Date of Hearing: June 30, 2026

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
SB 1238 (Wahab) – As Amended April 23, 2026

As Proposed to be Amended

**SENATE VOTE**: 36-2

**SUBJECT**: COMMON INTEREST DEVELOPMENTS: MANAGEMENT

**SYNOPSIS**

*Across California, more than 13 million homeowners live within the boundaries of one of the state's approximately 55,000 common interest developments. These developments are governed by homeowner associations through the election of volunteer boards. Because these boards consist of volunteers, many associations contract out the day-to-day management of the association to third party management companies. Under existing law, these companies are contractually obligated to owe a duty of care to the association overall, but not to the individual members of the association. According to the proponents of this bill, this disconnect results in many management companies ignoring the requests of individual homeowners. This can be especially problematic when a homeowner needs access to association records for the purpose of real estate disclosures related to the sale of a separate property interest within the homeowner association.*

*This bill seeks to streamline the sales process for properties within a homeowner association in several ways. Frist, this bill builds on a series of measures approved by this Committee in recent years to strengthen balcony inspection requirements and ensure that the inspection records can be provided to property buyers, lenders, and insurers when needed. Secondly, the bill clarifies that specified inspection reports are association records. Third, the bill strengthens association reserve account requirements and clarifies that most litigation expenses cannot come out of homeowner association reserves. Finally, seeking to boost the accountability and responsiveness of homeowner association management companies, the bill provides that the homeowner association management company owes a duty of care to the members of the homeowner association and not simply the association itself.*

*This bill is sponsored the California Association of Realtors and is supported by the Center for California Homeowner Association Law. The proponents argue that management companies are largely unaccountable to individual homeowner association residents and that the management companies frequently steer the (supposedly) accountable association board into decisions that serve the management company's interest. This bill is opposed, unless amended, by the Community Associations Institute's California Legislative Action Committee who seek removal of the provisions related to the expanded duty of care. This Committee will be adopting amendments agreed to between the author and the Committee on Housing and Community Development, which previously heard and approved this bill by a vote of nine to zero.*

**SUMMARY:** Updates several provisions of the Davis-Stirling Common Interest Development Act to enhance record disclosure related to exterior elevated element inspections and provides that the manager of a homeowner association owes a fiduciary duty to both the association and its members. Specifically, **this bill**:

1) Clarifies that the owner of a separate interest must be able to obtain from the association the documents that existing law requires the seller of a separate interest within a common interest development to provide to a potential buyer of that interest.

2) Adds to the list of documents that must be provided to a potential buyer of a separate interest within a common interest development a copy of the master insurance policy for the association that covers the association's property, general liability, earthquake, flood, and fidelity coverage, if requested by the property owner or prospective purchaser.

3) Provides that a homeowner association must provide the purchaser of a separate interest within the association the following information, as specified, if requested by the purchaser:

   a) The total number of inspected exterior elevated elements identified as posing an immediate threat to the safety of the occupants;

   b) The number of exterior elevated elements recommended to be included in the next reasonably competent and diligent visual inspection;

   c) The number of exterior elevated elements recommended for reinspection in the next inspection.

   d) Any balcony identified as needing repairs that exceed ten thousand dollars ($10,000);

   e) Whether the covenants, restrictions, or conditions require a unit owner, with the exclusive right to use the exterior element, to individually maintain exterior elevated elements;

   f) Whether the association reserve study includes a minimum annual budgeted replacement reserve allocation of 10 percent for repairs of the exterior structures; and

   g) Whether the association reserve study has been updated to include identified repairs contained within the balcony inspection report.

4) Adds to the existing definition of an "association record" the reserve account study conducted in accordance with existing law.

5) Requires that any person or company that facilitates activities related to the financial reporting and management of a homeowner association to owe a fiduciary duty to both the homeowner association board and its members.

6) Prohibits a homeowner association from expending reserve funds for litigation or legal services, except as specified.

7) Adds associated waterproofing systems, exterior elevated elements, and load-bearing components identified in the nine-year external elevated element inspection report to the list of major components included in the three-year reserve study report.

8) Adds the disclosures specified in a) through c) of 3) to the first page of the nine-year elevated external elements inspection report.

9) Requires a homeowner association's reserve funding plan to include information regarding the repair, replacement, restoration or maintenance of elevated external elements, as specified.

**EXISTING LAW**:

1) Establishes the Davis-Stirling Common Interest Development Act and provides for the rules and regulations governing the operation of a residential common interest development and the respective rights and duties of the homeowner association and its members. (Civil Code Section 4000 *et seq*.)

2) Requires, in addition to the disclosures specified in 6), a seller of a separate real property within a common interest development to provide the following documents to a prospective purchaser of the separate interest, as soon as practicable before the transfer of title or the execution of a real property sales contract:

   a) A copy of all governing documents;

   b) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age, as specified;

   c) A copy of the most recent documents distributed in the association's annual report;

   d) A true statement in writing obtained from an authorized representative of the association as to the amount of the association's current regular and special assessments and fees, any assessments levied upon the owner's interest in the common interest development that are unpaid on the date of the statement, and any monetary fines or penalties levied upon the owner's interest and unpaid on the date of the statement;

   e) A copy or a summary of any notice previously sent to the seller that sets forth any alleged violation of the governing documents that remains unresolved at the time of the request;

   f) A copy of the initial list of construction defects subject to litigation, unless the association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter, as specified;

   g) Any change in the association's current regular and special assessments and fees which have been approved by the board, but have not become due and payable as of the date disclosure;

   h) If there is a provision in the governing documents that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant, a statement describing the prohibition; and

   i) If requested by the prospective purchaser, a copy of the minutes of board meetings, excluding meetings held in executive session, conducted over the previous 12 months that were approved by the board.

   j) A copy of the report issued pursuant to the most recent inspection of elevated external elements. (Civil Code Section 4525.)

3) Requires a homeowner association to provide the seller of a separate real property within a common interest development interest a copy of the documents specified in 2) within 10 days of any request for these documents, including a written estimate of the fees that will be assessed for providing such documents. (Civil Code Section 4530.)

4) Requires a homeowner association's board of directors 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 common interest development. (Civil Code Section 5550.)

5) Requires a homeowner association's board of a condominium project with buildings containing three or more multifamily units 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 exterior elevated elements of the common interest for which the association has maintenance or repair responsibility. (Civil Code Section 5551 (b).)

6) Outlines the information that must be disclosed to a buyer of real property during a transfer by sale, exchange, real property sales contract lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements of any single-family residential property. (Civil Code Section 1102 *et seq.*)

7) Provides that if a seller willfully or negligently fails to provide the disclosures specified in 6), the seller can be held liable for actual damages by the buyer. (Civil Code Section 1102.13.)

8) Defines "common interest development manager" as an individual who for compensation, or in expectation of compensation, provides or contracts to provide management or financial services, or represents themselves to act in the capacity of providing management or financial services to an association, as specified. (Business and Professions Code Section 11501.)

**FISCAL EFFECT**: As currently in print this bill is keyed non-fiscal.

**COMMENTS**: In 2015, a balcony at a Berkeley apartment complex collapsed and tragically killed six people. Investigators determined the accident resulted from decaying wooden joists and dry rot that building maintenance failed to remedy. That tragedy set off a series of legislative efforts to boost the safety of balconies, that eventually applied the standards to condominiums governed by homeowner associations. Between the Berkeley collapse and the 2021 collapse of the Surfside condominium building in Florida, insurers and mortgage lenders began significantly increasing the documentation requirements necessary to obtain insurance or a mortgage for a property within a common interest development.

Seeking to assist parties trying to buy and sell property within a common interest development, last year's SB 410 (Grayson) Chap. 516, Stats. 2025, sought to streamline the disclosure of specified balcony inspection and repair information to buyers. However, the proponents of this bill now note that many homeowner association management companies are not providing the documents in a timely manner. Even more troubling, when documents are disclosed, property sellers are discovering that the homeowner association failed to properly maintain balconies and other common area features or have inadequately budgeted for future repairs. Both issues are significantly impacting the buying and selling of condominiums in this state. This bill seeks to address these concerns. In support of the measure, the author states:

> SB 1238 will protect homeowners who reside in communities with a homeowner's association (HOA) by requiring additional disclosures to the homeowner and ensuring HOAs act in the homeowners' best interest by requiring a duty of care be provided by HOA managers to the HOA board and the HOA members. Under current law HOA managers have no licensing requirements or duties to the homeowner. This bill will establish a minimum standard by requiring HOA managers to provide a duty of care to the homeowner while also prohibiting HOAs from using HOA reserve funds to sue homeowners seeking to hold boards and managers accountable for property maintenance required under California law.

***Background on homeowner association governance***. There are approximately 50,000 common interest developments in California. They vary in size and structure, but generally are characterized by the following: (1) separate ownership of individual residential units coupled with an undivided interest in common property; (2) covenants, conditions, and restrictions that limit the use of both separate interests and common property; and (3) management of common property and enforcement of restrictions by a homeowner association.

Governance of these developments and the homeowner associations that make up their governing bodies is regulated under the Davis-Stirling Act (Civil Code Section 1350 *et seq*.), which sets forth general rules governing common interest developments. Beyond the overarching state law, each individual association is also subject to specific rules and regulations set forth by the association's "governing documents." These governing documents include the recorded declaration and any other documents, such as bylaws, operating rules of the association, or articles of incorporation that govern the operation of the association. Homeowner associations are governed by volunteer boards of directors who are elected by the members of the association and who are responsible for interpreting the governing documents and state law.

***Common interest developments and balcony inspections.*** As noted above, condominiums became subject to the state's multifamily housing balcony inspection regime in 2019. The road to that regime began in the immediate aftermath of the Berkeley tragedy. In 2016, the Legislature enacted SB 465 (Hill), Chap. 372, Stats. 2016, which, among other provisions, required the California Building Standards Commission to establish a working group to study the failure of exterior elevated elements, including balconies. Following the working group's report to the Legislature, policy responses to the Berkeley incident began to focus on the integrity of balconies in multifamily housing developments. In 2018, SB 721 (Hill), Chap. 445, Stats. 2018, was enacted to require regular inspections of exterior elevated elements of certain multi-unit residential buildings. Although originally exempt from SB 721, subsequent legislation – SB 326 (Hill), Chap. 207, Stats. 2019 – applied the inspection requirements to condominiums governed by homeowner associations.

Unlike apartment complexes which have one owner responsible for conducting the inspections, the complex budgeting methods used by homeowner association boards to set aside funds for maintenance within the common interest development posed difficulties for condominiums. Seeking to limit the need for special assessments for maintenance, existing law requires homeowner association boards to maintain reserve accounts for repairs and other work needed in common areas. The reserve accounts enable a homeowner association to bill residents monthly, in small increments, to build up a reserve for large future repairs. Existing law requires the amount of monthly payments to the reserve to be guided by an inspection conducted on the development every three years to assist in projecting future maintenance and repair needs.

Given the late, and somewhat unexpected, addition of condominiums to the state's balcony inspection laws, many homeowner associations did not have adequate reserves to fund the inspections and maintain funds for emergency repairs. Although special assessments assisted some homeowner associations in funding the work, the relatively short timeline for completing the initial inspection created problems for many associations. Additionally, the lack of qualified inspectors left many associations scrambling to complete inspections in order to comply with the statutorily mandated deadline of January 1, 2025. Although it appears that most condominium associations were able to come into compliance with SB 326, many residents were unable to obtain the proof that these inspections were completed, that adequate insurance coverage was obtained for repairs, or that association funds were set aside to complete the work.

While most condominium owners are unlikely to care about inspection records related to future work funded by the homeowner association's reserve funds, unfortunately for the sellers of condominiums, federal mortgage backers Fannie Mae and Freddie Mac do. Many lenders are now requiring proof of completed inspections before signing off on government-backed mortgages. Although most homeowner associations should be able to assist residents by providing these documents, many condominium sellers are noting difficulty in obtaining these documents to provide to would-be buyers. Without the necessary documentation to satisfy insurance companies and federal mortgage backers, many condominium sales are struggling to meet escrow deadlines. Although the aforementioned SB 410 was supposed to address the issue, the proponents of this bill contend homeowner association management companies are frustrating the implementation of that bill.

***The role of the homeowner association management company.*** As noted above, homeowner associations are mainly governed by volunteer boards made up of the residents of the association. Recognizing that many, although not all, board members have jobs, hobbies, and other commitments outside of running the homeowner association, many associations hire management companies to assist in the day-to-day management of association affairs. The independent companies typically oversee the collection of association fees, manage the contracts the association needs for landscaping and other services, and assist in running association elections.

These association management companies also regularly oversee inspections that must be conducted to ensure that the association is adequately funding its reserve account for maintenance. These inspections include the oversight of balcony safety and other external elevated elements required to be examined by SB 326. Because the management company is the entity that directly works with the inspectors, they are the entity that frequently maintains records on the association's behalf. Accordingly, when a resident needs to access documents related to inspections in order to disclose the information to a potential buyer, the management company must work with the homeowner to obtain the documents. Unfortunately, the proponents of this bill contend too many management companies are being uncooperative.

When a homeowner is faced with a non-cooperative management company, their only recourse is to seek assistance from their neighbors who serve on the association board. Unfortunately, in practice, many board members look to the management companies for advice about handling association affairs. This creates a conflict whereby the very parties that are able to hold an association management company accountable for assisting the association members are taking direction from that very management company.

***This bill enhances several aspects of existing common interest development law to ensure that homeowners can access the association records needed to facilitate property sales.*** This bill enacts several reforms to the common interest development laws to ensure that property sales can be better facilitated in the post-SB 326 environment. First, this bill adds additional required elements to the nine-year elevated exterior elements inspection report to better inform lenders about the nature of a property. Secondly, the bill enhances homeowner association reserve requirements related to exterior element repairs. The bill also clarifies that the reserve fund cannot be used for most litigation expenses incurred by the association. Finally, the measure provides that the homeowner association management company owes a duty of loyalty and care to the members of the homeowner association and not just the association (through the board) itself.

***Opposition worries that requiring a management company to owe a duty to all residents will create conflicts, however, this duty appears warranted in some cases.*** This bill is opposed by the Community Associations Institute's California Legislative Action Committee on behalf of the state's homeowner association boards. The Community Association Institute contends that extending the manager's fiduciary duty to all residents is improper as the manager is the agent of the association board and it's the association itself that owes a duty to its members and not the contracted management company. This is indeed true. However, as noted above, in practice, it is not always clear whether the association board is directing the behavior of the management company or if the management company is directing the board.

When the management company is impeding association members' access to vital association records, there is little the member can do. While existing law enables the member to sue the association, this seems imprudent and needlessly costly just to obtain records. The provisions of this bill stating that the management company owes a duty to individual members appears to be designed to spur management companies into providing better customer service to association members. To that end the expansion of the duty appears reasonable. Such expansions also appear reasonable to boost management's responsiveness to issues including problems with common areas and other maintenance issues.

The opposition is correct, however, that for some association issues the duty of care should be limited to the association at large. For example, because management companies assist in the administration of association elections, an individual duty of care seems imprudent. For example, owing a duty to a person who lost a valid election but claims fraud appears to cause significant legal problems. Nonetheless, given the non-responsiveness of many association management companies to the valid needs of individual homeowners a balanced approach to the duty issue appears warranted. Accordingly, *the author and proponents of the bill are encouraged to work with opposition to determine what aspects of homeowner association management would be appropriate for an expanded duty of care and which aspects should be limited.* The proponents of this bill have indicated a willingness to Committee staff to engage in these discussions should the bill advance out of the Committee.

***Due to timing and logistics, this Committee will adopt amendments proposed by the Committee on Housing and Community Development.*** As is frequently the case when confronted with legislative deadlines, this Committee will be adopting and processing amendments agreed to in the prior Committee. The Committee on Housing and Community Development agreed to several amendments with the author related to the inspection language, however, due to timing they could not process the amendments. Accordingly, the author is proposing the following amendments to be adopted by this Committee:

- Subdivision (a) of Civil Code Section 4525 will now read:

  (a) The owner of a separate interest shall ***be able to obtain the following documents and shall*** provide the following documents to a prospective purchaser of the separate interest, as soon as practicable before the transfer of title or the execution of a real property sales contract, as defined in Section 2985:
  (1) A copy of all governing documents. If the association is not incorporated, this shall include a statement in writing from an authorized representative of the association that the association is not incorporated.
  (2) If there is a restriction in the governing documents limiting the occupancy, residency, or use of a separate interest on the basis of age in a manner different from that provided in Section 51.3, a statement that the restriction is only enforceable to the extent permitted by Section 51.3 and a statement specifying the applicable provisions of Section 51.3.
  (3) A copy of the most recent documents distributed pursuant to Article 7 (commencing with Section 5300) of Chapter 6 ***and shall include a copy of the master insurance policy for the association that covers the association's property, general liability, earthquake, flood, and fidelity coverage upon request of the property owner or prospective purchaser.***

…

- Civil Code Section 5550 will now read:

(a) <u>**At least once every three**</u> 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) Cost of repair, replacement, restoration, or maintenance of the components identified in the report required in Section 5551.***

~~(4)~~ **(5)** 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)~~ **(6)** A reserve funding plan that indicates how the association plans to fund the contribution identified in paragraph ~~(4)~~ **(5)** 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***, but is not limited to,*** associated waterproofing systems, exterior elevated elements and load-bearing components defined and inspected pursuant to Section 5551, and gas, water, and electrical service to the extent that the association is responsible for repair or replacement of those lines pursuant to Section 4775.

***ARGUMENTS IN SUPPORT****:* This bill is sponsored by the California Association of Realtors and is supported by the Center for California Homeowner Association Law. In support of the measure the Realtors write:

> SB 1238 strengthens protections for the millions of Californians who live in common-interest developments by increasing transparency, accountability, and financial clarity within. As the Department of Real Estate reports, nearly all new housing construction now includes an HOA, yet current law provides virtually no state-level oversight of HOA managers or management companies. This lack of accountability has created long-term risks for homeowners, including opaque financial practices, limited access to essential documents, and costly barriers to enforcing their rights under the Davis-Stirling Act.
>
> SB 1238 addresses these gaps by establishing clear standards of conduct and improving access to information necessary for homeowners to understand the financial health of their association—information that is especially critical during a real estate transaction or homeowners' refinance. By establishing basic accountability standards and improving transparency in HOA operations, SB 1238 provides meaningful protections for homeowners who currently have limited recourse and face significant financial risk when management practices fail.

***ARGUMENTS IN OPPOSITION****:* As noted, this bill is opposed by the Community Associations Institute's California Legislative Action Committee. In opposition they write:

> While we appreciate the author's intent to improve governance, transparency, and building safety within homeowner associations, provisions in the bill would create ambiguity and would create additional costs on homeowners unless amended.
>
> The bill was recently amended to add language regarding a manager's 'duty of care' to the association and members of the association. While we agree the manager owes a duty of care to the association because of the contractual relationship between the two, we cannot support extending in statute that duty to the members of the association. The manager is the

association's agent. Its contractual duty is owed to the corporation not the members. The association already owes a duty to the members. If the manager fails to comply with Davis-Stirling Act, that failure is imputed to the association. There is no need to impose a duty on the manager. It will only create litigation expenses which will be passed on to the owners, increasing the cost of ownership. It is for these reasons, we request an amendment to limit that language to the association.

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

California Association of Realtors (sponsor)
Center for California Homeowner Association Law

**Opposition**

Community Associations Institute's California Legislative Action Committee

**Analysis Prepared by**: Nicholas Liedtke / JUD. / (916) 319-2334