

- 4) After making the findings required in 3), authorizes the court to confirm the amendment as validly approved on the basis of affirmative votes actually received during the balloting period.
- 5) Provides that an amendment is not effective until it has been recorded in every county in which the HOA is located. Provides that amendment shall have the same force and effect as if the amendment were adopted in compliance with every requirement imposed by the governing documents.
- 6) Requires after recordation, the HOA deliver an individual notice to all members with a copy of the amendment.

This bill:

- 1) Adds an option for HOA members to approve amendments to their governing documents with 37% of the vote of the owners, rather than the standard 50% threshold, by petitioning a superior court, if all of the following are met:
 - a) The HOA is a senior citizen housing development;
 - b) The HOA has more than 6,000 separate interests (units);
 - c) More than 25% of the separate interests are occupied by tenants; and,
 - d) The declaration has not been amended in at least 35 years.

Background

Davis-Stirling Act. The Act went into effect in 1986 and is the primary state law governing Common Interest Developments (CIDs) and HOAs in California. The Act provides the legal framework for the creation and management of HOAs, including rules related to governance, assessments, dispute resolution, maintenance responsibilities, and member rights. The law aims to balance the authority of HOAs with the rights of individual property owners, ensuring that communities are managed efficiently and fairly. Over time, the Act has been amended to address the evolving needs of CIDs and HOAs, including increased transparency, accountability, and consumer protections. Key provisions of the Act include requirements for open meetings, financial disclosures, election procedures, and architectural review processes. The Act also provides mechanisms for resolving disputes, including dispute resolutions before certain legal actions can proceed. As the majority of new housing construction in California is part of an HOA, the Act plays a critical role in shaping the environment and governance of these communities and the tens of millions of residents who reside in them.

Covenants, Conditions, and Restrictions (CC&Rs). CC&Rs are the legally binding documents that establish the rules, restrictions, and rights that impact all HOA members, covering everything from architectural standards to pet policies to how the association itself is governed. Because CC&Rs are recorded against the property, they run with the land, binding current owners to the governing documents, as well as any future owners of a separate interest. CC&Rs often require amendments to address the changing needs of any given community. However, amending an HOA's CC&Rs is intentionally difficult. Most declarations require approval from a supermajority of all members, often ranging from 50-75% of all HOA members, not just all voting members. In a large HOA development, this can mean thousands of individual owners must affirmatively cast ballots. This can present logistical challenges even under the best circumstances, as HOA voting rates tend to be low.

Under the Act, there is a process through which HOA members can seek to address this difficulty in obtaining a majority of votes of all HOA members: if an amendment to the HOA's CC&Rs falls short of the voting threshold required by the HOA documents, an HOA or member can petition a superior court to approve the amendment anyway, so long as the court finds the process was fair, the effort to reach members was diligent, and the amendment is reasonable. But even under the court petition process in existing law, at least 50% of members must have voted in favor of the proposed amendment. This bill reflects a unique situation in which, even under good faith attempts to meet the 50% voter threshold requirement, a large HOA has been unable to and cannot update their CC&Rs via this process.

Comments

- 1) *Author's statement*. "AB 2035 provides a commonsense solution to allow large, senior citizen common interest developments to amend significantly out of date declarations when they are unable to reach quorum requirements established by their CC&Rs. Some HOAs, such as Third Laguna Hills Mutual, are unable to meet quorum requirements for amendments to their CC&Rs and the current statutory alternative to reduce quorum requirements to 50% is insufficient. AB 2035 creates an additional alternative to reduce quorum requirements to 37% when the common interest development meets specified conditions. Specifically, the common interest development is required to be a senior citizen housing development, must contain at least 6,000 separate interest, more than 25% of those interests are occupied by non-owner residents, and that the development's declaration has not been amended in 35 years. This alternative will allow large, senior citizen developments to amend their CC&Rs when they are unable to meet quorum requirements while maintaining strong guardrails to ensure an equitable outcome. By maintaining the existing court

petition process used for quorum reduction requests, AB 2035 ensures that this exception will only be used in specific, unique and necessary situations.”

- 2) *A very narrow solution.* The Third Laguna Hills Mutual HOA is the largest HOA within the broader Laguna Hills Village—a massive residential community for senior citizens in Orange County which comprises over 90% of the city of Laguna Hills. With over 6,000 units, many of which are owned by people living abroad and/or not within the community full-time, the community has faced major obstacles to updating its CC&Rs, and has been unable to do so since 1988, leaving many provisions of these governing documents out of compliance with changes in state HOA law. That inability is not for a lack of trying. The association has spent hundreds of hours and well over \$100,000 trying to turn out the vote in two separate elections, with the hope of at least meeting the voter threshold to petition CC&R amends to the superior court. However, even with these extensive and costly efforts, the HOA has only managed to get approximately 40% of their membership to vote. This stalemate has left crucial governing documents out-of-date and unreflective of not only statutory changes, but also modern advances in HOAs, like the need to regulate the installation and operation of electric vehicle charging stations, as well as virtual mediums for delivering notices and conducting certain business.

While this bill’s allowance of sub-majority (37%) approval as eligible for a superior court petition could raise concerns about democratic governance, the bill seems well-tailored to only impact this specific community and enable its members to benefit from clearer, up-to-date governing documents. Given the high costs associated with the two election turnouts, it is worth considering how those costs may be passed onto the members, some of whom may be on fixed incomes due to their age and/or retirement status. Additionally, this bill does not mean amendments to the CC&Rs will automatically be granted upon meeting the lower threshold—the presiding Superior Court Judge will retain authority to ensure all processes were followed and that amendments proposed are reasonable and comply with all relevant statutes.

While exact data on the average membership size of age-restricted senior HOAs is difficult to obtain, the California Association of HOAs reports that the average size of an HOA in California is 276 residents.¹ Taking that figure, compared to the more than 6,000 residents in the Third Laguna Hills Mutual HOA, it is not clear whether concerns about other communities seeking similar carveouts would bear out. Due to the unique size and ownership characteristics of this specific HOA, and the fact that essential governing documents have not

¹ The California Associations of Homeowners Associations. *Our Objective HOA Data & Statistics*. Accessible here: <https://www.calassoc-hoa.com/about-us/our-objective-hoa-data-statistics/>.

been updated in more than three decades, there seems to be clear rationale as to why this targeted solution is a standalone one.

3) *Opposition.* The California Association of Realtors (CAR) wrote the following in opposition to the bill, “While senior communities often have high levels of engagement, proposed amendments can sometimes be legally problematic, creating governance and enforcement challenges. Additionally, creating a special exemption for one HOA sets a concerning precedent.”

4) *Double-referral.* This bill is also referred to the Senate Judiciary Committee.

Related/Prior Legislation

AB 2692 (Irwin, 2026) — would allow an HOA whose CC&Rs expired prior to a natural disaster, as defined, to reinstate those CC&Rs with majority approval of the membership of the HOA.

AB 1458 (Ta, Chapter 303, Statutes of 2023) — authorized a lower quorum requirement for HOA elections of directors under specified circumstances.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 3rd, 2026)

SUPPORT:

None Received.

OPPOSITION:

California Association of Realtors

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