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**NEW LAWS IN 2013 AFFECTING
HOMEOWNERS ASSOCIATIONS**

The following new laws affect common interest developments/homeowner associations directly or indirectly. They are effective on January 1, 2013, unless otherwise stated.

CALIFORNIA STATUTES

1. ACCESS TO GATED COMMUNITIES FOR LICENSED PRIVATE INVESTIGATORS

Assembly Bill 1720 was signed into law by the Governor and amends Section 415.21 of the Code of Civil Procedure. AB 1720 amended Section 415.21 of the Code of Civil Procedure to allow not only process servers but also licensed private investigators to enter gated communities for service on residents. The bill provides that a person shall be granted access to a gated community: (1) for a reasonable period of time, (2) for the sole purpose of performing lawful service of process or service of a subpoena, (3) upon identifying to the guard the person or persons to be served, (4) upon displaying a current driver's license or other identification, and (5) providing evidence of current registration as a process server or of licensure as a private investigator.

2. BOARD MEETINGS; REQUIRED DOCUMENTS PROVIDED BY OWNER

AB 2697 was signed into law by the Governor and amends various sections of the Civil Code and the Health and Safety Code, not all of which are relevant to homeowner's associations. Of relevance to homeowner's associations, this bill would amend Section 1363.05 of the Civil Code in regards to meetings of the Board by teleconference. Current law allows Board meetings to be conducted by teleconference attended by Board Members and members if a physical location is announced and at least one Board Member is present at the physical location. This bill would instead require that at least one Board Member or a person designated by the Board be present at that location.

Also of relevance to homeowner's associations, AB 2697 amends Civil Code Section 1368. Current law provides that an Owner must provide certain documents to a prospective purchaser, including, but not limited to, a statement describing any prohibition contained in the governing documents, and its applicability, against the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant. This bill eliminates the requirement to describe the applicability of the prohibition.

3. DAVIS-STIRLING ACT REORGANIZATION

Assembly Bill 805 and Assembly Bill 806 were signed into law by the Governor and go into effect on *January 1, 2014*. AB 805 and AB 806 move the Davis-Stirling Act from its current Civil Code Sections 1350-1378 to Civil Code Sections 4000-6150. The substantive changes to the Act will be summarized by this author in late 2012 or early 2013.

4. ELECTRIC VEHICLE CHARGING STATIONS

_____ Last year, SB 209 added Section 1353.9 to the Civil Code to prevent a homeowner's association from prohibiting or unreasonably restricting the installation or use of electric vehicle charging stations, subject to certain requirements.

SB 880, which was passed earlier this year and took effect immediately, amends Section 1353.9 and 1363.07 of the Civil Code to make changes to the law created by last year's SB 209. The amendment to Section 1353.9 prevents a homeowner's association from prohibiting or unreasonably restricting the installation or use of electric vehicle charging stations in the Owner's designated parking spot including a deeded parking space or an exclusive use common area parking space. However, reasonable restrictions may be placed upon the installation and use of electric vehicle charging stations and a homeowner's association may require its approval before a homeowner may install an electric vehicle charging station, but such approval must follow the same process as any other architectural modification request.

The law also provides that an Owner may seek approval for the installation of an electric vehicle charging station in the common area for the exclusive use of the Owner and such a request may be approved by the Association only if it is impossible or unreasonably expensive to install the charging station in the Owner's designated parking spot. The law also provides that the homeowner would be responsible for various costs required to install and maintain the charging station.

The law also now applies not only to homeowners but to all occupants of units. The law added a provision requiring the owner of the vehicle to be responsible for restoring the common area after removal of an electric vehicle charging station.

The amendment to Section 1363.07 of the Civil Code includes the installation and use of an electrical vehicle charging station within the exceptions for requiring owner approval before granting exclusive use of the common area to any member or granting a license for exclusive use for this purpose.

5. FAIR HOUSING

SB 1038 eliminates the California Fair Employment and Housing Commission and creates a new Fair Employment and Housing Council. The new Council will fall under the control of the Department of Fair Employment and Housing. The bill authorizes the Department to file all suits in Superior Court and seeks attorneys' fees and costs if it is the prevailing party.

6. FORECLOSURES

A. RECORDING TRUSTEE'S DEED UPON SALE:

AB 2273 was signed into law and amends Section 2924b of the Civil Code and adds Section 2924.1 to the Civil Code to require that a foreclosing lender record the Trustee's Deed Upon Sale within 30 days following the sale if the property is in a common interest development. Additionally, this bill provides that if an association records a Request for Notification prior to a Notice of Default being recorded against the property, then the foreclosing party must provide the association with the requested information within 15 days following the sale instead of 15 days following the recordation of the Trustee's Deed.

This bill is significant because it will help an association find out more quickly who owns the property so that assessments can then be collected.

B. HOMEOWNER BILL OF RIGHTS:

AB 278 AND SB 900 amends and adds provisions to the Civil Code to protect homeowners from mortgage lender abuses and unfair practices in connection with foreclosures. The new law prohibits lenders from pursuing foreclosure during the time that they are in discussions concerning loan modification, requires lenders to provide owners with a single point of contact with the lender, imposes civil penalties on fraudulently signed mortgage documents, and requires loan servicers to document their right to foreclose if homeowners request such documentation. The law only applies to first mortgages and only to homeowners still occupying their homes.

7. REQUESTS FOR DOCUMENTS; FEES

Assembly Bill 1838 was signed by the Governor and amends Civil Code Sections 1368 and 1368.2. This bill amends Section 1368 of the Civil Code to prohibit a cancellation fee for documents requested by a prospective purchaser if the purchaser cancels the request in writing prior to the work being performed or if the work had been compensated for. This bill also requires the association to refund all fees for the requested documents if the cancellation was in writing and the cancellation was requested prior to the work being performed. If part of the work had been performed prior to the written cancellation request, the association must refund the portion of the fees for the work not yet performed. This bill also amends Section 1368.2 of the Civil Code to require the required form be written in at least 10-point font.

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