



New Community Association Laws for 2018

Buyer Disclosure Form and Manager Disclosures to the Board (AB 690)-Amends Civil Code §§ 4528, 4530, 5300, and 5375; Amends Bus. & Prof. Code §11504; Adds Civil Code §§ 5375.5 and 5376)

- Requires modifications to an association's buyer disclosure form to specify that: (1) sellers can provide prospective buyers with current copies of documents in their position; and (2) sellers may request some or all of documents listed on the form, but they are not required to purchase all of them.
- Starting in 2018, associations must include a copy of their buyer disclosure form with the fees for obtaining each document in its annual disclosure to members.
- New law requires managers or management companies to provide written disclosure to boards of any potential conflicts of interest when presenting bids for services. The law defines conflicts of interest as any referral fee or monetary benefit that could be derived from a vendor providing services to an association, and any ownership interest or profit sharing with any vendor recommended to or used by an association.
- New law also requires prospective managers to provide written disclosure of any business or company in which the manager or management company has any ownership interests, profit-sharing arrangements, or other monetary incentives provided to them.
- Managers must also disclose whether or not they or the management company receives a referral fee or other monetary benefit from a third-party provider for distributing documents pursuant to Sections 4528 and 4530.
- Amends Business and Professions Code §11504 to provide that any person providing or contemplating providing services as community manager to an association must annually disclose to the board: (1) the information required under Civil Code Section 5375; (2) whether or not the manager receives a referral fee or other monetary benefit from a third-party provider for distributing documents pursuant to Civil Code Section 5300.
- Managers must also provide written acknowledgment that the disclosures and documents they provide to members or potential members pursuant to Civil Code Sections 4528 and 5300 are the property of the association and are not property of the manager or management company.

Notice of Mechanic's Liens to Owner in Common Interest Developments (AB 534)-Amends Civil Code Sections 4615, 4620, 6658, and adds Section 6660 and 8119

- A mechanics lien is prohibited from being filed against another owner in the common interest development unless that owner has expressly consented to or requested the performance of the labor or furnishing of the materials or services, except in the case of emergency repairs to the common interest development property.
- Labor, services and materials furnished for the common area that are authorized by the association are deemed to be with the consent of the owners.
- An owner of a separate interest in a common interest development may remove the separate interest from a lien against 2 or more separate interests or any part thereof by either paying to the holder of the



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lien the fraction of the total sum secured by lien that is attributable to the owner's separate interest or by recording a lien release bond.

- Civil Code Sections 4620 and 6660 provide that an association served with a claim for a work of improvement on the common area must give individual notice to members within 60 days of service of the claim.
- Civil Code Section 8119 provides that an association is deemed to be an agent of the owners of separate interests in the development with respect to a works of improvement in the common area for all notices and claims required pursuant to existing law relating to works of improvement.

Solar Energy Systems (AB 634)-Amends Civil Code Sections 714.1 and 4600, and adds Section 4746.

- Owners can install association approved solar energy systems in common areas.
- Owners must obtain association approval for the installation of a solar energy system in a separate interest owned by another.
- Associations can impose reasonable restrictions which provide for the maintenance, repair, or replacement of roofs or other building components.
- Associations can require installers of solar energy systems to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of the solar energy system.
- Associations cannot prohibit the installation or use of a rooftop solar energy system for household purposes on the roof of the building in which the owner resides, or a garage or carport adjacent to the building that has been assigned to the owner for their exclusive use.
- Associations cannot require approval of the members for installation or use of a solar energy system even if installed in the common area or exclusive use common area.
- When reviewing an application for installation of a solar energy system on a common area roof shared by more than one owner, an association must: (1) require the applicant owner to notify each owner of a unit in the building on which the installation will be located of the application; and (2) require the applicant owner and each successive owner maintain a homeowner liability coverage policy.
- Associations may also require the following when reviewing an application for installation of a solar energy system on a common area roof shared by more than one owner, that the applicant submit a solar site survey showing the placement of the solar energy system and a determination of an equitable allocation of the usable solar roof area among all owners sharing the same roof, garage or carport. The cost of the solar site survey is not considered part of the costs as used in Section 714.
- An association may require the owner and any successive owners of the system be responsible for: (1) Damages to the common area, exclusive use common area or separate interests resulting from the installation, maintenance, repair, removal or replacement of the system; (2) Maintenance, repair and replacement of the system until it is removed and restoration of the common area, exclusive use



common area or separate interests after removal; and (3) Disclosing to prospective buyers the existence of the solar energy system and the related responsibilities.

Use of Association Common Areas for Peaceful Assembly (SB 407)-Adds Civil Code Section 4515

- An association must not prohibit a member or resident from: (1) peacefully assembling or meeting with members, residents, and their invitees or guests for purposes relating to common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall process; or (2) inviting public officials, candidates for public office, or representative of homeowner organizations to meet with members, residents, and their invitees or guests and speak on matters of public interest.
- When available, the governing documents must not prohibit these meetings from being held, in the common area (such as the community or recreational hall or clubhouse) or, with the consent of the member, in a separate interest area.
- The governing documents must not prohibit the canvassing and petitioning for these activities or distributing or circulating, without prior permission, information about these activities.
- The governing documents may, however, limit these activities to occur at reasonable hours and in a reasonable manner.
- An association must allow these activities at no cost to any member or resident, including not requiring any payment of a fee, deposit, insurance premium or insurance deductible.
- A member or resident of a common interest development who is prevented from any protected activities under this new law may bring a lawsuit against the association, and the association may be liable for a civil penalty of up to \$500 for each violation.

Individual Notice to Owners and Limits on Personal Liability for Directors (AB 278)-Amends Civil Code Sections 4041 and 5800

- Previous to this amendment, if an owner failed to provide an association with an annual written update, the association was to then send all notices to the owner's property in the common interest development – even if the owner's prior notice indicated an offsite address. Now, if the owner does not provide an annual update, the amendment to Section 4041 allows an association to send notices to an owner to the last address provided in writing or, if none, to the owner's property address.
- Section 5800 limits the personal liability of a volunteer officer or volunteer director of a common interest development if specified qualifications are satisfied. Previously, this Section applied only to volunteer officers or directors of an association for an exclusively residential development. Now, this amended Section applies to volunteer officers or directors for residential or mixed use developments, but only if, the volunteer officer or director is a tenant of a residential separate interest, or owner of no more than two residential separate interests.