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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 8. Assessments and Assessment Collection [5600 - 5740] (*Chapter 8 added by Stats. 2012, Ch. 180, Sec. 2.)*

ARTICLE 1. Establishment and Imposition of Assessments [5600 - 5625] (*Article 1 added by Stats. 2012, Ch. 180, Sec. 2.)*

5600. (a) Except as provided in Section 5605, the association shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this act.

(b) An association shall not impose or collect an assessment or fee that exceeds the amount necessary to defray the costs for which it is levied.

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

5605. (a) Annual increases in regular assessments for any fiscal year shall not be imposed unless the board has complied with paragraphs (1), (2), (4), (5), (6), (7), and (8) of subdivision (b) of Section 5300 with respect to that fiscal year, or has obtained the approval of a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election.

(b) Notwithstanding more restrictive limitations placed on the board by the governing documents, the board may not impose a regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or impose special assessments which in the aggregate exceed 5 percent of the budgeted gross expenses of the association for that fiscal year without the approval of a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election.

(c) (1) (A) For an association that records its original declaration on or after January 1, 2025, notwithstanding more restrictive limitations placed on the board by the governing documents, except as provided in paragraph (3), the board shall not impose a regular assessment against an owner of a deed-restricted affordable housing unit that is more than 5 percent plus the percentage change in the cost of living, not to exceed 10 percent greater than the preceding regular assessment.

(B) For purposes of this paragraph, "percentage change in the cost of living" means the percentage change from April 1 of the prior year to April 1 of the current year in the regional Consumer Price Index for the region where the residential real property is located, as published by the United States Bureau of Labor Statistics. If a regional index is not available, the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations, shall apply.

(2) For an association that records its original declaration on or after January 1, 2025, notwithstanding any other law, except as provided in paragraph (3), the board may impose an assessment against an owner of a deed-restricted affordable housing unit that is lower than the assessment imposed against other owners according to the proportional ownership of total subdivision interests subject to assessments.

(3) This subdivision does not apply to any of the following:

(A) A development where the percentage of the units, exclusive of a manager's unit or units, that are deed-restricted affordable housing units exceeds the percentage required by an applicable zoning ordinance in effect at the time the development received final approval.

(B) A development that is located within a city, county, or city and county that does not have an applicable zoning ordinance requiring a percentage of deed-restricted affordable housing units and meet either of the following conditions:

(i) The percentage of the units, exclusive of a manager's unit or units, that are deed-restricted affordable housing exceeds 10 percent of the total number of units in the development at the time the development received final approval.

(ii) If the development met the requirements described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 65912.122 of the Government Code and was approved pursuant to Section 65912.124 of the Government Code, the percentage of the units, exclusive of a manager's unit or units, that are deed-restricted affordable housing exceeds 15 percent of the total number of units in the development at the time the development received final approval.

(C) A development of 20 units or fewer.

(d) For the purposes of this section, all of the following definitions apply:

(1) "Affordable housing unit" means a unit occupied by, or available at affordable housing cost to, lower income and moderate-income households, as defined by Sections 50079.5 and 50052.5, respectively, of the Health and Safety Code.

(2) "Final approval" has the same meaning as defined in clause (ii) of subparagraph (D) of paragraph (2) of subdivision (o) of Section 65589.5 of the Government Code.

(3) "Quorum" means more than 50 percent of the members.

(Amended by Stats. 2023, Ch. 745, Sec. 1. (AB 572) Effective January 1, 2024.)

5610. Section 5605 does not limit assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:

(a) An extraordinary expense required by an order of a court.

(b) An extraordinary expense necessary to operate, repair, or maintain the common interest development or any part of it for which the association is responsible where a threat to personal health or safety or another hazardous condition or circumstance on the property is discovered.

(c) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual budget report under Section 5300. However, before the imposition or collection of an assessment under this subdivision, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.

(Amended by Stats. 2024, Ch. 288, Sec. 3. (SB 900) Effective January 1, 2025.)

5615. The association shall provide individual notice pursuant to Section 4040 to the members of any increase in the regular or special assessments of the association, not less than 30 nor more than 60 days prior to the increased assessment becoming due.

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

5620. (a) Regular assessments imposed or collected to perform the obligations of an association under the governing documents or this act shall be exempt from execution by a judgment creditor of the association only to the extent necessary for the association to perform essential services, such as paying for utilities and insurance. In determining the appropriateness of an exemption, a court shall ensure that only essential services are protected under this subdivision.

(b) This exemption shall not apply to any consensual pledges, liens, or encumbrances that have been approved by a majority of a quorum of members, pursuant to Section 4070, at a member meeting or election, or to any state tax lien, or to any lien for labor or materials supplied to the common area.

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

5625. (a) Except as provided in subdivision (b), notwithstanding any provision of this act or the governing documents to the contrary, an association shall not levy assessments on separate interests within the common interest development based on the taxable value of the separate interests unless the association, on or before December 31, 2009, in accordance with its governing documents, levied assessments on those separate interests based on their taxable value, as determined by the tax assessor of the county in which the separate interests are located.

(b) An association that is responsible for paying taxes on the separate interests within the common interest development may levy that portion of assessments on separate interests that is related to the payment of taxes based on the taxable value of the separate interest, as determined by the tax assessor.

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

