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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 4. Ownership and Transfer of Interests [4500 - 4650] (*Chapter 4 added by Stats. 2012, Ch. 180, Sec. 2.*)

ARTICLE 4. Restrictions on Transfer [4600 - 4620] (*Article 4 added by Stats. 2012, Ch. 180, Sec. 2.*)

4600. (a) Unless the governing documents specify a different percentage, the affirmative vote of members owning at least 67 percent of the separate interests in the common interest development shall be required before the board may grant exclusive use of any portion of the common area to a member.

(b) Subdivision (a) does not apply to the following actions:

(1) A reconveyance of all or any portion of that common area to the subdivider to enable the continuation of development that is in substantial conformance with a detailed plan of phased development submitted to the Real Estate Commissioner with the application for a public report.

(2) Any grant of exclusive use that is in substantial conformance with a detailed plan of phased development submitted to the Real Estate Commissioner with the application for a public report or in accordance with the governing documents approved by the Real Estate Commissioner.

(3) Any grant of exclusive use that is for any of the following reasons:

(A) To eliminate or correct engineering errors in documents recorded with the county recorder or on file with a public agency or utility company.

(B) To eliminate or correct encroachments due to errors in construction of any improvements.

(C) To permit changes in the plan of development submitted to the Real Estate Commissioner in circumstances where the changes are the result of topography, obstruction, hardship, aesthetic considerations, or environmental conditions.

(D) To fulfill the requirement of a public agency.

(E) To transfer the burden of management and maintenance of any common area that is generally inaccessible and not of general use to the membership at large of the association.

(F) To accommodate a disability.

(G) To assign a parking space, storage unit, or other amenity, that is designated in the declaration for assignment, but is not assigned by the declaration to a specific separate interest.

(H) To install and use an electric vehicle charging station in an owner's garage or a designated parking space that meets the requirements of Section 4745, where the installation or use of the charging station requires reasonable access through, or across, the common area for utility lines or meters.

(I) To install and use an electric vehicle charging station through a license granted by an association under Section 4745.

(J) To install and use a solar energy system on the common area roof of a residence that meets the requirements of Sections 714, 714.1, and, if applicable, Section 4746.

(K) To comply with governing law.

(c) Any measure placed before the members requesting that the board grant exclusive use of any portion of the common area shall specify whether the association will receive any monetary consideration for the grant and whether the association or the transferee will be responsible for providing any insurance coverage for exclusive use of the common area.

(Amended by Stats. 2017, Ch. 818, Sec. 2. (AB 634) Effective January 1, 2018.)

4605. (a) A member of an association may bring a civil action for declaratory or equitable relief for a violation of Section 4600 by the association, including, but not limited to, injunctive relief, restitution, or a combination thereof, within one year of the date the cause of action accrues.

(b) A member who prevails in a civil action to enforce the member's rights pursuant to Section 4600 shall be entitled to reasonable attorney's fees and court costs, and the court may impose a civil penalty of up to five hundred dollars (\$500) for each violation, except that each identical violation shall be subject to only one penalty if the violation affects each member equally. A prevailing association shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation.

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

4610. (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.

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

4615. (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 another 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 is 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, are 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 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.

(Amended by Stats. 2018, Ch. 92, Sec. 38. (SB 1289) Effective January 1, 2019.)

4620. 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 4040.

(Added by Stats. 2017, Ch. 44, Sec. 2. (AB 534) Effective January 1, 2018.)

