
SENATE COMMITTEE ON APPROPRIATIONS

Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

SB 1238 (Wahab) - Common interest developments: management

Version: April 23, 2026

Urgency: No

Hearing Date: May 11, 2026

Policy Vote: HOUSING 9 - 0, JUD. 12 - 0

Mandate: No

Consultant: Mark McKenzie

Bill Summary: AB 1238 would make various changes to the laws regarding common interest developments (CIDs), including: requiring homeowner association (HOA) managers to provide a duty of care that is prudent and provides the highest good faith effort to the HOA and its members, expanding the information required in exterior elevated element (EEE) inspection reports, prohibiting the use of HOA funds for litigation, and expanding disclosure requirements regarding a CID's EEEs when selling a unit within a CID, as specified.

Fiscal Impact:

- The Department of Real Estate (DRE) estimates minor one-time costs, likely in the tens of thousands of dollars, to conduct stakeholder and consumer education and to conduct training for Subdivisions Division staff. DRE would also incur one-time contract costs of approximately \$50,000 to update Subdivision forms, the Operating Costs Manual, and Reserve Study Guidelines related to HOA budgets. (Real Estate Fund)

Background: Existing law, the Davis-Sterling Common Interest Development Act, establishes rules and regulations governing the establishment and operation of residential CIDs and the rights and responsibilities of an HOA and its members. Existing makes an HOA responsible for repairing, replacing, and maintaining the common areas, while the owners of each separate interest are responsible for repairing, replacing, and maintaining their separate interest. The owner of each separate interest is also responsible for maintaining the exclusive use common area appurtenant to that separate interest, and the HOA is responsible for repairing and replacing the exclusive use common area. Existing law requires an owner of a separate interest in a CID to provide to a prospective buyer of the separate interest specified documents, as soon as practicable before the transfer of title or execution of a real property sales contract.

Existing law requires an HOA board to cause to be conducted, at least once every three years, 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 CID. An HOA board of a condominium project with buildings containing three or more multifamily units is also required to cause a reasonably competent and diligent visual inspection to be conducted by a licensed structural engineer or architect of a random and statistically significant sample of the EEEs of the CID for which the HOA has maintenance or repair responsibility. The inspection, which must be conducted every nine years in coordination with the reserve study inspection, must determine whether the exterior elevated elements are in a generally safe condition and performing in accordance with

applicable standards. The inspector must issue a written report that identifies the building components comprising load bearing components and associated waterproofing system, the current physical condition of those components, the expected future performance and remaining useful life of those components, and recommendations for any necessary repair or replacement of those components.

Proposed Law: AB 1238 would make various changes to the laws regarding CIDs, including the following:

- Require the seller of a unit within a CID to provide a prospective buyer, if separately requested by the purchaser, to disclose:
 - The location on the first page of the report that lists: the number of EEEs and units posing an immediate threat to the safety of occupants; the number of EEEs and units recommended to be included in the next visual inspection of major components; the EEEs recommended for inspection in the next nine-year EEE inspection; and any EEE identified in the inspection report that requires more than \$10,000 of repairs.
 - Information indicating whether: the CC&Rs require a unit owner to individually maintain EEEs; the association reserve study includes a minimum annual budgeted replacement reserve allocation of 10% for repairs of exterior structures; and the association reserve study has been updated to include identified repairs contained within the balcony inspection report.
- Include the three-year reserve study in the definition of association records.
- Require HOA managers to provide a duty of care that is prudent and provides the highest good faith effort to the HOA and its members.
- Prohibit reserve funds from being used for litigation other than litigation involving the repair, restoration, replacement, or maintenance of the major components for which the HOA is responsible, and require the HOA board to diligently disclose any reserve funds used for litigation.
- Require the HOA board to provide notice in its annual budget report if the HOA becomes involved in litigation, and permits any member receiving this notice to request the name of the court and the case number of any litigation.
- Include EEEs identified in a nine-year EEE inspection in the definition of major components for the purposes of the required three-year reserve study inspection of accessible major components.
- Require the inspection report compiled pursuant to the EEE inspection required every nine years to include, on the first page, the total number of inspected EEEs and the number of units impacted that, as of the date of the inspection:
 - are identified as posing an immediate threat to the safety of the occupants;
 - are recommended to be included in the next reasonably competent and diligent visual inspect of the major components;
 - are recommended for reinspection in the next nine-year EEE inspection; and
 - demonstrate no need for repair at the time of inspection.
- Require the HOA's reserve funding plan to include repairs identified pursuant to the nine-year EEE inspection.
- Require the HOA's summary of its reserves in its annual budget report to include repairs identified in the required nine-year EEE inspection.

Related Legislation: SB 410 (Grayson), Chap. 516/2025, required the owner of a housing unit to provide a copy of the report issued from the most recent inspection of

EEEs in a CID to a prospective purchaser of the housing unit, required inspection reports to contain specified information, and required HOAs to preserve inspection reports as HOA records.

SB 326 (Hill), Chap. 207/2019, established minimum inspection requirements for EEEs within a CID, and required HOA boards to arrange an inspection of the CIDs balconies over which the HOA has maintenance and repair responsibilities every nine years.

SB 721 (Hill), Chap. 445/2018, established minimum inspection requirements for the EEEs, including balconies and decks, of buildings with three or more multifamily dwelling units, as specified, and required repairs to be made within certain timelines.

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