

Senate Bill No. 900

CHAPTER 288

An act to amend Sections 4775, 5550, and 5610 of the Civil Code, relating to common interest developments.

[Approved by Governor September 19, 2024. Filed with
Secretary of State September 19, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 900, Umberg. Common interest developments: repair and maintenance.

(1) Existing law, the Davis-Stirling Common Interest Development Act, governs the management and operation of common interest developments, and requires an association to manage a common interest development. Existing law, unless otherwise provided in the declaration of a common interest development, generally makes an association responsible for repairing, replacing, and maintaining the common area, except as specified.

This bill would make an association responsible for repairs and replacements necessary to restore interrupted gas, heat, water, or electrical services that begin in the common area even if the matter extends into another area, as specified, unless the utility service that failed is required to be maintained, repaired, or replaced by a public, private, or other utility service provider or otherwise provided in the declaration of a common interest development. The bill would require an association's board to commence the process to make those repairs within 14 days, as provided. If there are insufficient funds in reserve to cover the cost of repairs, the bill would authorize an association to obtain competitive financing to commence repairs or replacements without a vote and to levy an emergency assessment to repay the loan if certain conditions are met. If the board is unable to reach a quorum during the 14-day period, the bill would require a limited reduced quorum at the next duly noticed board meeting, only for the vote to commence the process to make repairs. The bill would also authorize directors of an association to vote by electronic means for purposes of initiating repairs or replacements pursuant to the bill's provisions. The bill would additionally exempt an association from the above-described requirements and the general duty to repair, replace, and maintain the common area, if (A) the association is in an area affected by a state of disaster or emergency declared by the federal government, a state of emergency proclaimed by the Governor, or a local emergency proclaimed by a local governing body or official, and (B) the disaster or emergency materially impacts the association's ability to comply with the above-described requirements or duties.

(2) Existing law requires an association to distribute an annual budget report 30 to 90 days before the end of its fiscal year. Under existing law,

that budget report includes, among other things, a summary of the association's reserve accounts. Existing law requires an association to perform a study of the reserve account requirements, and, as part of that study, to cause to be conducted a visual inspection of the accessible areas of major components that the association is obligated to repair, replace, restore, or maintain.

This bill would provide that, for purposes of the above-referenced visual inspection, the term "major components" includes gas, water, and electrical service to the extent the association is required to repair or replace those parts.

(3) Existing law imposes specified duties on an association with respect to managing a common interest development, including levying regular and special assessments sufficient to perform its obligations. Existing law imposes limits on increases in those assessments, except those increases necessary for specified emergency situations, including an extraordinary expense necessary to repair or maintain the common interest development for which the association is responsible where a threat to personal safety on the property is discovered.

This bill would expand that emergency situation to include an extraordinary expense necessary to operate, repair, or maintain the common interest development for which the association is responsible where a threat to personal health or safety or another hazardous condition or circumstance on the property is discovered.

The people of the State of California do enact as follows:

SECTION 1. Section 4775 of the Civil Code is amended to read:

4775. (a) (1) Except as provided in paragraph (4), unless otherwise provided in the declaration of a common interest development, the association is responsible for repairing, replacing, and maintaining the common area.

(2) (A) Unless otherwise provided in the declaration of a common interest development, or unless the utility service that failed is required to be maintained, repaired, or replaced by a public, private, or other utility service provider, the association is responsible for repairs and replacements necessary to restore interrupted gas, heat, water, or electrical services that begin in the common area even if the matter extends into a separate interest or the exclusive use common area appurtenant to a separate interest.

(B) This paragraph does not change any legal duty or obligation of a utility company or local government to repair or replace components pertaining to gas, heat, water, or electrical services.

(3) Unless otherwise provided in the declaration of a common interest development, the owner of each separate interest is responsible for repairing, replacing, and maintaining that separate interest.

(4) Unless otherwise provided in the declaration of a common interest development, the owner of each separate interest is responsible for

maintaining the exclusive use common area appurtenant to that separate interest and the association is responsible for repairing and replacing the exclusive use common area.

(b) (1) An association's board shall commence the process to make the repairs necessary to restore gas, heat, water, or electrical services, as required by this section, within 14 days of the interruption of services.

(2) If there are insufficient reserve funds available to cover the costs of repairs or replacements, as required by this section, an association may obtain competitive financing from a financial institution, in compliance with Section 5735, to pay for the costs of the repairs or replacements described in paragraph (1) without requiring a vote of the members and levy an emergency assessment to allow for the repayment of the loan. However, before obtaining that financing, the board shall pass a resolution containing written findings regarding the nature of the association's expenses and how the association's reserves do not cover the necessary costs. The resolution shall be distributed to the members with the notice of the emergency assessment and with notices otherwise required by law or governing documents pursuant to the board's action, if any.

(3) Notwithstanding any other section of law or the association's governing documents, if an association's board is unable to meet a quorum within 14 days, pursuant to this section, then at the next duly noticed board meeting following the 14th day, the requirements for a quorum shall be reduced so that the total number of directors at that board meeting shall constitute a quorum. This reduced quorum shall only apply for the vote to commence the process specified in paragraph (1). The notice shall contain a provision indicating the use of a reduced quorum.

(4) Notwithstanding the requirements of Section 4910, if directors of an association are required to vote to initiate any repairs or replacements pursuant to this subdivision, voting may be performed by electronic means, including, but not limited to, email. All records of the vote shall be deemed association records and subject to the inspection and retention rules specified in Section 5210.

(c) The costs of temporary relocation during the repair, replacement, or maintenance of the areas within the responsibility of the association shall be borne by the owner of the separate interest affected.

(d) Nothing in this section shall be construed to result in the personal liability of a director of an association.

(e) This section shall not apply if the association is in an area affected by one or more of the following conditions, and such condition or conditions materially affect the association's ability to perform its responsibilities pursuant to this section:

(1) A state of disaster or emergency declared by the federal government.

(2) A state of emergency proclaimed by the Governor pursuant to Section 8625 of the Government Code.

(3) A local emergency proclaimed by a local governing body or official under Section 8630 of the Government Code.

SEC. 2. Section 5550 of the Civil Code is amended to read:

5550. (a) At least once every three years, the board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components that the association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the common interest development, if the current replacement value of the major components is equal to or greater than one-half of the gross budget of the association, excluding the association's reserve account for that period. The board shall review this study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review.

(b) The study required by this section shall at a minimum include:

(1) Identification of the major components that the association is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 30 years.

(2) Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.

(3) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1).

(4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (1) during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

(5) A reserve funding plan that indicates how the association plans to fund the contribution identified in paragraph (4) to meet the association's obligation for the repair and replacement of all major components with an expected remaining life of 30 years or less, not including those components that the board has determined will not be replaced or repaired.

(c) For purposes of this section, "major components" includes gas, water, and electrical service to the extent that the association is responsible for repair or replacement of those lines pursuant to Section 4775.

SEC. 3. Section 5610 of the Civil Code is amended to read:

5610. Section 5605 does not limit assessment increases necessary for emergency situations. For purposes of this section, an emergency situation is any one of the following:

(a) An extraordinary expense required by an order of a court.

(b) An extraordinary expense necessary to operate, repair, or maintain the common interest development or any part of it for which the association is responsible where a threat to personal health or safety or another hazardous condition or circumstance on the property is discovered.

(c) An extraordinary expense necessary to repair or maintain the common interest development or any part of it for which the association is responsible that could not have been reasonably foreseen by the board in preparing and distributing the annual budget report under Section 5300. However, before the imposition or collection of an assessment under this subdivision, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could

not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the members with the notice of assessment.