2007
New Laws Passed By the California Legislature Affecting REALTORS®

Table of Topics

Common Interest Developments and Homeowners' Associations

AB 2100* HOA Disclosures	This new law amends the Davis-Stirling Act to require additional reporting on reserves for a common interest development, and to extend disclosures for self-dealing by homeowner associations (HOAs). Specifically, this law requires (1) the pro-forma operating budget to include any deficiency in reserve funding on a per unit basis; (2) a statement of the HOA when the HOA defers or decides not to repair/replace major components; (3) a statement of any outstanding loans by the HOA; (4) a reserve funding plan indicating how the HOA will fund any deficiencies in reserve funding; (5) distribution of the reserve funding plan to all members. Furthermore, this law slightly revises the disclosure form regarding assessments and reserve funding. Finally, this bill also provides that certain disclosures and voting rules be followed when a HOA is dealing with contracts between the HOA and a board member (or an entity controlled by board member or an entity in which a board member has material financial interest), regardless of whether the HOA is a corporation. (Formerly, these rules for disclosures and voting applied only to HOAs which were corporations.) The provisions of this new law become effective January 1, 2007, except for the distribution of the reserve funding plan, which becomes effective January 1, 2009.

Environmental Hazards/Issues

AB 2861* Lead-Based Paint Violations	This new law increases the penalty for repeat violations of lead-based paint hazard laws. Specifically, any violation after the first would become a misdemeanor with a fine of up to $5,000 and/or six months imprisonment. Under current law, local enforcement agencies can issue a cease and desist order to the owner when there is a lead hazard created by an "activity" at the premises. A violation of this order is an infraction which is punishable by a fine of up to $1,000. Under the new law, the second or any subsequent violation would be a misdemeanor which is punishable by a fine not to exceed $5,000, or by imprisonment in county jail for up to six (6) months, or both. This law which amends California Health & Safety Code § 105256 becomes effective on January 1, 2007.
SB 841* Firebreaks for State Responsibility Areas	Existing law requires a person that owns, leases, controls, operates, or maintains any building or structure in, upon, or adjoining any mountainous area or forest-covered lands, brush lands, or grass-covered lands, or any land that is covered with flammable material, to maintain around and adjacent to the building or structure a firebreak of at least 30 feet. This new law, which is applicable to state responsibility area lands under the authority of the Department of Forestry and Fire Protection,authorizes a state or local fire official, at his or her discretion, to permit an owner of property to construct a firebreak or implement appropriate vegetation management techniques, to ensure that defensible space is adequate for the protection of a hospital, adult residential care facility, school, aboveground storage tank, hazardous materials facility, or similar facility on the property. This law authorizes the firebreak to be for a radius of up to 300 feet from the facility, or to the property line, whichever distance is shorter. This law, which goes into effect January 1, 2007, adds Section 4291.3 to the Public Resources Code.

Fair Housing

AB 2800* Anti-discrimination Provisions in Statutes Changed to Conform to Cal Fair Employment and Housing Act	This law modifies various California statutes relating to non-discrimination in housing to conform with the California Fair Employment and Housing Act. Specifically, provisions of existing law (including California Business & Professions § 10177) which prohibit discrimination on the basis of race, color, sex, religion or the marital status of a person are expanded to include national origin, ancestry, familial status, disability or sexual orientation. Currently, various provisions of state law prohibit discrimination in housing, including real estate licensure, mortgage lending, club membership, development projects, and community redevelopment. Under current law, these provisions prohibit discrimination on the basis of: (1) race; (2) color; (3) gender; (4) religion; or (5) marital status. Under the new law, the following bases will be added so that these provisions comply with the Fair Employment and Housing Act: (6) national origin; (7) ancestry; (8) familial status; (9) disability; and (10) sexual orientation. This law amends California Business & Professions Code §§ 10177 and

	23428.20, amends California Civil Code §§ 782, 782.5, 798.20 and 800.25, amends California Government Code § 65008, and amends California Health & Safety Code §§ 33050, 33435, 33436, 33724, 33769, 35811, 37630, 37923, 50955 and 51602. This new law becomes effective on January 1, 2007.

Foreclosure

AB 2624* Non-Judicial Foreclosures (By HOAs and Others)	This new law modifies various provisions relating to a non-judicial foreclosure of a unit in a common-interest development by the homeowners' association (HOA). This law makes minor changes to whom notice must be given, information in the notice of sale, fees that a trustee under a power of sale can charge, what is privileged communication during the foreclosure, who can conduct the foreclosure sale, and information on the certificate of sale when a foreclosure sale is completed. Some of these provisions also apply to other non-judicial foreclosures. Currently, the Davis-Stirling Act defines and regulates common interest developments. Under those rules, the HOA can levy assessments in order to fulfill its obligations to manage these developments. When an owner of a separate interest does not make payments, then the HOA can record a notice of delinquent assessment and follow other procedures to create a lien on the owner's interest. In cases where the delinquent special and regular assessments exceed $1800 and are over one year past due, the HOA can go through non-judicial foreclosure (sale by a trustee) in order to collect on those liens. The new law makes several minor changes to the HOA non-judicial foreclosure process: (1) FEES OF TRUSTEE – The trustee can charge as part of the non-judicial foreclosure the cost of service of either a notice of default or the decision of the HOA to foreclose on an owner; (2) PERSON SERVED NOTICE OF DEFAULT – The notice of default can be served to the owner's legal representative which is the owner according to association records, unless previously notified in writing to the HOA; (3) NOTICE OF RIGHT OF REDEMPTION IN NOTICE OF SALE – The notice of sale must include a statement that the property is being sold subject to a ninety day right of redemption. In addition, the law makes the following modifications to <u>all</u> non-judicial foreclosures: (4) PRIVILEDGED COMMUNICATIONS – Performing the functions and procedures necessary to the sale will constitute privileged communication (in addition to the mailing, publication, and delivery of a notice which are already privileged communication); (5) AUTHORIZED AGENT TO CONDUCT SALE – An authorized agent of the trustee (in addition to the attorney for the trustee) can conduct the sale and auction of the property; (6) INFORMATION IN CERTIFICATE OF SALE – The information contained in the certificate of sale (subject to a right of redemption) shall include some additional information about the sale terms. This law which amends California Civil Code §§ 882.020, 1367.1, 1367.4, 2924 and 2924a, and amends California Code of Civil Procedure §§ 729.040, 729.050, 729.070 and 729.080 becomes effective on January 1, 2007.

Landlord/Tenant

AB 1169* 60-Day Notice	This law reestablishes the sixty (60) day notice which is required by landlords to give to residential tenants on periodic leases (e.g., month-to-month lease) when the tenants have

to Terminate Lease	been living in the property for at least one year. This law maintains the exception of a thirty (30) day notice for certain qualifying properties for sale. Currently, the law requires thirty (30) days notice for the landlord or the tenant to terminate a month-to-month tenancy. Under the new law, for residential leases the landlord will be required to provide sixty (60) days notice to terminate any periodic leases, such as a month-to-month rental, if all tenants and residents have been in the property for at least one year. In cases where any tenant or resident has been residing in the property for less than one year, then thirty (30) days notice is sufficient. Additionally, thirty (30) days notice can be given when all of the following conditions have been met: (1) the dwelling is a separately alienable unit (e.g. condo, single family residence, townhouse; but not a duplex, triplex or other multi-unit property); (2) the owner of the unit is being sold to a bonafide purchaser for value; (3) escrow has been established with a licensed escrow agent or licensed real estate broker; (4) the buyer is a natural person (or persons); (5) notice is given within 120 days after escrow is opened; (6) notice was not previously given to the tenant; and (7) the buyer intends to live in the property for at least one full year. This law adds California Civil Code § 1946.1 which becomes effective on January 1, 2007, and is set to sunset on January 1, 2010 unless extended by the California Legislature.

Licensing

AB 790* Falsely Claiming to be a REALTOR®	This new law strengthens prohibitions against real estate agents from falsely claiming membership in trade organizations or falsely claiming to have special designations or certifications. Generally, this law prohibits knowingly authorizing, directing, conniving at or aiding in the publication, advertisement or distribution of any material false statement or representation concerning a designation or a certification, including trade organization membership. The Real Estate Commissioner is authorized to suspend or revoke a real estate license for this violation. Currently, the law provides that willful misuse of trade names, including “realtor”, are subject to discipline by the Real Estate Commissioner by revoking, suspending or denying a license. The new law strengthens the law on what is prohibited. The Commissioner may revoke, suspend or deny a license if anyone KNOWINGLY: (1) authorized; (2) directed; (3) connived at; or (4) aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his or her: (A) designation or certification of special education; (B) credential; or (C) trade organization membership. This law which amends California Business & Professions Code § 10177 becomes

	effective on January 1, 2007.
AB 2429* Changes to Real Estate Licensing Requirements	This new law increases the minimum requirements for a salesperson to obtain a real estate license. Generally, conditional salesperson licenses will no longer be available for new licensees. A salesperson must take a minimum of three real estate classes before obtaining a real estate license, but the exemptions for attorneys and others qualified to take the broker exam remain in effect. Currently, the law allows two methods for obtaining a real estate salesperson license. The first requires the applicant to take three real estate classes and then pass the salesperson exam to receive a four year license. The second allows the applicant to take one real estate class, and then pass the salesperson exam to receive a "conditional" license which is valid for 18 months. During that time period, the conditional licensee must finish the additional two real estate classes. The new law removes the option for a conditional license for all applications starting October 1, 2007. The exception for attorneys and others qualified to take the broker exam will still apply. This law amends California Business & Professions Code §§ 10151, 10153.3, 10153.4, and 10153.5 and repeals California Business & Professions Code § 10153.9. The provisions of this new law do not take effect until October 1, 2007.

Loan Issues

SB 1609* Reverse Mortgages	This new law provides protection to consumers who obtain reverse mortgages. This law prohibits certain self-dealing activities by companies providing reverse mortgages, requires certain additional disclosures for reverse mortgages, and also requires a translation of the contract for a reverse mortgage to the language in which primarily negotiated. This law requires lenders and mortgage broker to perform certain acts, and also prohibits certain practices when selling reverse mortgages: (1) PROHIBITS requiring the purchase of an annuity as condition for the reverse mortgage; (2) PROHIBITS offering an annuity or referring the borrower to another for an annuity prior to loan closing or before the end of buyer's right to rescind; (3) REQUIRES referring the borrower to housing counseling agency; (4) PROHIBITS accepting a full application for a reverse mortgage before the borrower receives housing counseling; (5) MODIFIES the disclosure notice; (6) REQUIRES the lender to provide a list of independent loan counselors; (7) REQUIRES the contract to be translated into Spanish, Chinese, Tagalog, Vietnamese, or Korean if the reverse mortgage is primarily negotiated in that language. The provisions of this new law become effective on January 1, 2007.
AB 2602* Trust Fund Interest on Loans	This new law determines who is entitled to the benefits when a real estate broker collects trust fund money related to a loan and puts that money into a bank or similar financial institution. Currently, the law has a provision which indicates that when a real estate broker receives trust fund money related to a loan and puts that money into a non-interest bearing account of a bank or similar financial institution, then the broker is entitled to the benefits from having the

	funds at that institution. The new law does the following: (1) defines "financial institution" for the purposes of the current law; and (2) provides that the broker can receive the benefits (including financial benefits) when putting such trust funds into an interest-bearing account, if the lender has authorized this in writing. However, the second provision of this law applies only to loans on commercial properties (other than residential 1-4 unit properties) when the lender is an "institutional investor" under California Financial Code § 50003. This law which amends California Financial Code § 854.1 and adds California Financial Code § 854.2 becomes effective on January 1, 2007.

Miscellaneous

AB 2618* Small Claims Court	This new law is essentially clean-up legislation which increases the jurisdictional limit in small claims court to $7,500 on certain issues which were left unchanged when general limits increased from $5,000 to $7,500 last year. This law conforms the jurisdictional limits of a number of actions in small claims court, including some common interest development actions, and landlord-tenant claims. The areas where small claims court jurisdiction was previously limited to $5,000 and was increased to $7,500 are the following: (1) specified acts of discrimination, including boycotting, blacklisting, violence, and the threat of violence; (2) specified enforcement actions relating to common interest developments for declaratory, injunctive or writ relief in conjunction with monetary damages; (3) specified actions in landlord-tenant law; (4) a claim or counterclaim in a class action lawsuit; (5) complaints to the PUC (Public Utilities Commission) through its website; (6) complaints to the PUC against any electrical, gas, water, heat or telephone company; (7) specified juvenile law claims against a minor, or a minor's parents. This new law become effective on January 1, 2007.
SB 1613* Restrictions on Cellular Telephone Usage in Motor Vehicles	This new state law imposes a prohibition on the use of a cellular phone when driving a motor vehicle unless the phone is designed and configured to allow hands-free listening and talking, and used in that manner. A number of exceptions to this prohibition include: (1) contacting a law enforcement agency of public safety entity for EMERGENCY PURPOSES; (2) calls by an EMERGENCY SERVICES PROFESSIONAL in an authorized emergency vehicle; and (3) certain digital two-way radios when driving a commercial vehicle until July 1, 2011. The fine for a first offense is $20 and for any subsequent offense is $50. Any infraction is not be considered a violation point for DMV purposes (i.e., won't impact auto insurance).

	This law which adds California Vehicle Code §§ 12810.3 and 23123 becomes effective on July 1, 2008.
AB 2977* Pool & Spa Safety	This new law extends the safety requirements for construction of new pools (or remodeling of existing pools) to spas. Furthermore, this law changes what is acceptable for the safety features. This law also adds a new disclosure requirement to be given to consumers by contractors/builders when obtaining a permit to work on a pool or spa. Currently, the law requires certain safety features whenever a building permit is issued for construction of a new swimming pool at a private, single-family house. Such pools must have one of the following five features: (1) a pool enclosure; (2) a safety pool cover; (3) exit alarms on doors providing direct access to the pool; (4) self-closing, self-latching device with a release mechanism on doors providing direct access to the pool; OR (5) other means of protection, if the degree of protection is equal or greater than any of the four previously specified devices. Under the new law, this safety feature provision would be applicable to construction of a new pool or spa, or remodeling to a pool or spa (when a permit is required). For spas, items (1) and (2) must have a locking feature. Furthermore, two additional safety measures are allowed: (6) removable mesh fencing meeting standards of the American Society for Testing and Materials (ASTM); OR (7) swimming pool alarms meeting ASTM standards. Furthermore, this law would require that the building inspector ensure that the standards are met and that the safety feature is working correctly before approving the permit. In addition, the consumer notice currently given when constructing new pools will be required for new spas, and work on pools or spas requiring a permit. Finally, this law also updates the backup safety systems (e.g., suction outlets are to have anti-entrapment covers), and requires the Building and Standards Commission to update the building code for swimming pools and spas by January 1, 2010. This law which amends California Health & Safety Code §§ 115922, 115924 and 115928 becomes effective on January 1, 2007.

Mobilehome Parks

SB 1231* Extension of Mobilehome Park Law Dealing With Fees and Inspections	This new law extends the sunset dates of the statutes dealing with various fees and inspections related to mobilehome parks. Under another provision, this law also increases the minimum number of meetings of a task force on the inspection program for mobilehome parks, and specifies certain information to be reported by the task force to the Department of Housing and Community Development. Under current law, the Mobilehome Parks Act regulates the conditions in mobilehome parks and other special occupancy parks (collectively "Parks"), and also delineates the duties between the Department of Housing and Community Development (HCD) and local government entities. Under these rules, either HCD or local government entities are required to inspect mobilehome parks, and issue citations. Also, current law specifies a certain fee structure for permits for construction and operation of Parks which was set to change on January 1, 2007. Additionally, a fee of $4 was levied on mobilehome parks to be used for inspections. This fee was to be repealed as of January 1, 2007. Under the new law, the inspection and citation procedures remain in effect until January 1, 2012. The existing fee structure of Parks, and additional $4 fee used

	for inspections would also stay in effect until January 1, 2012. Furthermore, under the new law, a task force created by the HCD on the mobilehome inspection program (currently required to meet once a year) would be required to meet at least twice a year, and also provide input to HCD on the inspection program, including the frequency of inspections, general inspection program information, and recommendations for changes to the program. This law amends California Health & Safety Code §§ 18400.1, 18400.3, 18424, and 18502. The provisions of this new law become effective on January 1, 2007.

Subdivisions - Developments - Housing

SB 1052* Subdivision Appeal Process	Currently, the Subdivision Map Act authorizes either the developer or any tenant in the property to appeal decisions or actions by an advisory agency relating to a tentative map on subdivisions that are conversions. Such appeals must be filed within ten days of any decision, and is then heard by either the appeals board or the legislative body (if there is no appeals board) within thirty (30) days. Under the new law, if the legislative body does not have a regularly scheduled meeting within thirty (30) days, then the appeal can be heard at the next regular meeting after the notice of the appeal, so long as such period does not exceed sixty (60) days. Furthermore, the new law restates that each decision made by the legislative body under this section of the law must be supported by consistent findings of fact. This law amends California Government Code § 66452.5. This new law becomes effective on January 1, 2007.
AB 782* "Blight" Defined for Redevelopment Purposes	This new law changes the criteria for “blight” for redevelopment purposes. This law removes one of the criteria as sufficient for blight by itself – the condition that the land is characterized by subdivided lots of irregular form and shape, and inadequate size for proper usefulness and development. Currently, the law defines “blight” and “predominantly urbanized” for the purposes of redevelopment. Under those definitions, redevelopment agencies are empowered to reduce the effect of blight. Under existing law, four physical factors and five economic factors of blight are laid out. The four physical factors are: (1) buildings where living or working would be UNSAFE OR UNHEALHTY; (2) factors that prevent or substantially hinder the ECONOMICALLY VIABLE USE or capacity of buildings or lots; (3) adjacent or nearby uses which are INCOMPATIBLE with each other and prevent economic development; and (4) lots of IRREGULAR FORM and SHAPE, and INADEQUATE SIZE for proper usefulness and development. Under current law, “blight” was a combination of at least one of the four physical factors and at least one of the five economic factors. In addition, the fourth physical factor was sufficient by itself for “blight”. This last basis for “blight” has been removed under the new law. Furthermore, this same physical factor is no longer a criterion for “predominantly urbanized”. This law which amends California Health & Safety Code §§ 33030 and 33320.1 becomes effective on January 1, 2007.
AB 2511*	This new law is intended to ensure that local governments are meeting their affordable housing requirements based on the regional need. Local governments must report to the state

Affordable Housing	on the increase in housing stock in order to accommodate regional housing needs for the next five years. This law also provides judicial remedies if local governments do not comply with state law requirements for regional housing needs. Also, the law amends the process of permit streamlining so that subdivisions with 49% (or more) affordable housing will qualify for the faster track instead of only 100% affordable housing subdivisions. Finally, this legislation would rename the "anti-NIMBY" law as the "Housing Accountability Act" while repealing provisions relating to "granny flats" (second units being at a single family residence). Currently, the law has some procedures which give preferential treatment to affordable housing projects and protections to make sure that local government are meeting their needs of affordable housing under the regional needs. Under the new law, additional provisions: (1) prevent cities and other local government agencies from prohibiting or discriminating against very low income housing; (2) allow a court to order compliance with an annual report indicating compliance and implementation of a local government's general plan in meeting the housing element of its general plan, and give continuing jurisdiction to the court to sanction the local government and enforce compliance with the court's orders; (3) rename the provision of the law preventing local governments from disapproving housing for very low-, low- or moderate-income ("Affordable Housing") households without written findings based on substantial evidence as the "Housing Accountability Act"; (4) require certain findings by local governments before local governments can disapprove of Affordable Housing or condition development to make impracticable that Affordable Housing element; (5) define the residential density threshold at which the local government would be required to provide written findings supported by substantial evidence before reducing (or allowing or requiring the reduction) the residential density, and provide that the evidence must show that the reduction is consistent with the general plan and that remaining sites can accommodate the local government's share of the regional housing need; (6) require local government to ensure that its housing element inventory is sufficient to accommodate its share of the regional housing needs, or to otherwise make sites available through its housing element program; (7) allow permit streamlining for developments with at least 49% very low- or low-income housing (instead of developments with only very low- or low-income housing); and (8) authorize the court to invite parties to mediation in specified land use actions for all actions (the sunset provision making the invitation to mediation not applicable to any action filed on or after January 1, 2006 is repealed). Finally, the new law sunsets, as of January 1, 2007, the authority of local government to issue a variance, special use permit, or conditional use permit for the creation of second dwelling units on parcels zoned for single-family residences if the dwelling unit is intended for the occupancy of one or two adult persons at least 62 years old. (This sunset does not limit any local government from permitting second units generally.) This law which amends California Government Code §§ 65008, 65400, 65589.5, 65852.1, 65863 and 65950, adds CA Government Code § 65582.1, and repeals California Government Code § 66037 goes into effect on January 1, 2007.
SB 53 Eminent Domain by Redevelopment Agency	This new law requires a local redevelopment agency to specify its powers to use eminent domain, and also requires a redevelopment agency to make a finding of existing blight which cannot be cured except by eminent domain for any extension of its authorization for eminent domain actions. Currently, the Community Redevelopment Law allows the establishment of

	redevelopment agencies in order to fight blight, and requires a redevelopment plan for each project area affected by blight. Under the redevelopment plan, the redevelopment agency can acquire property by gift, purchase, lease or condemnation. Existing law allows an extension for initiating eminent domain (from the original maximum time frame not to exceed 12 years) by amending the redevelopment plan. Under the new law, the redevelopment agency: (1) MUST DESCRIBE the agency's program to acquire property by eminent domain; and (2) MUST MAKE SPECIFIC FINDINGS of blight and that the blight cannot be cured except by eminent domain in order to extend the period for commencing eminent domain actions (which initial time period is specified in the original redevelopment plan). On any redevelopment plan approved prior to January 1, 2007, the local government must amend the redevelopment plan to describe the redevelopment agency's program to acquire property by eminent domain by July 1, 2007. This law amends California Health & Safety Code §§ 33333.2 and 33333.4, and adds California Health & Safety Code §§ 33342.5 and 33342.7. The provisions of this new law become effective on January 1, 2007.
SB 1206* Redevelopment Zone Limitations	This new law limits property which can be included in a redevelopment zone by a local redevelopment agency, requires greater accounting and estimations of increased property taxation through redevelopment, creates greater oversight with involvement of the Attorney General, Department of Finance, and the Department of Housing and Community Development, and changes the timeframes and requirement in order to challenge redevelopment decisions. Furthermore, local government agencies have additional obligations to make clear and articulated findings about the need for redevelopment. Currently, the Community Redevelopment Law allows the establishment of redevelopment agencies in order to fight blight, and requires a redevelopment plan for each project area affected by blight. Under the redevelopment plan, the redevelopment agency can designate certain areas as redevelopment project areas. The new law: (1) LIMITS what property can be included in a redevelopment project area by revising the definition of "predominantly urbanized" and revising the characteristics of a blighted area; (2) PROHIBITS inclusion of non-blighted parcels into a project area to increase property tax revenue without substantial justification; (3) REQUIRES county officials to prepare a report to the Department of Finance with projections of tax revenue, and another report with projections of the number of residents and the need for schools (any costs incurred by county or school agencies in preparing such reports will be reimbursed by the redevelopment agency to county and school agencies); (4) REQUIRES that the redevelopment plan submitted by the redevelopment agency include additional information about specific and quantifiable evidence about physical and economic conditions indicating blight in the project area; (5) REQUIRES the redevelopment plan (currently submitted to the legislative body) to be also submitted to the Dept. of Finance and the Dept. of Housing and Community Development at least 45 days prior to the public hearing to assess the proposed plan's impact on the General Fund; (6) REQUIRES clearly articulated and documented evidence about the blight in a

	project area, and additional evidence that the redevelopment plan will improve the physical and economic conditions of blight before an ordinance adopting a redevelopment plan can be adopted by the local legislative body; (7) EXTENDS to all cities and counties the requirement to submit referendum petitions on ordinances subject to referendum adopting redevelopment plans which will have an impact on property taxes within 90 days of the adoption of the ordinance (this requirement is only currently on cities or counties with a population of 500,000); (8) LIMITS the use of tax increment funds from a redevelopment area for use in land acquisition, related site clearance and design costs of a city hall or county administration building (in addition to the construction or rehabilitation of such buildings); (9) REQUIRES the redevelopment agency to notify the Dept. of Finance and the Dept. of Housing and Community Development at least 45 days prior to a hearing to amend the redevelopment plan if making certain changes to the development plan; (10) REQUIRES substantial evidence of blight and improvement of blight by merging project area prior to merger of redevelopment project areas; and (11) AUTHORIZES the Attorney General's office to bring a civil action to challenge the establishment of a redevelopment agency or specified actions taken by a redevelopment agency, and requires the submission to the Attorney General's office when any party files challenges to a finding of blight in a project area. This law which amends California Health & Safety Code §§ 33030, 33031, 33320.1, 33328.7, 33352, 33367, 33378, 33445, 33485, 33486, 33500 and 33501, and adds California Health & Safety Code §§ 33328.1, 33360.5, 33451.5, 33501.1, 33501.2, 33501.3 and 33501.7 becomes effective on January 1, 2007.

SB 1210* Eminent Domain Restrictions	This new law limits the authority of local governments to take property by eminent domain without a hearing. A property owner or an occupant can challenge an eminent domain taking within thirty (30) days when the government seeks to take possession prior to a hearing. Local governments must offer to pay for an independent appraisal on the property. Also, public officials are further limited from self-dealing in eminent domain actions. Finally, local government agencies must make clear finding of blight in order to extend the period for eminent domain. Currently, the Community Redevelopment Law allows the establishment of redevelopment agencies in order to fight blight, and requires a redevelopment plan for each project area affected by blight. Under the redevelopment plan, the redevelopment agency can designate certain areas as redevelopment project areas and then to take property under the power of eminent domain. Other local governmental agencies can also take property under the power of eminent domain. The new law: (1) LIMITS the litigation expenses that a local government can recover to reasonable attorney fees and costs (which include reasonable expert witness and appraisal fees) when a local government acted reasonably and the property owner acted unreasonably when the local government makes such a motion; (2) LIMITS eminent domain powers to take possession of the property prior to judgment only when the owner cannot be found; (3) PROVIDES for an owner of property or an occupant to challenge eminent domain with a full judicial hearing even when the hardship is not substantial; (4) REQUIRES a public entity to offer to pay the reasonable costs (not to exceed $5,000) of an independent appraisal (by an appraiser licensed by the Office of Real Estate Appraisers) ordered by the owner of the property at the time that the public entity offers to

	purchase a property; (5) PROHIBITS a public officer from voting on any issue when the public officer has an interest in (or is on the governing board of) an entity which either has an interest in property subject to eminent domain or may receive the eminent domain property by transfer by the local government agency; and (6) REQUIRES the local redevelopment agency to make specific findings of blight and that the blight cannot be cured except by eminent domain in order to extend the period for commencing eminent domain actions (which initial time period is specified in the original redevelopment plan but not to exceed 12 years). This law which amends California Code of Civil Procedure §§ 1250.410, 1255.040, 1255.410, 1255.450 and 1255.460, adds CA Code of Civil Procedure § 1263.025, repeals CA Code of Civil Procedure §§ 1255.420 and 1255.430, adds California Government Code § 1091.6, and amends California Health & Safety Code §§ 33333.2 and 33333.4 becomes effective on January 1, 2007.
SB 1650* Eminent Domain Restrictions	This new law requires local governments to approve a resolution of authority by two-thirds (2/3) for changing the use of a property seized by eminent domain. Additionally, any property taken which is not used for the purposes stated in the resolution within ten years of the resolution must be sold. In certain cases, local government agencies would be required to leaseback the property to the original owner if the property will not be used within two years. Currently, public entities are required to adopt a resolution of necessity, and send related notices before commencing an action for eminent domain. The owner of the property is entitled to compensation, including compensation for goodwill if a business is at the location, when property is taken by eminent domain. Under the new law, the public entity is under stricter requirement when not using the property for the original purpose. The new law affects the following areas: (1) CHANGING THE USE OF THE TAKEN PROPERTY – The public entity must adopt a resolution by a minimum two-thirds majority whenever the public entity will use the taken property for any use other than that specified under the original resolution of necessity. (2) SELLING TAKEN PROPERTY NOT USED – If the property is not used for the specified purpose within ten (10) years of the original date of the resolution (unless readopted or amended [as in (1)], the public entity must sell the property, with a first right of refusal to the original owner. The original owner can buy back the property at the present market value, or at the sales price (adjusted for inflation) for single-family residences. Single-family residences bought back below the fair market value will be subject to restrictions. (3) LEASEBACKS WHEN NOT USING THE TAKEN PROPERTY – If the property will not being used for the purpose in the resolution within the next two (2) years, then the original owner shall be entitled to a leaseback of the property at market rents for renewable one-year terms. Certain provisions provide for the original owner not to waste the property, and for eviction. Calculations for compensation of the goodwill of a business of an owner shall not increase during the leaseback period. This law amends California Code of Civil Procedure § 1263.510 and adds California Code of Civil Procedure §§ 1245.245 and 1263.615 and applies only to property acquired after January 1, 2007.
SB 1809* Recordation of Redevelopment Plans	This new law requires additional information to be recorded in a statement with the county recorder whenever a local governmental agency adopts or amends a redevelopment plan. Additionally, a sixty (60) day time frame is imposed for the recorded statement, and eminent domain cannot be undertaken until the statement is

	recorded. Currently, when a legislative body adopts a redevelopment plan, that body must record a statement with the county recorder in which the project area lies. This statement must contain a description of the land within a redevelopment project area, and a statement that proceedings for the redevelopment of that area have been initiated. Any amendment to the redevelopment plan must be recorded as promptly as practical following its adoption. Under the new law, several changes are made. (1) TIMING – Any adoption or amendment to a redevelopment plan must be recorded within sixty (60) days; (2) CONTENTS OF RECORDED STATEMENT – If any adoption or amendment adds property to a project area, then the statement must additionally state: (a) in a boldface heading that the property is located in a redevelopment project; (b) a description of the provisions of the redevelopment plan which authorize eminent domain; (c) a general description of any limitations on the power of eminent domain. Furthermore, any redevelopment plan which authorizes eminent domain adopted prior to January 1, 2007 would be required to record an amended statement which contains the new information by December 31, 2007. This law amends California Health & Safety Code §§ 33373 and 33456. (Technically § 33456 was repealed and then a new version of § 33456 was added.) This new law becomes effective on January 1, 2007.
SB 983* Lot Line Adjustments - Notice to Tenants for Condo Conversion	This law makes two modifications to the Subdivision Map Act. Under the first, an additional condition (conformity to any specific land use plan) is required when certain lot line adjustments for four or fewer adjoining parcels are exempt from the Subdivision Map Act. The second change increases the amount that a developer is responsible to tenants when a sixty-day notice is not provided for a subdivision (usually a condo conversion). LOT LINE ADJUSTMENTS Under current law, certain lot line adjustments for four or fewer adjoining parcels are exempt from the Subdivision Map Act. A number of conditions apply: (1) no additional parcels are created; (2) the new parcels will conform to the local general plan; (3) the new parcels will conform to any applicable coastal plan; and (4) the new parcels will conform to zoning and building ordinances. Under the new law, the new parcels must also conform to any applicable specific plan. NOTICE TO TENANTS IN SUBDIVISIONS Under current law, a subdivider must provide at least sixty days notice on a specified form to any current tenant or any new prospective tenant prior to filing a tentative subdivision map for the property. A tenant not purchasing in the subdivision is

	entitled to damages for moving expenses not to exceed $500 and for the first month's rent not to exceed $500 for any failure to provide such a notice. Under the new law, the amount of damages for each expense is increased to $1,100. This law amends California Government Code §§ 66412, 66452.8 and 66452.9 and becomes effective on January 1, 2007.

Tax Issues

SB 1607* Property Tax Reassessment Exemptions	This new law clarifies certain exemptions from property tax reassessments. Most importantly, it clarifies that the exemption for transfers between grandparents and their grandchildren will be liberally construed. This law also clarifies the "welfare exemption" and the "veterans' organization exemption" and makes a minor change for applications for the exemption for property owned by local governments. Currently, the law has an exclusion from reassessment for transfers between a parent and a child (Proposition 58), and also between a grandparent and a grandchild (Proposition 193). The former was previously given a liberal interpretation, and this law gives the same liberal interpretation to the latter (i.e. transfers between a grandparent (GP) and a grandchild). Specifically, the following transactions, among others, have been deemed to be exempt: (1) a transfer from a legal entity wholly owned by the transferor to himself, and then to the transferee (e.g. a transfer from GP's corporation to GP to GP's grandchild); (2) a transfer from a transferor to the transferee, and then to the transferee's legal entity wholly owned by the transferee. A legal entity for the above purposes includes corporations, partnerships, trusts, and other legal entities. This new law which amends California Revenue and Taxation Code §§ 214, 214.8, 254.4, 254.6 and 1840 becomes effective on January 1, 2007.
AB 2962* California Withholding Tax Alternative Upon Transfer	This new law provides an alternative to the current California withholding tax requirement upon transfer of real property of paying three and one-third percent of the sales price on real estate for non-exempt transactions. Under this law, if withholding is required, the seller can opt to pay the top-tier (under corporate or individual state tax laws) on any recognized gain on the sale of the real property. Currently, the law requires the payment of three and one-third percent (3 1/3%) as withholding on the transfers of real estate on properties which do not qualify for an exemption. Some of the more common exemptions, among others provided in the statute, are: (1) sale of a PRINCIPAL RESIDENCE; (2) sale as part of a 1031 EXCHANGE; (3) LOSS on the sale of property; (4) sales price of $100,000 OR LESS; (5) a CORPORATION with a permanent place of business in CALIFORNIA. Under the new law, if the transferor is not exempt from withholding at the time of the sale/transfer, the transferor can opt to withhold the maximum tax rate (under either individual tax rates or corporation tax rates) on the actual gain on the transferred property instead of the three and one-third percent. Such withholding would be done under penalty of perjury which would be subject to the penalty of the greater of (i) $500 or (ii) 10% of amount required to be withheld, in addition to the withholding plus any interest, fees and other penalties. This law amends California Revenue & Taxation Code §§ 18662 and 18668 and goes into effect on January 1, 2007.

Time Shares

AB 3020* Time Shares	This new law increases the disclosures required on the sale or lease of time-share interests, as well as providing other safeguards in the sale or lease of these interests. Specifically, the new provisions require more stringent certifications on proposed time-share budgets including the right of the Real Estate Commission to review such budgets, and specify certain reserve requirements related to unsold inventory by the developer, and allow an association greater powers to collect delinquent assessments in a time-share facility. Currently, the law requires time-share developers and exchange companies to disclose certain information to purchasers and prospective purchasers of time-share plans and exchange programs. Specified time-share plans offered for sale in California, or created and existing in California must also pay certain fees, register, and provide certain notices and disclosures for all oral and written communication. These time-share plans require a public report by the Real Estate Commissioner. Under the new law, anyone offering to sell or lease must make certain information available prior to signing any contract, and must provide a copy of that information prior to any transfer of interest. This information includes: (1) the CCRs for the time-share plan; (2) the articles of incorporation (or association) of the time-share association (TSA); (3) bylaws of the TSA; (4) other rights and responsibility for owners; and (5) the current budget and financial statement for the time-share plan. This law also specifies: (1) when regular and special assessments become delinquent; (2) the costs that may be charged when delinquent; and (3) how notices are to be provided for increases in regular and special assessments. Furthermore, this law would require that the developer certify the budget in a specified manner to the Real Estate Commissioner in order to comply with the law, and that certification of these budgets would be limited to certain qualified persons. Finally, this bill also tighten procedures for the developer to provide assurances (written contracts that obligate the developer to pay shortfalls for operating expenses when inventory remains unsold) for the time-share development. This law amends California Business & Professions Code §§ 11211.5, 11226, 11238, 11240, 11241, 11242, 11267 and 11275, and adds California Business & Professions Code §§ 11216.1, 11242.1 and 11265.1. Most of the provisions of this new law become effective on January 1, 2007, but the provisions relating to delinquent regular and special assessments of a time share became effective immediately on September 22, 2006.

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