



LEGISLATIVE UPDATE



Today's Presenters

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Robert M. DeNichilo, Esq., CCAL

Robert M. DeNichilo is the founder of DeNichilo Law, ACP. Robert represents community associations across the state of California.

Robert is an active member of the Community Associations Institute (CAI) and has been awarded Author of the Year on multiple occasions for his articles on community association issues.

He has served as the CAI Orange County Regional Chapter's delegate and liaison to CAI's Legislative Action Committee (CLAC) for over a decade and currently serves as its legislative co-chair. He regularly meets with state and federal legislators to discuss issues related to community associations.

Robert served on the Orange County CAI Chapter's Board of Directors and was the 2022 Chapter President. Additionally, Robert is a Fellow of CAI's College of Community Association Lawyers (CCAL). CCAL Fellows are recognized for committing themselves to high standards of professional and ethical conduct.

Robert also regularly speaks at educational and training events for industry organizations, property management companies, and board members.



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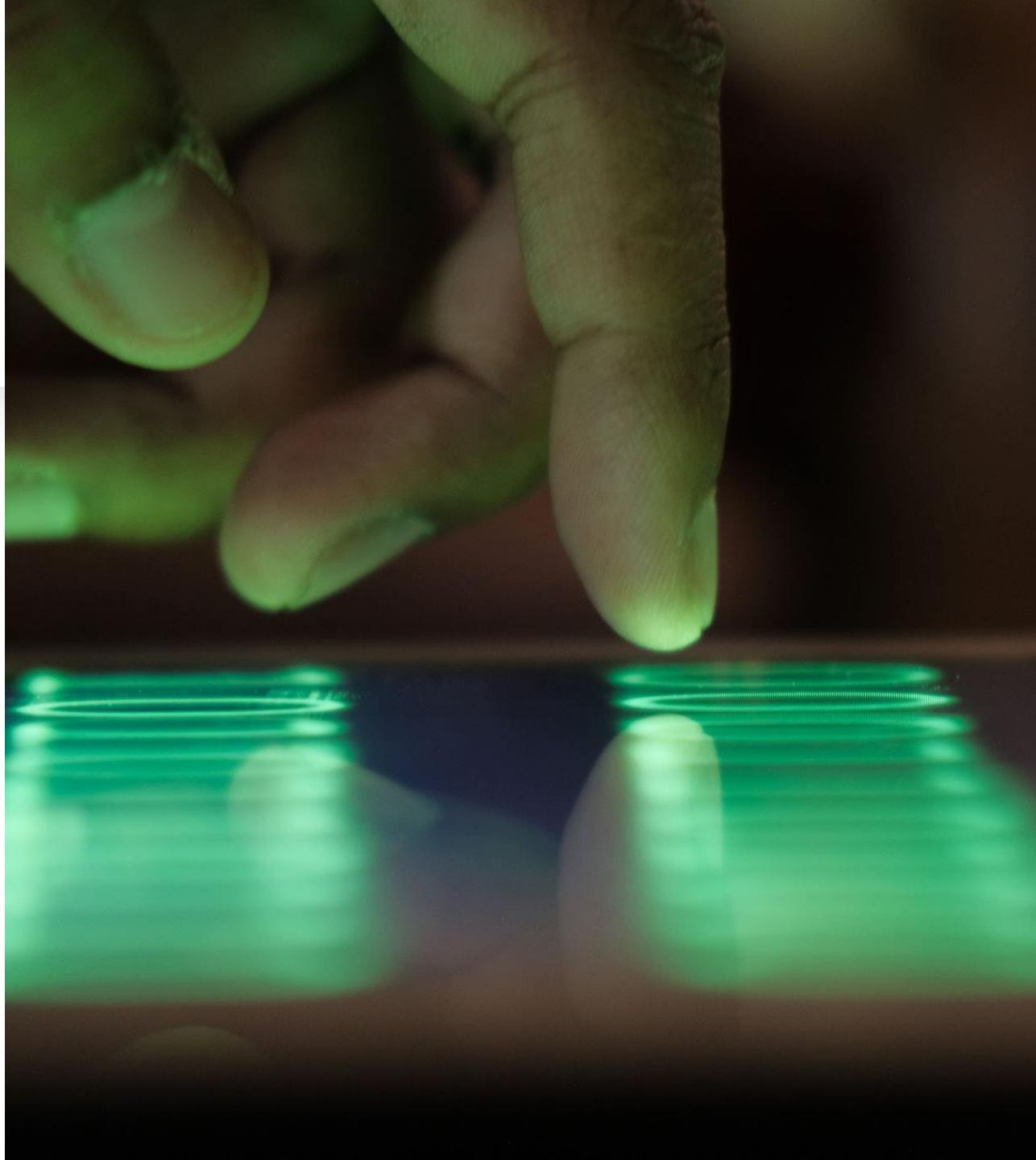
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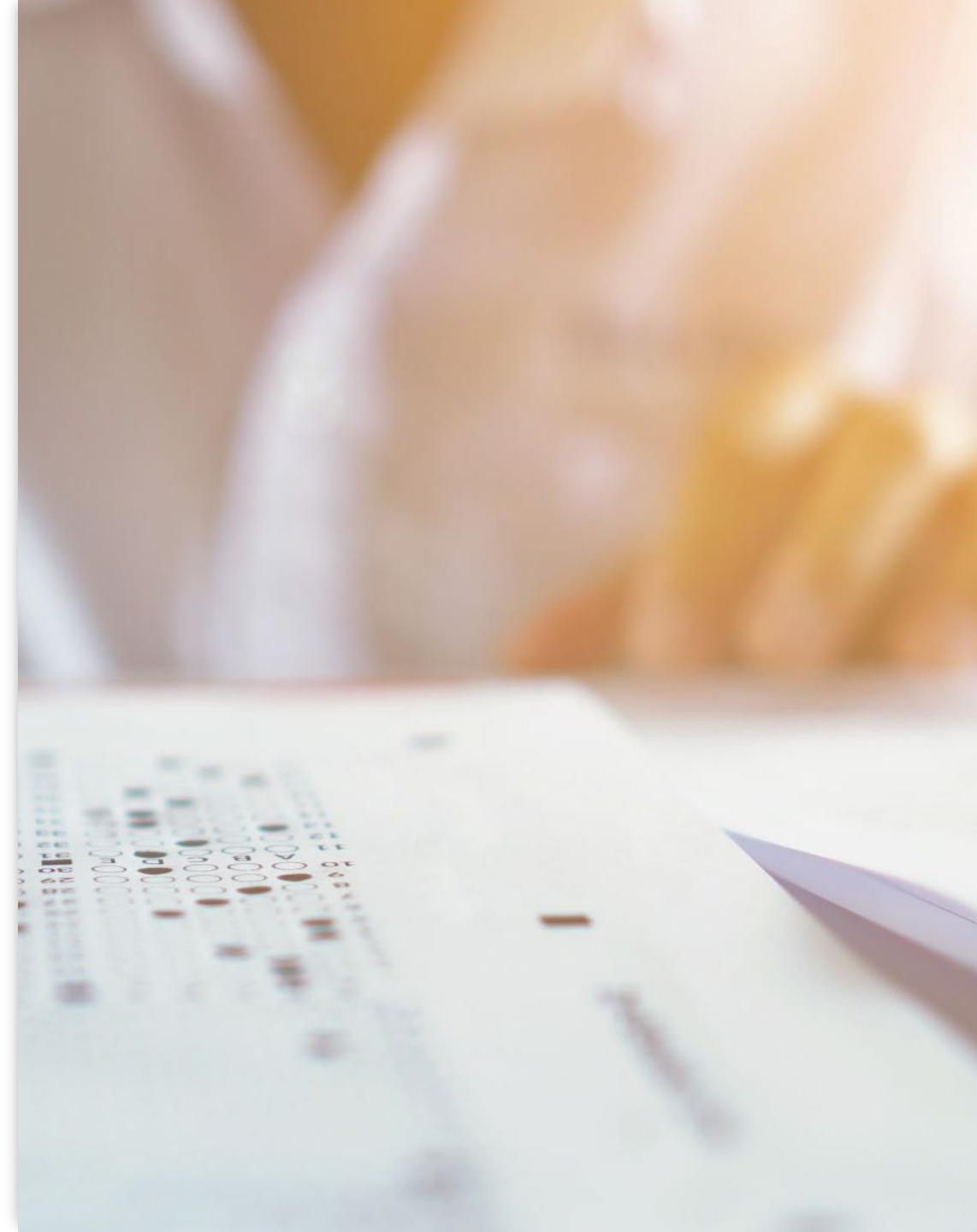
Electronic Voting is here!

- **AB 2159 & AB 2460**
- CLAC Sponsored Bills
- Applies regardless of other requirements in Governing Documents
- Allows for electronic voting in association elections



Electronic Voting

- Does not apply to elections relating to regular or special assessments
- Allows associations to decide if members will opt in or opt out of electronic secret balloting
- **Requires changes to:**
 - **Election Rules**
 - **Annual Policy Statement**
 - **Voting List**



Electronic Voting

ELECTIONS TO AMEND GOVERNING DOCUMENTS

- May be conducted by electronic secret ballot
- Amendment may be sent to the members via electronic means
- Must still mail out the amendment if:
 - If a member requests, it must be sent without charge
 - If a member votes by written secret ballot, text of the amendment must be mailed with the ballot



Electronic Voting

Still need a meeting to tally the votes and announce results

Can be at a meeting of the members or open session board meeting

Must provide a physical location for members to observe the tally

Balcony Bill – Additional Inspectors

AB 2114

CLAC Sponsored bill

Reminder: SB 326 required visual inspection at least every 9 years, of the exterior elevated elements for which the association has maintenance or repair responsibility.

Deadline for inspection was 12/31/2024

Balcony Bill – Additional Inspectors

Original law limited who could conduct the inspection to licensed structural engineer or architect

Under new law licensed civil engineers now also authorized to conduct the inspections

Urgency legislation - Effective as of July 15, 2024



MYTH

Deadline for Inspection WAS NOT Extended

- AB 2579
 - Applies to apartment communities, NOT HOAs.
 - Amends the health and safety code, not Civil Code Section 5551
- The only extension of the deadline is the one that is already in the law and which only applies to “buildings for which a building permit application has been submitted on or after January 1, 2020”
 - As to those buildings, the inspection must be completed “no later than six years following the issuance of a certificate of occupancy.” (Civil Code sec. 5551(k))

Member Election – Quorum Reduction

AB 2460

CLAC Sponsored Bill

Clean up bill to AB 1458 (Quorum reduction bill in 2023)

- Confusion as to who could reconvene a meeting
- Confusion about what applied if association's documents already had a reduced quorum that was over 20%

Repair and Maintenance

SB 900

CLAC Opposed unless amended

Original bill required repairs to interruption of service of gas, heat, water or electric lines within 30 days

Bill was amended significantly

A photograph of various construction and safety equipment items arranged on a dark wooden surface. From top left to bottom right, the items include: a pair of yellow leather work gloves; a white blueprint or technical drawing; a black respirator mask with a white filter cartridge; a pair of black headphones; and several white and grey tape measures of different lengths.

SB 900 - Repair and Maintenance

- Does not apply if in area of declared state of emergency
- Adds gas, water and electrical service to the definition of “major components” that are included in reserve study
- Adds health, safety **or other hazardous condition or circumstance** to emergency special assessment not subject to 5% cap

SB 900 - Repair and Maintenance

- Unless Declaration states otherwise:
- Requires association to **“commence the process” of repairs necessary to restore gas, heat, water or electrical services within 14 days of interruption of service**
- Some confusion as to whether the “interruption of service” must begin in the common area or if the utility lines must begin in the common area
 - Significant difference and shift of responsibility
- Allows association to obtain a loan and levy a special assessment to pay for the loan if reserves are insufficient to pay for repairs without member vote

SB 900 - Repair and Maintenance

- If no board meeting within 14 days
 - At next board meeting for the Board to vote on the repairs the total number of directors present equals quorum for the vote
 - Allows for board vote by electronic means, including email
 - Electronic vote shall become association record and subject to inspection and retention

SB 428 – Workplace Restraining Orders

- Enacted in 2023, but took effect on 1/1/2025
- Expands grounds for workplace related restraining orders to include harassment



What will the 2025 Legislative Session bring?

SB 625 (Wahab) – Housing Developments: disasters: reconstruction of destroyed or damaged structures.

This bill would make any rule or document unenforceable if it blocks the rebuilding of a similar home after a declared disaster. It also creates an expedited architectural review process for rebuilding after a declared disaster.

Status: Passed the Senate, awaiting referral in the Senate



What will the 2025 Legislative Session bring?

SB 770 (Allen) – EV Charging Stations

This proposed legislation would delete the requirement for a homeowner that installs an EV charger in the association's common area to obtain a certificate of insurance that names the association as an additional insured.

Status: Passed the Senate, awaiting referral in the Assembly



What will the 2025 Legislative Session bring?

SB 410. Disclosures To Prospective Purchasers: Exterior Elevated Elements Inspection.

- Require that the most recent balcony bill report be provided to prospective purchasers.



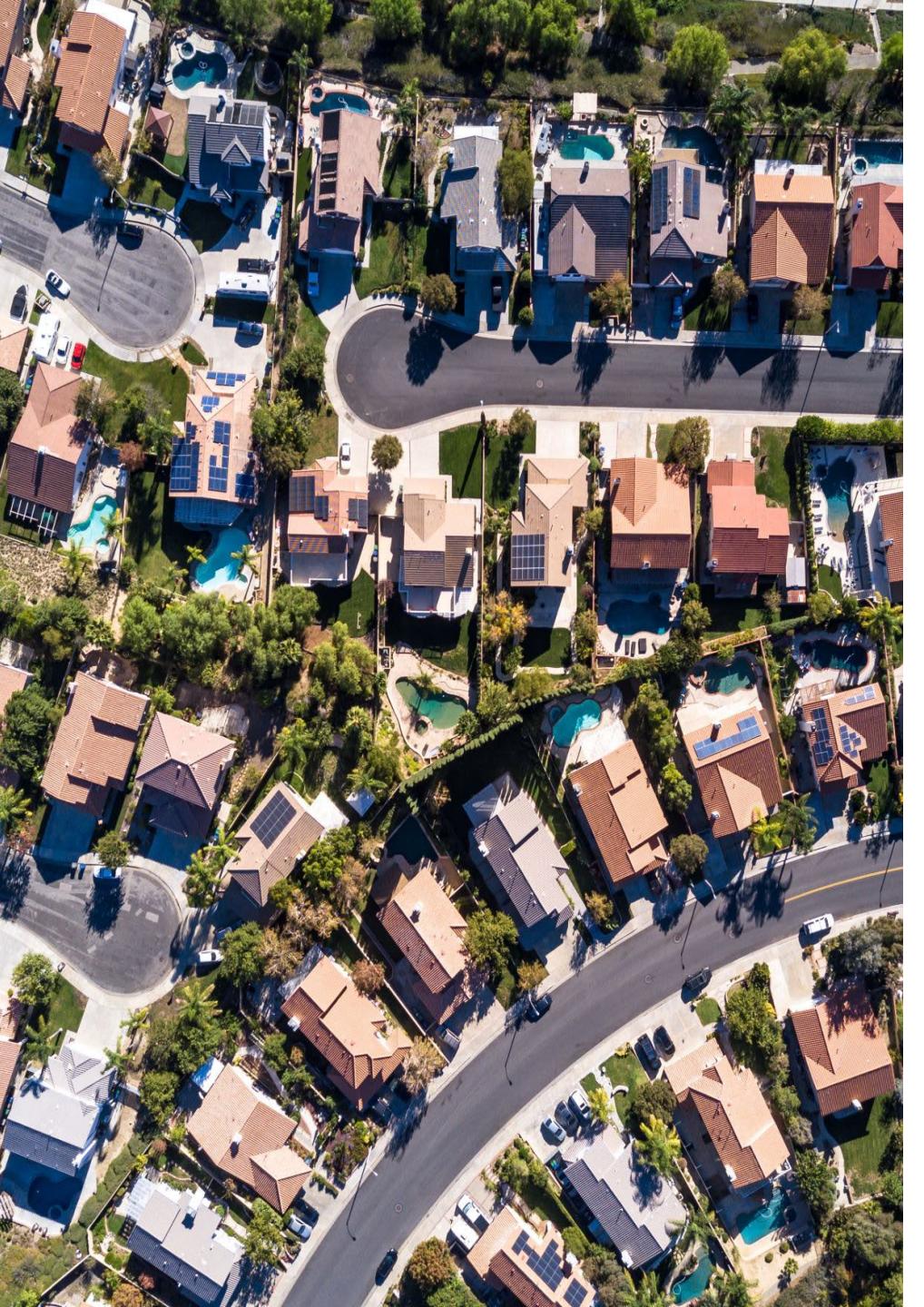
What will the 2025 Legislative Session bring?

SB 681 (Wahab) – Housing: HOA Fine Caps

This bill, among other things, creates a one size fits all approach that would place an arbitrary cap on the fines issued by HOAs at \$100 per violation.

Status: Passed the Senate, awaiting referral in the Assembly





CASE LAW

Doskocz v. ALS Lien Services

- Homeowner filed a class action lawsuit against ALS Lien Services
 - Hired by her association to collect delinquent assessments.
- Claimed that ALS violated the Fair Debt Collection Practices Act and California's unfair competition law by requiring waiver of Civil Code sec. 5655(a)
 - Sec. 5655(a) mandates that payments must first be applied to outstanding assessments before any other charges (i.e., collection costs)
- Courts reasoned that the primary purpose of sec. 5655(a) is to protect homeowners from foreclosure by ensuring that payments are allocated to reduce their delinquent assessments promptly
- Waiver of this statutory protection would undermine the legislative intent and public interest served by the provision, rendering such waivers void as against public policy.

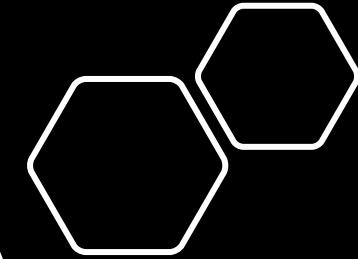
NEWS

Jury awards \$9 million to disabled tenant who was denied parking at luxury condos



by John Donegan

Jul 24, 2024



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