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Since 1974

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### **It was “HOA Week” in the Capitol !!**

A spate of HOA bills moved along in the Senate and Assembly this week and plenty of amendments were taken to clarify some language and to ameliorate the concerns of opponents. I attend these hearings in order to see who is testifying for and against the bills, and why. Let's start with the HOA election bills.

#### **AB 323 (Wieckowski)... Numerous Changes to HOA Election Rules**

Senator Bob Wieckowski's SB 323 is a repeat of two similar bills from last session which were vetoed by Governor Brown, and is again sponsored by the Center for California Homeowner Association Law which is based in the SF Bay area.

As amended May 1, it: (1) Requires retention of association election materials including a voter list containing name, parcel number, and envelopes signed by the voters. The association shall make the list available to any member wishing to verify the accuracy of the voter's information at least 30 days before the ballots are distributed. A voter's signature on the outside return envelope may be inspected but may not be copied; this removed concerns about a voter's privacy.  
(2) Candidates for election must be members of the HOA but the association may disqualify them if they haven't been members for at least one year.

- (3) Candidates may not be felons that were convicted in any state or country within the last 20 years.
- (4) Candidates must be current in the payment of assessments, excepting fines and late fees, and those being disputed or contained in a payment plan.
- (5) Multiple owners of one parcel may not be candidates.
- (6) The HOA's election rules may not be amended less than 90 days prior to the election.
- (7) General notice of nomination deadlines and the election date is to be no less than 30 days prior.

As of the hearing date these are the organizations favoring and opposing SB 323, but expect further amendments in the Assembly!

**SUPPORT:** (Verified 5/1/19)

Center for California Homeowner Association Law (Source)  
American Civil Liberties Union of California  
California Association of Retired Americans  
Greater Sacramento Urban League  
Non-Profit Housing Association of Northern California  
Schiffer & Buus

**OPPOSITION:** (Verified 5/1/19)

California Association of Community Managers  
California Building Industry Association  
Community Associations Institute - California Legislative Action Committee  
Lake Wildwood Association  
28 individuals

**SB 754 (Moorlach)... Elections by Acclamation**

This bill allows for candidates to be elected by acclamation when there are fewer or an equal number of candidates than available seats on the board. This would avoid one or more costly election nomination and election procedures and parallels local and State election laws that govern various boards. Its sponsor is the very large Laguna Woods Village HOA in SoCal.

However, amendments are going into the bill that will parallel provisions in SB 323 in terms of qualifying and disqualifying candidates for office so that a cabal of incumbents cannot control the board's makeup via the acclamation route.

**Based on text dated 3/27/2019**

**SUPPORT**

- Laguna Woods Village (source)
- California Association of Community Managers
- Community Associations Institute – California Legislative Action Committee

**OPPOSE**

- California Alliance for Retired Americans
- Greater Sacramento Urban League
- California Center for Homeowner Association Law
- Schiffer & Buus, APC

Now, let's look at this HOA management bill:

**SB 434 (Archuleta)... HOA Records Transfer**

Requires a managing agent whose management agreement has been terminated to produce the HOA's property and records to the HOA and/or its new manager within 30 days pursuant to a written request by an HOA. It is co-sponsored by the Community Associations Institute and the California Association of Community Managers. Current law is silent on this matter so this measure fills that gap.

However, during the hearing, it was observed that the bill's language still allows for a manager's intentional destruction, alteration or loss of records which runs counter to the bill's intent. Expect new language soon to correct this gaping oversight.

The California Alliance for Retired Americans and the Center for California Homeowner Association Law oppose the bill.

**Deteriorating Structures**

**SB 326 (Hill)... "Balcony Bill"**

Following the collapse of an apartment balcony which killed 6 college students we have another legislative attempt to prevent the causes of the collapse.

HOAs were deleted from a similar bill last year that sought to inspect elevated platforms more frequently, among other things. CAI sought this exemption based, in

part, on the cost of inspections which are routinely performed every three years as part of the reserve study.

This bill makes two changes to the laws governing HOAs. First, it establishes a mandatory inspection regime for exterior elevated elements (EEEs), such as balconies, decks, walkways, stairways, and railings within HOAs. Second it nullifies any provision in an HOA's governing documents that purports to condition or limit the ability of the HOA to bring construction defect litigation against the developer or builder of the HOA.

Importantly, this bill ensures that developers cannot reap the benefit of having taken advantage of their participation in the creation of the HOA Board and declares null and void any provision in the governing documents purporting to place limitations or preconditions on the HOA board's ability to initiate a construction defect claim against the developer. It would also prevent board members appointed by or affiliated with the developer from participating in any board decision as to whether or not to pursue a construction defect claim against the developer, which explains CBI's opposition.

**Based on text dated 3/27/2019**

**SUPPORT**

- Community Associations Institute - California Legislative Action Committee

**OPPOSE**

- California Building Industry Association

**AFFORDABLE HOUSING... THE BIGGEST HOA ISSUE THIS YEAR...**

Numerous bills address the lack of affordable housing. Following these bill summaries are statistics that prove the point.

**SB 13 (Wieckowski)... "Accessory Dwelling Units"**

"ADU" has become the password for constructing more homes in smaller spaces... including HOAs. SB 13 would significantly narrow local restrictions that limit or prohibit small homes in greater density locations. There are too many specifics to this bill but suffice to say it has several leading legislators as co-authors and nudges close to the Governor's desire to house more people.

**Based on text dated 4/4/2019**

**SUPPORT**

- Eden Housing

- LA-Mas
- Silicon Valley at Home
- 1 Individual.
- PrefabADU
- Bay Area Council; California Apartment Association
- Turner Center for Housing Innovation at the University of California, Berkeley

## **OPPOSE**

- American Planning Association, California Chapter

## **SB 50 (WEINER)... DENSITY BONUS LAW**

Similar to SB 13, this bill makes it easier for developments that cater to more houses in fewer spaces. It's author chairs the Senate Housing Committee and is sure to reach the Governor's desk later this year.

Despite my prediction of the bill's success, it has dozens of organizations opposing it. Supporters include builders and businesses that need employees living close to work, and opponents include tenant organizations and "NIMBY" (Not In My Back Yard) groups and persons.

## **SB 670 and SB 671 (FRIEDMAN)... ADUs and JADUs**

**670** would make the governing documents of an HOA void and unenforceable if they prohibit the construction of an Accessory Dwelling Unit or Junior ADU on a lot zoned for single-family. State law allows local governments to adopt standards for the minimum and maximum size of an attached or detached ADU, but those standards cannot prevent the installation of at least one ADU or JADU. For an ADU that requires a separate utility connection, the connection or capacity charge must be proportional to burden of the ADU based on the size of the ADU or number of plumbing fixtures. State law also prohibits a local government from requiring additional parking for an ADU if it is within one-half mile of public transit.

This bill is supported by a coalition of real estate and urban planning organizations and the California Apartment Association which all need employees near business centers and at an affordable price.

**671** would require cities and counties to develop a plan that incentivizes and promotes the creation of ADUs that can be offered at affordable rent for very low-, low and moderate income households, in the housing element of the general plan. The bill also requires the Housing and Community Development Agency to develop,

by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an ADU with affordable rent for very low and moderate income households, and post this list on their website. This bill is an author-sponsored measure.

### **SB 330 (Skinner)... Making the case for “AH”**

Perhaps it's best to just provide you with some statistics from the bill which streamlines permitting processes to build more ADUs:

#### **SECTION 1.**

This act shall be known, and may be cited, as the Housing Crisis Act of 2019.

#### **SEC. 2.**

(a) The Legislature finds and declares the following:

(1) California is experiencing a housing supply crisis, with housing demand far outstripping supply. In 2018, California ranked 49th out of the 50 states in housing units per capita.

(2) Consequently, existing housing in this state, especially in its largest cities, has become very expensive. Seven of the 10 most expensive real estate markets in the United States are in California. In San Francisco, the median home prices is \$1.6 million.

(3) California is also experiencing rapid year-over-year rent growth with three cities in the state having had overall rent growth of 10 percent or more year-over-year, and of the 50 United States cities with the highest United States rents, 33 are cities in California.

(4) California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over the next 7 years.

(5) The housing crisis has particularly exacerbated the need for affordable homes at prices below market rates.

(6) The housing crisis harms families across California and has resulted in all of the following:

(A) Increased poverty and homelessness, especially first-time homelessness.

(B) Forced lower income residents into crowded and unsafe housing in urban areas.

(C) Forced families into lower cost new housing in greenfields at the urban-rural interface with longer commute times and a higher exposure to fire hazard.

(D) Forced public employees, health care providers, teachers, and others, including critical safety personnel, into more affordable housing farther from the communities they serve, which will exacerbate future disaster response challenges in high-cost, high-congestion areas and increase risk to life.

(E) Driven families out of the state or into communities away from good schools and services, making the ZIP Code where one grew up the largest determinate of later

access to opportunities and social mobility, disrupting family life, and increasing health problems due to long commutes that may exceed three hours per day.

(7) The housing crisis has been exacerbated by the additional loss of units due to wildfires in 2017 and 2018, which impacts all regions of the state. The Carr Fire in 2017 alone burned over 1,000 homes, and over 50,000 people have been displaced by the Camp Fire and the Woolsey Fire in 2018. This temporary and permanent displacement has placed additional demand on the housing market and has resulted in fewer housing units available for rent by low-income individuals.

(8) Individuals who lose their housing due to fire or the sale of the property cannot find affordable homes or rental units and are pushed into cars and tents.

(9) Costs for construction of new housing continue to increase. According to the Turner Center for Housing Innovation at the University of California, Berkeley, the cost of building a 100-unit affordable housing project in the state was almost \$425,000 per unit in 2016, up from \$265,000 per unit in 2000.

(10) Lengthy permitting processes and approval times, fees and costs for parking, and other requirements further exacerbate cost of residential construction.

(11) The housing crisis is severely impacting the state's economy as follows:

(A) Employers face increasing difficulty in securing and retaining a workforce.

(B) Schools, universities, nonprofits, and governments have difficulty attracting and retaining teachers, students, and employees, and our schools and critical services are suffering.

(C) According to analysts at McKinsey and Company, the housing crisis is costing California \$140 billion a year in lost economic output.

(12) The housing crisis also harms the environment by doing both of the following:

(A) Increasing pressure to develop the state's farm lands, open space, and rural interface areas to build affordable housing, and increasing fire hazards that generate massive greenhouse gas emissions.

(B) Increasing greenhouse gas emissions from longer commutes to affordable homes far from growing job centers.

(13) Homes, lots, and structures near good jobs, schools, and transportation remain underutilized throughout the state and could be rapidly remodeled or developed to add affordable homes without subsidy where they are needed with state assistance.

(14) Reusing existing infrastructure and developed properties, and building more smaller homes with good access to schools, parks, and services, will provide the most immediate help with the lowest greenhouse gas footprint to state residents.

(b) In light of the foregoing, the Legislature hereby declares a statewide housing emergency, to be in effect until January 1, 2030.

(c) It is the intent of the Legislature, in enacting the Housing Crisis Act of 2019, to do both of the following:

(1) Suspend certain restrictions on the development of new housing during the period of the statewide emergency described in subdivisions (a) and (b).

(2) Work with local governments to expedite the permitting of housing in regions suffering the worst housing shortages and highest rates of displacement.

## **CALIFORNIA HOUSING CRISIS... What Role for HOAs?**

I am a board member of the Foundation for Community Association Research <https://foundation.caionline.org/> and I am also heading up a research project on affordable housing. As such, I have a keen interest in proposed laws that deal with the issue.

**END**

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