

Assembly Bill No. 2430

CHAPTER 185

An act to amend Sections 4528 and 4530 of the Civil Code, relating to common interest developments.

[Approved by Governor July 23, 2014. Filed with Secretary of State July 23, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2430, Maienschein. Transfer disclosures.

The Davis-Stirling Common Interest Development Act requires an association, upon written request, to provide the owner of a separate interest, or a recipient authorized by the owner, with a copy of specific documents relating to transfer disclosures that the owner is required to make to a prospective purchaser of the owner's separate interest. That act authorizes the association to collect a reasonable cost for delivery of those documents but prohibits any additional fees for electronic delivery.

This bill would require the cost for providing the required documents to be separately stated and billed from other charges that are part of the transfer or sales transaction. This bill would authorize an association to collect a reasonable fee from a seller for its actual costs in providing documents under these provisions and would require a seller to be responsible for compensating an association, person, or entity for providing documents under these provisions. This bill would also require a seller to provide a prospective purchaser with certain current documents that the seller possesses free of charge. This bill would prohibit a seller from giving a prospective purchaser the required documents bundled with other documents. This bill would make conforming changes to a codified form.

The people of the State of California do enact as follows:

SECTION 1. Section 4528 of the Civil Code is amended to read:

4528. The form for billing disclosures required by Section 4530 shall be in at least 10-point type and substantially the following form:

CHARGES FOR DOCUMENTS PROVIDED AS REQUIRED BY SECTION 4525*

Property Address

Owner of Property

Owner’s Mailing Address (If known or different from property address.)

Provider of the Section 4525 Items:

Print Name _____ Position or Title _____ Association or Agent

Date Form Completed

Check or Complete Applicable Column or Columns Below

Document	Civil Code Section Included	Fee for Document	Not Available (N/A), Not Applicable (N/App), or Directly Provided by Seller and confirmed in writing by Seller as a current document (DP)
Articles of Incorporation or statement that not incorporated	Section 4525(a)(1)		
CC&Rs	Section 4525(a)(1)		
Bylaws	Section 4525(a)(1)		
Operating Rules	Section 4525(a)(1)		
Age restrictions, if any	Section 4525(a)(2)		
Rental restrictions, if any	Section 4525(a)(9)		
Annual budget report or summary, including reserve study	Sections 5300 and 4525(a)(3)		
Assessment and reserve funding disclosure summary	Sections 5300 and 4525(a)(4)		

Financial statement review	Sections 5305 and 4525(a)(3)
Assessment enforcement policy	Sections 5310 and 4525(a)(4)
Insurance summary	Sections 5300 and 4525(a)(3)
Regular assessment	Section 4525(a)(4)
Special assessment	Section 4525(a)(4)
Emergency assessment	Section 4525(a)(4)
Other unpaid obligations of seller	Sections 5675 and 4525(a)(4)
Approved changes to assessments	Sections 5300 and 4525(a)(4), (8)
Settlement notice regarding common area defects	Sections 4525(a)(6), (7), and 6100
Preliminary list of defects	Sections 4525(a)(6), 6000, and 6100
Notice(s) of violation	Sections 5855 and 4525(a)(5)
Required statement of fees	Section 4525
Minutes of regular board meetings conducted over the previous 12 months, if requested	Section 4525(a)(10)

Total fees for these documents:

* The information provided by this form may not include all fees that may be imposed before the close of escrow. Additional fees that are not related to the requirements of Section 4525 shall be charged separately.

SEC. 2. Section 4530 of the Civil Code is amended to read:

4530. (a) (1) Upon written request, the association shall, within 10 days of the mailing or delivery of the request, provide the owner of a separate interest, or any other recipient authorized by the owner, with a copy of all of the requested documents specified in Section 4525.

(2) The documents required to be made available pursuant to this section may be maintained in electronic form, and may be posted on the association's Internet Web site. Requesting parties shall have the option of receiving the documents by electronic transmission if the association maintains the documents in electronic form.

(3) Delivery of the documents required by this section shall not be withheld for any reason nor subject to any condition except the payment of the fee authorized pursuant to subdivision (b).

(b) (1) The association may collect a reasonable fee from the seller based upon the association's actual cost for the procurement, preparation, reproduction, and delivery of the documents requested pursuant to this section. An additional fee shall not be charged for the electronic delivery in lieu of a hard copy delivery of the documents requested.

(2) Upon receipt of a written request, the association shall provide, on the form described in Section 4528, a written or electronic estimate of the fees that will be assessed for providing the requested documents prior to processing the request in paragraph (1) of subdivision (a).

(3) (A) A cancellation fee for documents specified in subdivision (a) shall not be collected if either of the following applies:

(i) The request was canceled in writing by the same party that placed the order and work had not yet been performed on the order.

(ii) The request was canceled in writing and any work that had been performed on the order was compensated.

(B) The association shall refund all fees collected pursuant to paragraph (1) if the request was canceled in writing and work had not yet been performed on the order.

(C) If the request was canceled in writing, the association shall refund the share of fees collected pursuant to paragraph (1) that represents the portion of the work not performed on the order.

(4) Fees for any documents required by this section shall be distinguished from, separately stated, and separately billed from, all other fees, fines, or assessments billed as part of the transfer or sales transaction.

(5) Any documents not expressly required by Section 4525 to be provided to a prospective purchaser by the seller shall not be included in the document disclosure required by this section. Bundling of documents required to be provided pursuant to this section with other documents relating to the transaction is prohibited.

(6) A seller shall provide to the prospective purchaser, at no cost, current copies of any documents specified by Section 4525 that are in the possession of the seller.

(7) The fee for each document provided to the seller for the purpose of transmission to the prospective purchaser shall be individually itemized in

the statement required to be provided by the seller to the prospective purchaser.

(8) It is the responsibility of the seller to compensate the association, person, or entity that provides the documents required to be provided by Section 4525 to the prospective purchaser.

(c) An association may contract with any person or entity to facilitate compliance with this section on behalf of the association.

(d) The association shall also provide a recipient authorized by the owner of a separate interest with a copy of the completed form specified in Section 4528 at the time the required documents are delivered.