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Code: Section:

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DIVISION 4. GENERAL PROVISIONS [3274 - 9566] (*Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.)*

PART 5. Common Interest Developments [4000 - 6150] (*Part 5 added by Stats. 2012, Ch. 180, Sec. 2.)*

CHAPTER 3. Governing Documents [4205 - 4370] (*Chapter 3 added by Stats. 2012, Ch. 180, Sec. 2.)*

ARTICLE 2. Declaration [4250 - 4275] (*Article 2 added by Stats. 2012, Ch. 180, Sec. 2.)*

4250. (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 community apartment project, 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.

(*Added by Stats. 2012, Ch. 180, Sec. 2. (AB 805) Effective January 1, 2013. Operative January 1, 2014, by Sec. 3 of Ch. 180.*)

4255. (a) If a common interest development is located within an airport influence area, a declaration, recorded after January 1, 2004, shall contain the following statement:

"NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you."

(b) For purposes of this section, an "airport influence area," also known as an "airport referral area," is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

(c) If a common interest development is within the San Francisco Bay Conservation and Development Commission jurisdiction, as described in Section 66610 of the Government Code, a declaration recorded on or after January 1, 2006, shall contain the following notice:

"NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction."

(d) The statement in a declaration acknowledging that a property is located in an airport influence area or within the jurisdiction of the San Francisco Bay Conservation and Development Commission does not constitute a title defect, lien, or encumbrance.

(*Added by Stats. 2012, Ch. 180, Sec. 2. (AB 805) Effective January 1, 2013. Operative January 1, 2014, by Sec. 3 of Ch. 180.*)

4260. 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.

4265. (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 housing 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 4065.

(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 4270.

(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.

(Added by Stats. 2012, Ch. 180, Sec. 2. (AB 805) Effective January 1, 2013. Operative January 1, 2014, by Sec. 3 of Ch. 180.)

4270. (a) A declaration may be amended pursuant to the declaration or this act. Except where an alternative process for approving, certifying, or recording an amendment is provided in Section 4225, 4230, 4235, or 4275, an amendment is effective after all of the following requirements have been met:

(1) 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.

(2) 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.

(3) 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 4065.

(Amended by Stats. 2016, Ch. 714, Sec. 6. (SB 944) Effective January 1, 2017.)

4275. (a) If in order to amend a declaration, the declaration requires members having more than 50 percent of the votes in the association, in a single class voting structure, or members having more than 50 percent of the votes in more than one class in a voting structure with more than one class, to vote in favor of the amendment, the association, or any member, may petition the superior court of the county in which the common interest development is located for an order reducing the percentage of the affirmative votes necessary for such an amendment. The petition shall describe the effort that has been made to solicit approval of the association members in the manner provided in the declaration, the number of affirmative and negative votes actually received, the number or percentage of affirmative votes required to effect the amendment in accordance with the existing declaration, and other matters the petitioner considers relevant to the court's determination. The petition shall also contain, as exhibits thereto, copies of all of the following:

(1) The governing documents.

(2) A complete text of the amendment.

(3) Copies of any notice and solicitation materials utilized in the solicitation of member approvals.

(4) A short explanation of the reason for the amendment.

(5) Any other documentation relevant to the court's determination.

(b) Upon filing the petition, the court shall set the matter for hearing and issue an ex parte order setting forth the manner in which notice shall be given.

(c) The court may, but shall not be required to, grant the petition if it finds all of the following:

(1) The petitioner has given not less than 15 days written notice of the court hearing to all members of the association, to any mortgagee of a mortgage or beneficiary of a deed of trust who is entitled to notice under the terms of the declaration, and to the city, county, or city and county in which the common interest development is located that is entitled to notice under the terms of the declaration.

(2) Balloting on the proposed amendment was conducted in accordance with the governing documents, this act, and any other applicable law.

(3) A reasonably diligent effort was made to permit all eligible members to vote on the proposed amendment.

(4) Members having more than 50 percent of the votes, in a single class voting structure, voted in favor of the amendment. In a voting structure with more than one class, where the declaration requires a majority of more than one class to vote in favor of the amendment, members having more than 50 percent of the votes of each class required by the declaration to vote in favor of the amendment voted in favor of the amendment.

(5) The amendment is reasonable.

(6) Granting the petition is not improper for any reason stated in subdivision (e).

(d) If the court makes the findings required by subdivision (c), any order issued pursuant to this section may confirm the amendment as being validly approved on the basis of the affirmative votes actually received during the balloting period or the order may dispense with any requirement relating to quorums or to the number or percentage of votes needed for approval of the amendment that would otherwise exist under the governing documents.

(e) Subdivisions (a) to (d), inclusive, notwithstanding, the court shall not be empowered by this section to approve any amendment to the declaration that:

(1) Would change provisions in the declaration requiring the approval of members having more than 50 percent of the votes in more than one class to vote in favor of an amendment, unless members having more than 50 percent of the votes in each affected class approved the amendment.

(2) Would eliminate any special rights, preferences, or privileges designated in the declaration as belonging to the declarant, without the consent of the declarant.

(3) Would impair the security interest of a mortgagee of a mortgage or the beneficiary of a deed of trust without the approval of the percentage of the mortgagees and beneficiaries specified in the declaration, if the declaration requires the approval of a specified percentage of the mortgagees and beneficiaries.

(f) An amendment is not effective pursuant to this section until the court order and amendment have been recorded in every county in which a portion of the common interest development is located. The amendment may be acknowledged by, and the court order and amendment may be recorded by, any person designated in the declaration or by the association for that purpose, or if no one is designated for that purpose, by the president of the association. Upon recordation of the amendment and court order, the declaration, as amended in accordance with this section, shall have the same force and effect as if the amendment were adopted in compliance with every requirement imposed by the governing documents.

(g) Within a reasonable time after the amendment is recorded the association shall deliver to each member, by individual delivery, pursuant to Section 4040, a copy of the amendment, together with a statement that the amendment has been recorded.

(Added by Stats. 2012, Ch. 180, Sec. 2. (AB 805) Effective January 1, 2013. Operative January 1, 2014, by Sec. 3 of Ch. 180.)