



2021 NEW LAWS & CASES

[A-Z](#)

TERMINOLOGY

Statutory Law. Bills (proposed changes to the law) are introduced into the legislature in Sacramento. Once a bill has been approved by both houses of the legislature (the Assembly and Senate) and signed by the Governor, a bill becomes a statute or "statutory law." The Davis-Stirling Act (Civ. Code §§4000-6150) is an example of statutory law. **Regulatory laws** are adopted by executive agencies based on statutes. **Ordinances** are passed by counties and cities.

Enrolled. A bill that passes both houses is sent for proofreading for consistency before being sent to the Governor for approval.

Transmitted to Governor. The governor must sign or veto legislation within 10 days after transmittal, or it becomes law without his/her signature. For bills transmitted after session adjournment, the governor must act within 30 days after the end of the session, or the legislation becomes law without being signed.

Chaptered. A bill is "chaptered" once it is signed by the Governor. It becomes law January 1 of the following year unless it contains an urgency clause (takes effect immediately) or specifies an effective date.

2021 BILLS

[AB 468. Emotional Support Animals.](#) Among other things, the bill prohibits a health care practitioner from providing documentation relating to an individual's need for



..... **1985 DS Act**

..... **2013 DS Act**

..... **California website**

..... **Commercial CID Act**

..... **Conversion Charts**

..... **Corporations Code**

..... **Legislation**

..... **Miscellaneous Statutes**

..... **Mobilehome Laws**

DAVIS-STIRLING ACT (2014)

MISCELLANEOUS LAWS

an emotional support dog unless the health care practitioner complies with specified requirements, including holding a valid license, establishing a client-provider relationship with the individual for at least 30 days prior to providing the documentation, and completing a clinical evaluation of the individual regarding the need for an emotional support dog. This bill does not restrict or change existing federal and state law related to a person's rights for reasonable accommodation and equal access to housing. Defines "emotional support animal" and "emotional support dog" for the purpose of this new portion of the Health and Safety Code. **[CHAPTERED]**

[AB 502. Election by Acclamation.](#) Existing law permits director nominees to be considered elected by acclamation if the number of director nominees is not more than the number of vacancies to be elected, the association includes 6,000 or more units, the association provides individual notice of the election at least 30 days before the close of the nominations, and the association permits all candidates to run if nominated. Existing law does not prohibit election by acclamation for smaller associations; this bill would expressly allow election by acclamation by deleting the 6,000 unit distinction. **[CHAPTERED]**

[AB 611. Safe at Home Program.](#) Adds Section 5216 to the Civil Code. Requires, upon request of a participant in the Safe at Home program, the association of a common interest development to accept and use the address designated by the Secretary of State as the Safe at Home participant's substitute address for association communications and to withhold or redact information that would reveal the name, community property address, or email address of the Safe at Home participant in specified communications of the association. The Safe at Home program is an existing confidentiality program for victims of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, under which an adult person, or a guardian on behalf of a minor or an incapacitated person, states that they are a victim of domestic violence, sexual assault, stalking, human trafficking, or elder or dependent adult abuse, and designates the Secretary of State as the agent for service of process and receipt of mail. When the Secretary of State certifies the person as a program participant, the person's actual address is confidential. **[CHAPTERED]**

[AB 919. Construction Defect Statute of Limitations.](#) Existing law specifies the requirements for actions for construction defects, which includes a statute of limitations that prohibits an action from being brought to recover under these provisions more than 10 years after substantial completion of the improvement but no later than the date the notice of completion is recorded. This bill would shorten the timeframe in which an action may be brought for underlying construction projects using a skilled and trained workforce to no more than 5 years after substantial completion of the improvement but no later than the date the notice of completion is recorded. **[DIED IN COMMITTEE]**

[AB 1101. Funds; Insurance.](#) Existing law requires a managing agent, at the written request of the board of directors of the association, to deposit funds the managing

agent receives on behalf of the association into a bank, savings association, or credit union in the state if specified requirements are met. This bill would require funds accepted or received by a managing agent on behalf of the association, as specified, to be deposited in a bank, savings association, or credit union insured by the Federal Deposit Insurance Corporation, National Credit Union Administration Insurance Fund, or the Securities Investor Protection Corporation. Existing law prohibits transfers of greater than \$10,000 or 5% of an association's total combined reserve and operating account deposits, whichever is lower, without written approval from the board. This bill would instead prohibit transfers of \$10,000 or greater without prior written approval from the board. Existing law requires fidelity bond coverage for directors, officers, and employees, and requires the fidelity bond coverage to also include computer fraud and funds transfer fraud and, if the association uses a managing agent or management company, coverage for dishonest acts by that person or entity and its employees. This bill would specifically require crime insurance, employee dishonesty coverage, and fidelity bond coverage, or their equivalent, for the association and its managing agent or management company and would require the protection against computer and funds transfer fraud to be in an equal amount. **[CHAPTERED]**

AB 1124. Solar Energy Systems. Amends Civil Code section 801.5 and Government Code section 66015. Existing law creates the right to receive sunlight, referred to as a solar easement, meaning the right of receiving sunlight across real property of another for any solar energy system. Existing law defines a "solar energy system" for this purpose to mean either any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating, or a structural design feature of a building, including a design feature whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating. This bill revises the definition of "solar energy system" to mean either of the above-described solar devices or features that is designed to serve one or more utility retail customers on the same, adjacent, or contiguous properties, as specified, and is not designed for procurement of electricity by an electric utility, as defined. The bill includes any structural design feature by eliminating the provision that it be a feature of a building and specifies certain structural design features to be included in the definition, including solar racking, solar mounting, and elevated solar support structures, as specified, regardless of whether the feature is on the ground or on a building. **[CHAPTERED]**

AB 1410. Rent Restrictions; Ethics Course; Landscaping; Violation Hearings. This bill would prohibit governing documents from restricting a homeowner's right to rent or lease a portion of the homeowner occupied separate interest for 30 days or more. It prohibits any restrictions on discussions critical of the association. It requires every director and full-time employee of an association to complete a course in ethics and harassment prevention. It prohibits an association from taking any enforcement action regarding landscaping of a homeowner's separate interest during a declared emergency. It also requires any physical evidence used in determining a violation of the governing documents has occurred be made available to the member accused

of violating the governing documents. **[DIED IN COMMITTEE]**

[AB 1466. Discriminatory Restrictions.](#) This bill makes it easier to delete discriminatory provisions in recorded documents by authorizing a title company, escrow company, county recorder, real estate broker, real estate agent, or other person to record a "Restrictive Covenant Modification" to delete such provisions. The necessary forms are required to be provided in certain situations, starting July 1, 2020, including when a homeowners association delivers a copy of recorded CC&Rs which are believed to contain such provisions. This bill would require the county recorder of each county to establish a restrictive covenant program to assist in the redaction of unlawfully restrictive covenants. **[CHAPTERED]**

[AB 1584. Housing Omnibus Bill – Discriminatory Provisions and Rental Restrictions.](#) Omnibus bills contain changes to numerous areas of the law. This bill makes minor changes to the Davis-Stirling Act related to Accessory Dwelling Units. In addition, this bill requires a common interest development board, without approval of the members, to amend any declaration or other governing document no later than July 1, 2022, to conform any rental restrictions with the requirements of last year's AB 3182. The bill would require a board to provide general notice of the amendment at least 28 days before approving the amendment and would require any decision on the amendment to be made at a board meeting, after consideration of any comments made by association members. **[CHAPTERED]**

[SB 9. Lot Splits in Residential Communities.](#) This bill requires a city or county to ministerially approve duplex units and/or the or the subdivision of one lot into two lots, in spite of contrary residential zoning (i.e., R1) requirements. This could lead to up to four homes where one currently sits. Fortunately, the bill does not apply to common interest developments. In a letter dated August 30, 2021 to the Senate Journal, Senator Atkins, the author of the bill, clarifies, "SB 9 would not override CID or HOA restrictions. Specifically, SB 9 is silent on the issue, meaning the bill contains no provisions that supersede HOA or CID governing documents. As we have seen with other housing legislation, SB 9 would have to contain an explicit and proactive provision to override those rules. This bill does not." (See [August 30, 2021 letter.](#)) **[CHAPTERED]**

[SB 10. Housing Developments in Residential Communities.](#) This bill would authorize a city or county to pass an ordinance to zone any parcel for up to 10 units of residential density, if the parcel is located in a transit-rich area, jobs rich area or an urban infill area, as defined in the bill, in spite of contrary residential zoning (i.e., R1) requirements. At one point, the bill included language overriding a common interest development's governing documents, but that language was deleted. **[CHAPTERED]**

[SB 391. Emergency Powers and Procedures.](#) This bill establishes teleconferencing procedures for a board and membership meetings if the association is in an area affected by a federal, state, or local emergency. If approved, the bill takes effect immediately as an urgency statute. **[CHAPTERED]**

[SB 392. Document Delivery; Email; Website Requirement.](#) Existing law requires an association to deliver documents required to be delivered by individual delivery or notice, by either first-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier or by email, facsimile, or other electronic means, if the recipient has consented, in writing or by email, to receive documents by that electronic means. This bill would require, on and after January 1, 2023, an association to deliver those documents by email unless the member has not provided a valid email address to the association or has revoked consent to receiving documents by email, in which case the association would be required to deliver the documents by traditional mail. It would require an association to deliver those documents either by email or traditional mail, at its discretion, if two-thirds (2/3) of the members approve. It would require an association to annually notify each member that by providing an email address to the association, the member agrees that communication between the member and the association shall be conducted by email. The bill would also require an association to make a good faith effort to obtain an email address for each member on or before June 1, 2022. This bill would require associations of at least 50 separate interests to maintain an internet website to provide general information to members and would authorize an association to satisfy general delivery requirements by posting the document on that internet website. The bill would exempt an association from the requirement to maintain an internet website if two-thirds (2/3) of the members approve. **[CHAPTERED]**

[SB 432. HOA Director Elections.](#) This bill amends Civil Code §5100 to allow associations to adopt term limits for directors. It also makes a meaningless tweak to §5105 regarding independent 3rd parties helping an inspector of elections. **[CHAPTERED]**

[SB 607. Balcony Inspections.](#) The bill amends professions and vocations to do a number of things. One of them is to eliminate the prohibition against a contractor who inspects balconies from bidding on the repair work. **[CHAPTERED]**

2021 CASE LAW

Case Law Defined. Case law is created by judicial decisions in California's appellate courts and supreme court. Statutory law demands or prohibits certain acts. Case law interprets statutory law. The cases also explain how the justices arrived at their particular conclusions. If published, their rulings serve as precedence for cases that follow.

[Brown v Montage at Mission Hills.](#) An individual bought a condominium, which she consistently rented for short terms. Sixteen years after her purchase, the association amended its governing documents to prohibit renting properties for less than 30 days. We agree with the owner that she was exempt from this prohibition under Civil Code 4740(a). That provision provides that an owner of a property in a common interest development "shall not be subject to a provision in a governing