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FISCAL IMPACT REPORT

ORIGINAL DATE 02/14/13
 LAST UPDATED 03/15/13

SPONSOR SJC HB _____

SHORT TITLE Homeowner Association Act SB CS/497/aHJC

ANALYST Weber/Chabot

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal					

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of HJC Amendment

The House Judiciary amendment to the Senate Judiciary Committee substitute for Senate Bill 497 adds “lot owners, as provided for in the community documents” to Section 7 concerning board members and officers. It deletes “duly elected representatives” at the end of subsection 7B to allow for the inclusion of lot owners.

Synopsis of Original Bill

The Senate Judiciary Committee substitute for Senate Bill 497 creates the Homeowner Association Act.

SECTION 1 names the act as the "Homeowner Association Act".

SECTION 2 defines the important terms used in the act.

SECTION 3 allows for the creation of a homeowners association.

SECTION 4 establishes recording or filing of homeowner associations requirements. If established after July 1, 2013 the association must be record within 30 days of after the declaration is recorded.

SECTION 5 provides for record disclosure of the association to its members. All financial and other records of the association shall be made available for examination by a lot owner within ten business days of the request. The association shall not charge a fee for making financial and other records available for review but may charge a reasonable fee for copies. The "financial and other records" includes: (1) the declaration of the association; (2) the name, address and telephone number of the association's designated agent; (3) the bylaws of the association; (4) the names of all association members; (5) minutes of all meetings of the association's lot owners and board, other than executive sessions, and records of all actions taken by a committee in place of the board or on behalf of the association; (6) the operating budget for the current fiscal year; (7) current assessments, including both regular and special assessments; (8) financial statements and accounts, including amounts held in reserve; (9) the most recent financial audit or review, if any; (10) all current contracts entered into by the association or the board on behalf of the association; and (11) current insurance policies, including company names, policy limits, deductibles, additional named insureds and expiration dates for property, general liability and association director and officer professional liability, and fidelity policies.

SECTION 6 provides for the associations duties including: 1) exercising its declared power, 2) the association has a lien on a property with unpaid assessments after the assessment becomes payable.

SECTION 7 outlines the duties and responsibilities of board members and officers as well as budget notification requirements.

SECTION 8 provides for and outlines limitations for the declarant to control the board. Regardless of the period provided in the declaration, the period of declarant control shall be terminated no later than the earlier of: (1) sixty days after conveyance of seventy-five percent of the parcels that may be created to parcel owners other than a declarant; (2) two years after all declarants have ceased to offer parcels for sale in the ordinary course of business; (3) two years after any development right to add new parcels was last exercised; or (4) the day the declarant or the declarant's designee, after giving written notice to parcel owners, records an instrument voluntarily surrendering all rights to control activities of the association.

The above material for Section 6 does not apply to a master planned community defined in Section 2.

The section then goes on to describe other scenarios and how the authority to elect or appoint board members transitions from the declarant to the parcel owners.

SECTION 9 provides for proxy and absentee voting and ballot counting.

SECTION 10 requires the association of over 100 lots to conduct an annual financial audit to be completed within 180 of the end of the fiscal year. The audit or review shall be made available to lot owners within thirty days of its completion. Associations under 100 lots can a majority of lot holders can have the board conduct an audit but as a common expense.

SECTIONS 11, 12 and 13 define lot seller and purchaser responsibilities related to the homeowner association including the ability to cancel a sale based on the association's status.

SECTION 13 describes the applicability of the bill.—(A.) The Homeowner Association Act shall

apply, in its entirety, to all homeowner associations created within this state after July 1, 2013. (B) Sections 8 and 10 through 13 of the Homeowner Association Act shall apply to associations created before July 1, 2013 only with respect to events and circumstances occurring after July 1, 2013. The Homeowner Association Act does not invalidate existing provisions of the articles of incorporation, declaration, bylaws or rules of an association created before July 1, 2013. (C) The Homeowner Association Act shall not apply to a condominium governed by the Condominium Act.

SECTION 14 allows outlines attorney's fees and costs in the event of a dispute.

SECTION 15 is applicability.

- A. The Homeowner Association Act applies to all associations.
- B. Sections 9 and 10 through 14 of the Homeowner Association Act apply to associations created before July 1, 2013 only with respect to events and circumstances occurring after July 1, 2013. Except for Sections 4 and 8 The Homeowner Association Act does not invalidate existing provisions of the articles of incorporation, declaration, bylaws or rules of an association created before July 1, 2013.
- C. The Homeowner Association Act does not apply to a condominium governed by the Condominium Act.

SECTION 15 EFFECTIVE DATE.--The effective date of the provisions of the act is July 1, 2013.

FISCAL IMPLICATIONS

No fiscal implications identified.

MW/svb