirmative vote of a majority of the votes represented and voting in a duly held election in which a quorum is represented, which affirmative votes also

constitute a majority of the required quorum. [2013 - Based on former cf. Corp. Code §5034]

ARTICLE 2. DEFINITIONS

§6526. Defined Terms Govern Construction of Act

■ The definitions in this article govern the construction of this act. [2013 - Based on former §1351]

§6528. “Association” – Defined

■ “Association” means a nonprofit corporation or ■ unincorporated association created for the purpose of managing a common interest development. [2013 - Based on former §1351(a)]

§6530. “Board” – Defined

■ “Board” means the board of directors of the association. [2013 - Based on former §5038]

§6531. “Commercial or Industrial Common Interest Development” – Defined

■ A “commercial or industrial common interest development” means a common interest development that is limited to industrial or commercial uses by law or by a declaration of covenants, conditions, and restrictions that has been recorded in the official records of each county in which the common interest development is located. For the purposes of this section, “commercial use” includes, but is not limited to, the operation of a business that provides facilities for the overnight stay of its customers, employees, or agents. [2013 – New language]

§6532. “Common Area” – Defined

■ (a) “Common area” means the entire common interest development except the ■ separate interests therein. The estate in the common area may be a fee, a life estate, an estate for years, or any combination of the foregoing.

(b) Notwithstanding subdivision (a), in a planned development described in subdivision (b) of Section 6562, the common area may consist of mutual or reciprocal ■ easement rights appurtenant to the separate interests. [2013 - Based on former §1351(b)]

§6534. “Common Interest Development” – Defined

■ “Common interest development” means any of the following:
■ (a) A condominium project.
■ (b) A planned development.
■ (c) A stock cooperative. [2013 - Based on former §1351(c)]

§6540. “Condominium Plan” – Defined

■ “Condominium plan” means a plan described in Section 6624. [2013 - Based on former §1351(e)]

§6542. “Condominium Project” – Defined

■ (a) A “condominium project” means a real property development consisting of condominiums.

(b) A condominium consists of an undivided interest in common in a portion of real property coupled with a ■ separate interest in space called a unit, the ■ boundaries of which are described on a ■ recorded final map, parcel map, or condominium plan in sufficient detail to locate all boundaries thereof. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support. The description of the unit may refer to (1) boundaries described in the recorded final map, parcel map, or condominium plan, (2) physical boundaries, either in existence, or to be constructed, such as ■ walls, floors, and ceilings of a structure or any portion thereof, (3) an entire structure containing one or more units, or (4) any combination thereof.

(c) The portion or portions of the real property held in undivided interest may be all of the real property, except for the separate interests, or may include a particular three-dimensional portion thereof, the boundaries of which are described on a recorded final map, parcel map, or condominium plan. The area within these boundaries may be filled with air, earth, water, or fixtures, or any combination thereof, and need not be physically attached to land except by easements for access and, if necessary, support.

(d) An individual condominium within a condominium project may include, in addition, a separate interest in other portions of the real property. [2013 - Based on former §1351(f)]

§6544. “Declarant” – Defined

■ “Declarant” means the person or group of persons designated in the declaration as declarant, or if no declarant is designated, the person or group of persons who sign the original declaration or who succeed to special rights, preferences, or privileges designated in the declaration as belonging to the signator of the original declaration. [2013 - Based on former §1351(g)]

§6546. “Declaration” – Defined

■ “Declaration” means the document, however denominated, that contains the information required by Section 6614. [2013 - Based on former §1351(h)]

§6548. “Director” – Defined

“ “Director” means a natural person who serves on the board. [2013 - Based on former §5047]

§6550. “Exclusive Use Common Area” – Defined

■ (a) “Exclusive use common area” means a portion of the common area designated by the declaration for the exclusive use of one or more, but fewer than all, of the owners of the separate interests and which is or will be appurtenant to the separate interest or interests.

■ (b) Unless the declaration otherwise provides, any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, doorframes, and hardware incident thereto, screens and windows or other fixtures designed to serve a single separate interest, but located outside the ■ boundaries of the separate interest, are exclusive use common area allocated exclusively to that separate interest.

(c) Notwithstanding the provisions of the declaration, internal and external ■ telephone wiring designed to serve a single separate interest, but located outside the ■ boundaries of the separate interest, is exclusive use common area allocated exclusively to that separate interest. [2013 - Based on former §1351(i)]

§6552. “Governing Documents” – Defined

■ “Governing documents” means the declaration and any other documents, such as ■ bylaws, ■ operating rules, articles of incorporation, or articles of association, which govern the operation of the common interest development or association. [2013 - Based on former §1351(j)]

§6553. “Individual Notice” – Defined

■ “Individual notice” means the delivery of a document pursuant to Section 6514. [2013 - New Language]

§6554. “Member” – Defined

■ “Member” means an owner of a separate interest. [2013 - New language, but cf. Corp. Code §5056]

§6560. “Person” – Defined

■ “Person” means a natural person, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, or other entity. [2013 - New language, but cf. Corp. Code §5965]

§6562. “Planned Development” – Defined

■ “Planned development” means a real property development other than a condominium project, or a stock cooperative, having either or both of the following features:

■ (a) Common area that is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area.

(b) Common area and an association that maintains the common area with the power to levy assessments that may become a lien upon the separate interests in accordance with Article 2 (commencing with Section 6808) of Chapter 7. [2013 - Based on former §1351(k)]

§6564. “Separate Interest” – Defined

■ (a) “Separate interest” has the following meanings:

(1) In a condominium project, ■ “separate interest” means a separately owned unit, as specified in Section 6542.

(2) In a planned development, ■ “separate interest” means a separately owned lot, parcel, area, or space.

(3) In a stock cooperative, ■ “separate interest” means the exclusive right to occupy a portion of the real property, as specified in Section 6566.

(b) Unless the declaration or condominium plan, if any exists, otherwise provides, if ■ walls, floors, or ceilings are designated as ■ boundaries of a separate interest, the interior surfaces of the perimeter walls, floors, ceilings, windows, doors, and outlets located within the separate interest are part of the separate interest and any other portions of the walls, floors, or ceilings are part of the common area.

(c) The estate in a separate interest may be a fee, a life estate, an estate for years, or any combination of the foregoing. [2013 - Based on former §1351(l)]

§6566. “Stock Cooperative” – Defined

■ “Stock cooperative” means a development in which a corporation is formed or availed of, primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, and all or substantially all of the shareholders of the corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation. The owners’ interest in the corporation, whether evidenced by a share of stock, a certificate of membership, or otherwise, shall be deemed to be an interest in a common interest development and a real estate development for purposes of subdivision (f) of Section 25100 of the Corporations Code. [2013 - Based on former §1351(m)]

CHAPTER 2. APPLICATION OF ACT

§6580. Creating a Commercial or Industrial CID

Subject to Section 6582, this ■ act applies and a ■ common interest development is created whenever a separate interest coupled with an interest in the common area or membership in the association is, or has been, conveyed, provided all of the following are recorded:

(a) A declaration.

(b) A condominium plan, if any exists.

(c) A ■ final map or ■ parcel map, if Division 2 (commencing with Section 66410) of Title 7 of the Government Code requires the recording of either a final map or parcel map for the common interest development. [2013 - Based on former §1352]

§6582. Act Applies Only to Commercial or Industrial CIDs; Common Area Mandatory

■ (a) This act applies only to a commercial or industrial common interest development.

(b) Nothing in this act may be construed to apply to a real property development that does not contain common area. This subdivision is declaratory of existing law. [2013 – (a) New language; (b) based on former §1374]

CHAPTER 3. GOVERNING DOCUMENTS

ARTICLE 1. GENERAL PROVISIONS

§6600. Hierarchy of Governing Documents and the Law

■ (a) To the extent of any conflict between the governing documents and the law, the law shall prevail.

(b) To the extent of any conflict between the articles of incorporation and the declaration, the declaration shall prevail.

(c) To the extent of any conflict between the bylaws and the articles of incorporation or declaration, the articles of incorporation or declaration shall prevail.

(d) To the extent of any conflict between the operating rules and the bylaws, articles of incorporation, or declaration, the bylaws, articles of incorporation, or declaration shall prevail. [2013 - New language]

§6602. Liberal Construction of Governing Documents; Severability

Any deed, declaration, or condominium plan for a common interest development shall be liberally construed to facilitate the operation of the common interest development, and its provisions shall be presumed to be independent and ■ severable. ■ Nothing in Article 3 (commencing with Section 715) of Chapter 2 of Title 2 of Part 1 of Division 2 shall operate to invalidate any provisions of the governing documents. [2013 - Based on former §1370]

§6604. Presumption Regarding Unit Boundaries

In interpreting deeds and condominium plans, the existing physical ■ boundaries of a unit in a condominium project, when the boundaries of the unit are contained within a building, or of a unit reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or condominium plan, if any exists, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the building. [2013 - Based on former §1371]

§6606. Mandatory Removal of Discriminatory Covenants

■ (a) No declaration or other governing document shall include a restrictive covenant in violation of Section 12955 of the Government Code.

(b) Notwithstanding any other provision of law or provision of the governing documents, the board, without approval of the members, shall ■ amend any declaration or other governing document that includes a restrictive covenant prohibited by this section to delete the restrictive covenant, and shall restate the declaration or other governing document without the restrictive covenant but with no other change to the declaration or governing document.

(c) If the declaration is amended under this section, the board shall record the restated declaration in each county in which the common interest development is located. If the articles of incorporation are amended under this section, the board shall file a certificate of amendment with the Secretary of State pursuant to Section 7814 of the Corporations Code.

(d) If after providing written notice to an association, pursuant to Section 6512, requesting that the association delete a restrictive covenant that violates subdivision (a), and the association fails to delete the restrictive covenant within 30 days of receiving the notice, the Department of Fair Employment and Housing, a city or county in which a common interest development is located, or any person may bring an action against the association for injunctive relief to enforce subdivision (a). The court may award ■ attorney's fees to the prevailing party. [2013 - Based on former §§1352.5 & 1355(b)]

§6608. Amending Declaration to Delete Developer References

■ (a) Notwithstanding any provision of the governing documents to the contrary, the board may, after the developer has completed construction of the development, has terminated construction activities, and has terminated marketing activities for the sale, lease, or other disposition of separate interests within the development, adopt an amendment deleting from any of the governing documents any provision which is unequivocally designed and intended, or which by its nature can only have been designed or intended, to facilitate the developer in completing the construction or marketing of the development. However, provisions of the governing documents relative to a particular construction or marketing phase of the development may not be deleted under the authorization of this subdivision until that construction or marketing phase has been completed.

(b) The provisions which may be ■ deleted by action of the board shall be limited to those which provide for access by the developer over or across the common area for the purposes of (1) completion of construction of the development, and (2) the erection, construction, or maintenance of structures or other facilities designed to facilitate the completion of construction or marketing of separate interests.

(c) At least 30 days prior to taking action pursuant to subdivision (a), the board shall ■ deliver to all members, by individual delivery pursuant to Section 6514, (1) a copy of all amendments to the governing documents proposed to be adopted under subdivision (a), and (2) a notice of the time, date, and place the board will consider adoption of the amendments.

The board may consider adoption of amendments to the governing documents pursuant to subdivision (a) only at a ■ meeting that is open to all members, who shall be given opportunity to make comments thereon. All deliberations of the board on any action proposed under subdivision (a) shall only be conducted in an open meeting.

(d) The board may not amend the governing documents pursuant to this section without the approval of a majority of a quorum of the members, pursuant to Section 6524. For the purposes of this section, "quorum" means

more than 50 percent of the members who own no more than two separate interests in the development. [2013 - Based on former §1355.5]

§6610. Correction of Statutory Cross-References; Changes Arising from Recodification

(a) Notwithstanding any other law or provision of the governing documents, if the governing documents include a ■ reference to a provision of the Davis-Stirling Common Interest Development Act that was continued in a new provision by the act that added this section, the ■ board may amend the governing documents, solely to correct the cross-reference, by adopting a board resolution that shows the correction. Member approval is not required in order to adopt a resolution pursuant to this section.

(b) A declaration that is corrected under this section may be restated in corrected form and recorded, provided that a copy of the board resolution authorizing the corrections is recorded along with the restated declaration. [2013 - New Language]

ARTICLE 2. DECLARATION

§6614. Contents of Declaration

(a) A declaration, recorded on or after January 1, 1986, shall ■ contain a ■ legal description of the common interest development, and a statement that the common interest development is a ■ condominium project, ■ planned development, ■ stock cooperative, or combination thereof. The declaration shall additionally set forth the ■ name of the association and the restrictions on the use or enjoyment of any portion of the common interest development that are intended to be enforceable ■ equitable servitudes.

(b) The declaration may contain any other matters the declarant or the members consider appropriate. [2013 - Based on former §1353(a)(1)]

§6616. Amending Declaration

■ Except to the extent that a declaration provides by its express terms that it is not amendable, in whole or in part, a declaration that fails to include provisions permitting its amendment at all times during its existence may be amended at any time. [2013 - Based on former §1355(b)]

§6618. Extending Term of Declaration

■ (a) The Legislature finds that there are common interest developments that have been created with deed restrictions that do not provide a means for the members to extend the term of the declaration. The Legislature further finds that covenants and restrictions, contained in the declaration, are an appropriate method for protecting the common plan of developments and to provide for a mechanism for financial support for the upkeep of common area including, but not limited to, roofs, roads, heating systems, and recreational facilities. If declarations terminate prematurely, common interest developments may deteriorate and the supply of affordable units could be impacted adversely. The Legislature further finds and declares that it is in the public interest to

provide a ■ vehicle for extending the term of the declaration if the extension is approved by a ■ majority of all members, pursuant to Section 6522.

(b) A declaration that specifies a termination date, but that contains no provision for extension of the termination date, may be extended, before its termination date, by the approval of members pursuant to Section 6620.

(c) No single extension of the terms of the declaration made pursuant to this section shall exceed the initial term of the declaration or 20 years, whichever is less. However, more than one extension may occur pursuant to this section. [2013 - Based on former §1357]

§6620. Declaration Amendment Requirements

■ (a) A declaration may be amended pursuant to the declaration or this act. An amendment is effective after all of the following requirements have been met:

(1) The proposed amendment has been delivered by individual notice to all members not less than 15 days and not more than 60 days prior to any approval being solicited.¹

(2) The amendment has been ■ approved by the percentage of members required by the declaration and any other person whose approval is required by the declaration.

(3) That fact has been certified in a writing executed and acknowledged by the officer designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association.

(4) The amendment has been ■ recorded in each county in which a portion of the common interest development is located.

(b) If the declaration does not specify the percentage of members who must approve an amendment of the declaration, an amendment may be approved by a ■ majority of all members, pursuant to Section 6522. [2013 - Based on former §1355]

ARTICLE 3. ARTICLES OF INCORPORATION

§6622. Association Articles of Incorporation

■ (a) The articles of incorporation of an association filed with the Secretary of State shall include a statement, which shall be in addition to the statement of purposes of the corporation, that does all of the following:

(1) Identifies the corporation as an association formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

(2) States the business or corporate office of the association, if any, and, if the office is not on the site of the common interest development, states the front street and nearest cross street for the physical location of the common interest development.

¹ In a non-commercial (primarily residential) CID, this notice to members is not required unless the declaration contains no provision for how to amend it.

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

(b) The statement filed by an ■ incorporated association with the Secretary of State pursuant to Section 8210 of the Corporations Code shall also contain a statement identifying the corporation as an association formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

(c) Documents filed prior to January 1, 2014, in compliance with former Section 1363.5, as it read on January 1, 2013, are deemed to be in compliance with this section. [2013 - Based on former §1363.5]

ARTICLE 4. CONDOMINIUM PLAN

§6624. Condominium Plan Contents

A condominium plan shall contain all of the following:

(a) A description or ■ survey map of a condominium project, which shall refer to or show monumentation on the ground.

(b) A three-dimensional description of a condominium project, one or more dimensions of which may extend for an indefinite distance upwards or downwards, in sufficient detail to identify the common area and each separate interest.

(c) A certificate consenting to the recordation of the condominium plan pursuant to this act that is signed and acknowledged as provided in Section 6626. [2013 - Based on former §1351(e)]

§6626. Condominium Plan – Consent to Recordation

(a) The certificate consenting to the recordation of a condominium plan that is required by subdivision (c) of Section 6624 shall be ■ signed and acknowledged by all of the following persons:

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

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

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

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

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

(c) In the event a conversion to condominiums of ■ a stock cooperative has been approved by the required number of owners, trustees, beneficiaries, and mortgagees pursuant to Section 66452.10 of the Government Code, the certificate need only be signed by those owners, trustees, beneficiaries, and mortgagees approving the conversion. [2013 - Based on former §1351(e)]

§6628. Amending or Revoking Condominium Plan

■ A condominium plan may be amended or revoked by a recorded instrument that is acknowledged and signed by all the persons who, at the time of amendment or revocation, are persons whose signatures are required under Section 6626. [2013 - Based on former §1351(e)]

ARTICLE 5. OPERATING RULES

§6630. Operating Rule; Rule Change – Defined

■ For the purposes of this article, ■ “operating rule” means a regulation adopted by the board that applies generally to the management and operation of the common interest development or the conduct of the business and affairs of the association. [2013 - Based on former §1357.100]

§6632. Operating Rule Enforceability Requirements

■ An operating rule is valid and enforceable only if all of the following requirements are satisfied:

(a) The rule is in writing.

(b) The rule is within the authority of the board conferred by law or by the declaration, articles of incorporation or association, or bylaws of the association.

(c) The rule is not in conflict with governing law and the declaration, articles of incorporation or association, or bylaws of the association.

(d) The rule is reasonable, and is adopted, amended, or repealed in good faith. [2013 - Based on former §1357.110]

CHAPTER 4. OWNERSHIP AND TRANSFER OF INTERESTS

ARTICLE 1. OWNERSHIP RIGHTS AND INTERESTS

§6650. Ownership of Common Area

■ Unless the declaration otherwise provides, in a condominium project, or in a planned development in which the common area is owned by the owners of the separate interests, the common area is owned as ■ tenants in common, in equal shares, one for each separate interest. [2013 - Based on former §1362]

§6652. Ingress, Egress and Support

Unless the declaration otherwise provides:

(a) In a ■ condominium project, and in those ■ planned developments with common area ■ owned in common by the owners of the separate interests, there are appurtenant to each separate interest nonexclusive rights of ingress, egress, and support, if necessary, through the common area. The common area is subject to these rights.

(b) In a ■ stock cooperative, and in a ■ planned development with ■ common area owned by the association, there is an easement for ingress, egress, and support, if necessary, appurtenant to each separate interest. The common area is subject to these ■ easements. [2013 - Based on former §1361]

§6654. No Denial of Access Rights

Except as otherwise provided in law, an order of the court, or an order pursuant to a final and binding arbitration decision, an association ■ may not deny a member or occupant physical access to the member's or occupant's separate interest, either by restricting access through the common area to the separate interest, or by restricting access solely to the separate interest. [2013 - Based on former §1361.5]

ARTICLE 2. RESTRICTIONS ON TRANSFER

§6656. Partition Actions in Condominium Projects

■ (a) Except as provided in this section, the common area in a condominium project shall remain undivided, and there shall be no judicial partition thereof. Nothing in this section shall be deemed to prohibit partition of a cotenancy in a condominium.

(b) The owner of a separate interest in a condominium project may maintain a partition action as to the entire project as if the owners of all of the separate interests in the project were ■ tenants in common in the entire project in the same proportion as their interests in the common area. The court shall order partition under this subdivision only by sale of the entire condominium project and only upon a showing of one of the following:

(1) More than three years before the filing of the action, the condominium project was damaged or destroyed, so that a material part was rendered unfit for its prior use, and the condominium project has not been rebuilt or repaired substantially to its state prior to the damage or destruction.

(2) Three-fourths or more of the project is destroyed or substantially damaged and owners of separate interests holding in the aggregate more than a 50-percent interest in the common area oppose repair or restoration of the project.

(3) The project has been in existence more than 50 years, is obsolete and uneconomic, and owners of separate interests holding in the aggregate more than a 50-percent interest in the common area oppose repair or restoration of the project.

(4) Any conditions in the declaration for sale under the circumstances described in this subdivision have been met. [2013 - Based on former §1359]

§6658. Mechanics' Liens; Emergency Repairs

■ (a) In a **common interest development**, no labor performed or services or materials furnished with the consent of, or at the request of, an owner in the **common interest development** or the owners' agent or contractor shall be the basis for the filing of a lien against any other property of any other owner in the **common interest development** unless that other owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services. However, express consent shall be deemed to have been given by the owner of any **separate interest** in the case of emergency repairs thereto.

(b) Labor performed or services or materials furnished for the common area, if duly authorized by the association, shall be deemed to be performed or furnished with the express consent of each separate interest owner.

(c) The owner of any separate interest may remove that owner's separate interest from a lien against two or more separate interests or any part thereof by doing either of the following:

(1) Pay to the holder of the lien of the fraction of the total sum secured by the lien that is attributable to the owner's separate interest.

(2) Record a lien release bond, pursuant to Section 8424, in an amount equal to 125 percent of the sum secured by the lien that is attributable to the owner's separate interest. [2017 - Based on former §1369]

§6660. Mechanics' Liens; Association Notice to Members

If the association is served with a claim of lien pursuant to Part 6 (commencing with Section 8000) for a work of improvement on a common area, the association shall, within 60 days of service, give individual notice to the members, pursuant to Section 6514. [2017]

ARTICLE 3. TRANSFER OF SEPARATE INTEREST

§6662. Separate Interest Transfer in Condominium Project

■ In a ■ In a condominium project the common area is not subject to partition, except as provided in Section 6656. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common area. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's membership interest in the association. [2013 - Based on former §1358(b)]

§6664. Separate Interest Transfer in Planned Development

■ In a ■ planned development, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the undivided interest in the common area, if any exists. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's ■ membership interest in the association. [2013 - Based on former §1358(c)]

§6666. Separate Interest Transfer in Stock Cooperative

■ In a ■ stock cooperative, any conveyance, judicial sale, or other voluntary or involuntary transfer of the separate interest includes the ownership interest in the corporation, however evidenced. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the owner's entire estate also includes the owner's ■ membership interest in the association. [2013 - Based on former §1358(d)]

§6668. Transfer of Exclusive Use Common Areas

■ Nothing in this article prohibits the transfer of exclusive use areas, independent of any other interest in a common interest subdivision, if authorization to separately transfer exclusive use areas is expressly stated in the declaration and the transfer occurs in accordance with the terms of the declaration. [2013 - Based on former §1358]

§6670. Severability of Property Interests

■ Any restrictions upon the severability of the component interests in real property which are contained in the declaration shall not be deemed conditions repugnant to the interest created within the meaning of Section 711. However, these restrictions shall not extend beyond the period in which the right to ■ partition a project is suspended under Section 6656. [2013 - Based on former §1358]

CHAPTER 5. PROPERTY USE AND MAINTENANCE

ARTICLE 1. PROTECTED USES

§6700. Regulation of Separate Interests – Application of Article

■ This article includes provisions that limit the authority of an association or the governing documents to regulate the use of a member’s separate interest. Nothing in this article is intended to affect the application of any other provision that limits the authority of an association to regulate the use of a member’s separate interest, including, but not limited to, the following provisions:

- (a) Sections 712 and 713, relating to the display of signs.
- (b) Sections 714 and 714.1, relating to solar energy systems.
- (c) Section 714.5, relating to structures that are constructed offsite and moved to the property in sections or modules.
- (d) Sections 782, 782.5, and 6150 of this code and Section

12956.1 of the Government Code, relating to racial restrictions. [2013 - New language]

§6702. Display of United States Flag

■ (a) Except as required for the protection of the public health or safety, no governing document shall limit or prohibit, or be construed to limit or prohibit, the display of the flag of the United States by a member on or in the member’s separate interest or within the member’s exclusive use common area.

(b) For purposes of this section, “display of the flag of the United States” means a flag of the United States made of fabric, cloth, or paper displayed from a staff or pole or in a window, and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.

(c) In any action to enforce this section, the prevailing party shall be awarded reasonable ■ attorney’s fees and costs. [2013 - Based on former §1353.5]

§6704. Display of Noncommercial Signs

■ (a) The governing documents may not prohibit posting or displaying of noncommercial signs, posters, flags, or banners on or in a member’s separate interest, except as required for the protection of public health or safety or if the posting or display would violate a local, state, or federal law.

(b) For purposes of this section, a noncommercial sign, poster, flag, or banner may be made of paper, cardboard, cloth, plastic, or fabric, and may be posted or displayed from the yard, window, door, balcony, or outside wall of the separate interest, but may not be made of lights, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component, or include the painting of architectural surfaces.

(c) An association may prohibit noncommercial signs and posters that are more than nine square feet in size and noncommercial flags or banners that are more than 15 square feet in size. [2013 - Based on former §1353.6]

§6706. Pet Restrictions

■ Notwithstanding Section 4202, Section 4715² applies to an owner of a separate interest in a common interest development who kept a pet in that common interest development before January 1, 2014. [2013 - Based on former §1360.5]

§6708. Television Antennas; Satellite Dishes

■ (a) Any covenant, condition, or restriction contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, a common interest development that effectively prohibits or restricts the installation or use of a video or television antenna, including a satellite dish, or that effectively prohibits or restricts the attachment of that antenna to a structure within that development where the antenna is not visible from any street or common area, except as otherwise prohibited or restricted by law, is void and unenforceable as to its application to the installation or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less.

(b) This section shall not apply to any covenant, condition, or restriction, as described in subdivision (a), that imposes reasonable restrictions on the installation or use of a video or television antenna, including a satellite dish, that has a diameter or diagonal measurement of 36 inches or less. For purposes of this section, “reasonable restrictions” means those restrictions that do not significantly increase the cost of the video or television antenna system, including all related equipment, or significantly decrease its efficiency or performance and include all of the following:

(1) Requirements for application and notice to the association prior to the installation.

² These two sections refer to the pet restrictions in the Davis-Stirling Act. It is not clear why section 6706 mentions sections 4202 and 4715 when neither section is part of the Commercial and Industrial Common Interest Development Act.

(2) Requirement of a member to obtain the approval of the association for the installation of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less on a separate interest owned by another.

(3) Provision for the maintenance, repair, or replacement of roofs or other building components.

(4) Requirements for installers of a video or television antenna to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of a video or television antenna that has a diameter or diagonal measurement of 36 inches or less.

(c) Whenever approval is required for the installation or use of a video or television antenna, including a satellite dish, the application for approval shall be processed by the appropriate approving entity for the common interest development in the same manner as an application for approval of an architectural modification to the property, and the issuance of a decision on the application shall not be willfully delayed.

(d) In any action to enforce compliance with this section, the prevailing party shall be awarded reasonable ■ attorney's fees. [2013 - Based on former §1376]

§6710. Unreasonable Restrictions on Marketing Separate Interests Prohibited

■ (a) Any provision of a governing document that arbitrarily or unreasonably restricts an owner's ability to market the owner's interest in a common interest development is void.

(b) No association may adopt, enforce, or otherwise impose any governing document that does either of the following:

(1) Imposes an ■ assessment or fee in connection with the marketing of an owner's interest in an amount that exceeds the association's actual or direct costs.

(2) Establishes an exclusive relationship with a real estate broker through which the sale or marketing of interests in the development is required to occur. The limitation set forth in this paragraph does not apply to the sale or marketing of separate interests owned by the association or to the sale or marketing of common area by the association.

(c) For purposes of this section, "market" and "marketing" mean listing, advertising, or obtaining or providing access to show the owner's interest in the development.

(d) This section does not apply to rules or regulations made pursuant to Section 712 or 713 regarding real estate signs. [2013 - Based on former §1368.1]

§6712. Architectural Guidelines and Low Water-Using Plants

■ (a) Notwithstanding any other law, a provision of the governing documents shall be void and unenforceable if it does any of the following:

(1) Prohibits, or includes conditions that have the effect of prohibiting, the use of low water-using plants as a group.

(2) Has the effect of prohibiting or restricting compliance with either of the following:

(A) A water-efficient landscape ordinance adopted or in effect pursuant to subdivision (c) of Section 65595 of the Government Code.

(B) Any regulation or restriction on the use of water adopted pursuant to Section 353 or 375 of the Water Code.

(b) This section shall not prohibit an association from applying landscaping rules established in the governing documents, to the extent the rules fully conform with the requirements of subdivision (a). [2013 - Based on former §1353.8]

§6713. Electric Vehicle Charging Stations

■ (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, and any provision of a governing document, as defined in Section 6552, that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in an owner's designated parking space, including, but not limited to, a deeded parking space, a parking space in an owner's exclusive use common area, or a parking space that is specifically designated for use by a particular owner, or is in conflict with the provisions of this section is void and unenforceable.

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

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

(c) An electric vehicle charging station shall meet applicable health and safety standards and requirements imposed by state and local authorities, and all other applicable zoning, land use or other ordinances, or land use permits.

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

(e) If approval is required for the installation or use of an electric vehicle charging station, the application for approval shall be processed and approved by the association in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed. The approval or denial of an application shall be in writing. If an application is not denied in writing within 60 days from the date of receipt

of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

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

(1) The owner first shall obtain approval from the association to install the electric vehicle charging station and the association shall approve the installation if the owner agrees in writing to do all of the following:

(A) Comply with the association's architectural standards for the installation of the charging station.

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

(C) Within 14 days of approval, provide a certificate of insurance that names the association as an additional insured under the owner's insurance policy in the amount set forth in paragraph (3).

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

(2) The owner and each successive owner of the charging station shall be responsible for all of the following:

(A) Costs for damage to the charging station, common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the charging station.

(B) Costs for the maintenance, repair, and replacement of the charging station until it has been removed and for the restoration of the common area after removal.

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

(D) Disclosing to prospective buyers the existence of any charging station of the owner and the related responsibilities of the owner under this section.

(3) The owner and each successive owner of the charging station, at all times, shall maintain a liability coverage policy in the amount of one million dollars (\$1,000,000), and shall name the association as a named additional insured under the policy with a right to notice of cancellation.

(4) An owner shall not be required to maintain a liability coverage policy for an existing National Electrical Manufacturers Association standard alternating current power plug.

(g) Except as provided in subdivision (h), installation of an electric vehicle charging station for the exclusive use of an owner in a common area, that is not an exclusive use common area, shall be authorized by the association only if installation in the owner's designated parking space is impossible or unreasonably expensive. In such cases, the association shall enter into a license agreement with the owner for the use of the space in a common area, and the owner shall comply with all of the requirements in subdivision (f).

(h) The association or owners may install an electric vehicle charging station in the common area for the use of all members of the

association and, in that case, the association shall develop appropriate terms of use for the charging station.

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

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

(k) In any action to enforce compliance with this section, the prevailing plaintiff shall be awarded reasonable attorney's fees. [2013 - Based on former §1353.9]

ARTICLE 2. MODIFICATION OF SEPARATE INTEREST

§6714. Owner's Right to Improve or Modify Separate Interest

■ (a) Subject to the governing documents and applicable law, a member may do the following:

(1) Make any improvement or alteration within the ■ boundaries of the member's separate interest that does not impair the structural integrity or mechanical systems or lessen the support of any portions of the common interest development.

(2) Modify the member's separate interest, at the member's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically ■ disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the separate interest for the purposes of this paragraph if the separate interest is on the ground floor or already accessible by an existing ramp or elevator. The right granted by this paragraph is subject to the following conditions:

(A) The modifications shall be consistent with applicable building code requirements.

(B) The modifications shall be consistent with the intent of otherwise applicable provisions of the governing documents pertaining to safety or aesthetics.

(C) Modifications external to the separate interest shall not prevent reasonable passage by other residents, and shall be removed by the member when the separate interest is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically disabled.

(D) Any member who intends to modify a separate interest pursuant to this paragraph shall submit plans and specifications to the association for review to determine whether the modifications will comply with the provisions of this paragraph. The association shall not deny approval of the proposed modifications under this paragraph without good cause.

(b) Any change in the exterior appearance of a separate interest shall be in accordance with the governing documents and applicable provisions of law. [2013 - Based on former §1360]

ARTICLE 3. MAINTENANCE

§6716. General Maintenance Obligations

■ (a) Unless otherwise provided in the declaration of a common interest development, the association is responsible for repairing, replacing, or ■ maintaining the common area, other than exclusive use common area, and the owner of each separate interest is responsible for ■ maintaining that separate interest and any ■ exclusive use common area appurtenant to the separate interest.

(b) The costs of temporary relocation ■ during the repair and maintenance of the areas within the responsibility of the association shall be borne by the owner of the separate interest affected. [2013 - Based on former §1364(a)&(c)]

§6718. Default Maintenance Obligations in Specific Developments

(a) In a ■ condominium project or ■ stock cooperative, unless otherwise provided in the declaration, the association is responsible for the ■ repair and maintenance of the common area occasioned by the presence of ■ wood-destroying pests or organisms.

(b) In a ■ planned development, unless a different maintenance scheme is provided in the declaration, each owner of a separate interest is responsible for the repair and maintenance of that separate interest as may be occasioned by the presence of wood-destroying pests or organisms. Upon approval of the ■ majority of all members of the association, pursuant to Section 6522, that responsibility may be delegated to the association, which shall be entitled to recover the cost thereof as a ■ special assessment. [2013 - Based on former §1364(b)]

§6720. Removal of Occupants to Perform Maintenance

(a) The association may cause the ■ temporary, summary removal of any occupant of a common interest development for such periods and at such times as may be necessary for prompt, effective treatment of wood-destroying pests or organisms.

(b) The association shall give notice of the need to temporarily vacate a separate interest to the occupants and to the owners, not less than 15 days nor more than 30 days prior to the date of the temporary relocation. The notice shall state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation.

(c) Notice by the association shall be deemed complete upon either:

(1) Personal delivery of a copy of the notice to the occupants, and, if an occupant is not the owner, individual delivery pursuant to Section 6514 of a copy of the notice to the owner.

(2) Individual delivery pursuant to Section 6514 to the occupant at the address of the separate interest, and, if the occupant is not the

owner, individual delivery pursuant to Section 6514 of a copy of the notice to the owner.

■ (d) For purposes of this section, “occupant” means an owner, resident, guest, invitee, tenant, lessee, sublessee, or other person in possession of the separate interest. [2013 - Based on former §1364(d)&(e)]

§6722. Member Access to Maintain Telephone Wiring

Notwithstanding the provisions of the declaration, a member is entitled to ■ reasonable ■ access to the common area for the purpose of maintaining the internal and ■ external telephone wiring made part of the exclusive use common area of the member’s separate interest pursuant to subdivision (c) of Section 6550. The access shall be subject to the consent of the association, whose approval shall not be unreasonably withheld, and which may include the association’s approval of telephone wiring upon the exterior of the common area, and other conditions as the association determines reasonable. [2013 - Based on former §1364(f)]

CHAPTER 6. ASSOCIATION GOVERNANCE

ARTICLE 1. ASSOCIATION EXISTENCE AND POWERS

§6750. Common Interest Development Managed by Association

A common interest development shall be ■ managed by an association that may be ■ incorporated or ■ unincorporated. The association may be referred to as an owners’ association or a ■ community association. [2013 - Based on former §1363(a)]

§6752. Association May Exercise Powers of Nonprofit Mutual Benefit Corporation

■ (a) Unless the governing documents provide otherwise, and regardless of whether the association is ■ incorporated or ■ unincorporated, the association may exercise the powers granted to a nonprofit mutual benefit corporation, as enumerated in Section 7140 of the Corporations Code, except that an unincorporated association may not adopt or use a corporate seal or issue ■ membership certificates in accordance with Section 7313 of the Corporations Code.

■ (b) The association, whether incorporated or ■ unincorporated, may exercise the powers granted to an association in this act. [2013 - Based on former §1363(c)]

ARTICLE 2. RECORD KEEPING

§6756. Member Delivery of Requests to Association

To be effective, a request to change the member’s information in the association ■ membership list shall be delivered in writing to the association, pursuant to Section 6512. [2013 – Compare with former §1367.1(k)]

ARTICLE 3. CONFLICT OF INTEREST

§6758. Conflict of Interest Issues for Board and Committee Members

■ (a) Notwithstanding any other law, and regardless of whether an association is ■ incorporated or ■ unincorporated, the provisions of Sections 7233 and 7234 of the Corporations Code shall apply to any contract or other transaction authorized, approved, or ratified by the board or a ■ committee of the board.

(b) A director or member of a committee shall not vote on any of the following matters:

(1) Discipline of the director or committee member.

(2) An assessment against the director or committee member for damage to the common area or facilities.

(3) A request, by the director or committee member, for a payment plan for overdue assessments.

(4) A decision whether to foreclose on a lien on the separate interest of the director or committee member.

(5) Review of a proposed physical change to the separate interest of the director or committee member.

(6) A grant of exclusive use common area to the director or committee member.

(c) Nothing in this section limits any other provision of law or the governing documents that govern a decision in which a director may have an interest. [2013 - New language]

ARTICLE 4. GOVERNMENT ASSISTANCE

§6760. Required Filing of Biennial Statement

■ (a) To assist with the identification of commercial or industrial common interest developments, each association, whether ■ incorporated or ■ unincorporated, shall submit to the Secretary of State, on a form and for a fee, to cover the reasonable cost to the Secretary of State of processing the form, not to exceed thirty dollars (\$30), that the Secretary of State shall prescribe, the following information concerning the association and the development that it manages:

(1) A statement that the association is formed to manage a common interest development under the Commercial and Industrial Common Interest Development Act.

(2) The name of the association.

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

(4) The street address of the association's onsite office, if different from the street address of the business or corporate office, or if there is no onsite office, the street address of the responsible officer or ■ managing agent of the association.

(5) The name, address, and either the daytime telephone number or email address of the association's onsite office or managing agent.

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

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

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

(9) The front street and nearest cross street of the physical location of the development.

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

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

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

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

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

(c) The association shall notify the Secretary of State of any change in the street address of the association's onsite office or of the responsible officer or ■ managing agent of the association in the form and for a fee, to cover the reasonable cost to the Secretary of State of processing the form, prescribed by the Secretary of State, within 60 days of the change.

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

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

(f) The Secretary of State shall make the information submitted pursuant to paragraph (5) of subdivision (a) available only for governmental purposes and only to Members of the Legislature and the Business, Consumer Services, and Housing Agency, upon written request. All other information submitted pursuant to this section shall be subject to public inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section

6250) of Division 7 of Title 1 of the Government Code). The information submitted pursuant to this section shall be made available for governmental or public inspection.

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

(h) The Secretary of State may destroy or otherwise dispose of any form filed pursuant to this section after it has been superseded by the filing of a new form. [2013 – Based on former §1363.6]

CHAPTER 7. ASSESSMENTS AND ASSESSMENT COLLECTION

ARTICLE 1. ESTABLISHMENT AND IMPOSITION OF ASSESSMENTS

§6800. Duty to Levy Assessments

■ The association shall ■ levy ■ regular and special assessments sufficient to perform its obligations under the governing documents and this act. [2013 - Based on former §1366(a)]

§6804. Assessments Exempt from Execution by Creditors

■ (a) Regular assessments imposed or collected to perform the obligations of an association under the governing documents or this act shall be exempt from execution by a judgment creditor of the association only to the extent necessary for the association to perform essential services, such as paying for utilities and insurance. In determining the appropriateness of an exemption, a court shall ensure that only essential services are protected under this subdivision.

(b) This exemption shall not apply to any consensual pledges, liens, or encumbrances that have been approved by a majority of a quorum of members, pursuant to Section 6524, at a member meeting or election, or to any state tax lien, or to any lien for labor or materials supplied to the common area. [2013 - Based on former §1366(c)]

ARTICLE 2. ASSESSMENT PAYMENT AND DELINQUENCY

§6808. Assessments as Debts; Permissible Charges and Interest

A regular or special assessment and any ■ late charges, reasonable fees and costs of collection, reasonable ■ attorney’s fees, if any, and ■ interest, if any, shall be a debt of the owner of the separate interest at the time the assessment or other sums are levied. [2013 - Based on former §1367.1(a)]

§6810. Assessment Payments by Owners and How Applied to Debt

■ (a) When an owner of a separate interest makes a payment toward an assessment, the owner may request a receipt and the association shall provide it. The receipt shall indicate the date of payment and the person who received it.

■ (b) The association shall provide a mailing address for overnight payment of assessments.

(c) An owner shall ■ not be liable for any charges, interest, or costs of collection for an assessment payment that is asserted to be delinquent, if it is determined the assessment was paid on time to the association. [2013 - Based on former §1367.1(a)(3) & (b)]

§6812. Pre-lien Notice Requirements

■ At least 30 days prior to recording a lien upon the separate interest of the owner of record to collect a debt that is past due under Section 6808, the association shall notify the owner of record in writing by certified mail of the following:

(a) A general description of the collection and lien enforcement procedures of the association and the method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the ■ association records pursuant to Section 8333 of the Corporations Code, and the following statement ■ in 14-point boldface type, if printed, or in capital letters, if typed:

“IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.”

(b) An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable ■ attorney’s fees, any ■ late charges, and ■ interest, if any.

(c) A statement that the owner shall ■ not be liable to pay the charges, ■ interest, and costs of collection, if it is determined the assessment was paid on time to the association. [2013 - Based on former §1367.1(a)]

§6814. Contents and Effect of Assessment Lien

■ (a) The amount of the assessment, plus any costs of collection, ■ late charges, and ■ interest assessed in accordance with Section 6808, shall be a lien on the owner’s separate interest in the common interest development from and after the time the association causes to be recorded with the county recorder of the county in which the separate interest is located, a notice of delinquent assessment, which shall state the amount of the assessment and other sums imposed in accordance with Section 6808, a legal description of the owner’s separate interest in the common interest development against which the assessment and other sums are levied, and the name of the record owner of the separate interest in the common interest development against which the lien is imposed.

(b) The itemized statement of the charges owed by the owner described in subdivision (b) of Section 6812 shall be recorded together with the notice of delinquent assessment.

(c) In order for the lien to be enforced by nonjudicial foreclosure as provided in Sections 6820 and 6822, the notice of delinquent assessment shall state the name and address of the trustee authorized by the association to enforce the lien by sale.

■ (d) The notice of delinquent assessment shall be signed by the person designated in the declaration or by the association for that purpose, or if no one is designated, by the president of the association.

■ (e) A copy of the recorded notice of delinquent assessment shall be mailed by certified mail to every person whose name is shown as an owner of

the separate interest in the association's records, and the notice shall be mailed no later than 10 calendar days after recordation. [2013 - Based on former §1367.1(d)]

§6816. Priority of Assessment Lien

A lien created pursuant to Section 6814 shall be ■ prior to all other liens recorded subsequent to the notice of delinquent assessment, except that the declaration may provide for the ■ subordination thereof to any other liens and encumbrances. [2013 - Based on former §1367.1(f)]

§6818. Payment and Rescission of Assessment Lien; Liens Recorded in Error

■ (a) Within 21 days of the payment of the sums specified in the notice of delinquent assessment, the association shall record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest a copy of the lien release or notice that the delinquent assessment has been satisfied.

(b) If it is determined that a lien previously recorded against the separate interest was ■ recorded in error, the party who recorded the lien shall, within 21 calendar days, record or cause to be recorded in the office of the county recorder in which the notice of delinquent assessment is recorded a lien release or notice of rescission and provide the owner of the separate interest with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission. [2013 - Based on former §§1367.1(i) & 1367.5]

§6819. Failure to Comply with Assessment Lien Procedures; Effect

■ An association that fails to comply with the procedures set forth in this section shall, prior to recording a lien, recommence the required notice process. Any costs associated with recommencing the notice process shall be borne by the association and not by the owner of a separate interest. [2013 - Based on former §1367.1(l)]

ARTICLE 3. ASSESSMENT COLLECTION

§6820. Assessments Collection Using Liens and Lawsuits

■ (a) Except as otherwise provided in this article, after the expiration of 30 days following the recording of a lien created pursuant to Section 6814, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Section 2934a.

■ (b) Nothing in Article 2 (commencing with Section 6808) or in subdivision (a) of Section 726 of the Code of Civil Procedure prohibits actions against the owner of a separate interest to recover sums for which a lien is created pursuant to Article 2 (commencing with Section 6808) or prohibits an association from taking a deed in lieu of foreclosure. [2013 - Based on former §1367.1(g)&(h)]

§6822. Requirements Applicable to Nonjudicial Foreclosure Sales

■ (a) Any sale by the trustee shall be conducted in accordance with Sections 2924, 2924b, and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trust.

(b) In addition to the requirements of Section 2924, the association shall serve a notice of default on the person named as the owner of the separate interest in the association's records or, if that person has designated a legal representative pursuant to this subdivision, on that legal representative. Service shall be in accordance with the manner of service of summons in Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. An owner may designate a legal representative in a writing that is mailed to the association in a manner that indicates that the association has received it.

■ (c) The fees of a trustee may not exceed the amounts prescribed in Sections 2924c and 2924d, plus the cost of service for the notice of default pursuant to subdivision (b). [2013 - Based on former §1367.1(g)&(j)]

§6824. Effect of Common Area Damage and Monetary Penalties on the Right to Lien

■ (a) A monetary charge imposed by the association as a means of reimbursing the association for costs incurred by the association in the repair of damage to common areas and facilities caused by a member or the member's guest or tenant may become a lien against the member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c, provided the authority to impose a lien is set forth in the governing documents.

■ (b) A ■ monetary penalty imposed by the association as a disciplinary measure for failure of a member to comply with the governing documents, except for the late payments, may not be characterized nor treated in the governing documents as an assessment that may become a lien against the member's separate interest enforceable by the sale of the interest under Sections 2924, 2924b, and 2924c. [2013 - Based on former §1367.1(d)&(e)]

§6826. Assigning or Pledging the Right to Collect Assessments

■ (a) An association may not voluntarily assign or pledge the association's right to collect payments or assessments, or to enforce or foreclose a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a ■ loan obtained by the association.

(b) Nothing in subdivision (a) restricts the right or ability of an association to assign any unpaid obligations of a former member to a third party for purposes of collection. [2013 - Based on former §1367.1(g)]

§6828. Assessment Liens Created before or after January 1, 2003

(a) Except as otherwise provided, this article applies to a ■ lien created on or after January 1, 2014.

(b) A ■ lien created before January 1, 2014, is governed by the law in existence at the time the lien was created. [2013 - Based on former §1367(g) & 1367.1(m)]

CHAPTER 8. INSURANCE AND LIABILITY

§6840. Limitations on Owner Liability Arising from Common Area Ownership

■ (a) It is the intent of the Legislature to offer civil liability protection to owners of the separate interests in a common interest development that have common area owned in tenancy in common if the association carries a certain level of prescribed insurance that covers a cause of action in tort.

(b) Any cause of action in tort against any owner of a separate interest arising solely by reason of an ownership interest as a tenant in common in the common area of a common interest development shall be brought only against the association and not against the individual owners of the separate interests, if both of the insurance requirements in paragraphs (1) and (2) are met:

(1) The association maintained and has in effect for this cause of action, one or more policies of ■ insurance that include coverage for general liability of the association.

(2) The coverage described in paragraph (1) is in the following minimum amounts:

(A) At least two million dollars (\$2,000,000) if the common interest development consists of 100 or fewer separate interests.

(B) At least three million dollars (\$3,000,000) if the common interest development consists of more than 100 separate interests. [2013 - Based on former §1365.9]

CHAPTER 9. DISPUTE RESOLUTION AND ENFORCEMENT

ARTICLE 1. DISCIPLINARY ACTION

§6850. Monetary Penalties and Fine Schedules

■ (a) If an association adopts or has adopted a policy imposing any monetary penalty, including any fee, on any association member for a violation of the governing documents, including any monetary penalty relating to the activities of a guest or tenant of the member, the board shall adopt and ■ distribute to each member, by individual notice, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for member discipline contained in the governing documents.

(b) Any new or revised monetary penalty that is adopted after complying with subdivision (a) may be included in a supplement that is delivered to the members individually, pursuant to Section 6553.

(c) A monetary penalty for a violation of the governing documents shall not exceed the monetary penalty stated in the schedule of monetary penalties or supplement that is in effect at the time of the violation.

(d) An association shall provide a copy of the most recently distributed schedule of monetary penalties, along with any applicable supplements to that schedule, to any member on request. [2013 - Based on former §1363(f)]

§6854. No Statutory Creation or Expansion of Right to Levy Fines

■ Nothing in Section 6850 shall be construed to create, expand, or reduce the authority of the board to impose monetary penalties on a member for a violation of the governing documents. [2013 - Based on former §1363(i)]

ARTICLE 2. CIVIL ACTIONS

§6856. CC&Rs Are Enforceable Equitable Servitudes

(a) The covenants and restrictions in the declaration shall be ■ enforceable equitable servitudes, unless ■ unreasonable, and shall inure to the benefit of and bind all owners of separate interests in the development. Unless the declaration states otherwise, these servitudes may be ■ enforced by any owner of a separate interest or by the association, or by both.

(b) A governing document other than the declaration may be ■ enforced by the association against an owner of a separate interest or by an owner of a separate interest against the association. [2013 - Based on former §1354]³

§6858. Association’s Standing in Litigation or Other Proceedings

■ An association has standing to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it, the members, in matters pertaining to the following:

(a) ■ Enforcement of the governing documents.

(b) Damage to the common area.

(c) Damage to a separate interest that the association is obligated to maintain or repair.

(d) Damage to a separate interest that arises out of, or is integrally related to, damage to the common area or a separate interest that the association is obligated to maintain or repair. [2013 - Based on former §1368.3]

§6860. Comparative Fault to Apply in Specified Cases

■ (a) In an action maintained by an association pursuant to subdivision (b), (c), or (d) of Section 6858, the amount of damages recovered by the association shall be reduced by the amount of damages allocated to the association or its managing agents in direct proportion to their percentage of fault based upon principles of comparative fault. The comparative fault of the association or its managing agents may be raised by way of defense, but shall not be the basis for a cross-action or separate action against the association or its managing agents for contribution or implied indemnity, where the only damage was sustained by the association or its members. It is the intent of the Legislature in enacting this subdivision to require that comparative fault be pleaded as an affirmative defense, rather than a separate cause of action, where the only damage was sustained by the association or its members.

³ Note that there is no statutory right to recover attorney’s fees in such an action as there is in the Davis-Stirling Act.

(b) In an action involving damages described in subdivision (b), (c), or (d) of Section 6858, the defendant or cross-defendant may allege and prove the comparative fault of the association or its managing agents as a setoff to the liability of the defendant or cross-defendant even if the association is not a party to the litigation or is no longer a party whether by reason of settlement, dismissal, or otherwise.

(c) Subdivisions (a) and (b) apply to actions commenced on or after January 1, 1993.

(d) Nothing in this section affects a person's liability under Section 1431, or the liability of the association or its managing agent for an act or omission that causes damages to another. [2013 - Based on former §1368.4]

CHAPTER 10. CONSTRUCTION DEFECT LITIGATION

§6870. Procedures Regarding Developer Defect Litigation (operative until July 1, 2017)

■ (a) Before an association files a complaint for damages against a builder, developer, or general contractor (respondent) of a common interest development based upon a claim for defects in the design or construction of the common interest development, all of the requirements of this section shall be satisfied with respect to the builder, developer, or general contractor.

■ (b) The association shall serve upon the respondent a "Notice of Commencement of Legal Proceedings." The notice shall be served by certified mail to the registered agent of the respondent, or if there is no registered agent, then to any officer of the respondent. If there are no current officers of the respondent, service shall be upon the person or entity otherwise authorized by law to receive ■ service of process. Service upon the general contractor shall be sufficient to initiate the process set forth in this section with regard to any builder or developer, if the builder or developer is not amenable to service of process by the foregoing methods. This notice shall toll all applicable statutes of limitation and repose, whether contractual or statutory, by and against all potentially responsible parties, regardless of whether they were named in the notice, including claims for indemnity applicable to the claim for the period set forth in subdivision (c). The notice shall include all of the following:

(1) The name and location of the project.

(2) An initial ■ list of defects sufficient to apprise the respondent of the general nature of the defects at issue.

(3) A description of the results of the defects, if known.

(4) A summary of the results of a survey or questionnaire distributed to owners to determine the nature and extent of defects, if a survey has been conducted or a questionnaire has been distributed.

(5) Either a summary of the results of testing conducted to determine the nature and extent of defects or the actual test results, if that testing has been conducted.

(c) Service of the notice shall commence a period, not to exceed 180 days, during which the association, the respondent, and all other participating parties shall try to resolve the dispute through the processes set forth in this section. This 180-day period may be extended for one additional

period, not to exceed 180 days, only upon the mutual agreement of the association, the respondent, and any parties not deemed peripheral pursuant to paragraph (3) of subdivision (e). Any extensions beyond the first extension shall require the agreement of all participating parties. Unless extended, the dispute resolution process prescribed by this section shall be deemed completed. All extensions shall continue the tolling period described in subdivision (b).

(d) Within 25 days of the date the association serves the Notice of Commencement of Legal Proceedings, the respondent may request in writing to meet and confer with the board. Unless the respondent and the association otherwise agree, there shall be not more than one meeting, which shall take place no later than 10 days from the date of the respondent's written request, at a mutually agreeable time and place. The meeting may be conducted in executive session, excluding the association's members. The ■ discussions at the meeting are privileged communications and are not admissible in evidence in any civil action, unless the association and the respondent consent in writing to their admission.

(e) Upon receipt of the notice, the respondent shall, within 60 days, comply with the following:

(1) The respondent shall provide the association with access to, for inspection and copying of, all plans and specifications, subcontracts, and other construction files for the project that are reasonably calculated to lead to the discovery of admissible evidence regarding the defects claimed. The association shall provide the respondent with access to, for inspection and copying of, all files reasonably calculated to lead to the discovery of admissible evidence regarding the defects claimed, including all ■ reserve studies, maintenance records and any survey questionnaires, or results of testing to determine the nature and extent of defects. To the extent any of the above documents are withheld based on privilege, a privilege log shall be prepared and submitted to all other parties. All other potentially responsible parties shall have the same rights as the respondent regarding the production of documents upon receipt of written notice of the claim, and shall produce all relevant documents within 60 days of receipt of the notice of the claim.

(2) The respondent shall provide written notice by certified mail to all subcontractors, design professionals, their insurers, and the insurers of any additional insured whose identities are known to the respondent or readily ascertainable by review of the project files or other similar sources and whose potential responsibility appears on the face of the notice. This notice to subcontractors, design professionals, and insurers shall include a copy of the Notice of Commencement of Legal Proceedings, and shall specify the date and manner by which the parties shall meet and confer to select a dispute resolution facilitator pursuant to paragraph (1) of subdivision (f), advise the recipient of its obligation to participate in the meet and confer or serve a written acknowledgment of receipt regarding this notice, advise the recipient that it will waive any challenge to selection of the dispute resolution facilitator if it elects not to participate in the meet and confer, advise the recipient that it may seek the assistance of an attorney, and advise the recipient that it should contact its insurer, if any. Any subcontractor or design professional, or insurer for that

subcontractor, design professional, or additional insured, who receives written notice from the respondent regarding the meet and confer shall, prior to the meet and confer, serve on the respondent a written acknowledgment of receipt. That subcontractor or design professional shall, within 10 days of service of the written acknowledgment of receipt, provide to the association and the respondent a Statement of Insurance that includes both of the following:

(A) The names, addresses, and contact persons, if known, of all insurance carriers, whether primary or excess and regardless of whether a deductible or self-insured retention applies, whose policies were in effect from the commencement of construction of the subject project to the present and which potentially cover the subject claims.

(B) The applicable policy numbers for each policy of insurance provided.

(3) Any subcontractor or design professional, or insurer for that subcontractor, design professional, or additional insured, who so chooses, may, at any time, make a written request to the dispute resolution facilitator for designation as a peripheral party. That request shall be served contemporaneously on the association and the respondent. If no objection to that designation is received within 15 days, or upon rejection of that objection, the dispute resolution facilitator shall designate that subcontractor or design professional as a peripheral party, and shall thereafter seek to limit the attendance of that subcontractor or design professional only to those dispute resolution sessions deemed peripheral party sessions or to those sessions during which the dispute resolution facilitator believes settlement as to peripheral parties may be finalized. Nothing in this subdivision shall preclude a party who has been designated a peripheral party from being reclassified as a nonperipheral party, nor shall this subdivision preclude a party designated as a nonperipheral party from being reclassified as a peripheral party after notice to all parties and an opportunity to object. For purposes of this subdivision, a peripheral party is a party having total claimed exposure of less than twenty-five thousand dollars (\$25,000).

(f) (1) Within 20 days of sending the notice set forth in paragraph (2) of subdivision (e), the association, respondent, subcontractors, design professionals, and their insurers who have been sent a notice as described in paragraph (2) of subdivision (e) shall meet and confer in an effort to select a dispute resolution facilitator to preside over the mandatory dispute resolution process prescribed by this section. Any subcontractor or design professional who has been given timely notice of this meeting but who does not participate, waives any challenge he or she may have as to the selection of the dispute resolution facilitator. The role of the dispute resolution facilitator is to attempt to resolve the conflict in a fair manner. The dispute resolution facilitator shall be sufficiently knowledgeable in the subject matter and be able to devote sufficient time to the case. The dispute resolution facilitator shall not be required to reside in or have an office in the county in which the project is located. The dispute resolution facilitator and the participating parties shall agree to a date, time, and location to hold a case management meeting of all parties and the dispute resolution facilitator, to discuss the claims being asserted and the scheduling of

events under this section. The case management meeting with the dispute resolution facilitator shall be held within 100 days of service of the Notice of Commencement of Legal Proceedings at a location in the county where the project is located. Written notice of the case management meeting with the dispute resolution facilitator shall be sent by the respondent to the association, subcontractors and design professionals, and their insurers who are known to the respondent to be on notice of the claim, no later than 10 days prior to the case management meeting, and shall specify its date, time, and location. The dispute resolution facilitator in consultation with the respondent shall maintain a contact list of the participating parties.

(2) No later than 10 days prior to the case management meeting, the dispute resolution facilitator shall disclose to the parties all matters that could cause a person aware of the facts to reasonably entertain a doubt that the proposed dispute resolution facilitator would be able to resolve the conflict in a fair manner. The facilitator's disclosure shall include the existence of any ground specified in Section 170.1 of the Code of Civil Procedure for disqualification of a judge, any attorney-client relationship the facilitator has or had with any party or lawyer for a party to the dispute resolution process, and any professional or significant personal relationship the facilitator or his or her spouse or minor child living in the household has or had with any party to the dispute resolution process. The disclosure shall also be provided to any subsequently noticed subcontractor or design professional within 10 days of the notice.

(3) A dispute resolution facilitator shall be disqualified by the court if he or she fails to comply with this subdivision and any party to the dispute resolution process serves a notice of disqualification prior to the case management meeting. If the dispute resolution facilitator complies with this subdivision, he or she shall be disqualified by the court on the basis of the disclosure if any party to the dispute resolution process serves a notice of disqualification prior to the case management meeting.

(4) If the parties cannot mutually agree to a dispute resolution facilitator, then each party shall submit a list of three dispute resolution facilitators. Each party may then strike one nominee from the other parties' list, and petition the court, pursuant to the procedure described in subdivisions (n) and (o), for final selection of the dispute resolution facilitator. The court may issue an order for final selection of the dispute resolution facilitator pursuant to this paragraph.

(5) Any subcontractor or design professional who receives notice of the association's claim without having previously received timely notice of the meet and confer to select the dispute resolution facilitator shall be notified by the respondent regarding the name, address, and telephone number of the dispute resolution facilitator. Any such subcontractor or design professional may serve upon the parties and the dispute resolution facilitator a written objection to the dispute resolution facilitator within 15 days of receiving notice of the claim. Within seven days after service of this objection, the subcontractor or design professional may petition the superior court to replace the dispute resolution facilitator. The court may replace the dispute resolution

facilitator only upon a showing of good cause, ■ liberally construed. Failure to satisfy the deadlines set forth in this subdivision shall constitute a waiver of the right to challenge the dispute resolution facilitator.

(6) The costs of the dispute resolution facilitator shall be apportioned in the following manner: one-third to be paid by the association; one-third to be paid by the respondent; and one-third to be paid by the subcontractors and design professionals, as allocated among them by the dispute resolution facilitator. The costs of the dispute resolution facilitator shall be recoverable by the prevailing party in any subsequent litigation pursuant to Section 1032 of the Code of Civil Procedure, provided however that any nonsettling party may, prior to the filing of the complaint, petition the facilitator to reallocate the costs of the dispute resolution facilitator as they apply to any nonsettling party. The determination of the dispute resolution facilitator with respect to the allocation of these costs shall be binding in any subsequent litigation. The dispute resolution facilitator shall take into account all relevant factors and equities between all parties in the dispute resolution process when reallocating costs.

(7) In the event the dispute resolution facilitator is replaced at any time, the case management statement created pursuant to subdivision (h) shall remain in full force and effect.

(8) The dispute resolution facilitator shall be empowered to enforce all provisions of this section.

(g) (1) No later than the case management meeting, the parties shall begin to generate a data compilation showing the following information regarding the alleged defects at issue:

(A) The scope of the work performed by each potentially responsible subcontractor.

(B) The tract or phase number in which each subcontractor provided goods or services, or both.

(C) The units, either by address, unit number, or lot number, at which each subcontractor provided goods or services, or both.

(2) This data compilation shall be updated as needed to reflect additional information. Each party attending the case management meeting, and any subsequent meeting pursuant to this section, shall provide all information available to that party relevant to this data compilation.

(h) At the case management meeting, the parties shall, with the assistance of the dispute resolution facilitator, reach agreement on a case management statement, which shall set forth all of the elements set forth in paragraphs (1) to (8), inclusive, except that the parties may dispense with one or more of these elements if they agree that it is appropriate to do so. The case management statement shall provide that the following elements shall take place in the following order:

(1) Establishment of a document depository, located in the county where the project is located, for deposit of documents, ■ defect lists, demands, and other information provided for under this section. All documents exchanged by the parties and all documents created pursuant to this subdivision shall be deposited in the document depository, which shall be available to all

parties throughout the pre-filing dispute resolution process and in any subsequent litigation. When any document is deposited in the document depository, the party depositing the document shall provide written notice identifying the document to all other parties. The costs of maintaining the document depository shall be apportioned among the parties in the same manner as the costs of the dispute resolution facilitator.

(2) Provision of a more detailed ■ list of defects by the association to the respondent after the association completes a visual inspection of the project. This list of defects shall provide sufficient detail for the respondent to ensure that all potentially responsible subcontractors and design professionals are provided with notice of the dispute resolution process. If not already completed prior to the case management meeting, the Notice of Commencement of Legal Proceedings shall be served by the respondent on all additional subcontractors and design professionals whose potential responsibility appears on the face of the more detailed list of defects within seven days of receipt of the more detailed list. The respondent shall serve a copy of the case management statement, including the name, address, and telephone number of the dispute resolution facilitator, to all the potentially responsible subcontractors and design professionals at the same time.

(3) Nonintrusive visual inspection of the project by the respondent, subcontractors, and design professionals.

(4) Invasive testing conducted by the association, if the association deems appropriate. All parties may observe and photograph any testing conducted by the association pursuant to this paragraph, but may not take samples or direct testing unless, by mutual agreement, costs of testing are shared by the parties.

(5) Provision by the association of a comprehensive demand which provides sufficient detail for the parties to engage in meaningful dispute resolution as contemplated under this section.

(6) Invasive testing conducted by the respondent, subcontractors, and design professionals, if they deem appropriate.

(7) Allowance for modification of the demand by the association if new issues arise during the testing conducted by the respondent, subcontractors, or design professionals.

(8) Facilitated dispute resolution of the claim, with all parties, including peripheral parties, as appropriate, and insurers, if any, present and having settlement authority. The dispute resolution facilitators shall endeavor to set specific times for the attendance of specific parties at dispute resolution sessions. If the dispute resolution facilitator does not set specific times for the attendance of parties at dispute resolution sessions, the dispute resolution facilitator shall permit those parties to participate in dispute resolution sessions by telephone.

(i) In addition to the foregoing elements of the case management statement described in subdivision (h), upon mutual agreement of the parties, the dispute resolution facilitator may include any or all of the following elements in a case management statement: the exchange of consultant or expert photographs;

expert presentations; expert meetings; or any other mechanism deemed appropriate by the parties in the interest of resolving the dispute.

(j) The dispute resolution facilitator, with the guidance of the parties, shall at the time the case management statement is established, set deadlines for the occurrence of each event set forth in the case management statement, taking into account such factors as the size and complexity of the case, and the requirement of this section that this dispute resolution process not exceed 180 days absent agreement of the parties to an extension of time.

(k) (1) At a time to be determined by the dispute resolution facilitator, the respondent may submit to the association all of the following:

(A) A request to meet with the board to discuss a written settlement offer.

(B) A written settlement offer, and a concise explanation of the reasons for the terms of the offer.

(C) A statement that the respondent has access to sufficient funds to satisfy the conditions of the settlement offer.

(D) A summary of the results of testing conducted for the purposes of determining the nature and extent of defects, if this testing has been conducted, unless the association provided the respondent with actual test results.

(2) If the respondent does not timely submit the items required by this subdivision, the association shall be relieved of any further obligation to satisfy the requirements of this subdivision only.

(3) No less than 10 days after the respondent submits the items required by this paragraph, the respondent and the board shall meet and confer about the respondent's settlement offer.

(4) If the board rejects a settlement offer presented at the meeting held pursuant to this subdivision, the board shall hold a meeting open to each member of the association. The meeting shall be held no less than 15 days before the association commences an action for damages against the respondent.

(5) No less than 15 days before this meeting is held, a written notice shall be sent to each member of the association specifying all of the following:

(A) That a meeting will take place to ■ discuss problems that may lead to the filing of a civil action, and the time and place of this meeting.

(B) The options that are available to address the problems, including the filing of a civil action and a statement of the various alternatives that are reasonably foreseeable by the association to pay for those options and whether these payments are expected to be made from the use of ■ reserve account funds or the imposition of regular or special assessments, or emergency assessment increases.

(C) The complete text of any written settlement offer, and a concise explanation of the specific reasons for the terms of the offer submitted to the board at the meeting held pursuant to subdivision (d) that was received from the respondent.

(6) The ■ respondent shall pay all expenses attributable to sending the settlement offer to all members of the association. The respondent shall also pay the expense of holding the meeting, not to exceed three dollars (\$3) per association member.

(7) The discussions at the meeting and the contents of the notice and the items required to be specified in the notice pursuant to paragraph (5) are privileged communications and are not admissible in evidence in any civil action, unless the association consents to their admission.

(8) No more than one request to meet and discuss a written settlement offer may be made by the respondent pursuant to this subdivision.

(l) All defect lists and demands, communications, negotiations, and settlement offers made in the course of the prelitigation dispute resolution process provided by this section shall be inadmissible pursuant to Sections 1119 to 1124, inclusive, of the Evidence Code and all applicable decisional law. This inadmissibility shall not be extended to any other documents or communications which would not otherwise be deemed inadmissible.

(m) Any subcontractor or design professional may, at any time, petition the dispute resolution facilitator to release that party from the dispute resolution process upon a showing that the subcontractor or design professional is not potentially responsible for the defect claims at issue. The petition shall be served contemporaneously on all other parties, who shall have 15 days from the date of service to object. If a subcontractor or design professional is released, and it later appears to the dispute resolution facilitator that it may be a responsible party in light of the current ■ defect list or demand, the respondent shall renotify the party as provided by paragraph (2) of subdivision (e), provide a copy of the current ■ defect list or demand, and direct the party to attend a dispute resolution session at a stated time and location. A party who subsequently appears after having been released by the dispute resolution facilitator shall not be prejudiced by its absence from the dispute resolution process as the result of having been previously released by the dispute resolution facilitator.

(n) Any party may, at any time, petition the superior court in the county where the project is located, upon a showing of good cause, and the court may issue an order, for any of the following, or for appointment of a referee to resolve a dispute regarding any of the following:

(1) To take a deposition of any party to the process, or subpoena a third party for deposition or production of documents, which is necessary to further prelitigation resolution of the dispute.

(2) To resolve any disputes concerning inspection, testing, production of documents, or exchange of information provided for under this section.

(3) To resolve any disagreements relative to the timing or contents of the case management statement.

(4) To authorize internal extensions of timeframes set forth in the case management statement.

(5) To seek a determination that a settlement is a good faith settlement pursuant to Section 877.6 of the Code of Civil Procedure and all

related authorities. The page limitations and meet and confer requirements specified in this section shall not apply to these motions, which may be made on shortened notice. Instead, these motions shall be subject to other applicable state law, rules of court, and local rules. A determination made by the court pursuant to this motion shall have the same force and effect as the determination of a postfiling application or motion for good faith settlement.

(6) To ensure compliance, on shortened notice, with the obligation to provide a Statement of Insurance pursuant to paragraph (2) of subdivision (e).

(7) For any other relief appropriate to the ■ enforcement of the provisions of this section, including the ordering of parties, and insurers, if any, to the dispute resolution process with settlement authority.

(o) (1) A petition filed pursuant to subdivision (n) shall be filed in the superior court in the county in which the project is located. The court shall hear and decide the petition within 10 days after filing. The petitioning party shall serve the petition on all parties, including the date, time, and location of the hearing no later than five business days prior to the hearing. Any responsive papers shall be filed and served no later than three business days prior to the hearing. Any petition or response filed under this section shall be no more than three pages in length.

(2) All parties shall meet with the dispute resolution facilitator, if one has been appointed and confer in person or by the telephone prior to the filing of that petition to attempt to resolve the matter without requiring court intervention.

■ (p) As used in this section:

(1) “Association” shall have the same meaning as defined in Section 6528.

(2) “Builder” means the ■ declarant, as defined in Section 6544.

(3) “Common interest development” shall have the same meaning as in Section 6534, except that it shall not include developments or projects with less than 20 units.

(q) The ■ alternative dispute resolution process and procedures described in this section shall have no application or legal effect other than as described in this section.

(r) This section shall become operative on July 1, 2002, however it shall not apply to any pending suit or claim for which notice has previously been given.

(s) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed. [2013 - Based on former §1375]

§6874. Notice to Members of Construction Defect Settlement

■ (a) As soon as is reasonably practicable after the association and the builder have entered into a settlement agreement or the matter has otherwise been resolved regarding alleged defects in the common areas, alleged defects in

the separate interests that the association is obligated to maintain or repair, or alleged defects in the separate interests that arise out of, or are integrally related to, defects in the common areas or separate interests that the association is obligated to maintain or repair, where the defects giving rise to the dispute have not been corrected, the association shall, in writing, inform only the members of the association whose names appear on the records of the association that the matter has been resolved, by settlement agreement or other means, and ■ disclose all of the following:

(1) A general description of the defects that the association reasonably believes, as of the date of the disclosure, will be corrected or replaced.

(2) A good faith estimate, as of the date of the disclosure, of when the association believes that the defects identified in paragraph (1) will be corrected or replaced. The association may state that the estimate may be modified.

(3) The status of the claims for defects in the design or construction of the common interest development that were not identified in paragraph (1) whether expressed in a preliminary ■ list of defects sent to each member of the association or otherwise claimed and disclosed to the members of the association.

(b) Nothing in this section shall preclude an association from amending the disclosures required pursuant to subdivision (a), and any amendments shall supersede any prior conflicting information disclosed to the members of the association and shall retain any privilege attached to the original disclosures.

(c) Disclosure of the information required pursuant to subdivision (a) or authorized by subdivision (b) shall not waive any privilege attached to the information.

(d) For the purposes of the disclosures required pursuant to this section, the term “defects” shall be defined to include any damage resulting from defects. [2013 - Based on former §1375.1]

§6876. Notice to Members before Filing Construction Defect Action

■ (a) Not later than 30 days prior to the filing of any civil action by the association against the ■ declarant or other developer of a common interest development for alleged damage to the common areas, alleged damage to the separate interests that the association is obligated to maintain or repair, or alleged damage to the separate interests that arises out of, or is integrally related to, damage to the common areas or separate interests that the association is obligated to maintain or repair, the board shall provide a written ■ notice to each member of the association who appears on the records of the association when the notice is provided. This ■ notice shall specify all of the following:

(1) That a ■ meeting will take place to discuss problems that may lead to the filing of a civil action.

(2) The options, including civil actions, that are available to address the problems.

(3) The time and place of this meeting.

(b) Notwithstanding subdivision (a), if the association has reason to believe that the applicable statute of limitations will expire before the association files the civil action, the association may give the notice, as described above, within 30 days after the filing of the action. [2013 - Based on former §1368.5]

CALIFORNIA CIVIL CODE (CIV. CODE)

§8119. Association as an Agent of Owner for Mechanics' Lien Notices

(a) With respect to a work of improvement on a common area within a common interest development: (1) The association is deemed to be an agent of the owners of separate interests in the common interest development for all notices and claims required by this part. (2) If any provision of this part requires the delivery or service of a notice or claim to or on the owner of common area property, the notice or claim may be delivered to or served on the association.

(b) For the purposes of this section, the terms "association," "common area," "common interest development," and "separate interest" have the meanings provided in Article 2 (commencing with Section 4075) of Chapter 1 of Part 5 and Article 2 (commencing with Section 6526) of Chapter 1 of Part 5.3. [2017]

INDEX TO KEY WORDS AND PHRASES

The symbol ■ in the text of the statutes indicates the location of words or topics that appear in the index below. When ■ is located at the left margin, it indicates that the topic is in that paragraph. However, when ■ is located at the left margin of the first paragraph, it may also mean that the entire section or section caption relates to the index topic. Statutes found only in the expanded CD-ROM version are not indexed below but can be searched using the search features of Adobe Reader ®.

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