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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 5. Property Use and Maintenance [4700 - 4790] (*Chapter 5 added by Stats. 2012, Ch. 180, Sec. 2.*)

ARTICLE 3. Maintenance [4775 - 4790] (*Article 3 added by Stats. 2012, Ch. 180, Sec. 2.*)

4775. (a) (1) Except as provided in paragraph (4), unless otherwise provided in the declaration of a common interest development, the association is responsible for repairing, replacing, and maintaining the common area.

(2) (A) Unless otherwise provided in the declaration of a common interest development, or unless the utility service that failed is required to be maintained, repaired, or replaced by a public, private, or other utility service provider, the association is responsible for repairs and replacements necessary to restore interrupted gas, heat, water, or electrical services that begin in the common area even if the matter extends into a separate interest or the exclusive use common area appurtenant to a separate interest.

(B) This paragraph does not change any legal duty or obligation of a utility company or local government to repair or replace components pertaining to gas, heat, water, or electrical services.

(3) Unless otherwise provided in the declaration of a common interest development, the owner of each separate interest is responsible for repairing, replacing, and maintaining that separate interest.

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

(b) (1) An association's board shall commence the process to make the repairs necessary to restore gas, heat, water, or electrical services, as required by this section, within 14 days of the interruption of services.

(2) If there are insufficient reserve funds available to cover the costs of repairs or replacements, as required by this section, an association may obtain competitive financing from a financial institution, in compliance with Section 5735, to pay for the costs of the repairs or replacements described in paragraph (1) without requiring a vote of the members and levy an emergency assessment to allow for the repayment of the loan. However, before obtaining that financing, the board shall pass a resolution containing written findings regarding the nature of the association's expenses and how the association's reserves do not cover the necessary costs. The resolution shall be distributed to the members with the notice of the emergency assessment and with notices otherwise required by law or governing documents pursuant to the board's action, if any.

(3) Notwithstanding any other section of law or the association's governing documents, if an association's board is unable to meet a quorum within 14 days, pursuant to this section, then at the next duly noticed board meeting following the 14th day, the requirements for a quorum shall be reduced so that the total number of directors at that board meeting shall constitute a quorum. This reduced quorum shall only apply for the vote to commence the process specified in paragraph (1). The notice shall contain a provision indicating the use of a reduced quorum.

(4) Notwithstanding the requirements of Section 4910, if directors of an association are required to vote to initiate any repairs or replacements pursuant to this subdivision, voting may be performed by electronic means, including, but not limited to, email. All records of the vote shall be deemed association records and subject to the inspection and retention rules specified in Section 5210.

(c) The costs of temporary relocation during the repair, replacement, or maintenance of the areas within the responsibility of the association shall be borne by the owner of the separate interest affected.

(d) Nothing in this section shall be construed to result in the personal liability of a director of an association.

(e) This section shall not apply if the association is in an area affected by one or more of the following conditions, and such condition or conditions materially affect the association's ability to perform its responsibilities pursuant to this section:

- (1) A state of disaster or emergency declared by the federal government.
- (2) A state of emergency proclaimed by the Governor pursuant to Section 8625 of the Government Code.
- (3) A local emergency proclaimed by a local governing body or official under Section 8630 of the Government Code.

(Amended by Stats. 2024, Ch. 288, Sec. 1. (SB 900) Effective January 1, 2025.)

4777. (a) For the purposes of this section:

- (1) "Adjacent separate interest" means a separate interest that is directly beside, above, or below a particular separate interest or the common area.
- (2) "Authorized agent" means an individual, organization, or other entity that has entered into an agreement with the association to act on the association's behalf.
- (3) "Broadcast application" means spreading pesticide over an area greater than two square feet.
- (4) "Electronic delivery" means delivery of a document by electronic means to the electronic address at, or through which, an owner of a separate interest has authorized electronic delivery.
- (5) "Licensed pest control operator" means anyone licensed by the state to apply pesticides.
- (6) "Pest" means a living organism that causes damage to property or economic loss, or transmits or produces diseases.
- (7) "Pesticide" means any substance, or mixture of substances, that is intended to be used for controlling, destroying, repelling, or mitigating any pest or organism, excluding antimicrobial pesticides as defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).

(b) (1) An association or its authorized agent that applies any pesticide to a separate interest or to the common area without a licensed pest control operator shall provide the owner and, if applicable, the tenant of an affected separate interest and, if making broadcast applications, or using total release foggers or aerosol sprays, the owner and, if applicable, the tenant in an adjacent separate interest that could reasonably be impacted by the pesticide use with written notice that contains the following statements and information using words with common and everyday meaning:

- (A) The pest or pests to be controlled.
- (B) The name and brand of the pesticide product proposed to be used.
- (C) "State law requires that you be given the following information:

CAUTION – PESTICIDES ARE TOXIC CHEMICALS. The California Department of Pesticide Regulation and the United States Environmental Protection Agency allow the unlicensed use of certain pesticides based on existing scientific evidence that there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized.

If within 24 hours following application of a pesticide, a person experiences symptoms similar to common seasonal illness comparable to influenza, the person should contact a physician, appropriate licensed health care provider, or the California Poison Control System (1-800-222-1222).

For further information, contact any of the following: for Health Questions – the County Health Department (telephone number) and for Regulatory Information – the Department of Pesticide Regulation (916-324-4100)."

- (D) The approximate date, time, and frequency with which the pesticide will be applied.
- (E) The following notification:

"The approximate date, time, and frequency of this pesticide application is subject to change."

(2) At least 48 hours prior to application of the pesticide to a separate interest, the association or its authorized agent shall provide individual notice to the owner and, if applicable, the tenant of the separate interest and notice to an owner and, if applicable, the tenant occupying any adjacent separate interest that is required to be notified pursuant to paragraph (1).

(3) (A) At least 48 hours prior to application of the pesticide to a common area, the association or its authorized agent shall, if practicable, post the written notice described in paragraph (1) in a conspicuous place in or around the common area in which the pesticide is to be applied. Otherwise, if not practicable, the association or its authorized agent shall provide individual notice to the owner and, if applicable, the tenant of the separate interest that is adjacent to the common area.

(B) If the pest poses an immediate threat to health and safety, thereby making compliance with notification prior to the pesticide application unreasonable, the association or its authorized agent shall post the written notice as soon as practicable, but not later than one hour after the pesticide is applied.

(4) Notice to tenants of separate interests shall be provided, in at least one of the following ways:

(A) First-class mail.

(B) Personal delivery to a tenant 18 years of age or older.

(C) Electronic delivery, if an electronic mailing address has been provided by the tenant.

(5) (A) Upon receipt of written notification, the owner of the separate interest or the tenant may agree in writing or, if notification was delivered electronically, the tenant may agree through electronic delivery, to allow the association or authorized agent to apply a pesticide immediately or at an agreed upon time.

(B) (i) Prior to receipt of written notification, the association or authorized agent may agree orally to an immediate pesticide application if the owner or, if applicable, the tenant requests that the pesticide be applied before the 48-hour notice of the pesticide product proposed to be used.

(ii) With respect to an owner or, if applicable, a tenant entering into an oral agreement for immediate pesticide application, the association or authorized agent, no later than the time of pesticide application, shall leave the written notice specified in paragraph (1) in a conspicuous place in the separate interest or at the entrance of the separate interest in a manner in which a reasonable person would discover the notice.

(iii) If any owner or, if applicable, any tenant of a separate interest or an owner or, if applicable, a tenant of an adjacent separate interest is also required to be notified pursuant to this subparagraph, the association or authorized agent shall provide that person with this notice as soon as practicable after the oral agreement is made authorizing immediate pesticide application, but in no case later than commencement of application of the pesticide.

(6) A copy of a written notice provided pursuant to paragraph (1) shall be attached to the minutes of the board meeting immediately subsequent the application of the pesticide.

(Amended by Stats. 2017, Ch. 561, Sec. 19. (AB 1516) Effective January 1, 2018.)

4780. (a) In a community apartment project, 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 4065, that responsibility may be delegated to the association, which shall be entitled to recover the cost thereof as a special assessment.

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

4785. (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 4040, of a copy of the notice to the owner.

(2) Individual delivery pursuant to Section 4040 to the occupant at the address of the separate interest, and if the occupant is not the owner, individual delivery pursuant to Section 4040, 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.

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

4790. 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 4145. 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.

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