



Revisions to CCIOA in a Nutshell

WHAT A REAL ESTATE PRACTITIONER SHOULD KNOW ABOUT SENATE BILL 05-100

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March 9, 2006

1. Seller Disclosure.

Sellers of homes in common interest communities may be liable to buyers for all damages and court costs caused by:

- (a) the failure to disclose specified association documents; and
- (b) the failure to provide the seller with a disclosure statement outlining the buyer's responsibilities and obligations as a member of the association.

2. Seven Required Policies and Procedures of Owner Associations.

Associations are required to have seven (7) written responsible governance policies and procedures, on the following topics:

- (a) collections;
- (b) conflicts of interest;
- (c) conduct of meetings;
- (d) enforcement of covenants and rules;
- (e) records, inspection and copying;
- (f) investment of reserves; and
- (g) adoption of policies.

3. **Association Annual Disclosures.**

- (a) Associations must make certain disclosures, at no charge to homeowners, within 90 days after transition and 90 days after the end of each fiscal year.
- (b) These disclosures may be made by:
 - (i) posting the documents on a website with an accompanying notice of the URL by email or first class mail;
 - (ii) maintenance of a literature table or binder;
 - (iii) mail; or
 - (iv) personal delivery.

4. **Secret Ballots for Elections to the Boards Required.**

- (a) All board member elections must be held by secret ballot, even in the case of uncontested elections; and
- (b) Any motion or vote at a member meeting may be required to be by secret ballot if one owner requests a secret ballot.

5. **Owner Rights to Participate at Board Meetings.**

Owners have the right to speak at board meetings before the board takes formal action on any item under discussion, in addition to any other opportunity to speak such as a homeowners' forum.

6. **New Notice Requirements.**

- (a) Notices of annual meetings must include the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove an officer or member of the executive board if to be discussed at that meeting.
- (b) An association MUST physically post the notice of any unit owner meeting—annual or special—by posting the notice on its website or sending out an email to all unit owners.
- (c) In addition to a physical posting, associations are encouraged to give notice of any unit owner meetings—annual or special—by posting the notice on its website or sending out an email to all unit owners.
- (d) If an association has the ability to give electronic notice, it MUST provide notice of owner meetings by email if requested by an owner who gives the association his or her email address. The notification email must be sent

as soon as possible and at least twenty-four (24) hours before the meeting.

7. **Insurance Claims by Owners on Association Policies.**

A unit owner may file a claim against an association's insurance policy as if the unit owner were an additional named insured.

8. **Restrictions on Enforcement of Certain Covenants and Rights of Owners to Display the Flag, Service Stars, Political Signs and for Alternative Roofing.**

(a) Xeriscaping Protection:

- (i) Any association covenant either restricting or limiting xeriscaping or requiring the primary or exclusive use of turf grass is declared contrary to public policy.
- (ii) Associations may not place more procedural requirements on unit owners who seek approval for xeriscaping than already exist in the association's governing documents.

(b) Landscape Enforcement Limitations:

During a period of water use restrictions, associations must suspend any enforcement actions against owners whose landscaping dies as a result of complying with the imposed watering restrictions.

(c) Flag Displays:

Associations may not prohibit unit owners from displaying the American flag on their property, in the windows of their units or on their balconies if the display complies with the Federal Flag Code, 4 U.S.C. 4 to 10.

(d) Service Star and Service Flag Displays:

Associations may not prohibit owners from displaying a service flag with a star denoting the service of the unit owner or a member of the unit owner's immediate family in the active or reserve military service during a time of war or armed conflict.

(e) Political Signs Allowed:

Associations may not completely prohibit the display of political signs on unit owners' property or in their windows.

(f) Emergency Vehicles and Parking:

Associations may not prohibit the parking of a motor vehicle on a street, driveway, or guest parking area in the community if the unit owner is required by his or her employer to have the vehicle at his or her residence during designated times and other requirements are met.

(g) Restrictions on Tree/Brush Clearing:

An association may not prohibit owners from removing vegetation around their homes for fire mitigation purposes as long as the removal complies with a written defensible space plan.

(h) Roofing Alternatives:

(i) An association may not prohibit a unit owner from replacing cedar shakes or any other flammable roofing materials with nonflammable materials. An association's declaration or bylaws may specify reasonable standards for the color, appearance and general type of nonflammable roofing materials that may be used.

(ii) An association's governing documents may NOT require the use of nonflammable materials that would exceed the cost of replacing the flammable materials for which they are being substituted.

9. **Required "Review" of Association Financials At Least Once Every Two Years.**

At least once every two years, an association's books and records must be audited or reviewed using generally accepted auditing standards by an individual chosen by the board. Unless the association chooses to have an audit, the individual selected does not have to be a certified public accountant.

10. **Ballot Counting At Member Meetings.**

Ballots must be counted by either a neutral third party or a unit owner who is not a candidate, is present at the meeting and is selected randomly from a pool of two or more such non-candidate owners.

11. **Restrictions on Conflict of Interest Transactions of Board Members With the Association.**

(a) Board members must disclose that they have a conflict of interest in any action or contract that would financially benefit any board member or the parent, grandparent, spouse, child or sibling of any board member.

- (b) This disclosure must be made in an open meeting before any action is taken on the matter.
- (c) Board members with conflicts of interest are prohibited from voting on that matter.
- (d) Contracts entered into in violation of this section are void and unenforceable.

12. **Required Owner Education/Orientation.**

- (a) At least once a year and at no individual cost to unit owners, associations must provide education to their owners.
- (b) Any cost associated with providing this education must be accounted for as a common expense.
- (c) The content of the provided education must relate to the general operations of the association and the rights and responsibilities of owners, the association and its board members.
- (d) An association's board has the discretion to determine how to comply with this provision.