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**NEW LAWS IN 2011 AFFECTING
HOMEOWNERS ASSOCIATIONS**

It was another "light" year for legislation having a substantial impact on homeowners associations. Fortunately, the objectionable legislation was vetoed by the Governor.

The following new laws affect common interest developments/associations directly or indirectly. They are effective on January 1, 2011, unless otherwise stated.

CALIFORNIA STATUTES

1. LENDER FORECLOSURES/REQUEST FOR TRUSTEE'S DEED

AB 2016 amends Section 2924b of the Civil Code to allow an association to record a "blanket" request for copies of trustee's deeds upon sale for all parcels within the association. Previously, a separate document for each condominium/lot was required by some County Recorders offices. This change should make it easier for associations to keep track of who owns which condominium/lot after foreclosure and begin sending invoices for assessments sooner.

2. LENDER FORECLOSURES/SHORT SALES

SB 931 adds Section 580e to the Code of Civil Procedure. This new law protects homeowners from lawsuits by first trust deed holders for the balance due on the loan after a short sale. A short sale is a sale in which the lender agrees to accept less than the balance due on the loan in a sale to a third party. It is in lieu of a foreclosure by the lender. Under existing law, a lender could file suit against the homeowner for the balance due on the loan after the short sale if the homeowner has refinanced the original loan. This law encourages owners to sell their property rather than allow a foreclosure to occur. It is unclear what effect this will have on lenders. This could be beneficial for associations because it would encourage short sales resulting in the association getting at least a partial payment. Additionally, properties sold at short sales result in new occupants and avoid vacant un-maintained properties. This law protects owners of dwellings of not more than four

units so it would apply to association members in both condominiums and planned developments with single family homes but not to apartment owners with more than four units. Since lenders are halting many foreclosures to examine their paperwork, it could encourage lenders to agree to short sales.

3. PROPERTY MAINTENANCE

_____Lack of maintenance by the owner or foreclosing lender of the thousands of properties in the foreclosure process continues to be an increasing problem for associations. Current law requires an owner to maintain vacant residential property purchased at a foreclosure sale or acquired by the lender following the sale and authorizes governmental entities to impose a fine or penalty for failure to do so. SB 1427 seeks to assist with this problem by amending Civil Code Section 2929.4 to require that governmental entities provide notice to the owner of the property and allow an opportunity to correct the violation prior to fining the lender for any property not being maintained which is in the foreclosure process, purchased at a foreclosure sale, or acquired by the lender following foreclosure.

_____ *Note:* Los Angeles Municipal Code Section 164.05, enacted in May of 2010, requires foreclosing lenders to register with the City or Mortgage Electronic Registration System) and to maintain any property not maintained by the owner if the property is subject to a notice of default, or if the lender has acquired ownership of the property. The failure to maintain the property can result in a \$1,000 daily fine to the lender for vacant properties. This could help with some of the vacant properties abandoned by the owner following the notice of default. Los Angeles County has a nuisance abatement program administered through the Building & Safety Department which permits the City to abate nuisance properties by fencing in property which has been abandoned and has become a public nuisance. This could include properties which are stripped of plumbing and other fixtures and which have become occupied by vagrants and trespassers. Check your local Municipal Code or contact the Building and Safety Department in your municipality to find out if your community has such an ordinance.

BILLS VETOED BY THE GOVERNOR

4. QUORUM FOR ELECTIONS

AB 1726 was vetoed by the Governor. It proposed to amend Civil Code Section 1363.03 to reduce quorum to 40% for second meetings for the election of Directors and 33% for additional elections. This would have not applied to associations whose governing documents provided for a reduced quorum for adjourned meetings for elections. Since most Bylaws provide for a reduction in quorum to 25% on the second go around, this bill was not really necessary. Associations can control quorum by reducing quorum for elections on the first go around to 33% or less or no quorum at all.

5. RENTAL RESTRICTIONS

AB 1927 was vetoed by the Governor. It proposed to require a majority of all owners to approve rental or lease restrictions and for owners to disclose rental restrictions prior to transfer of title. Since most CC&Rs require 67% or a majority to approve amendments to the CC&Rs, this bill was unnecessary.

6. SYNTHETIC GRASS

AB 1793 was vetoed by the Governor. This bill would have preventing associations from barring synthetic grass, even though several brands of the synthetic grass were proven to contain lead.

BILLS THAT DIDN'T MAKE IT TO THE GOVERNOR

7. ASSESSMENT COLLECTION

The original sponsor to AB 2502 withdrew its support of the bill after the author of the bill was forced to amend it to address association concerns so the bill never made it to the Governor. The bill would have required payment plans to be announced in open session of the Board, would have permitted attorneys to be present at meetings requested by owners to discuss payment plans with the Board, would have prohibited management and other representatives of the association from discussing payment plans with owners without the owner's consent, and would have required any third party collection agent to whom the debt is assigned to conduct collection procedures in accordance with a payment plan previously negotiated.

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