

2025 Law update: (Don't be) Breaking the Law!

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- **ELECTRONIC VOTING (AB 2159)**
- **REDUCED QUORUM FOR DIRECTOR ELECTIONS (AB 2460)**
- **EMERGENCY UTILITY REPAIRS IN COMMON AREA (SB 900)**
- **WORKPLACE VIOLENCE/CIVIL HARASSMENT RESTRAINING ORDERS (SB 428)**
- **BALCONY BILL UPDATE (AB 2114)**
- **CORPORATE TRANSPARANCE ACT – COMPLIANCE UPDATE**

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Electronic Voting (AB 2159)

- Will allow associations to adopt election rules, which permit use of electronic voting in member elections using secret ballots
 - **EXCEPTION:** regular or special assessment increases requiring member approval under Civil Code section 5605(b) NOT INCLUDED
- Boards will need to adopt new election rules to allow electronic voting
- New election rules must allow members to choose between paper or electronic ballots and allow members to **opt-out** of electronic ballots
- Members who do not provide email as required, vote by paper ballot
- Association must maintain voter list designating whether member is vote by paper or electronic ballots
- Association must give notice of these options prior to election
- May send amendments to governing documents electronically to members voting by electronic ballot, unless member requests paper or member votes by written ballot

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Electronic Voting (AB 2159)

Process must protect ballot integrity and secrecy.

- Provide each member voting by electronic secret ballot with:
 - Method to **authenticate** member's identity to internet-based voting system
 - Method to **transmit** an electronic secret ballot to the internet-based voting system that ensures secrecy and integrity of each ballot
 - Method to **confirm**, at least 30 days before voting deadline, that the member's electronic device can successfully communicate with internet-based voting system

Inspectors of Elections' Duties

- Must ensure that any internet-based voting system they utilize can accomplish the following:
 - **Authenticate** member's **identity**
 - **Authenticate** validity of each electronic secret **ballot** (ensure its not altered in transit)
 - Transmit a **receipt** to each member who casts an electronic secret ballot vote
 - Permanently **separate** any authenticating/identifying info from the electronic secret ballot, making it impossible to connect an electronic ballot to a specific member
 - **Store/keep** electronic secret ballots accessible to elections officials or their authorized representatives for recount, inspection and review purposes

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Electronic Voting (AB 2159)

- **Important Deadlines**

- **120 days** before election: If board chooses opt-out, extra notice required to be sent by individual notice at least 30 days before deadline to opt-out
 - Member's current voting method
 - If electronic, the email address that will be used for voting electronically
 - Explanation that member is required to opt-out of voting by electronic secret ballot & how to opt-out
 - Provide deadline by which they must opt-out of electronic voting (no later than 90 days before election)
- **90 days** before election: members who wish to vote electronically, must opt-in/opt-out by the association's deadline to notify of preferred voting method (member can change from one to another no later than 90 days before election)

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- **Important Deadlines (Continued)**

- 30 days before the election: electronic-individual notice of the electronic secret ballot must be sent to each member, containing:
 - **How to access** to the internet-based voting system
 - How to **vote** by electronic secret ballot
 - **Date & time** by which ballot **must be transmitted** to internet-based voting system
- Electronic secret ballot may be accompanied by or contained in electronic- individual secret notice
- Confirm that their **electronic device** can successfully communicate with the internet-based voting system at least 30 days before the voting deadline
- Device can be address, location or system designated by the member

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RECOMMENDATIONS:

- **(1) Adopt new election rules to allow electronic voting**
 - Must offer members to either opt-in or opt-out
 - Opt-out – Association needs to mail written ballots to: (1) members who have opted out; or (2) those members for whom they do not have a valid email address
 - Opt-in – Association must send electronic ballots only to those who have opted-in
 - Valid email address required for someone to vote electronically
 - Electronic ballot & written ballot must contain the same ballot measures
 - Nominations from the floor prohibited for electronic director elections

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RECOMMENDATIONS:

- **(2) Change to Annual Policy Statement**

- Add to the policy statement, information on procedures to either opt-in or opt-out into voting by secret ballot

- **(3) Change to Voting List**

- Must reflect each member's voting method – electronic or written

- **(4) Change to Pre-Ballot Notice**

- If electronic voting is allowed, notice needs to include the date and time the electronic ballots are to be transmitted and preliminary instructions on how to vote electronically

IF YOU DO THESE THINGS, YOU WILL NOT BE [CUE MUSIC] “BREAKING THE LAW”

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Quorum for Director Elections (AB 2460)

- If association's governing docs require a quorum for a director election, then general notice of election shall state that if the quorum is not met, the Board may call a reconvened meeting not less than 20 days later at which time the quorum is reduced to 20% of members voting in person, by proxy, or by secret ballot
- If documents contain a requirement lower than 20% the lower requirement controls
- EFFECT/TAKEAWAY
 - Clarifies the association may call for a **reconvened** meeting if required quorum is not obtained and reduces the percentage to meet quorum
- IF YOUR DOCS REQUIRE A QUORUM AND IT IS NOT MET, YOU CAN RECONVENE AT LEAST 20 DAYS LATER AND ELECT DIRECTORS WITH 20% QUORUM
- AND YOU ARE NOT [CUE MUSIC] "BREAKING THE LAW"

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Emergency Utility Repairs in Common Area (SB 900)

- Requires associations to **commence the process** to repair and restore gas, heat, water, or electrical services, ***within 14 days of the interruption of services***
- Allows a **loan** and **emergency assessment** to repay if there are insufficient reserve funds to cover the costs of repairs, both ***without requiring a vote of the members***
- Requires the ***board to pass a resolution containing written findings*** regarding the nature of the association's expenses and how the association's reserves do not cover the necessary costs, which is then ***distributed to the members*** with the notice of the emergency assessment
- Includes ***exception*** for associations in a location where a ***state of disaster or emergency*** is declared such as wildfire or flood
- Requires association to ***add utilities to reserve study*** as a major component
- DO ALL OF ABOVE AND YOU ARE NOT [CUE MUSIC] "BREAKING THE LAW"

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Violence/ Civil Harassment Restraining Orders (SB 428)

- Amends Code of Civil Procedure sections 527.8
- Expressly **permits associations** to seek civil harassment restraining orders on behalf of employees, directors, managers, and vendors from harassment, unlawful violence, threats of violence
- Harassment” is a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose
- Application for civil harassment restraining order must be based on continuity of purpose and a willful course of conduct intending to vex, annoy, or harass, and serving no legitimate purpose
- Restraining Order can protect against assault, battery, stalking, credible threats of violence and harassment
- Restraining Order can be granted to protect individual for up to three years, with the possibility of an extension for up to an additional three years, without a showing of any further harassment, unlawful violence, or credible threats of violence
- Violation of Restraining Order constitutes contempt of court, and can result in arrest warrants, jail time, and penalties of up to \$1,000
- VIOLATE A RESTRAINING ORDER AND YOU WILL BE [CUE MUSIC] “BREAKING THE LAW”




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Update to the Balcony Bill (AB 2114)

- The “Balcony Bill”/SB326/Civil Code Section 5551
 - By 2025, condominium projects with three (3) or more attached units must inspect their elevated wood-based exterior components (decks, walkways, stairways, balconies, railings, and associated waterproofing)
 - Previously, inspector had to be architect or structural engineer
- **Now, inspector can also be a civil engineer**
- IF YOU USE A CIVIL ENGINEER, YOU WILL NOT BE [CUE MUSIC] “BREAKING THE LAW”

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Corporate Transparency Act

- The CTA is part of the Anti-Money Laundering Act of 2020 (AML Act) and Requires Directors of Associations to file a disclosure with FinCEN because exercise “substantial control” of corporation
- INITIALLY, the deadline for associations to file initial registration of Beneficial Owners was December 31, 2024; and within 30 days after a new director is seated, but various conflicting court rulings in different jurisdictions in late 2024/early 2025.
- US Treasury Department press release on 3/2/25:
 - *The Treasury Department is announcing today that, with respect to the Corporate Transparency Act, not only will it not enforce any penalties or fines associated with the beneficial ownership information reporting rule under the existing regulatory deadlines, but it will further not enforce any penalties or fines against U.S. citizens or domestic reporting companies or their beneficial owners after the forthcoming rule changes take effect either.*
- NOW in accord is FinCEN:
 - *ALERT [updated March 26, 2025]:* All entities created in the United States — including those previously known as “domestic reporting companies” — and their beneficial owners are now exempt from the requirement to report beneficial ownership information (BOI) to FinCEN.
- RECOMMENDATION: **Check in with your senior leaders and legal counsel!** Associations that decide not to file BOI information at this time will need to keep a close eye on changes in the law
 - Check the alerts on <https://fincen.gov/boi> for updates and contact Associations’ legal counsel for updates on the law
- IF YOU DO NOT FILE, YOU MAY NOT BE [CUE MUSIC] “BREAKING THE LAW” 



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Questions?

- IF YOU FOLLOW OUR RECOMMENDATIONS, YOU MAY NOT BE
- [CUE CROWD] “BREAKING THE LAW”
- CUE MUSIC 