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**SB-391 Common interest developments: emergency powers and procedures.** (2021-2022)

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**Senate Bill No. 391**

**CHAPTER 276**

An act to amend Section 4090 of, and to add Article 11 (commencing with Section 5450) to Chapter 6 of Part 5 of Division 4 of, the Civil Code, relating to common interest developments, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor September 23, 2021. Filed with Secretary of State September 23, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 391, Min. Common interest developments: emergency powers and procedures.

Existing law, the Davis-Stirling Common Interest Development Act, governs the management and operation of common interest developments. Existing law defines a board meeting as a congregation, as provided, or a teleconference, as provided. Existing law requires, among other things, a board meeting held by teleconference to identify at least one physical location so that members of the association may attend, except as provided.

This bill would establish alternative teleconferencing procedures for a board meeting or a meeting of the members if gathering in person is unsafe or impossible because the common interest development is in an area affected by a federal, state, or local emergency. The bill would also make a conforming change.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 4090 of the Civil Code is amended to read:

**4090.** "Board meeting" means either of the following:

(a) A congregation, at the same time and place, of a sufficient number of directors to establish a quorum of the board, to hear, discuss, or deliberate upon any item of business that is within the authority of the board.

(b) A teleconference, where a sufficient number of directors to establish a quorum of the board, in different locations, are connected by electronic means, through audio or video, or both. A teleconference meeting shall be conducted in a manner that protects the rights of members of the association and otherwise complies with the requirements of this act. Except for a meeting that will be held solely in executive session or conducted under Section 5450, the notice of the teleconference meeting shall identify at least one physical location so that members of the association may attend, and at least one director or a person designated by the board shall be present at that location. Participation by directors in a teleconference meeting constitutes

presence at that meeting as long as all directors participating are able to hear one another, as well as members of the association speaking on matters before the board.

**SEC. 2.** Article 11 (commencing with Section 5450) is added to Chapter 6 of Part 5 of Division 4 of the Civil Code, to read:

**Article 11. Emergency Powers and Procedures**

**5450.** (a) This section only applies to a common interest development if gathering in person is unsafe or impossible because the common interest development is in an area affected by one or more of the following conditions:

- (1) A state of disaster or emergency declared by the federal government.
- (2) A state of emergency proclaimed by the Governor under 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.

(b) Notwithstanding any other law or the association's governing documents, and except as provided in subdivision (d), a board meeting or meeting of the members may be conducted entirely by teleconference, without any physical location being held open for the attendance of any director or member, if all of the following conditions are satisfied:

- (1) Notice of the first meeting that is conducted under this section for a particular disaster or emergency affecting the association is delivered to members by individual delivery.
- (2) The notice for each meeting conducted under this section includes, in addition to other required content for meeting notices, all of the following:
  - (A) Clear technical instructions on how to participate by teleconference.
  - (B) The telephone number and electronic mail address of a person who can provide technical assistance with the teleconference process, both before and during the meeting.
  - (C) A reminder that a member may request individual delivery of meeting notices, with instructions on how to do so.
- (3) Every director and member has the same ability to participate in the meeting that would exist if the meeting were held in person.
- (4) Any vote of the directors shall be conducted by a roll call vote.
- (5) Any person who is entitled to participate in the meeting shall be given the option of participating by telephone.

(c) If, as a result of the disaster or emergency, mail delivery or retrieval is not possible at any association onsite address and the address on file with the association for that member is the same association onsite address, then the association shall send the notice of the first meeting referenced in paragraph (1) of subdivision (b) to any email address provided to the association by that member, in writing, pursuant to paragraph (2) of subdivision (a) of Section 4040 or subdivision (b) of Section 4041.

(d) Subdivision (b) does not apply to a meeting at which ballots are counted and tabulated pursuant to Section 5120, unless both of the following conditions are met:

- (1) The meeting at which ballots are to be counted and tabulated is conducted by video conference.
- (2) The camera is placed in a location such that members can witness the inspector of elections counting and tabulating the votes.

(e) The remedies available pursuant to Section 4955 shall also be available to address violations of this section.

**SEC. 3.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize common interest developments in an area affected by a disaster or emergency to safely hold board meetings as quickly as possible, it is necessary that this act go into effect immediately.