

Date of Hearing: June 29, 2016

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SB 918 (Vidak) – As Amended June 16, 2016

SENATE VOTE: 37-0

SUBJECT: Common interest developments

SUMMARY: Requires the owner of a separate interest and the homeowner association (HOA) in a common interest development (CID) to annually verify the mailing address or addresses to which notices from the HOA are to be delivered. Specifically, **this bill:**

- 1) Requires an owner of a separate interest to, on an annual basis, provide written notice to the association of all of the following:
 - a) The mailing address or addresses to which notices from the HOA are to be delivered;
 - b) An alternate or secondary address to which notices from the HOA are to be delivered;
 - c) The name and address of an owner's legal representative, if any, including any person with power of attorney or other person who can be contacted in the event of the owner's extended absence from the separate interest; and
 - d) Whether the separate interest is owner-occupied, is rented out, if the parcel is developed but vacant, or if the parcel is undeveloped land.
- 2) Requires an HOA to solicit these annual disclosures of each owner and enter the data into its books and records at least 30 days prior to making its own required annual disclosures to members.
- 3) Specifies that if an owner fails to provide the information specified in the above provision, the property address shall be deemed to be the mailing address to which notices are to be delivered.

EXISTING LAW:

- 1) Defines and regulates residential CIDs, including the ability of a CID's HOA to levy regular and special assessments sufficient to perform its obligations.
- 2) Requires an association to send the owner of record a notice by certified mail at least 30 days prior to recording a lien to collect the debt. That notice must include a general description of the collection and lien enforcement procedures, an itemized statement of charges, the right to inspect the association's records, and the right to dispute the debt, as specified.
- 3) Authorizes an association to record a lien against an owner's separate interest in the amount of any delinquent assessment, plus any costs of collection, late charges, and interest assessed,

as specified. Existing law requires a copy of a recorded notice of delinquent assessment to be mailed by certified mail to the owner of the separate interest no later than 10 calendar days after recordation.

- 4) Authorizes an association that seeks to collect delinquent assessments of an amount of \$1,800, or more, or assessments that are delinquent by more than 12 months and secured by a lien, to use judicial or non-judicial foreclosure, subject to specified requirements.
- 5) Requires a decision to initiate foreclosure to be made only by the board of directors of the association, and, if the board votes to foreclose on the separate interest, requires the board to provide notice by personal service in accordance with the manner of service of summons. (Civ. Code Sec. 5705.) Existing law similarly requires any Notice of Default (the first step in the nonjudicial foreclosure process) to be served by the association on the owner's legal representative in accordance with the manner of the service of summons.

FISCAL EFFECT: None

COMMENTS:

Background: There are over 50,220 CIDs in the state that comprise over 4.8 million housing units, or approximately one quarter of the state's housing stock. CIDs include condominiums, community apartment projects, housing cooperatives, and planned unit developments. They are characterized by a separate ownership of dwelling space coupled with an undivided interest in a common property, restricted by covenants and conditions that limit the use of the common area and separate ownership interests, and the management of common property and enforcement of restrictions by a HOA. CIDs are governed by the Davis Stirling Act (the Act) as well as the governing documents of the HOA, including bylaws, declaration, and operating rules.

This bill requires the owner of a separate interest and a HOA to annually verify the mailing address or addresses to which notices from the association are to be delivered.

Purpose of this bill: According to the author, "currently HOA unit owners are supposed to provide the association with the best known mailing address for the association to mail required disclosures and other documents that current law requires to be shared with unit owners. There may be a situation where mailing address previously provided, if any was ever provided, may not be current and the owner is not receiving any of the required documents."

Previous Legislation:

SB 290 (Vidak, 2015) would have allowed the board of directors of an association formed under the Davis-Stirling Act to provide notice by personal service or by substitute service to an owner of a separate interest who occupies the separate interest, or to the owner's legal representative, if the board votes to foreclose upon the separate interest. The bill died in the Senate Judiciary Committee.

SB 1026 (Vidak, 2014) would have permitted associations subject to the Commercial and Industrial Common Interest Development Act and the Davis-Stirling Act to serve an owner with a Notice of Default, the first step in the non-judicial foreclosure process, for failure to pay required assessments through posting, mailing, and publishing the notices, as specified, when those notices cannot be personally served after reasonable diligence, as specified. The bill died in the Senate Judiciary Committee.

SB 1244 (Harman, 2012) would have allowed an owner in a CID to be served certain notices in the non-judicial foreclosure process by both posting and mailing the notices, as specified, when those notices cannot be personally served after reasonable diligence. The bill died in the Senate Judiciary Committee.

SB 137 (Ducheny, Chapter 452, Statutes of 2005), among other things, permits an association of a CID seeking to collect delinquent regular or special assessments of \$1,800 or more, or any assessments that are more than 12 months delinquent, to use foreclosure subject to specified conditions. These conditions include requiring the board of directors of an association to make the decision to foreclose upon an assessment lien at an executive meeting of the board, by a majority vote, at least 30 days prior to any public sale, to record the results of the vote, and to provide notice of the decision to foreclose.

AB 1317 (Speier, Chapter 1101, Statutes of 1996) imposed specified requirements with respect to the collection of debts based on assessments of owners by a CID, and removed a requirement that an association, prior to a sale by a trustee, make at least one bona fide attempt to serve the owner with a notice of sale by trustee.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on file

Opposition

None on file

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