

BILL ANALYSIS

SENATE RULES COMMITTEE	AB 596
Office of Senate Floor Analyses	
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THIRD READING

Bill No: AB 596
Author: Daly (D)
Amended: 6/9/15 in Senate
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE: 11-0, 6/16/15
AYES: Beall, Cannella, Allen, Bates, Gaines, Galgiani, Leyva,
McGuire, Mendoza, Roth, Wiecekowski

ASSEMBLY FLOOR: 77-0, 5/18/15 - See last page for vote

SUBJECT: Common interest developments: annual budget report

SOURCE: Orange County Business Council

DIGEST: This bill requires a homeowners association (HOA) in a condominium common interest development (CID) to disclose to the owners if the CID is an approved condominium project pursuant to Federal Housing Administration (FHA) and Department of Veterans Affairs (VA) guidelines in their annual budget report.

ANALYSIS: Existing law requires an HOA to distribute an annual budget report 30 to 90 days before the end of the fiscal year that includes specified information, unless the governing documents impose more stringent standards. The annual budget shall include:

1)A pro forma operating budget showing the estimated revenue and expense on an accrual basis;

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- 2)A summary of the HOA's reserves;
- 3)A summary of the reserve funding plan adopted by the HOA's board of directors (board);
- 4)A statement as to whether the board, consistent with the reserve funding plan, has determined or anticipates that the levy of one or more assessments will be required to repair, replace, or restore any major component or to provide for adequate reserves;
- 5)A general statement describing the procedure used to calculate and establish reserves;
- 6)A statement as to how the board plans to fund the reserves to repair or replace major components;
- 7)A statement of whether the HOA has any outstanding loans;
- 8)A summary of the HOA's property, general liability, earthquake, flood, and fidelity insurance policies; and
- 9)The Assessment and Reserve Funding Disclosure Summary form prepared pursuant to Civil Code Section 5570.

This bill requires an HOA of a condominium CID:

- 1)To disclose in a statement in the annual budget report, on a separate piece of paper in 10-point font, the status of the CID as a FHA-approved condominium project.
- 2)To disclose in a statement in the annual budget report, on a separate piece of paper in 10-point font, the status of the CID as a VA-approved condominium project.

Comments

Purpose of the bill. According to the author, an HOA is not currently required to inform their members if their CID is an approved project pursuant to the guidelines of the FHA or VA. The FHA and VA approvals offer potential benefits for current HOA members, as well as potential buyers. For example, a prospective buyer can purchase an individual home in an attached condominium project with a lower downpayment if the HOA has been

approved by the FHA. This is a helpful tool for first-time homebuyers. An FHA loan may require a downpayment as low as 3% compared to a conventional loan, which may be as high as 20%.

A limited number of HOAs in California are not certified by FHA. For some prospective buyers, FHA approval status serves as a type of stamp of approval, enhancing the value of the properties in the community. This bill adds an additional requirement that the HOA notify their members of their FHA or VA status in their annual budget report. By requiring HOAs to annually notify their members of their FHA and VA status, the author hopes that this bill will encourage the limited number of HOAs that are not currently certified to become so.

Background of CIDs. A CID is a form of real estate in which each homeowner has an exclusive interest in a unit or lot and a shared or undivided interest in common area property. Condominiums, planned unit developments, stock cooperatives, community apartments, and many resident-owned mobilehome parks all fall under the umbrella of common interest developments. CIDs are governed by an HOA. The Davis-Stirling Common Interest Development Act provides the legal framework under which CIDs are established and operate. In addition to the requirements of the act, each CID is governed according to the recorded declarations, bylaws, and operating rules of the association, collectively referred to as the governing documents.

FHA and VA loan approval. FHA insures condominium single-unit loans for up to 30-year terms to purchase or refinance a unit in an FHA-approved condominium project. For a buyer to qualify for an FHA loan for a condominium, the entire condominium project must be certified by FHA and must appear on the official FHA-approved list.

The FHA publishes guidelines to help sellers, buyers, and developers gain approval and be listed on the FHA-approved list. This means that HOAs must apply and submit the required documentation and meet minimum FHA requirements. Certification by the FHA lasts two years, at which point the HOA must be re-certified. The certification process requires the HOA to submit a form and various legal documents (including recorded covenants, conditions and restrictions [CCRs], recorded plat map, recorded condominium site maps, bylaws, and articles of incorporation), financial documents, management agreements,

Federal Emergency Management Agency (FEMA) Flood Map, and evidence of required insurance coverage.

VA similarly publishes guidelines that outline the documents necessary for the VA-certification and approval process. VA's goal is to help protect the interests of veterans and the federal government by ensuring that all properties located in a common interest community meet VA regulatory requirements.

The VA-certification application process requires the HOA to meet minimum requirements and provide similar documentation as required by the FHA-certification process. Unlike FHA certification, however, HOAs do not need to re-apply once the CID has been approved by the VA.

There are companies that an HOA can hire who apply for the FHA or VA certification on the HOA's behalf and often charge between \$600 and \$1,500. The cost of certification, like other expenses of an HOA, would be paid for through assessments.

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

SUPPORT: (Verified6/17/15)

Orange County Business Council (source)
California Association of Realtors

OPPOSITION: (Verified6/17/15)

Community Associations Institute
Educational Community for Homeowners

ARGUMENTS IN SUPPORT: According to the source, Orange County Business Council, this bill is one step towards creating an affordable housing market throughout California, particularly at entry-level home buying. Generally, a downpayment required for an FHA-insured or VA-guaranteed loan is lower than a conventional loan, and these loans offer a more favorable interest rate. Before a qualified loan buyer can use either FHA

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or VA financing to purchase a home in a condominium project, the HOA must apply for and receive approval from the government entity that is being asked to insure or guarantee the loan. This bill adds to the existing notice requirements an additional item: whether or not the HOA has been certified by FHA or VA.

ARGUMENTS IN OPPOSITION:According to the opponents, HOAs are comprised of volunteers, many of whom find the laws governing CIDs to be complex and ever-changing. The responsibility of informing owners in the development whether or not it is FHA- or VA-approved lies with a Realtor, seller, and buyer. Educational Community for Homeowners would remove its opposition to the bill if it required the annual budget report to include a statement informing the owners that there are FHA and VA websites where owners can ascertain whether or not the CID is FHA- or VA-certified, but not require the listing of the websites in the report, because they may change.

ASSEMBLY FLOOR: 77-0, 5/18/15

AYES: Achadjian, Alejo, Travis Allen, Baker, Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Beth Gaines, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper, Roger Hernández, Holden, Irwin, Jones, Jones-Sawyer, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, Obernolte, O'Donnell, Olsen, Patterson, Perea, Quirk, Rendon, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Wagner, Waldron, Weber, Wilk, Williams, Wood, Atkins

NO VOTE RECORDED: Kim, Mathis, Melendez

Prepared by:Alison Dinmore / T. & H. / (916) 651-4121
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**** END ****

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