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2013 GOLDFARB & LIPMAN ANNUAL LEGISLATIVE UPDATE

NEW LAWS AFFECTING REAL ESTATE AND COMMUNITY ECONOMIC DEVELOPMENT

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TABLE OF CONTENTS

	<u>Page</u>
I. CEQA & Land-Use.....	1
A. CEQA Exemption: Roadway Improvements—AB 890	1
B. Greenhouse Gas Reduction Fund—AB 1532	1
C. CEQA Exemption: Railroad Crossings—AB 1665	2
D. Land Use: Fees—AB 1268	2
E. CEQA Exemption: Bicycle Lanes—AB 2245.....	2
F. Greenhouse Gas Reduction Fund—SB 535.....	2
G. CEQA: Scoping Meeting and Notice of Completion—SB 972.....	3
H. Solar Energy: Permits—SB 1222	3
I. Energy: Energy Conservation Assistance—SB 1268.....	3
J. Reducing Regional Housing Need for Units Built Before Housing Element Adoption—AB 2308.....	4
K. Planning for Fire Hazards in State Responsibility Areas and High Fire Hazard Severity Zones—SB 1241	4
L. Land Use: Mitigation Lands: Nonprofit Organizations—SB 1094	4
II. Community & Economic Development.....	5
A. Community Development Block Grant Program: funds—AB 232.....	5
B. Community Development and Emergency Trust Fund—AB 1585.....	5
C. Housing and Emergency Shelter Trust Fund Act of 2006 Appropriation— AB 1585	5
III. Construction.....	6
A. Public Works Prevailing Wage—AB 1598	6
B. Public Contracts Small Business Preference—AB 1783.....	6
C. Construction Contract Indemnities—SB 474	6
D. Public Contracts Project Labor Agreements—SB 829.....	7
IV. Housing.....	7
A. Housing-Related Parks Program—AB 1672	7
B. Affordable Housing—AB 1699	7
C. Housing Bonds—AB 1951	8
D. Rental Housing: Tenant Notice—AB 1953	8
E. Disability Access—SB 1186.....	8
V. Labor & Employment	9
A. Hiring Notice and Wage Statement Obligations for Temporary Services Employers—AB 1744.....	9
B. Email and Social Media Password—AB 1844	9
C. Discrimination Based on Religious Dress and Grooming Practices Prohibited—AB 1964	9

TABLE OF CONTENTS

	<u>Page</u>
D. Breastfeeding—AB 2386.....	10
E. Blanket Insurance—AB 2084.....	10
F. Overtime Mutual Wage Agreements Invalidated—AB 2103.....	10
G. Contractors’ Workers’ Compensation Insurance Coverage—AB 2219.....	11
H. Employment Records: Right to Inspect—AB 2674.....	11
I. Employment Contract Requirements—AB 2675.....	12
J. Employee Compensation: Itemized Statement—SB 1255.....	12
K. Public Works: Wages: Employer Payment Contributions—AB 2677.....	13
VI. Landlord-Tenant.....	14
A. Security Deposits—AB 1679.....	14
B. Landlord and Tenant: Personal Property Remaining on Premises After Termination of Tenancy—AB 2521.....	14
C. Foreclosure and Unlawful Detainer Notice—AB 2610.....	14
D. Form of Rent Payment—SB 1055.....	15
E. Animals—SB 1229.....	15
F. Smoke Detectors—SB 1394.....	15
G. Domestic Violence—SB 1403.....	15
H. Relocation Benefits for Temporary Displacement in Rent Controlled Units—AB 1925.....	16
VII. Local Government, Administration & Public Entities.....	16
A. County recorder: recordation of documents—AB 1642.....	16
B. Public Records—AB 2221.....	16
C. Local Government: Open Meetings: Cease And Desist Letters—SB 1003.....	16
D. Local Agencies: Open Meetings: Teleconferences—SB 475.....	17
E. Local Government: Omnibus Bill—1090.....	17
F. Local Government Audits—AB 1345.....	18
G. State Government: Business, Consumer Services, and Housing Agency—SB 1039.....	19
VIII. Mobilehomes.....	19
A. Mobilehome Park Purchase Fund—AB 1797.....	19
B. Water Service: Mobilehome Parks—AB 1830.....	19
C. Mobilehomes: Rental Agreements—AB 1938.....	20
D. Mobilehome Parks—AB 2150.....	20
E. Injunctive Relief for Continuing Violation of Mobilehome Park Rule—AB 2272.....	20
F. Housing Omnibus Act—AB 2697.....	21
G. Notices Included in Mobilehome Park Permit Fee Invoices—SB 149.....	22
H. Resident Owned Mobilehome Parks—SB 1421.....	22
I. Notice to Prospective Mobilehomeowners—AB 317.....	22

TABLE OF CONTENTS

	<u>Page</u>
IX. Mortgages & Foreclosures	22
A. Homeowner's Bill of Rights; Mortgages and Deeds of Trust. Foreclosure—SB 900 and AB 278	22
B. Mortgages and Deeds of Trust. Foreclosure—AB 1559	23
C. Housing—AB 1551	23
D. Mortgage Loans—SB 980 (<i>see also</i> AB 1950).	23
E. Prohibited Business Practices: Enforcement—AB 1950 (<i>see also</i> SB 980).	24
F. Reverse Mortgages: Counseling—AB 2010.....	24
G. Common Interest Developments: Required Documents—AB 2273	24
H. Real Property: Blight—AB 2314.....	24
I. Military Service Protections: Real and Personal Property Rights— AB 2475	25
J. Service Member Obligations or Liabilities: Rate of Interest—AB 2476	25
K. Mortgage Loan Originators—AB 2666	25
L. Resident Tenancies. Foreclosures—SB 825	26
M. Deficiency Judgments—SB 1069	26
N. Landlord-Tenant Relations: Disclosure of Notice of Default—SB 1191	26
X. Nonprofit Entities.....	27
A. Corporation Taxes: Filing Requirements: Tax-Exempt Organizations— AB 1677	27
B. Information Regarding Incorporation and Tax Exemption on State Agency Websites—AB 2641	27
C. Business Filings Revisions—SB 1532.....	27
XI. Property Tax.....	28
A. Change in Ownership Exclusion Mobile Homes—AB 2046	28
B. Co-tenancy Interest Change in Ownership Exclusion—AB 1700.....	28
XII. Real Estate Transactions	28
A. Real Estate Disclosure—AB 1511	28
B. Real Estate Broker License—AB 1718	29
C. Execution of Documents—AB 2326	29
D. Counties: Recording: Real Estate Instruments—SB 1342.....	29
E. Easements: Maintenance: Arbitration—AB 1927	30
XIII. Subdivisions & Condominiums	30
A. Common Interest Developments—AB 805 and AB 806.....	30

In 2013, various laws unrelated to the on-going dissolution of redevelopment agencies have been signed into law that will have an impact on real estate, affordable housing, land use, municipal law, community economic development, public finance, fair housing, real estate tax, and employment. The 2013 Annual Legislative Update provides a summary of these new laws. Please feel free to contact any attorney at Goldfarb & Lipman regarding these laws.

In addition, the Legislature passed AB 1484, making technical and substantive amendments to ABx1 26, the bill enacted in late June 2011 that directed the dissolution and unwinding of the affairs of California's 400 redevelopment agencies. Goldfarb & Lipman invites you to visit our website for the most up-to-date information regarding the implementation of AB 1484 and our continuing expert analysis of AB 1484, including a summary highlighting key provisions of AB 1484 and outlining upcoming actions necessary to comply with AB 1484.

I. CEQA & LAND-USE

A. CEQA Exemption: Roadway Improvements—AB 890

CEQA Exemption: Roadway Improvements (AB 890; adds and repeals Public Resources Code Section 21080.37).

The bill creates a temporary CEQA Exemption through January 1, 2016, for projects or activities to repair, maintain, or make minor alterations to an existing roadway. Such projects will be exempt from CEQA if: (1) the project is carried out by a city or county with a population of less than 100,000 persons; (2) the project is carried out to improve public safety and involves negligible or no expansion of a non-state roadway; (3) the project site does not cross a waterway, does not contain wetland or riparian areas, and has no significant value as a wildlife habitat; and (4) the project does not impact or affect cultural or scenic resources and does not harm state or federally protected endangered species.

B. Greenhouse Gas Reduction Fund—AB 1532

Greenhouse Gas Reduction Fund (AB 1532; amends Government Code Section 12984; adds Chapter 4.1 to Part 2 of Division 26 of the Health and Safety Code).

An extension of the California Global Warming Solutions Act of 2006, AB 1532 outlines eligible uses for moneys appropriated to the Greenhouse Gas Reduction Fund to facilitate reductions in greenhouse gas emissions. The bill requires the Department of Finance, in consultation with the State Air Resources Board and other relevant state entities, to submit a three-year investment plan for funds generated under the State's greenhouse gas emissions cap and trade system. Moneys deposited in the Greenhouse Gas Reduction Fund will be appropriated through the annual state budget.

C. CEQA Exemption: Railroad Crossings—AB 1665

CEQA Exemption: Railroad Crossings (AB 1665; adds and repeals Public Resources Code Section 21080.14).

The bill creates a temporary CEQA Exemption through January 1, 2016, for: (1) the closure of a railroad grade crossing by order of the Public Utilities Commission (“PUC”), if the PUC finds the crossing to present a threat to public safety; and (2) any crossing for high-speed rail or any crossing for any project carried out by the High-Speed Rail Authority. State and local agencies that determine a project is exempt, in addition to filing of a notice of exemption, are also required to file a notice with the Office of Planning and Research.

D. Land Use: Fees—AB 1268

Land Use: Fees (AB 1801; adds Government Code Section 65850.55).

Under AB 1268, in determining the fees charged for the installation of solar energy systems, cities and counties are prohibited from basing the calculation of the fee on: (1) the value of the solar energy system or any other fact not directly associated with the cost of issuing the permit; and (2) the valuation of the property on which the solar energy system will be installed or the valuation of the improvement, materials or labor costs associated with the improvement. Each city or county will be required to separately identify each fee assessed for the installation of a solar energy system and provide the applicant an invoice identifying each such fee.

E. CEQA Exemption: Bicycle Lanes—AB 2245

CEQA Exemption: Bicycle Lanes (AB 2245; adds and repeals Public Resources Code Section 21080.20.5).

The bill creates a temporary CEQA exemption, through January 1, 2018, for projects that consist of the restriping of streets and highways for bicycle lanes in an urbanized area consistent with a community’s bicycle transportation plan. Prior to determining a project is exempt, a lead agency must: (1) prepare a traffic study on the impacts of the project and include measures to mitigate potential vehicular traffic impacts and bicycle and pedestrian safety impacts; and (2) hold noticed public hearings in areas affected by the project. In addition to filing of a notice of exemption, the state or local agency that determines a project is exempt must file a notice with the Office of Planning and Research.

F. Greenhouse Gas Reduction Fund—SB 535

Greenhouse Gas Reduction Fund (SB 535; adds Health and Safety Code Sections 39711, 39713, 39715, 39721, and 39723).

The bill requires the State Air Resources Board to identify disadvantaged communities for potential investment opportunities. Disadvantaged communities are defined to include either areas disproportionately affected by environmental pollution or areas with concentrations of low income persons, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment. The Investment Plan for spending

appropriations of Greenhouse Gas Reduction Fund must adhere to the following: (1) 25% of the available moneys must be allocated to projects that provide benefits for disadvantaged communities; and (2) 10% of the available funds must be allocated to projects located in disadvantaged communities.

G. CEQA: Scoping Meeting and Notice of Completion—SB 972

CEQA: Scoping Meeting and Notice of Completion (SB 972; amends Public Resources Code Sections 21083.9 and 21092.2 and repeals Public Resources Code Section 21162).

Under SB 972, a lead agency must notify all public agencies that have filed a written request for a notice of a scoping meeting for projects of statewide, regional or area-wide significance that will have significant environmental impacts. The State Clearinghouse must provide a notice of completion to any legislator who requests such notice and in whose district a project is located.

H. Solar Energy: Permits—SB 1222

Solar Energy: Permits (SB 1222; adds and repeals Government Code Chapter 7.5 to Title 7, Division 1).

Effective until January 1, 2018, cities and counties may not charge a residential permit fee or commercial permit fee for the installation of a rooftop solar energy system that produces direct current electricity that exceeds the estimated reasonable cost of providing the service for the issuing of the permit. The residential permit fee may not exceed \$500 plus \$15 per kW for each kW above 15 kW. The commercial permit fee may not exceed \$1,000 for systems up to 50 kW plus \$7 per kW for each kW between 51 kW and 250 kW, plus \$5 per kW for each kW above 250 kW. A city or county may charge a residential permit fee or commercial permit fee in excess of the limits specified above, if the city or county provides written findings adopted by resolution or ordinance that provide substantial evidence of the reasonable costs of issuing the permit.

I. Energy: Energy Conservation Assistance—SB 1268

Energy: Energy Conservation Assistance (SB 1268; amends Public Resources Code Sections 25411, 25415, 25421, 25443, and 25449.4 and adds Public Resources Code Sections 25412.5 and 25442.8).

SB 1268 extends the Energy Conservation Assistance Act of 1979 through January 1, 2018 and provides funding from the State Energy Conservation Assistance Account for low interest rate loans to schools, hospitals, public care institutions, and units of local government to reduce energy costs and requires repayment in not more than 15 years, with the first payment due on or before December 22 of the fiscal year following the year in which the project is completed.

J. Reducing Regional Housing Need for Units Built Before Housing Element Adoption—AB 2308

Reducing Regional Housing Need for Units Built Before Housing Element Adoption (AB 2308; adds Government Code Section 65583.1(D)).

This bill codifies an existing practice of the California Department of Housing and Community Development that allows cities and counties adopting housing elements to reduce their share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. Units must be assigned to an income category (very low, low, moderate, or above moderate income) based on actual or projected sales prices, rents, or other means of establishing affordability.

K. Planning for Fire Hazards in State Responsibility Areas and High Fire Hazard Severity Zones—SB 1241

Planning for Fire Hazards in State Responsibility Areas and High Fire Hazard Severity Zones (SB 1241; adds Government Code Sections 65040.20, 65302(g)(3), and 66474.02; amends Government Code Sections 65302 and 65302.5; and adds Public Resources Code Section 21083.01).

At the time of the next required revision of the housing element to occur on or after January 1, 2014, cities and counties must include in their safety elements information and policies regarding development in very high fire hazard severity zones designated by the state and where the state has the financial responsibility to fight fires, called state responsibility areas. Draft safety elements must be submitted to the State Board of Forestry and Fire Protection prior to adoption, and the local agency must make findings if it determines not to accept the State Board's comments. Under SB 1241, counties must make specified findings relating to compliance with state regulations before approving any tentative or parcel map in a very high hazard fire area or state responsibility area.

L. Land Use: Mitigation Lands: Nonprofit Organizations—SB 1094

Land Use: Mitigation Lands: Nonprofit Organizations (SB 1094; amends Sections 65965, 65966, 65967, and 65968 of the Government Code).

SB 1094 makes several changes to laws governing conservation easements. Under existing law, public agencies may impose mitigation conditions to offset the effects of other agencies' public works projects. Rather than owning and managing the mitigation land or the easements themselves, public agencies can turn over the property interests to statutorily defined nonprofit organizations. In addition to requiring the project sponsors to set aside resource lands for mitigation purposes, public agencies may also require applicants to set aside money, known as an endowment, to pay for managing the land or easements. In addition to various substantive and technical changes that SB 1094 makes to laws regarding conservation easements, it provides that an endowment must be calculated to include a principal amount that, when managed and invested, is reasonably anticipated to cover the annual stewardship costs of the property in perpetuity. The bill also provides that if a nonprofit corporation holds the endowment, the

nonprofit must utilize generally accepted accounting practices promulgated by the Financial Accounting Standards Board.

In addition, in cases where the project proponent and the holder of the mitigation property or conservation easement agree that a community foundation should hold the endowment, SB 1094 permits the property to be held by such foundation.

SB 1094 also prohibits a state or local agency from requiring, as a condition of obtaining a permit, clearance, agreement, or mitigation approval, a preferred or exclusively named entity by the state or local agency be named as the entity to hold, manage, invest, and disburse the funds in furtherance of the long-term stewardship of the property for which the funds were set aside.

II. COMMUNITY & ECONOMIC DEVELOPMENT

A. Community Development Block Grant Program: funds—AB 232

Community Development Block Grant Program: funds (AB 232; amends Health & Safety Code Section 50832).

The Department of Housing and Community Development ("HCD") will slightly amend its eligibility criteria applied to economic development applications submitted by cities and counties under Sections 50832 and 50833 of the Health and Safety Code and for economic development assistance grants. HCD will no longer use the federal standards for blight and urgent need as criteria for development allocations. The "jobs-for-dollars" test has also been removed from the criteria. HCD will instead develop and apply project standards and rating factors which meet the minimum requirements of federal statutes for eligible projects and that meet National Objectives.

B. Community Development and Emergency Trust Fund—AB 1585

Community Development (AB 1585; amends Health & Safety Code section 34176).

AB 1585 amends Health & Safety Code Section 34176 in order to clarify prior law by detailing which obligations and housing assets transfer to the city, county or city and county that has elected to retain the housing assets and functions of a prior redevelopment agency. Among other subdivisions, subdivision (h) was added to clarify that in addition to other sections of the Community Redevelopment Law, subdivisions (d) and (e) of Health and Safety Code, which relate to the Low and Moderate Income Housing Fund, may be used to fund administrative and planning costs of the city, county or city and county that has elected to retain the housing assets and functions of the prior redevelopment agency.

C. Housing and Emergency Shelter Trust Fund Act of 2006 Appropriation—AB 1585

Housing and Emergency Shelter Trust Fund Act of 2006 Appropriation (AB 1585; amends Health & Safety Code section 34176).

AB 1585 appropriates fifty million dollars (\$50,000,000) from the proceeds of bonds passed pursuant to the Housing and Emergency Trust Fund Act of 2006 (Health & Safety Code Section 53545 et seq.) to the Department of Housing and Community Development for infill and transit-oriented development funding. Of the funds appropriated, twenty-five million (\$25,000,000) is appropriated to fund infill incentive grants pursuant to Health & Safety Code Section 53545.13. The remaining twenty-five million (\$25,000,000) is appropriated for transit-oriented grants and loans pursuant to Part 13 (commencing with Section 53560) of Division 31 of the Health and Safety Code.

III. CONSTRUCTION

A. Public Works Prevailing Wage—AB 1598

Public Works Prevailing Wage (AB 1598; amends Labor Code Section 1720).

For the purposes of the payment of prevailing wages, Labor Code 1720 defines “public works” to include “installation” work done under a contract and paid for in whole or in part out of public funds. AB 1598 modifies the definition of “installation” to include the assembly and disassembly of modular office systems.

B. Public Contracts Small Business Preference—AB 1783

Public Contracts Small Business Preference (AB 1783; amends Government Code Section 14839.1; amends Public Contract Code Section 2002).

Currently, the Department of General Services (“DGS”) certifies businesses as small businesses for the purposes of a state agency 5% preference for such businesses in construction contracts and the procurement of goods and services. Under AB 1783 local agencies will have access to the DGS list of certified small businesses for use in local programs but may no longer independently certify small businesses. DGS will have the sole responsibility for certifying and determining the eligibility of small businesses. Local agencies may continue to define “small business” for purposes of local preferences and pursuant to AB 1783 may now use a DGS certified small business for local preference purposes and may also set additional guidelines for such local small business preferences.

C. Construction Contract Indemnities—SB 474

Construction Contract Indemnities (SB 474; amends Civil Code Sections 2782 and 2783; adds Section 2782.05).

SB 474 was signed into law in 2011 but has an effective date of January 1, 2013. SB 474 makes changes to California's anti-indemnity statute, addressing the enforceability of “Type I” or broad indemnities that extend to the active negligence of the indemnitee, in both private and public works. Beginning January 1, 2013 provisions in construction contracts that require a subcontractor to indemnify and defend a general contractor, construction manager, or other subcontractor are void to the extent they require the subcontractor to indemnify/defend those persons against their own active negligence or willful misconduct; or for defects in design; or to the extent the claims do not arise out of the scope of work of the subcontractor. This limitation

does not apply to residential construction contracts subject to SB 800, wrap-up insurance policies, contracts with design professionals and other enumerated exceptions. The new requirement will apply regardless of any provision intending to apply the law of another State. In addition, contractors, subcontractors, and suppliers on a public works project may not be required to indemnify against liability for the active negligence of the public agency. Similarly, a new provision is added making indemnity provisions for private projects unenforceable if they require contractors, subcontractors, or suppliers to indemnify the owner for the owner's active negligence.

D. Public Contracts Project Labor Agreements—SB 829

Public Contracts Project Labor Agreements (SB 829; adds Section 2503 to Public Contract Code).

SB 922 (effective January 1, 2012) prevented State funding or financial assistance for any project awarded by a charter city if the city's charter provision, initiative, or ordinance prohibited the governing board's consideration of a project labor agreement ("PLA"). SB 829 extends that prohibition if, in addition, the charter provision, initiative, or ordinance limits or constrains the governing body's authority or discretion to adopt, require or utilize PLAs.

IV. HOUSING

A. Housing-Related Parks Program—AB 1672

Housing-Related Parks Program (AB 1672; amends Health and Safety Code Section 50700, 50701, 50702, 50703, and 50704).

AB 1672 requires the Department of Housing and Community Development provide Prop 1C grants under the Housing-Related Parks Program ("HRP Program") to local entities based on the issuance of building permits for new housing units or housing units substantially rehabilitated, acquired, or preserved with committed assistance from the city or county, that are affordable to very low or low-income households. The bill reorganizes the bonus system under the HRP Program to give substantial bonuses to for new affordable housing units and to cities and counties committing to spend the grant funds in park-deficient area or on new or improved park or community recreational facilities that serve disadvantaged communities.

B. Affordable Housing—AB 1699

Affordable Housing (AB 1699; amends Health and Safety Code Section 50515.2 and adds Chapter 3.9 to Part 2 of Division 31 of the Health and Safety Code).

Under AB 1699, HCD may extend the term of an existing multifamily housing loan under the original Rental Housing Construction Program, the Special User Housing Rehabilitation Program or the Deferred Payment Rehabilitation Loan Program if the following conditions are met: (1) the borrower provides HCD with rent and income reports for existing tenants; (2) the borrower agrees to extend the term of the loan by 55 years or the remaining useful life of the project (but not less than 30 years); (3) a new or amended regulatory agreement is recorded against the property that includes the terms generally equivalent to those used in the

Multifamily Housing Program (MHP); and (4) all assisted units in the project are available to households earning 60% of Area Media Income or less and that at least 35% of all assisted units in the project are available to households earning less 30% of AMI for counties with median incomes of 110% or less of the state median income or 35% of AMI for counties with median incomes that exceeds 110% of the state median income.

C. Housing Bonds—AB 1951

Housing Bonds (SB 293; amends Health and Safety Code Sections 50705, 50708, and 53545.9 and repeals Health and Safety Code Section 50707).

This bill redirects \$30 million of Prop 1c funds from deleted programs to replenish the oversubscribed Multifamily Housing Program. The bill further requires HCD to give bonus points for developments serving special needs populations, including, but not limited to persons with autism and homeless veterans.

D. Rental Housing: Tenant Notice—AB 1953

Rental Housing: Tenant Notice (AB 1953; amends Civil Code Section 1962).

Under existing law, within 15 days of taking ownership, the new owner of a building must provide notice of the change of ownership by providing tenants with the name of the new owner and the location of where rent is to be paid. If a new owner fails to provide such notice within 15 days of taking ownership, AB 1953 prohibits the new owner from evicting a tenant for failure to pay rent during the time the new owner is not in compliance with the notice requirement.

E. Disability Access—SB 1186

Disability Access (SB 1186; amends and adds various Sections of the Civil Code, Business and Professions Code, Code of Civil Procedure, Government Code, Health and Safety Code).

SB 1186 was passed as urgency legislation and effects comprehensive revisions to California's disability access laws, with particular emphasis on provisions governing construction related accessibility lawsuits. Litigation related reforms include: reduction of a defendant's minimum liability for statutory damages if certain corrections are made to construction related violations; requiring consideration of a plaintiff's obligation to mitigate damages in an action alleging multiple claims for the same violation on different occasions; and a ban on prelitigation demands for money in construction-related accessibility violations. In addition, under newly added Civil Section 1938, a commercial property owner or lessor must state on every lease form or rental agreement executed on or after July 1, 2013, whether the property being leased or rented has undergone inspection by a Certified Access Specialist ("CAsp"), and, if so, whether the property has or has not been determined to meet all applicable construction-related accessibility standards pursuant to Civil Code Section 55.53. Of importance to public entities, beginning January 1, 2013 (and expiring on December 31, 2018 unless extended), cities and counties are required to collect a \$1 fee on new and renewed business licenses "or equivalent" instruments or permits, and to provide applicants with information

regarding accessibility compliance. Local agencies are permitted to retain 70% of the fees collected for increased CASp services, and to facilitate compliance with construction-related accessibility requirements. (Up to 5% of the retained fees may be used for administrative costs). The balance of the funds must be remitted quarterly to the Division of State Architect.

V. LABOR & EMPLOYMENT

A. Hiring Notice and Wage Statement Obligations for Temporary Services Employers—AB 1744

Hiring Notice and Wage Statement Obligations for Temporary Services Employers (AB 1744; amends Sections 226 and 2810.5 of, and adds Section 226.1 of the Labor Code).

Under the Wage Theft Prevention Act of 2011, employers must provide their non-exempt employees a written notice at the time of hiring that contains specified information, such as the rate and basis of the employee's wages, and the employer's name, address, and telephone number. AB 1744 provides that, for temporary services employers (defined in section 201.3 of the Labor Code), such notices also must include the name, physical and/or mailing address, and telephone number of the legal entity for whom the employee will perform work. In addition to the information required by existing Labor Code section 226, temporary services employers must include the employee's rate of pay and total hours worked for each temporary assignment on itemized wage statements. This requirement does not apply to licensed security services companies.

B. Email and Social Media Password—AB 1844

Email and Social Media Password; (AB 1844; adds Chapter 2.6 (commencing with Section 980) to the Labor Code).

AB 1844 prohibits employers from requiring or requesting that an employee or job applicant disclose personal social media user names and passwords, access personal social media in the presence of the employer, or divulge any personal social media information. In addition, employers may not discharge, discipline, threaten to discharge or discipline, or otherwise retaliate against an employee or job applicant for not complying with an employer request or demand that violates the law.

C. Discrimination Based on Religious Dress and Grooming Practices Prohibited—AB 1964

Discrimination Based on Religious Dress and Grooming Practices Prohibited (AB 1967; amends Government Code Sections 12926 and 12940).

Under AB 1964, employers may not discriminate against employees based on either "religious dress practice" or "religious grooming practice." "Religious dress practice," to be construed broadly, includes the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of the observance by an individual of his or her religious creed. "Religious grooming practice," also to be construed broadly, includes all forms of head, facial, and body hair that are part of an individual's observance of his or her religious

creed. Employers are prohibited from segregating a worker from customers or the public as a means of accommodating his or her religious beliefs. Employers must accommodate a worker's religious practices unless doing so creates "significant difficulty or expense." AB 1964 also specifies that religious dress and grooming qualify as protected observances.

D. Breastfeeding—AB 2386

Breastfeeding (AB 2386; amends Section 12926 of the Government Code).

Under existing law, it is unlawful to engage in specified discriminatory practices in employment or housing accommodations on the basis of sex. Beginning January 1, 2013, the term "sex" will also include breastfeeding or medical conditions related to breastfeeding. Changes made by AB 2386 are declaratory of existing law.

E. Blanket Insurance—AB 2084

Blanket Insurance (AB 2084; amends Sections 10270, 10270.2, and 10270.3 of, and adds Section 10270.2.5 to, the Insurance Code).

AB 2084 revises sections of the Insurance Code relating to blanket insurance for volunteer fire company members and proprietors of an organized camping institution that provide benefits in the event of an accident incurred while performing actions incident to the activity or operation sponsored or supervised by the fire company or proprietor. This bill extends the availability of such blanket insurance to 1) a volunteer or governmental fire department, emergency medical services company, or similar volunteer or governmental organizations providing benefits to members or participants and (2) a sports team or camp providing benefits to participants, campers, and other specified persons responsible for their support for death or dismemberment resulting from accident, or for hospital, medical, surgical, or nursing expenses resulting from specified accident or sickness related to the participants, campers, or other specified person's connection with the sports team or camp.

AB 2084 also extends other permitted types of blanket insurance to specified entities including the following: (1) an employer providing accident benefits to any group of workers, dependents, or guests, limited by reference to specified hazards incident to activities or operations of the employer; (2) any common carrier or any operator, owner, or lessor of a means of transportation providing accident benefits to any specified group of persons who may become lessees or passengers limited by reference to travel status; and (3) an entertainment production company providing accident benefits to any group of participants, volunteers, audience members, contestants, or workers while engaged in any activity or operation of the entertainment production company. The bill authorizes the person insured, when the premium is paid for these types of blanket insurance, to request a copy of the policy from the insurer.

F. Overtime Mutual Wage Agreements Invalidated—AB 2103

Overtime Mutual Wage Agreements Invalidated (AB 2103; amends Labor Code Section 515).

Under AB 2103, mutual wage agreements between employers and employees shall be deemed only to provide compensation for an employee's regular, nonovertime hours, notwithstanding any private agreements to the contrary. Mutual wage agreements that purport to apply to overtime pay are invalidated, overruling the decision in Arechiga v. Dolores Press (2011) 192 Cal.App.4th 567, which held that such agreements were enforceable.

G. Contractors' Workers' Compensation Insurance Coverage—AB 2219

Contractors' Workers' Compensation Insurance Coverage (AB 2219; amends and repeals Section 7125 of the Business and Professions Code, amends Section 11665 of the Insurance Code).

AB 2219 eliminates the sunset date on existing law that requires roofing contractors to provide proof of workers' compensation coverage even if they have no employees. It also requires insurers to personally verify the number of employees working for a roofing contractor by visiting the place of business as part of the annual payroll audit.

H. Employment Records: Right to Inspect—AB 2674

Employment Records: Right to Inspect (AB 2674; amends Sections 226 and 1198.5 of the Labor Code).

AB 2674 changes the obligations of California employers, and the rights of current and former employees, regarding employees' personnel files.

Previously, Labor Code section 1198.5 allowed employees to inspect their personnel records at reasonable intervals and times. As amended, the section now more closely resembles another law spelling out employees' rights to review and obtain copies of their payroll records, California Labor Code section 226.

AB 2674 provides that employers must make personnel records available for inspection by any current or former employee or his/her representative. Employers must also provide a copy of the records within 30 calendar days from receipt of a written request, or if the parties agree in writing, within no more than 35 calendar days. Additionally, the amended section requires that employers keep a copy of the employee's personnel records for at least three years after termination of employment.

The amended section also provides for the following:

- If a current or former employee files a lawsuit against the employer regarding a personnel matter, his or her right to inspect or copy personnel records ceases during the pendency of the lawsuit.
- An employer may: (1) designate the person to whom records requests are made, (2) take reasonable steps to verify the identity of the employee or representative making the request, and (3) redact the names of nonsupervisory employees contained in the records.

- An employer need not comply with more than 50 requests filed by a representative or representatives of employees in one calendar month.
- The inspection and copying provisions do not apply to an employee covered by a valid collective bargaining agreement if the agreement provides, among other things, for a procedure for inspection and copying of personnel records
- If an employer fails to permit inspection or copying of records within the times required, the employee or Labor Commissioner may recover a \$750 penalty. The employee also may obtain injunctive relief, costs, and attorney fees. In a change from existing law, a violation of the above provisions requiring that personnel records be made available for inspection constitutes an infraction, not a misdemeanor.

Finally, AB 2674 amends Labor Code section 226 with respect to the obligation for employer retention of wage statements. Previous law required employers to keep copies of wage statements for at least three years, either at the employment site or a central location within the state. This bill clarifies that “copies” may include duplicates of the statements provided to the employee, or computer—generated records that accurately show all information required to be included on the wage statement.

I. Employment Contract Requirements—AB 2675

Employment Contract Requirements (AB 2675; amends Section 2751 of the Labor Code).

Existing legislation required that employment contracts involving commissions as a method of payment must (1) be in writing; (2) set forth the method by which the commissions are required to be computed and paid; and (3) contain a signed receipt for the contract from each employee. AB 2675 clarifies that the term “commissions” does not include short-term productivity bonuses, temporary variable incentive payments that increase but do not decrease payment under the written contract, or bonus and profit-sharing plans, unless the employer has offered to pay a fixed percentage of sales or profits as compensation for work to be performed.

J. Employee Compensation: Itemized Statement—SB 1255

Employee Compensation: Itemized Statement (SB 1255; amends Section 226 of the Labor Code).

AB 1255 amends Labor Code section 226(e) to specify the circumstances when employees may recover penalties for failure to receive accurate itemized wage statements. Section 226 requires employers to provide accurate wage statements showing specific categories of information including:

- (1) gross wages earned;
- (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;

- (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;
- (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
- (5) net wages earned;
- (6) the inclusive dates of the period for which the employee is paid;
- (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number;
- (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer; and
- (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.

SB 1255 provides that an employee is “deemed to suffer injury” in two instances: (1) if the employer fails to provide a wage statement; or (2) if the employer fails to provide accurate and complete information for any of the nine items required, and the employee cannot promptly and easily determine the information from the wage statement alone. Thus if an employee establishes a “knowing and intentional” violation of the wage statement requirements, the employee is presumptively entitled to collect Section 226(e) penalties, even if he/she did not suffer any actual injury.

K. Public Works: Wages: Employer Payment Contributions—AB 2677

Public Works: Wages: Employer Payment Contributions (AB 2677; amends Labor Code section 1773.1; adds Labor Code section 1773.8).

Existing law requires that no less than the general prevailing rate of per diem wages as determined by the Director of Industrial Relations must be paid to workers employed on public works projects. Existing law also provides that per diem wages include specified employer payments and that employer payments are credited against the obligation to pay the general prevailing rate of per diem wages. Such, however, do not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing.

AB 2677 provides that increased employer payment contributions which result in a lower hourly straight time or overtime wage will not violate the applicable prevailing wage determination as long as (1) the increased employer payment is made pursuant to a collective bargaining agreement; (2) the basic hourly rate and increased employer payment are not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the applicable prevailing wage determination; and (3) the employer payment contribution is irrevocable unless made in error.

VI. LANDLORD-TENANT**A. Security Deposits—AB 1679**

Security Deposits (AB 1679; amends Section 1950.5 of the Civil Code).

If mutually agreed to by landlord and tenant, AB 1679 allows any remaining security deposit to be returned to the former tenant by electronic transfer and allows the itemized statement pertaining to the amount and expenditure of the security deposit required pursuant to Civil Code Section 1950.5(g) to be delivered by e-mail.

B. Landlord and Tenant: Personal Property Remaining on Premises After Termination of Tenancy—AB 2521

Landlord and Tenant: Personal Property Remaining on Premises After Termination of Tenancy (AB 2521; amends Sections 1946, 1946.1, 1950.5, 1983, 1984, 1985, 1987, 1988, and 1990 of the Civil Code).

A landlord is now required to provide specific notice regarding a tenant's ability to reclaim abandoned property and the costs thereof when the landlord provides notice to a tenant (i) of termination of the lease pursuant to Civil Code Sections 1946 or 1946.1; (ii) of the landlord's right to an initial inspection upon termination of the lease pursuant to Civil Code Section 1950.5(f)(i); and (iii) when property actually remains on the property after abandonment of the premises pursuant to Civil Code Section 1987. In addition, the value of abandoned property that a landlord is required to dispose of through public sale, as opposed to any method chosen by the landlord, was increased from \$300 to \$700.

C. Foreclosure and Unlawful Detainer Notice—AB 2610

Foreclosure and Unlawful Detainer Notice (AB 2610; amends Section 2924.8 of the Civil Code, and Sections 415.46 and 1161b of the Code of Civil Procedure).

A notice of sale that includes information to tenants about their rights is required to be posted before any power of sale can be exercised under any deed of trust or mortgage. Prior to AB 2610, this notice was required to inform tenants that upon foreclosure, the new owner could either enter into a new lease with the tenant or provide the tenant with a 60-day notice of eviction. Pursuant to AB 2610, this notice is now required to inform tenants that the new owner may enter into a new lease or provide the tenant with a 90-day eviction notice unless there is a fixed term lease, in which case, the tenant must be allowed to stay until the lease expires except in cases where the new owner will occupy the property as a primary residence. The notice is also required to inform tenants that in some cities with a "just cause for eviction" law, the tenant may not have to move at all. These notice requirements will expire December 31, 2019 unless extended by a future statute.

D. Form of Rent Payment—SB 1055

Form of Rent Payment (SB 1055; amends Section 1947 .3 of the Civil Code).

Prior to SB 1055, landlords were prohibited from requiring cash as the exclusive form of payment of rent or security deposit. Under SB 1055, landlords are now required to allow at least one additional form of payment other than cash or electronic transfer and provides a definition of electronic transfer. However, a landlord can still require cash payments for 3 months after a check has bounced.

E. Animals—SB 1229

Animals (SB 1229; adds Section 1942.7 to the Civil Code).

This law prohibits landlords who otherwise permit tenants to have animals from requiring that an animal be declawed or devocalized as a condition of occupancy.

F. Smoke Detectors—SB 1394

Smoke Detectors (SB 1394; amends Sections 13113.7, 13113.8, 13114, and 17926 of the Health and Safety Code).

SB 1394 amends current state law pertaining to smoke detectors in rental units by providing that a building permit issued after January 1, 2014, for work exceeding \$1,000, cannot be signed off on until the permittee demonstrates that all required smoke alarms are devices approved and listed by the State Fire Marshal. In addition, SB 1394 requires that as of January 1, 2016, smoke detectors are required to be located within the dwelling units in accordance with current building standards. It also now requires smoke detectors to be located in single-family dwellings that are leased. Landlords are reminded that SB 1394 only amends state law, thus local laws and regulations pertaining to smoke detectors still apply.

G. Domestic Violence—SB 1403

Domestic Violence (SB 1403; amends Section 1946.7 of the Civil Code and Section 1161.3 of the Code of Civil Procedure).

Prior to the passage of SB 1403, existing law authorized a tenant to terminate a lease if the tenant notified the landlord in writing that he/she was a victim of an act of domestic violence, sexual assault, or stalking and provided a copy of a temporary restraining order, protective order or police report dated within 180 days. Existing law prohibited a landlord from terminating, or failing to renew, a tenancy, based upon an act of domestic violence, sexual assault, or stalking against a protected tenant, as defined in the statute. SB 1403 adds abuse of an elder or a dependent adult as basis for early termination of a lease and prohibition against landlord's termination of, or failure to renew, tenancy.

H. Relocation Benefits for Temporary Displacement in Rent Controlled Units—AB 1925

Relocation Benefits for Temporary Displacement in Rent Controlled Units (AB 1925; adds Section 1947.5 to the Civil Code).

AB 1925 limits relocation benefits for temporary displacement of 20 days or less of a tenant living in a rent-controlled unit for no more than 20 days to \$275 per day plus actual moving expenses. AB 1925 only applies in the City and County of San Francisco.

VII. LOCAL GOVERNMENT, ADMINISTRATION & PUBLIC ENTITIES**A. County recorder: recordation of documents—AB 1642**

County recorder: recordation of documents (AB 1642; amends Section 880.340 of the Civil Code and Section 27201 of the Government Code).

Existing law requires the county recorder, upon payment of proper fees and taxes, to record any document that is authorized or required by statute or court order to be recorded, provided that the document meets certain standards. AB 1642 additionally requires the county recorder to record any document that is authorized or required by local ordinance within that county. This includes Notices of Violation (NOVs) for violations of building, zoning, grading, and environmental health ordinances, including those related to unpermitted garages, decks, or other structures on a property, or updates done without proper building permits.

B. Public Records—AB 2221

Public Records (AB 2221; amends Sections 6254 and 6275 and adds to Section 6276.01 of the Government Code).

AB 2221 adds prosecutors and public defenders to the types of professionals whose firearm license applications are not fully required to be disclosed as public records. The bill also adds a constitutional provision to the list of laws that may operate to exempt public records from the disclosure requirements of the act.

C. Local Government: Open Meetings: Cease And Desist Letters—SB 1003

Local Government: Open Meetings: Cease And Desist Letters (SB 1003; amends Sections 54960 and 54960.5 of the Government Code and adds Section 54960.2 to the Government Code).

SB 1003 amends the Ralph M. Brown Act (“Brown Act”), which generally requires the legislative bodies of local public agencies to hold open meetings. The Brown Act currently provides that a district attorney or other interested person may commence an action to stop or prevent violations or threatened violations of the open meeting laws or to determine the applicability of the laws to the actions or threatened future actions of a legislative body.

SB 1003 amends the Brown Act to prohibit a district attorney or any interested person from filing an action to determine the applicability of the Brown Act to *past* actions of a legislative body unless the following conditions are met: (1) the district attorney or interested person submits a cease and desist letter that clearly describes past action of the legislative body and the nature of the alleged violation; and (2) within 30 days from receipt of the letter, the legislative body fails to issue “an unconditional commitment to cease, desist from, and not repeat the past action that is alleged to violate” the Brown Act.

The cease and desist letter must be submitted to the legislative body within nine months of the alleged violation, by mail or facsimile. The unconditional commitment from the legislative body must be in substantially the same form as the example provided in the newly added section 54960.2(c)(1). The unconditional commitment must be approved by the legislative body in open session at a regular or special meeting as a separate item of business.

If a court determines during an action seeking a judicial determination about the applicability of the Brown Act to a past action that the legislative body has provided an unconditional commitment, the court must dismiss the action with prejudice

The law also provides that if an action filed to challenge an alleged violation of the Brown Act pursuant to these provisions is dismissed with prejudice because the legislative body has entered into an unconditional commitment to cease and desist *after* the 30-day period described above, and if the filing of that action caused the legislative body to enter into the unconditional commitment, then a court shall award costs and reasonable attorney fees to the plaintiff.

Finally, the bill requires a legislative body that wishes to rescind a commitment to do so by a majority vote of the membership of the legislative body. The fact that a legislative body provides an unconditional commitment shall not be construed or admissible as evidence of a violation of the Brown Act.

D. Local Agencies: Open Meetings: Teleconferences—SB 475

Local Agencies: Open Meetings: Teleconferences (SB 475; amends Section 54953 of the Government Code).

The Brown Act requires that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend. SB 475 authorizes a legislative body to use teleconferencing, subject to specified requirements, including that each teleconference location be accessible to the public and that at least a quorum of the members of the body participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction.

E. Local Government: Omnibus Bill—1090

Local Government: Omnibus Bill (SB 1090; amends multiple sections of the Government Code, Health and Safety Code, Street and Highway Code and the Water Code).

In addition to the changes summarized below, the Omnibus bill deals with various other noncontroversial statutory changes proposed by the Senate Local Governance and Finance Committee.

Special Taxes. The bill updates various Sections of the Government Code to make clear that the two-thirds vote requirement for approval of special taxes apply to those sections and makes those sections consistent with Propositions 13 (1978), Proposition 62 (1986) and Proposition 218 (1996).

Business Improvement Districts. The bill permits the first year management plan for the district to contain only a description of the proposed improvements and activities for the district's first year and the amounts proposed to be spent for said activities if the plan states that the improvements and activities in future years are the same and the amounts proposed to be expended in future years are not significantly different. The bill further clarifies that the distribution of revenues remaining after a district expires is the same as the procedures for distributing such revenues upon disestablishment of the district.

Abuse of Office. The bill refines the definition of the term "abuse of office" by adding a cross reference to Title 5 of Part 1 of the Penal Code which was previously improperly cross referenced.

Subdivision Maps. Removes the requirement that the stamped engineer's or surveyor's license seal placed on a parcel or final map indicates the expiration date of the engineer's or surveyor's license.

Voter Approved Charter Amendments. Clarifies that a certified and authenticated copy of the complete text of a charter proposal or of any amended or repealed section ratified by the voters of a city or county must be recorded (as opposed to just filed) in a county recorder's office.

Planning for Disadvantaged Communities. On or before the next housing element is adopted, a city must review and update the land use element of its general plan to include an identification of each unincorporated island or fringe community within the city's sphere of influence that is a disadvantaged unincorporated community. On or before the next housing element is adopted, a county must review and update the land use element of its general plan to include an identification of each legacy community that is a disadvantaged unincorporated community within its boundaries excluding legacy communities in of any city's sphere of influence.

F. Local Government Audits—AB 1345

Local Government: Audits (AB 1345; amends Government Code 12410.5 and adds Government Code Section 12410.6).

The bill requires a local government or nonprofit organization that expends more than \$300,000 of federal funds to prepare an annual audit that meets the specifications of the federal Single Audit Act of 1984 (31 U.S.C. Sec. 7501 et seq.) within 9 months after the end of the audit period and submit such audit to the State Controller. If a local agency fails to submit the

required audit after reasonable notice and an opportunity to submit the report, the Controller may appoint a qualified accountant to complete. Costs incurred may be charged against any unencumbered funds of the local agency.

G. State Government: Business, Consumer Services, and Housing Agency—SB 1039

State Government: Business, Consumer Services, and Housing Agency (SB 1039; amends Health and Safety Code 50400 and adds Health and Safety Code Section 50407.5).

The bill eliminates and reorganizes various state agencies and establishes the Business, Consumer Service, and Housing Agency which will be comprised of among others, the Department of Housing and Community Development. The bill further requires that HCD, the Department of Transportation and the California Transportation Commission coordinate state housing and transportation policies and programs to help achieve state and regional planning priorities and to maximize co-benefits of infrastructure investments.

VIII. MOBILEHOMES

A. Mobilehome Park Purchase Fund—AB 1797

Mobilehome Park Purchase Fund (AB 1797; amends Sections 50738, 50784, and 50786 of the Health & Safety Code).

HCD has previously established the Mobilehome Park Purchase Fund to assist qualified mobilehome park residents, resident organizations, nonprofit housing sponsors, or local public entities finance the conversion of a mobilehome park to resident ownership and to make monthly housing costs affordable. Previous law established the interest rate on loans provided by HCD under this program as 3%. AB 1797 permits HCD to lower the interest rate if HCD determines that it is necessary for the park's financial feasibility and will not jeopardize the financial feasibility of the program. In addition, the bill permits HCD to provide technical assistance to a loan applicant, or to contract with a qualified nonprofit entity to provide technical assistance to a loan applicant, and include the cost of such technical assistance as part of the loan principal.

B. Water Service: Mobilehome Parks—AB 1830

Water Service: Mobilehome Parks (AB 1830; amends Section 2705.6 of the Public Utilities Code).

The Public Utilities Commission ("PUC") regulates public utilities, including water corporations. Although a mobilehome park that provides water only to its tenants from a water supply and facility owned by the mobilehome park is not a water corporation, it is still subject to PUC regulation. This statute provides that if 10% or more of the mobilehome park tenants file a complaint within a 12 month period, then the PUC has jurisdiction to determine if the rates are just and reasonable, or that the water service is adequate. If the PUC finds, after an investigation, that the complaint is valid, then the PUC can order the mobilehome park to reimburse the complainants (which may be current or former park tenants). Such reimbursement shall be calculated from the first date of collection of the unjust or unreasonable rate, with

interest. AB 1830 also requires the mobilehome park to provide a written notice to each mobilehome park tenant informing the tenant of the right to file a complaint with the PUC and how to do so. The notice must be provided to each new tenant when the tenant establishes residency, and to all tenants each time the mobilehome park changes water rates or service.

C. Mobilehomes: Rental Agreements—AB 1938

Mobilehomes: Rental Agreements (AB 1938; amends Sections 798.17 and 798.39.5 of the Civil Code).

The Mobilehome Residency Law governs residency in mobilehome parks and can exempt a rental agreement from a local rent-control ordinance. Under current law, for this exemption to apply, the rental agreement must provide that the park resident may void the rental agreement by notifying management, in writing, within 72 hours of the resident's execution of the rental agreement. AB 1938 changes the timeframe for the resident to void the rental agreement. Under the bill, the rental agreement must provide that: (1) the park resident may void the rental agreement by notifying management, in writing, within 72 hours after the resident's returning the executed rental agreement to management (if the resident is provided a copy of the executed rental agreement at the time the executed rental agreement is returned to management), or (2) the park resident may void the rental agreement by notifying management, in writing, within 72 hours after the resident has received a copy of the executed rental agreement from management (if the resident did not receive a copy of the executed rental agreement returned the executed rental agreement to management). In addition, this statute expands an existing prohibition on a mobilehome park owner from imposing a fee or increasing rent for costs incurred by the owner for violating specified laws pertaining to mobilehome parks.

D. Mobilehome Parks—AB 2150

Mobilehome Parks (AB 2150; amends Sections 798.14 and 798.15 of the Civil Code).

The Mobilehome Residency Law requires management of a mobilehome park to include a copy of the Mobilehome Residency Law in the rental agreement, and to provide all park tenants a copy of the Mobilehome Residency Law by February 1 of each year, if a significant change was made by legislation in the prior year. AB 2150 requires that mobilehome park management include a specified notice, set forth in Civil Code Section 798.15, in each rental agreement, and on an annual basis. The notice describes various rights of the park tenant under the Mobilehome Residency Law, including the right to advance written notice prior to any rent increase. AB 2150 also provides that all required notices required to be delivered by February 1 may be included in one consolidated notice.

E. Injunctive Relief for Continuing Violation of Mobilehome Park Rule—AB 2272

Injunctive Relief for Continuing Violation of Mobilehome Park Rule (AB 2272; amends Civil Code 798.88 and Code of Civil Procedure Section 85).

Through January 2016, park management may obtain an order enjoining a continuing or repeated violation or a reasonable park rule as a limited proceeding in local superior court.

F. Housing Omnibus Act—AB 2697

Housing Omnibus Act (AB 2697; amends Sections 798.49, 896, 1363.05, and 1368 of the Civil Code, and Sections 18045.6 and 18942 of the Health and Safety Code).

AB 2697 law establishes standards for heating installed pursuant to a building permit application submitted before or on January 1, 2008. The bill establishes heating standards which, if violated, would subject general contractors, subcontractors, material suppliers, an individual product manufacturer or a design professional to liability. For any heating installed pursuant to a building permit application prior to January 1, 2008, the heating must be capable of maintaining a room temperature of 70 degrees Fahrenheit at a point three feet above the floor in *any living area*; and if the heating was installed pursuant to a building permit application on or before January 1, 2008, the system must be capable of maintaining the room temperature at 68 degrees Fahrenheit at a point three feet above the floor and two feet from exterior walls in *all habitable rooms*.

The law also makes nonsubstantive changes to common interest developments within the Davis-Stirling Common Interest Development Act (the "Act"). It changes the Act to clarify that written consent of all board members is required for the board to take action in an emergency meeting, held electronically, but not to hold an emergency meeting in general. The previous statute was not clear on this point and clarity was sought to state that unanimous consent by all of the board members is not needed to call an emergency meeting.

In addition, AB 2697 modifies meeting requirements for common interest developments within the Act. In the past, the Act permitted an association board of directors to meet by teleconference if all of the board members were connected electronically, even if the board members were at different locations provided that at least one board member was at a physical location in which members of the association could attend. AB 2697 permits that board to designate a person to be present at the physical location, thereby eliminating the requirement that a board member must be present.

Previous law required that any owner of a separate interest in a common interest development which intends to sell his or her interest to a new buyer, provide the intended buyer with certain documents related to the property, including, but not limited to, a statement describing any prohibition, if it was applicable, in the governing documents against the rental or leasing of any separate interest. This bill removes the requirement that the owner describe the applicability of the prohibition.

Health and Safety Code Section 18045.6 relates to a dealer who is displaying manufacturing homes or mobile homes for sale. AB 2697 eliminates the requirement that the dealer may only display the manufactured homes or mobile homes for a 30-day period, and alters the definition of a "fair, exposition, or similar exhibit" and provides that the display shall not qualify as a business location or an established place of business for purposes of procuring or maintaining a dealer's license. The bill provides more time and locations to display new manufacturing homes and mobile homes to dealers and without the limitation of the 30-day period, and provides dealers with the ability to negotiate with the property owner for a reasonable time for their displays.

G. Notices Included in Mobilehome Park Permit Fee Invoices—SB 149

Notices Included in Mobilehome Park Registration Fee Invoices (SB 149; amends Health and Safety Code Sections 18506 and 18870.7).

Invoices for park permit fees shall include a notice of the Mobilehome Residency Law and Recreational Vehicle Park Occupancy Law, as applicable.

H. Resident Owned Mobilehome Parks—SB 1421

Resident Owned Mobilehome Parks (SB 1421; amends Section 799.1 of the Civil Code).

Previous law provided that in cases where a mobilehome park owned and operated by a nonprofit mutual benefit corporation, whose members consisted of park residents and where there was no recorded condominium plan, tract, parcel map, or declaration, the Mobilehome Residency Law governed the rights of members who were residents and had a rental agreement with the corporation. SB 1421 applies the law to those that “rent their space” rather than those members who have a “rental agreement” with the corporation. The bill also excludes nonprofit mutual benefit corporations whose members consist of park residents where there is no recorded subdivision declaration or condominium plan from the provisions described above.

I. Notice to Prospective Mobilehomeowners—AB 317

Notice to Prospective Mobilehomeowners (AB 317; amends Civil Code Section 798.74.5).

AB 317 requires that the disclosure given by park management to prospective homeowners include language advising them that if they do not occupy the mobilehome as their principal residence, they may be no longer subject to local mobilehome rent control measures.

IX. MORTGAGES & FORECLOSURES

A. Homeowner's Bill of Rights; Mortgages and Deeds of Trust. Foreclosure—SB 900 and AB 278

Homeowner's Bill of Rights; Mortgages and Deeds of Trust. Foreclosure (SB 900 and AB 278; amends and adds Sections 2923.5 and 2923.6 of, amends and repeals Section 2924 of, adds Sections 2920.5, 2923.4, 2923.7, 2924.17, and 2924.20 to, adds and repeals Sections 2923.55, 2924.9, 2924.10, 2924.18, 2924.19, 2924.11, 2924.12, and 2924.15 of, the Civil Code).

Commonly referred to as the Homeowners Bill of Rights (the "Bill"), SB 900 and AB 278 require that lenders and servicers of first lien mortgages on owner-occupied residential homes, with 4 or fewer dwelling units, take several new steps prior to commencing foreclosure proceedings (recording the notice of default) and/or conducting a trustee's sale. Key new steps for lenders and servicers include providing borrowers with information on loan modification prior to the recording of a notice of default or notice of sale, establishing a single point of contact for foreclosure prevention alternatives, and honoring approved written foreclosure prevention alternatives. The Bill also prohibits dual-tracking, that is, the foreclosure process can only

proceed if the application is denied, and after the exhaustion of the appeal process, or 31 days after the written denial notification, whichever occurs last. In addition, borrowers have additional remedies, including injunctive relief, the greater of treble actual damages or \$50,000 and reasonable attorney's fees and costs.

B. Mortgages and Deeds of Trust. Foreclosure—AB 1559

Mortgages and Deeds of Trust. Foreclosure (AB 1559, amends Section 2924f, amends and repeals Section 2924, and adds Section 2923.3 to the Civil Code).

Under AB 1559, lenders, trustees, beneficiaries, and authorized agents must provide borrowers of residential homes, with 4 or fewer dwelling units, a summary of the provisions of a recorded notice default and notice of sale in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean (the "Required Languages"). AB 1559 also requires that a recorded notice of default and notice of sale include a statement in the Required Languages and that a summary of the key provisions be attached. These requirements become operative on April 1, 2013, or 90 days following the issuance of the summary translations by the Department of Corporation, whichever occurs later.

C. Housing—AB 1551

Housing (AB 1551; amends Health and Safety Code Sections 50650.3, 51345, and 51505).

An urgency measure that took effect as of the date of its adoption on September 25, 2012, AB 1551 authorized HCD and the California Housing Finance Agency ("CalHFA") to subordinate certain second mortgages to refinancing, subject to certain criteria. The bill affects the CalHome Program administered by HCD and the Home Purchase Assistance and Extra Credit Teacher Home Purchase Programs administered by CalHFA. It was deemed urgent because "underwater" borrowers under these programs would otherwise have been unable to participate in the federal Home Affordable Refinance Program. Criteria include that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and that the new loan meets the agency's underwriting requirements.

D. Mortgage Loans—SB 980 (see also AB 1950).

Mortgage Loans (SB 980; amends Business and Professions Code Sections 6106.3 and 10085.6 and Civil Code Section 2944.7).

Provisions prohibiting real estate licensees and other persons, including attorneys, from charging advance fees for residential loan modifications were set to expire or "sunset" on January 1, 2013. SB 980 extends these prohibitions until January 1, 2017. (AB 1950, however, as described more fully below, entirely deletes two of these three sunset provisions.) SB 980 also requires that attorneys, in addition to all other persons under existing law, continue to comply indefinitely with Civil Code Section 2944.6 by giving prospective clients a specified notice explaining that loan modification services may be obtained without charge, such as by working with their lender directly.

E. Prohibited Business Practices: Enforcement—AB 1950 (*see also* SB 980).

Prohibited Business Practices: Enforcement (AB 1950; amends Business and Professions Code Sections 10085.6 and 10130, Civil Code Section 2944.7 and Penal Code Section 802).

AB 1950 is part of the Attorney General's initiative to address mortgage fraud. This bill amends two of the code sections amended by SB 980 by completely deleting the sunset clauses in Business and Professions Code Section 10085.6 and Civil Code Section 2944.7. Second, this bill clarifies that it is unlawful for any person to offer mortgage loan origination services without holding a real estate license specifically endorsed for such purpose. Third, in order to give the Attorney General and local district attorneys sufficient time to prosecute mortgage fraud, the measure extends the statute of limitations for various mortgage-related misdemeanors from one year to three years.

F. Reverse Mortgages: Counseling—AB 2010

Reverse Mortgages: Counseling (AB 2010; amends Civil Code Section 1923.2).

Under AB 2010, a lender marketing a reverse mortgage must ensure that a prospective borrower has had the opportunity to receive in person counseling from an approved counseling agency before the lender can accept a final application or assess any fees for such a loan. Existing law provided that, prior to accepting a final application for a reverse mortgage, a lender must provide a prospective borrower a list of at least 10 housing counseling agencies approved by the U.S. Department of Housing and Urban Development to provide reverse mortgage counseling. AB 2010 provides that the lender shall neither accept the application nor assess fees without first receiving a certification signed by both the applicant and the counseling agency that the applicant has either received in person counseling or elected to receive another form of counseling.

G. Common Interest Developments: Required Documents—AB 2273

Common Interest Developments: Required Documents (AB 2273; amends Civil Code Section 2924b and adds Civil Code Section 2924.1)

AB 2273 increases the ability of a homeowner association ("HOA") in a common interest development to ascertain the new owner of a unit after a foreclosure in order to collect assessments and ensure compliance with the HOA's covenants, conditions and restrictions. Because a foreclosing lender was not required to record a trustee's deed in certain circumstances under the previous law, the Section's previous requirement that the lender mail a copy of the deed within 15 business days following recordation did not aid the HOA in such circumstances. AB 2273 provides that the lender must mail the HOA a copy of the deed within 15 business days of the trustee's sale, so long as the HOA has filed the specified request with the county recorder, and that it must also record the trustee's deed within 30 days of the sale.

H. Real Property: Blight—AB 2314

Real Property: Blight (AB 2414; amends Section 2929.3 of the Civil Code, and amends Sections 17980 and 17980.7 of the Health and Safety Code).

AB 2414 gives new homeowners additional time to fix any code violations in a home before local agencies are able to enforce local codes. It also extends an existing provision that requires the owner of a foreclosed property to maintain the property indefinitely.

I. Military Service Protections: Real and Personal Property Rights—AB 2475

Military Service Protections: Real and Personal Property Rights (AB 2475; amends Military and Veterans Code Section 408).

This bill extends the duration of the protection given to military service members from foreclosure, sale or seizure of property under the Military and Veterans Code. The measure covers obligations that are secured by a mortgage, deed of trust or other security against real or personal property owned by the service member from the commencement of military service. No such foreclosure, sale or seizure is valid if made during the service member's period of military service or within 9 months thereafter (previously 3 months), except by agreement of the parties or by court order.

J. Service Member Obligations or Liabilities: Rate of Interest—AB 2476

Service Member Obligations or Liabilities: Rate of Interest (AB 2476; amends Section 405 of the Military and Veterans Code).

Previous law prohibited an obligation or liability bearing interest at a rate in excess of 6% per year incurred by a service member before that person's entry into service from bearing interest at a rate in excess of 6% per year during any part of the period of military service, except as prescribed. A person who violated this rate of interest provision was liable for actual damages, reasonable attorney's fees, and costs incurred by an injured party. AB 2476 extends this prohibition to one year after any part of the period of military service.

K. Mortgage Loan Originators—AB 2666

Mortgage Loan Originators (AB 2666; amends sections 22012, 22013, 22065, 22100, 22712, 50002, 50003, 50003.5 of, and adds sections 22756, 22757, and 50316.5 to the Financial Code).

The California Finance Lenders Law provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Corporations. AB 2666 prohibits a person from engaging in the business of making residential mortgage loans or servicing residential mortgage loans in the state without a license from the commissioner. Existing law defines a "mortgage loan originator" and specifies individuals who are not mortgage loan originators, and defines other terms for purposes of the law and the act. The willful violation of the law or the act is a crime. AB 2666 provides that a government employee and an employee of a nonprofit organization who originates loans exclusively in their capacity as an employee, under certain conditions as specified, are not mortgage loan originators under the California Finance Lenders Law or the California Residential Mortgage Lending Act. The bill also exempts a registered mortgage loan originator from needing a license with respect to the loan origination of a

dwelling when he or she is employed by a depository institution or an affiliated company, as specified, or an institution regulated by the Farm Credit Administration.

AB 2666 also allows a mortgage loan originator who is also an insurance producer and is not subject to the licensure provisions to apply to the commissioner for an exempt company registration for the purpose of sponsoring one or more individuals required to be licensed as mortgage loan originators, provided that the person applying complies with all rules and orders that the commissioner deems necessary.

The bill prohibits an unlicensed person engaged in the business of making or brokering residential mortgage loans or the business of a mortgage loan originator from paying, receiving any compensation for performing services in violation of these provisions. The bill also authorizes the commissioner to deny or decline to renew a license where licensee has, among other things, violated any provision of the California Residential Mortgage Lending Act, or rule order of the commissioner. It also provides that the commissioner's power of investigation and examination is not terminated by the denial or nonrenewal of a license.

L. Resident Tenancies. Foreclosures—SB 825

Resident Tenancies. Foreclosures (SB 825; amends Section 1161c of the Code of Civil Procedure).

Existing law requires that any notice to quit regarding a housing unit served within one (1) year after a foreclosure sale include a separate cover sheet that contains an additional notice to renters, expressly sets forth the contents of this notice, and provides that in three (3) exceptions the notice is not required. This law was scheduled to expire on December 31, 2012. SB 825 extends the operation of existing law until December 31, 2019.

M. Deficiency Judgments—SB 1069

Deficiency Judgments (SB 1069; amends Code of Civil Procedure Section 580b).

Under SB 1069, homeowners who refinance a purchase money loan are covered by the antideficiency protections of state law. Under previous law, a foreclosing lender was barred from seeking any loan balance remaining after the sale of a home if the loan secured by the lender's deed of trust was used to purchase the home. SB 1069 expands this prohibition to prevent a lender from seeking a deficiency judgment from a homeowner when the secured loan was used to finance, or re-refinance, the original purchase money loan. The amendment covers only loans executed on or after January 1, 2013 and does not apply to an advance of new principal not used to pay the purchase money loan obligation.

N. Landlord-Tenant Relations: Disclosure of Notice of Default—SB 1191

Landlord—Tenant Relations: Disclosure of Notice of Default (SB 1191; adds and repeals Civil Code Section 2924.85).

Under SB 1191, a landlord of a one-to-four unit dwelling who has received a notice of default on a deed of trust or mortgage, must, unless the notice has been rescinded, disclose the

notice in writing to any prospective tenant prior to executing a lease for the property. Under previous law, a landlord could rent to a tenant without disclosing that the property was the subject of a potential foreclosure. The landlord now must give, in English and other specified languages, the disclosure notice set forth in the new code section outlining the tenant's rights, which includes the potential right to remain in the property (subject to certain exceptions such as if the new owner intends to move in) and the right to receive 90 days' notice of any eviction. If the notice is not given, the tenant can elect either to void the lease and recover the greater of one month's rent or twice actual damages or to remain in the property, if foreclosure does not occur, and deduct one month's rent. Property managers are exempt from liability unless the landlord notified the manager of the notice of default and directed the manager to provide the notice. This section is repealed as of January 1, 2018 unless extended.

X. NONPROFIT ENTITIES

A. Corporation Taxes: Filing Requirements: Tax-Exempt Organizations— AB 1677

Corporation Taxes: Filing Requirements: Tax-Exempt Organizations (AB 1677; amends Section 23772 of the Revenue and Taxation Code).

Under Corporation Tax Law, tax-exempt organizations with gross receipts of below \$25,000 are exempt from filing annual information returns. AB 1677 increases the gross receipts threshold for this exemption to \$50,000.

B. Information Regarding Incorporation and Tax Exemption on State Agency Websites—AB 2641

Information Regarding Incorporation and Tax Exemption on State Agency Websites (AB 2641; adds Section 12098.6 to the Government Code).

Under AB 2641, the General Office of Business and Economic Development will post on its internet website information and web links on how to incorporate a nonprofit corporation and apply for state and federal income tax exemption.

C. Business Filings Revisions—SB 1532

Business Filings Revisions (SB 1532; amends Section 2103 of the Code of Civil Procedure, to amend Sections 110, 202, 900, 902, 910, 1505, 2105, 2602, 5008, 5008.6, 5130, 5810, 5812, 5813.5, 5819, 7130, 7810, 7812, 7813.5, 7819, 8810, 9130, 9621, 9913, 12214, 12310, 12500, 12502, 12504, 12510, 12570, 13226, 15901.16, 15902.01, 15909.02, 16303, 16309, 16953, 16959, 17051, 17054, 17060, 17062, 17451, 17454, 17654, and 18200 of, to repeal Part 8 (commencing with Section 14350) of, and to repeal Part 10 (commencing with Section 14450) of, Division 3 of Title 1 of, the Corporations Code, to amend Section 14101 of the Financial Code, and to amend Sections 12178.1, 12185, and 12191 of the Government Code).

Under SB 1532, whenever a limited liability company, limited partnership or corporation files its formation documents with the Secretary of State the filing document, it must list the initial address and mailing address of the entity.

In addition, AB 1532 provides that whenever a public benefit corporation, mutual benefit corporation, or religious corporation amends its articles of incorporation, the entity may not amend the initial address or mailing address of the entity as listed in the original articles of incorporation.

XI. PROPERTY TAX

A. Change in Ownership Exclusion Mobile Homes—AB 2046

Change in Ownership Exclusion Mobile Homes (AB 2046; adds Section 62.5 to the Revenue and Taxation Code).

AB 2046 provides that a transfer of a floating home marina to an eligible nonprofit corporation, stock cooperative, limited equity stock cooperative, or other entity formed by the tenants of a floating home marina does not constitute a change in ownership.

It also requires that a floating home marina that does not utilize recorded deeds to transfer ownership interest in the berths of the floating home marina, must file, by February 1 each year, a report with the county assessor's office containing information of the purchaser and the berth acquired from the floating home marina.

B. Co-tenancy Interest Change in Ownership Exclusion—AB 1700

Co-tenancy Interest Change in Ownership Exclusion (AB 1700; adds Section 62.3 to the Revenue and Taxation Code).

Under AB 1700, if a co-tenant transfers its interest in real property to another co-tenant and such transfer takes effect due to the death of the transferor co-tenant, provided certain conditions are met, such a transfer would not trigger a change in ownership for property tax purposes.

XII. REAL ESTATE TRANSACTIONS

A. Real Estate Disclosure—AB 1511

Real Estate Disclosure (AB 1511; adds Section 2079.10.5 to Civil Code).

Pursuant to AB 1511, every contract for the sale of residential real property entered into after July 1, 2013 must contain a notice in at least 8-point type stating that information about the general location of gas and hazardous liquid transmission pipelines is available to the public at the National Pipeline Mapping System Website.

B. Real Estate Broker License—AB 1718

Real Estate Broker License (AB 1718; amends Section 10150.6 of the Business and Professions Code).

AB 1718 provides that the Real Estate Commissioner ("Commissioner") may grant an original real estate broker's license to an applicant who (1) has at least the equivalent of 2 years' general real estate experience, (2) files a written petition with the Department of Real Estate, which is approved by the Commissioner, setting forth his or her qualifications and experience, and (3) passes an examination and satisfies other requirements. It also authorizes the Commissioner to treat a degree from a 4-year college or university, with a major or minor in real estate, as the equivalent of 2 years' general real estate experience.

C. Execution of Documents—AB 2326

Execution of Documents (AB 2326; amends Section 1195 of the Civil Code and Section 8206 of the Government Code and repeals Section 27287 of the Government Code).

Previous law required a notary public to keep an active sequential journal of all official acts performed as a notary public and that a party signing a deed, quitclaim deed, deed of trust affecting real property, or a power of attorney document, if the document is to be notarized, to place his or her fingerprint in the journal. This law expands these provisions to require a notary public to require a party signing any other document affecting real property to place his or her fingerprint in the notary public journal.

D. Counties: Recording: Real Estate Instruments—SB 1342

Counties: Recording: Real Estate Instruments (SB 1342; amends Section 27388 of the Government Code).

AB 1342 amends Government Code Section 27388 to authorize the board of supervisors to adopt, by resolution, a fee of up to \$10 for each recording of a real estate instrument, paper, or notice required or permitted by law to be recorded, except as specified. It defines "real estate instrument" as an amended deed of trust, an abstract of judgment, an affidavit, an assignment of rents, an assignment of a lease, a construction trust deed, covenants, conditions, and restrictions, a declaration of homestead, an easement, a lease, a lien, a lot line adjustment, a mechanics lien, a modification for deed of trust, a notice of completion, a quitclaim deed, a subordination agreement, a trustee's deed upon sale, and any Uniform Commercial Code amendment, assignment, continuation, statement, or termination.

AB 1342 also repeals the requirement that a district attorney in a participating county annually submit a report to the Legislative Analyst's Office on the effectiveness of deterring, investigating, and prosecuting real estate fraud crimes funded by the recording fee, as well as the requirement that the Legislative Analyst's Office report to the Legislature on these efforts.

E. Easements: Maintenance: Arbitration—AB 1927

Easements: Maintenance: Arbitration (AB 1927; amends Section 845 of the Civil Code).

AB 1927 changes the way that the maintenance costs of a private right-of-way easement owned by one or more people is to be shared. Previous law had required that the costs of repair of such easements were to be shared by each owner pursuant to the terms of an agreement entered for that purpose. If an owner and party to an agreement refused to perform or failed after demand in writing to pay the owner's proportion of the cost, an action for specific performance or contribution could be brought against that owner. Previously, absent an agreement, the costs would be apportioned proportionately to the use made of the easement by each owner, and any owner could apply to a court for the appointment of an impartial arbitrator to apportion the cost.

AB 1927 also authorizes an owner of the easement to bring an action against any other owner who refuses or fails after demand in writing to pay that owner's share of the cost of maintenance, or for specific performance or contribution. This action may be brought before, during, or after performance of the maintenance work and must be filed in superior court or small claims court and that the action will be subject to judicial arbitration. In the absence of an agreement, the action may be brought in the county where the easement is located.

XIII. SUBDIVISIONS & CONDOMINIUMS**A. Common Interest Developments—AB 805 and AB 806**

Common Interest Developments—AB 805 and AB 806 (Adds Part 5 (commencing with Section 4000) to Division 4 of, repeals Title 6 (commencing with Section 1350) of Part 4 of Division 2 of, the Civil Code; amends various sections of the Business and Professions Code, the Civil Code, the Code of Civil Procedure, the Government Code, the Health and Safety Code, the Insurance Code, the Revenue and Taxation Code, the Vehicle Code, and the Water Code).

With the enactment of AB 805 and 806, the California Law Revision Commission's project to reorganize the Davis-Stirling Common Interest Development Act (the "Act") is complete. Effective January 1, 2014, Civil Code Sections 4000-6150 will replace Civil Code Sections 1350-1378. The primary goal of the Commission was to reorganize and clarify the Act without making significant substantive changes, although a few substantive changes are included. Substantive changes include: revisions to provisions regarding notices and their delivery; establishes guidelines on the relative authority of governing documents; the establishment of a single procedure for amendment of a common interest declaration; gives the owner of a separate interest the right to make changes in that separate interest (is currently only applicable to condominium projects); the establishment of a list of conflicts of interest that may disqualify members of a board of directors of an association from voting on certain matters; revises provisions related to elections and voting; the establishment of standards for the retention of records; and the broadening of the requirement that liens recorded by the association in error be released. Under new Civil Code 4235 the board of directors may amend governing documents to update Code references without the need for a vote of the members. Any restated Declaration that is recorded must have a copy of the resolution of the Board authorizing the Code changes attached.