

reference how the costs of the dispute resolution are to be shared, unless it is found that the association has recorded a lien in error. If there is an error, the association must pay all the costs of the dispute resolution, as well as reverse all late charges, fees, interest, attorneys' fees, collection costs and other costs. Existing law says, "meet and confer" costs cannot be charged to an owner, but ADR costs can be "...borne by the parties."

Also, owners will now have the right to provide you with a secondary address to send information to. If you receive such a secondary address, you must send additional copies of everything to this second address.

As an alternative, the new law allows associations to file small claims actions to collect delinquent assessments, and allows other parties, like the association manager, to represent the association at the hearing. However, you can only sue for up to \$5,000 each time, and you can't file more than two claims in any calendar year in excess of \$2,500. Also, if you file more than twelve claims in any twelve-month period, the filing fee goes up.

2. Election Procedures – SB 61

Beginning on July 1, 2006, associations are required to adopt new rules for elections. The new rules adopted by the association must cover the following areas, and must be sent to owners for review and comment 30 days before they are adopted:

- Associations must have a rule that ensures that if any candidate or member advocating a point of view is provided access to any Association media, newsletters, or Internet Web sites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view. This includes those not endorsed by the board, for purposes that are reasonably related to the election. You cannot edit or delete any content from these communications, but you can include a statement specifying that the candidate or member, and not the Association, is responsible for that content.
- Associations are required to have a rule ensuring equal access to any common area meeting space, if any exists, during a campaign, at no cost, to all candidates. This includes those who are not incumbents, and all members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election.
- Associations are required to have a rule specifying the qualifications for candidates for the board and any other elected position, and procedures for the nomination of candidates. The new rule must allow any member of the association to nominate himself or herself for election to the Board.
- Associations are required to have new rules regarding voting, including the qualifications for voting, the voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections,



including the times at which polls will open and close.

- Associations are required to have new rules specifying a method of selecting independent third parties as inspector or inspectors of election utilizing either (a) appointment of the inspector or inspectors by the Board, (b) election of the inspector

or inspectors by the members of the association, or (c) some other method for selecting the inspector or inspectors. Note that unless your rules specifically allow the association manager or an agent to be an inspector, he or she may not be one.

- Speaking of inspectors of election, a new Civil Code 1363(c) requires associations to select one or three independent third party inspectors of election. These inspectors can be volunteer poll workers with your County registrar of voters, a CPA, a notary public, or a member of the community who is not a director or candidate or related to a director or candidate.

The inspectors are required to act in good faith as quickly as practical, to the best of their abilities, and must be impartial, doing each of the following:

- Determine the number of memberships entitled to vote and the voting power of each.
- Determine the authenticity, validity, and effect of proxies, if any.
- Receive ballots. The sealed ballots at all times must be in the custody of the inspector or inspectors of election or at a location designated by the inspector or inspectors until after the tabulation of the vote, at which time custody will be transferred to the association. No person, including a member of the association or an employee of the management company, may open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated.
- Hear and determine all challenges and questions arising out of the right to vote.
- Count and tabulate all votes in public at a properly noticed open meeting of the board or members. Any candidate or other member of the association may witness the counting and tabulation of the votes.
- Determine when the polls shall close.
- Determine the result of the election. The results of the election must be promptly reported to the board, must be recorded in the minutes of the next meeting of the board and must be available for review by members of the association.

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