



*As the conclusion of 2013 draws near, the upcoming year will usher in new information for us all to learn – courtesy of our legislature. Fortunately for everyone, the revised Davis-Stirling Common Interest Development Act (Act), effective January 1, 2014, has been rewritten to become more logical, simpler, and consolidated. The revision standardizes terminology in the Act and clarifies the meaning of provisions.*



Along with this makeover comes a relocated home in the sections of the California Civil Code. The current Act is numbered Civil Code §§1350 - 1378 but come the new year, the Act will be renumbered to Civil Code §§4000 - 6150. The Act has been reorganized to group provisions by subject matter allowing the reader to more easily locate a specific topic under a broader but more logical category. Thus, the best way to begin understanding the changes and additions is to first conceptualize the layout of the revised Act.

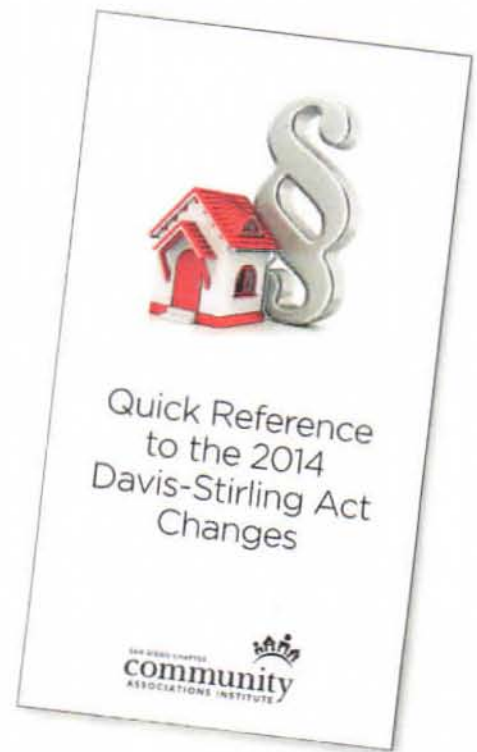
The Act has a total of 11 chapters covering important categories such as Governing Documents (Chapter 3), Association Governance (Chapter 6), Assessments and Assessment Collection (Chapter 8), and Construction Defect Litigation (Chapter 11). For a complete list of changes see the Quick Reference Booklet included with this issue, or download a copy at [www.cai-sd.org](http://www.cai-sd.org).

Below is a basic chart to help you picture the structure of the Act including chapter titles, articles, and code section numbers:

- Chapter 1 – General Provisions, 4000 – 4190
  - Article 1 – Preliminary Provisions
  - Article 2 – Definitions
- Chapter 2 – Application of Act, 4200 – 4202
- Chapter 3 – Governing Documents, 4205 – 4365
  - Article 1 – General Provisions
  - Article 2 – Declaration
  - Article 3 – Articles of Incorporation
  - Article 4 – Condominium Plan
  - Article 5 – Operating Rules
- Chapter 4 – Ownership and Transfer of Interests, 4500 – 4650
  - Article 1 – Ownership Rights and Interests
  - Article 2 – Transfer Disclosure
  - Article 3 – Transfer Fee
  - Article 4 – Restrictions on Transfer
  - Article 5 – Transfer of Separate Interests

- Chapter 5 – Property Use and Maintenance, 4700 – 4790
  - Article 1 – Protected Uses
  - Article 2 – Modification of Separate Interest
  - Article 3 – Maintenance
- Chapter 6 – Association Governance, 4800 – 5405
  - Article 1 – Association Existence and Powers
  - Article 2 – Board Meeting
  - Article 3 – Member Meeting
  - Article 4 – Member Election
  - Article 5 – Record Inspection
  - Article 6 – Recordkeeping
  - Article 7 – Annual Reports
  - Article 8 – Conflict of Interest
  - Article 9 – Managing Agent
  - Article 10 – Government Assistance
- Chapter 7 – Finances, 5550 – 5735
  - Article 1 – Accounting
  - Article 2 – Use of Reserve Funds
  - Article 3 – Reserve Planning
- Chapter 8 – Assessments and Assessment Collection, 5600 – 5735
  - Article 1 – Establishment and Imposition of Assessments
  - Article 2 – Assessment Payment and Delinquency
  - Article 3 – Assessment Collection
- Chapter 9 – Insurance and Liability, 5800 – 5810
- Chapter 10 – Dispute Resolution and Enforcement, 5850 – 5985
  - Article 1 – Discipline and Cost Reimbursement
  - Article 2 – Internal Dispute Resolution
  - Article 3 – Alternative Dispute Resolution Prerequisite to Civil Action
  - Article 4 – Civil Action
- Chapter 11 – Construction Defect Litigation, 6000 – 6150
 

One of the changes to the Act that makes the terminology more clear is the definitions section under Article 2 of Chapter 1. Previously, some terms were only defined in the body of the code



section or in some cases, not defined at all. However, the revised Act sets forth a user-friendly version by placing all defined terms in a one conveniently located place, each with their own specific code section. In addition to consolidating the definitions into one location, the Act has defined terms previously left undefined. The following is a list of newly defined terms with their respective code section number:

- Annual Budget Report – § 4076
- Annual Policy Statement – § 4078
- Board – § 4085
- Condominium plan – § 4120
- Director – § 4140
- General notice – § 4148
- Individual notice – § 4153
- Member – § 4160
- Person – § 4170

The broad application of the Act remains the same. Chapter 2 reconfirms that the Act is applicable only to common interest developments and not to those developments lacking common area. Furthermore, the provisions of the Act that are not applicable to commercial and

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## NAVIGATING THE NEW ACT

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industrial developments are expressly set forth in § 4202.

When revisions are made to the Civil Code, a common question to ponder is the applicability to documents prepared or actions taken prior to the effective date of the Act. Do not lose sleep over this burning question and be rest assured, § 4010 states that if the document prepared or action taken was proper under the current law at the time the document was prepared or the action was taken, it will still be valid. However, the term "document" does not include a governing document. The takeaway lesson here – a governing document prepared prior to January 1, 2014, which has terms non-compliant with the requirements of the restructured Act will be controlled by the restructured Act.

The section relating to a board's ability to grant exclusive use of a portion of the common area to a specific member (§ 4600) has also been revised to make

room for additional circumstances. The additional circumstances are exemptions to the 67% vote requirement of the separate interest owning members. The expansion includes reasons based on disability accommodation, assigning a parking space/storage unit/other amenity that have been designated in the governing documents but not yet assigned, installation and use of an electric vehicle charging station, and to comply with governing law.

In a more comprehensive change to policy disclosures and notification requirements that were previously scattered throughout the Act, § 5310 consolidates them into the board's annual policy statement. The board must distribute the annual policy statement to the members within 30 to 90 days before the end of its fiscal year. Such items required to be included in the annual policy statement now include: name and address of the designated person to receive notices for the association, common area posting locations for general notices, assessment

collection policies, lien enforcement policies, dispute resolution procedures, architectural application procedures, and mailing address for overnight payment of assessments.

Section 5350, relating to prohibited actions by directors or committee members, has also received some helpful changes. The revised Act takes a further step at clarifying the provision by establishing a list of conflicts of interest as to which a director or committee member may not vote. Per the Section, a director or committee member is forbidden to vote on any matter involving their own discipline, damage assessments, requests for a payment plan for overdue assessments, foreclosure, remodel applications, and exclusive use applications.

While educating yourself on the revised Act may seem like a daunting task to tackle, you are now well on your way to understanding the pertinent changes. As 2014 approaches, be sure to review the full provisions of the Act in order to hit the ground running. You can review the complete text of the Act at [www.leginfo.ca.gov](http://www.leginfo.ca.gov). Lastly, make sure to consult with legal counsel to ensure your associations' documents such as the governing documents, annual budget report, and annual policy statement are in full compliance before the revised Act becomes effective.



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