

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2439 (Blanca Rubio)
Version: June 18, 2026
Hearing Date: June 23, 2026
Fiscal: No
Urgency: No
ID

SUBJECT

Common Interest Developments: governing documents: assessments

DIGEST

This bill prohibits the governing documents of a common interest development from imposing restrictions on a member's use of public roads, requires the homeowners' association to notify members of a change in the person or entity authorized to receive payment for assessments, and makes the board of the association liable for the reconveyance fee, costs, and a civil penalty of \$1,000 when the association fails to comply with statutory provisions related to delinquent assessments, as specified.

EXECUTIVE SUMMARY

Common Interest Developments (CIDs) are self-governing housing developments comprised of individually-owned housing units and common space that all homeowners and residents of the CID can enjoy. CIDs are managed and governed by homeowner associations (HOAs), of which every owner within the CID is a member. The laws that regulate CIDs are encompassed in the Davis-Sterling Common Interest Development Act (Act) (Civ. Code §§ 4000 et seq.). An HOA's board also can establish rules governing a broad variety of topics relating to the CID. Additionally, the board has the authority to set and collect regular, monthly assessments that members must pay in order to cover communal expenses. When a homeowner in the CID does not pay their assessments, the HOA board can impose late fees, and can ultimately impose a lien and foreclose on the individual's property. However, it must provide the member a specified notice at least 30 days before imposing the lien. This bill prohibits the governing documents of a CID from imposing restrictions on a member's use of public roads, requires the homeowners' association to notify members of a change in the person or entity authorized to receive payment for assessments, and makes the board of the association liable for the reconveyance fee and related costs and a civil penalty of \$1,000 when the association fails to comply with statutory provisions related to delinquent assessments.

AB 2439 is author-sponsored, and the Committee has received no timely letters of support. It is opposed by the California Association of Community Managers and the California Legislative Action Committee of the Community Associations Institute. It previously passed out of the Senate Housing Committee by a vote of 8 to 1.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Davis-Stirling Common Interest Development Act (Act), providing rules and regulations governing the establishment and operation of residential common interest developments (CIDs) and the rights and responsibilities of a CID's homeowner association (HOA) and its members. (Civ. Code §§ 4000 et seq.)
- 2) Specifies that a CID is created whenever a separate interest coupled with an interest in a common area or membership in an association is conveyed, provided that a declaration, condominium plan, if any, and a final map or parcel map are recorded. (Civ. Code § 4200.)
- 3) Defines, for the purposes of the Act, "governing documents" to mean the declaration and any other documents, such as bylaws, operating rules, articles of incorporation, or articles of association, which govern the operation of the CID or HOA. (Civ. Code § 4150.)
- 4) Requires an HOA to levy regular and special assessments sufficient to perform its obligations under the governing documents and the Act, and prohibits an HOA from imposing or collecting an assessment or fee that exceeds the amount necessary to defray the costs for which the assessment or fee is levied. (Civ. Code § 5600.)
- 5) Specifies that regular and special assessments are delinquent 15 days after they become due, unless the declaration provides longer, and permits the HOA to recover reasonable costs of collection, a late charge not to exceed 10 percent of the delinquent assessment, and interest for a delinquent assessment. (Civ. Code § 5650.)
- 6) Specifies that any payments made by the owner of a separate interest toward such a debt must first be applied to the assessments owed, and after the assessments are paid in full, must be applied to any fees and other charges. Specifies that, when an owner makes a payment, the owner may request a receipt and the HOA must provide it. (Civ. Code § 5655.)
- 7) Requires the HOA to notify the owner of record in writing by certified mail at least 30 days before recording a lien upon the owner's separate interest for delinquent assessments, including of their rights and an itemized statement of charges owed, as specified. (Civ. Code § 5660.)

- 8) Permits an HOA, 30 days after recording a lien for delinquent assessments, to enforce the lien by any manner permitted by law, including sale by the court or a foreclosure sale by a trustee. (Civ. Code § 5700.)
- 9) Permits an owner who owes delinquent assessments to submit a written request to meet with the board to discuss a payment plan, and requires the HOA to provide the owners the standards for payment plans, if any. Requires the board to meet with the owner after such request within 45 days of the request if such request is mailed within 15 days of the notice of delinquent assessments. (Civ. Code § 5665.)
- 10) Requires, prior to recording a lien for delinquent assessments, that the HOA offer the owner to participate in dispute resolution pursuant to the HOA's required "meet and confer" program, and requires the HOA to participate in such dispute resolution if requested by the owner. (Civ. Code § 5670.)
- 11) Specifies that the decision to record a lien for delinquent assessments shall be made only by the board and may not be delegated to an agent of the HOA, and requires the board to approve the lien by a majority vote of the directors in an open meeting. (Civ. Code § 5673.)
- 12) Requires, if it is determined that a lien was recorded in error, the party who recorded the lien to, within 21 calendar days, record or cause to be recorded a lien release or notice of rescission and provide the owner with copy and a declaration that the lien filing or recording was in error, and requires the HOA to promptly reverse all late charges, fees, interest, attorney's fees, costs of collect, and other specified costs in such case. (Civ. Code § 5685.)
- 13) Specifies that an HOA that fails to comply with the procedures in the Act related to assessment payment and delinquency must, prior to recording a lien, recommence the required notice, and specifies that any costs associated with recommencing the notice process must be borne by the HOA and not the owner. (Civ. Code § 5690.)

This bill:

- 1) Prohibits, except for restrictions to enforce public health and safety standards and requirements imposed by local authorities, an HOA's governing documents from imposing restrictions on a member's use of public roads.
- 2) Requires the HOA, when the person or entity authorized to receive payment of assessments on behalf of the HOA changes, to notify members through individual notice within 60 days, by either:
 - a) Electronic delivery for any member who has opted into that method of delivery for receiving general notices from the HOA; or

- b) Mail with a certificate of mail for any member who has not opted into electronic delivery of notices by the HOA.
- 3) Specifies that, if a member fails to pay two consecutive assessment payments after the HOA has provided the notice described in (2), above, the HOA must send a second notice by certified mail with return receipt.
- 4) Specifies that it is the responsibility of the HOA to maintain records confirming individual notices were distributed pursuant to (2) and (3), above, and that, if a member requests proof of delivery, the HOA must provide it at no charge to the member.
- 5) Requires an HOA to make a reasonable effort to post a physical copy of the notice described in (2) in the HOA's common areas.
- 6) Specifies that, if an HOA fails to comply with any of the procedures required by the Act's provisions related to delinquent assessments, the board shall be liable to the owner of the separate interest for:
 - a) the reconveyance fee and any costs of the owner of the separate interest associated with the HOA's failure to comply; and
 - b) a civil penalty of \$1,000.

COMMENTS

1. Author's statement

In support of the bill, the author states:

Families living in HOAs deserve fairness, transparency, and clear communication from their HOA Board. Yet too often, residents face inconsistent rule enforcement and are left unaware of critical financial actions affecting their property.

This bill addresses these issues by prohibiting HOAs from regulating parking on public streets except for public safety, requiring clear and verifiable notice of changes to payment systems, and establishing penalties when HOAs fail to comply with lien notification laws.

By increasing accountability and transparency, this measure protects homeowners from unfair practices and ensures they are properly informed about decisions that impact their homes and finances.

2. Common interest developments

Common Interest Developments (CIDs) are self-governing housing developments comprised of individually-owned housing units and common space that all homeowners and residents of the CID can enjoy. Arrangements of CIDs can vary widely, from condominiums, townhouses, and detached single-family homes, to apartment-like high rises. They may be comprised of only a few housing units, or thousands. CIDs are commonly referred to as homeowner associations, or HOAs, for the body that provides for the CID's self-governance. There are an estimated 51,700 CIDs in the state, housing an estimated 14,489,00 Californians.¹

The laws that regulate CIDs are encompassed in the Davis-Sterling Common Interest Development Act (Civ. Code §§ 4000 et seq.). Many of the rules and structural elements of a CID are determined by the Declaration of Covenants, Conditions, and Restrictions (CC&Rs) that are filed with the county recorder when the CID is established by the developer. These CC&Rs are the guiding rules of the CID and outline the CID's common area, the HOA's responsibilities, the obligation of the HOA to collect assessments from homeowners to cover the HOA's expenses, and a variety of other topics.

All homeowners in the CID are members of the HOA, which is often incorporated as a mutual benefit corporation upon the formation of the CID. The HOA manages the CID and maintains its common space. To do so, the HOA elects a board of directors (board), and passes bylaws outlining the governance rules of the HOA and its board of directors. An HOA's board also can establish rules governing a broad variety of topics relating to the CID. For example, HOA rules may limit what can be placed on a homeowner's balcony, place requirements upon vehicles kept within the CID, and specify what kinds of improvements or changes a homeowner is allowed to make on the exterior of their unit. The rules of the CID on individual homeowners can be enforced by individual homeowners through a lawsuit, or by discipline from the HOA. The CID's CC&Rs, the HOA's bylaws and operating rules, the HOA's articles of incorporation, and any other documents that govern the HOA are considered the governing documents of the HOA. (Civ. Code § 4150.)

3. HOAs may impose liens for delinquent HOA dues

Additionally, the board has the authority to set and collect regular, monthly assessments that members must pay in order to cover communal expenses. When a homeowner in the CID does not pay their assessments, the HOA board can impose fines or late fees, and can ultimately impose a lien and foreclose on the individual's property. (Civ. Code §§ 5660, 5700.) If a homeowner does not pay any assessment

¹ Foundation for Community Association Research, *Community Association Fact Book 2025: 2025 U.S. National and State Statistical Review* (2025).

within 15 days of their due date, the HOA may recover the reasonable costs of collecting the delinquent assessment, a late charge of no more than 10 percent of the assessment or 10 dollars, and interest. (Civ. Code § 5650.) Any payment of the homeowner must first be applied to the assessments owed before being applied to any fees or other charges, and the HOA is required to provide a mailing address for overnight payment of assessments and provide this address in the HOA's annual policy statement. (Civ. Code § 5655.)

However, the Davis-Sterling Act includes a number of protections for homeowners facing foreclosure on delinquent assessments. Before an HOA can impose a lien on a homeowner's property, it must first provide the homeowner with a specified written notice at least 30 days before recording the lien. (Civ. Code § 5660.) This notice must be provided by certified mail, and must provide an itemized statement of the charges owed as well as statements regarding the owner's rights with regard to the delinquent assessments. A homeowner is permitted to request to meet with the board to discuss a payment plan, and if the owner does so within 15 days of the notice of lien, the board must meet with the homeowner within 45 days. (Civ. Code § 5665.) Moreover, before recording the lien, the HOA must offer the homeowner the opportunity to participate in a dispute resolution process, and must participate in such dispute resolution if the homeowner requests. (Civ. Code § 5670.)

If a homeowner pays off the amount in the notice of delinquent assessment, the HOA must record a lien release or notice of rescission within 21 days of that payment. (Civ. Code § 5685.) The HOA must provide the homeowner a copy of this notice or a notice that the delinquent assessment has been satisfied. If the HOA determines that the lien was recorded in error, it must record a lien release or notice of rescission within 21 days and reverse all late charges, fees, interest, attorney's fees, costs of collection, or costs relating to the erroneous notice and its recordation.

Lastly, if the HOA fails to comply with these and any of the other rules regarding delinquent assessments, it must resend the required notice prior to recording the lien, at the HOA's expense. (Civ. Code § 5690.)

4. AB 2439 proposes to provide HOA members more protections

According to the author, residents of HOAs often face inconsistent rule enforcement or are not properly notified of critical financial actions regarding their property, one such inconsistency being that the method by which the HOA accepts assessments has changed. To provide better transparency and communication from an HOA, AB 2439 proposes a number of changes to the Davis-Sterling Act.

First, it prohibits an HOA's governing documents from imposing any restrictions on a member's use of public roads, except for restrictions to enforce public health and safety standards and requirements imposed by local authorities. The author reports that this

change is in response to a recent incident where an HOA inconsistently applied rules regarding street parking upon a homeowner who temporarily moved their car to the street in front of their home.

AB 2439 also provides more protections for homeowners regarding regular assessments. It requires HOAs to notify members by individual notice within 60 days of a change in the person or entity authorized to receive payment of assessments on by the behalf of the HOA. This change is responsive to a particular recent incident cited by the author, in which an HOA changed its payment processing vendor without properly notifying homeowners, resulting in members missing payments and incurring late payment penalties. In this particular case, the HOA also imposed a lien upon the homeowner's property without proper notice to the homeowner.

Lastly, AB 2439 provides greater penalties to an HOA for failing to comply with these various requirements regarding delinquent HOA dues. It specifies that, if an HOA fails to comply with the procedures regarding collecting assessments and liens, the HOA board is liable to the homeowner of the separate interest for the reconveyance fee and any costs the homeowner incurred due to the HOA's failure to comply with these procedures, as well as a civil penalty of \$1,000. These provisions, the author argues, will act as a greater deterrent for HOA boards to not adhering to the law. This deterrence is important because of the significant impact that liens and delinquent assessments can have upon the homeowner's finances and their property. Because the board is the body that ultimately approves the lien, AB 2439 would impose the liability upon the board itself, rather than the HOA.

5. Amendments

The author has agreed to amendments that: make technical amendments to Section 1; specify that an HOA does not need to provide the second notice after two consecutive missed payments when they provide the initial notice by electronic means, and the member affirmatively responds to the notice; make the board liable for the civil penalty for failure to comply with the delinquent assessment provisions only when the failure is the third failure by the association within five years; and require, for this civil penalty, that the HOA provide members with general notice of its failure to comply. A full mock-up of these amendments is attached at the end of this analysis.

6. Arguments in opposition

The California Association of Community Managers (CACM), which oppose AB 2439:

Given the difficulty associations have in getting homeowners to serve on the board, we also have concerns with imposing a \$1,000 civil penalty on the board if an association fails to send the notice. The Legislature has passed numerous laws

to address the lack of voter engagement in board elections. The penalties in AB 2439 will exacerbate the problem.

The California Legislative Action Committee of the Community Associations Institute also opposes AB 2439, stating:

While we appreciate the intent of AB 2439, the bill as currently drafted raises concerns related to implementation, due process, and the potential for unintended financial impacts on associations and homeowners. In particular, the bill may impose new requirements and penalties without sufficient flexibility or clarity, creating administrative burdens, increasing costs ultimately borne by homeowners, and exposing associations to liability despite good-faith efforts to comply.

To address these concerns, we respectfully request amendments for additional notice to ensure time and clarity for compliance, and to remove or limit penalties, particularly where an association is acting in good faith.

CACM's concerns related to how AB 2439 might discourage members to run for the HOA board are not new. It is commonly stated that it is difficult to get HOA members to run for the board, for one reason or another. HOA board positions are volunteer positions, and ones that undoubtedly come with significant obligations. In fact, HOA boards already have some risk of liability, as they owe members a fiduciary duty of loyalty and care.² These duties ensure that the HOA board acts in the best interests of the HOA and its members, and helps members of the HOA hold board members accountable if they fail to properly operate the HOA or have a conflict of interest. However, board members have some protection from claims of a breach of the duty of care in many cases because of the "business judgement rule," which presumes that directors' decisions are based on sound business judgement.³ Moreover, HOAs are required to carry insurance to cover individual officers and directors. (Civ. Code §§ 5800, 5806.) While AB 2439 imposes penalties upon individual board members, any such penalties would likely be covered by the HOA's insurance policy, and thus individual board members likely would not ultimately pay the penalty themselves.

² *Francis T. V. Village Green Owners Ass'n* (1986) 42 Cal. 3d 490.

³ *Ritter & Ritter, Inc. Pension & Profit Plan v. The Churchill Condominium Assn.* (2008) 16 Cal. App. 4th 103, 123.

SUPPORT

None received

OPPOSITION

California Association of Community Managers
Community Associations Institute – California Legislative Action Committee

RELATED LEGISLATION

Pending Legislation:

SB 1238 (Wahab, 2026) provides that a person or entity that facilitates specified activities for the HOA, including reviewing HOA operating accounts, owes a duty of care to the HOA and its members. SB 1238 is currently pending before the Assembly Housing and Community Development Department.

SB 1007 (Menjivar, 2026) prohibits an HOA from increasing a regular assessment by more than eight percent without the approval of the majority of a quorum of members. SB 1007 is currently pending before the Assembly Housing and Community Development Department.

AB 2579 (Petrie-Norris, 2026) exempts from the \$100 limitation on monetary penalties that an HOA can charge a member for violating the governing documents a specified list of violations developed by the Department of Real Estate, and requires that the list be of violations that pose heightened risks to health, safety, or the integrity of the HOA, as specified. AB 2579 is currently pending on the floor of the Assembly.

Prior Legislation:

AB 1412 (Choi, Ch. 278, Stats. 2017) extended the limitation on personal liability for a volunteer officer or director of the HOA to one of an HOA that is mixed use, as specified.

AB 805 (Torres, Ch. 180, Stats. 2012) comprehensively reorganized and recodified the Davis-Sterling Common Interest Development Act into its current code sections and Civil Code sections 4000 et seq., and made a number of substantive changes to the Act, including by broadening the requirement that the HOA file a notice of release of a lien recorded in error.

(Sterling, Ch. 874, Stats. 1985) established the Davis-Sterling Common Interest Development Act.

PRIOR VOTES:

Senate Housing Committee (Ayes 8, Noes 1)

Assembly Floor (Ayes 74, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)

Assembly Housing and Community Development Committee (Ayes 12, Noes 0)

Amended Mock-up for 2025-2026 AB-2439 (Blanca Rubio (A) , Lowenthal (A))
(Amendments may be subject to technical amendments required by Legislative Counsel)

Mock-up based on Version Number 97 - Amended Senate 6/18/26

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

SECTION 1. Section 4755 is added to the Civil Code, to read:

4755. Except for restrictions to enforce public health and safety standards and requirements imposed by local authorities, the governing documents shall not impose restrictions on a member's use of public streets~~public roads~~.

SEC. 2. Section 5655 of the Civil Code is amended to read:

5655. (a) Any payments made by the owner of a separate interest toward a debt described in subdivision (a) of Section 5650 shall first be applied to the assessments owed, and, only after the assessments owed are paid in full shall the payments be applied to the fees and costs of collection, attorney's fees, late charges, or interest.

(b) When an owner makes a payment, the owner may request a receipt and the association shall provide it. The receipt shall indicate the date of payment and the person who received it.

(c) The association shall provide a mailing address for overnight payment of assessments. The address shall be provided in the annual policy statement.

(d) If the person or entity authorized to receive payments of assessment on behalf of the association changes, the association shall notify members through individual notice by one of the following methods within 60 days of the change:

(1) Electronic delivery for any member who has opted into that method of delivery for receiving general notices from the association.

(2) First-class mail, evidenced by a certificate of mailing, for any member who has not opted into electronic delivery of notices from the association.

(e)**(1)** If after sending an individual notice pursuant to subdivision (d), a member has failed to pay two consecutive assessment payments, the association shall send a second notice by certified mail with return receipt requested.

(2) If an association sends the notice required pursuant to paragraph (1) of subdivision (d), and the member affirmatively responds to the notice, the second notice pursuant to this paragraph is not required.

(f) The association shall maintain records confirming that individual notices were distributed, pursuant to subdivisions (d) and (e). If a member requests proof of the delivery, the association shall provide it at no charge to the member.

(g) An association shall also make a reasonable effort to post a physical copy of the notice distributed pursuant to subdivision (d) in the association's common areas.

SEC. 3. Section 5690 of the Civil Code is amended to read:

5690. (a) An association that fails to comply with the procedures set forth in this article shall, prior to recording a lien, recommence the required notice process. Any costs associated with recommencing the notice process shall be borne by the association and not by the owner of a separate interest.

(b) If an association fails to comply with the procedures set forth in this article, the association ~~the board~~ shall be liable to the owner of the separate interest for the both of the following:

~~(1) The reconveyance fee and any costs of the owner of the separate interest associated with the association's failure to comply with the procedures set forth in this article.~~

~~(2)-(c)(1) If the association fails to comply with the procedures set forth in this article, and the failure is the third failure to comply with the procedures set forth in this article within a five-year period, the board shall be liable to the owner of the separate interest for a~~ ~~A~~ civil penalty of one thousand dollars (\$1,000).

~~(2) If a civil penalty is imposed pursuant to paragraph (1) of this subdivision, the association must provide a notice to members by general notice that notifies members of the board's failure to comply with the procedures set forth in this article.~~