



# Pointe Marin Homeowners Association

2025

## Policy Statement



By: Bayside Management  
180 Harbor Drive, Suite 100  
Sausalito CA 94965

# **POINTE MARIN HOMEOWNERS ASSOCIATION POLICY STATEMENT**

## **Table of Contents**

<b>PRIMARY CONTACT FOR THE ASSOCIATION .....</b>	<b>3</b>
<b>SECONDARY ADDRESS FOR DELIVERY OF DOCUMENTS: .....</b>	<b>3</b>
<b>OVERNIGHT PAYMENT OF ASSESSMENTS: .....</b>	<b>3</b>
<b>GENERAL NOTICES FROM THE ASSOCIATION:.....</b>	<b>3</b>
<b>ANNUAL, SPECIAL AND REGULAR MEETINGS OF THE BOARD OF DIRECTORS:.....</b>	<b>4</b>
<b>MINUTES OF THE BOARD OF DIRECTORS MEETINGS:.....</b>	<b>4</b>
<b>MEMBERSHIP INFORMATION: .....</b>	<b>4</b>
<b>ARCHITECTURAL REVIEW: .....</b>	<b>5</b>
<b>INSURANCE:.....</b>	<b>5</b>
<b>ENFORCEMENT AND FINE POLICY: .....</b>	<b>5</b>
<b>DELINQUENT ASSESSMENT COLLECTION POLICY: .....</b>	<b>6</b>
<b>I. TYPES OF ASSESSMENTS.....</b>	<b>6</b>
<b>II. DELINQUENCY.....</b>	<b>6</b>
<b>III. PRE-LIEN NOTICE.....</b>	<b>7</b>
<b>IV. PROBLEM RESOLUTION .....</b>	<b>7</b>
<b>V. PAYMENTS .....</b>	<b>9</b>
<b>VI. HOMEOWNER(S) ADDRESS AND MAILING OF NOTICES: .....</b>	<b>9</b>
<b>NOTICE ASSESSMENTS AND FORECLOSURE: .....</b>	<b>9</b>
<b>ASSESSMENTS AND FORECLOSURE .....</b>	<b>10</b>
<b>PAYMENTS.....</b>	<b>10</b>
<b>MEETINGS AND PAYMENT PLANS .....</b>	<b>11</b>
<b>INTERNAL DISPUTE RESOLUTION: .....</b>	<b>11</b>
<b>ALTERNATIVE DISPUTE RESOLUTION: .....</b>	<b>11</b>
<b>ARTICLE 2. INTERNAL DISPUTE RESOLUTION [5900 - 5920] .....</b>	<b>12</b>
<b>ARTICLE 3. ALTERNATIVE DISPUTE RESOLUTION [5925 - 5965].....</b>	<b>14</b>

## **POLICY STATEMENT**

### **PRIMARY CONTACT FOR THE ASSOCIATION**

In accordance with California Civil Code 4035 and 5310, any official communication intended for the Association must be in writing and delivered first class mail to the person designated to receive documents on behalf of the Association. The communication may be delivered in person or by e-mail, facsimile or other electronic means, ONLY IF the Association has already assented to this method of receiving communication. The person designated to receive communications for Pointe Marin Homeowners Association is:

Justin Barton  
Association Manager  
Bayside Management  
180 Harbor Drive, Suite 100  
Sausalito, CA 94965  
Email: jbarton@baysidemgmt.com  
Phone: (415)383-8400 ex 1512

### **SECONDARY ADDRESS FOR DELIVERY OF DOCUMENTS:**

In accordance with California Civil Code Section 4040(b), upon receipt of a member request to have notices sent to up to two (2) different specified addresses, the Association shall deliver an additional copy of those notices to the secondary address identified in the request.

### **OVERNIGHT PAYMENT OF ASSESSMENTS:**

Pursuant to California Civil Code Section 5655, the mailing address for overnight payment of assessments is:

Pointe Marin Homeowners Association  
c/o Bayside Management  
180 Harbor Drive, Suite 100  
Sausalito, CA 94965

### **GENERAL NOTICES FROM THE ASSOCIATION:**

All general notices from the Association shall be posted at the Association's Tot Lots located on Elmview Way, Laurelwood Drive and Valleyview Terrace as outlined in Section 7a of the Pointe Marin Association Bylaws which states:

"notice of the time and place of any regular meetings **shall** be posted at a prominent place or places within the Common Area and shall be given to each director not less than four days prior to the meeting."

This means that notices of regular meetings will be posted in the Association's Tot Lots located on Elmview Way, Laurelwood Drive and Valleyview Terrace no less than four days prior to the meeting. Notices of regular meetings and/or other general notices from the Association (will be) be posted

on the Association's website. The official website for Pointe Marin Association is: [www.pointemarinhoa.com](http://www.pointemarinhoa.com).

If a Member requests in writing 'individual delivery' of general notices to that member pursuant to Section 4045(b) to receive general notices by individual delivery, all general notices to that member shall be delivered pursuant to Section 4040 of the California Civil Code.

**ANNUAL, SPECIAL AND REGULAR MEETINGS OF THE BOARD OF DIRECTORS:**

All meetings of the Board of Directors are open to Members of the Association except for Executive Session meetings of the Board (which may be called to address third party contracts, litigation or legal action, personnel issues or member discipline).

A Member is defined by Section 5.3 of the Pointe Marin Association CC&R's which state: "Each Owner of a fee title interest in a Lot automatically shall be a Member of the Association. If there is more than one fee title Owner of a Lot, each Owner shall be a Member."

**MINUTES OF THE BOARD OF DIRECTORS MEETINGS:**

The minutes of the Association's Board of Directors meetings (except for Executive Session minutes) are available to all interested homeowners. Should you be interested in obtaining copies of these minutes, the California Civil Code Section 4950 requires that: "the minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any board meeting, other than an executive session, shall be available to members within 30 days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any member upon request and upon reimbursement of the association's costs for making that distribution."

The minutes, proposed minutes, or summary of minutes of meetings of the Board of Directors (except Executive Session minutes) can be obtained by contacting the primary contact for the Association at Bayside Management. The Member shall pay for and/or reimburse the Association or Bayside Management for all costs prior to distribution of the documents.

**MEMBERSHIP INFORMATION:**

Membership lists in accordance with California Civil Code Section 5260(d) shall include his/her name, property address, mailing address and email addresses. This membership list shall be available to other Members of the Association upon written request to the primary contact for the Association.

**Membership List Opt-Out:** A Member of the Association may opt out of the sharing of that Member's name, property address, mailing address and email address by notifying the primary contact for the Association in writing that the Member prefers to pursuant to California Civil Code Section 5220. If a Member wishes to opt out of the Membership list, that member may indicate whether they prefer to be contacted via the alternative process described in subdivision (c) of Section 8330 of the Corporations Code. This opt out shall remain in effect until changed by the member.

**ARCHITECTURAL REVIEW:**

Except for improvements made by the Association, no exterior additions and/or alterations may be made until the homeowner submits an Architectural Application and receives approval from the HOA. The application form requires the homeowner to obtain sign off from the adjoining neighbors reflecting that they have been informed of the proposed changes. The Architectural Application may be obtained by contacting the Primary Contact for the Association at Bayside Management.

**INSURANCE:**

California Civil Code Section 5300(b)(9) requires that the following statement concerning the enclosed evidence of insurance be provided to all members.

“This summary of the association’s policies of insurance provides only certain information, as required by Section 5300 of the California Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any association member may, upon request and provision of reasonable notice, review the association’s insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the association maintains the policies of insurance specified in this summary, the association’s policies of insurance may not cover your property, including personal property or real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage.” A copy of the Insurance coverage is in Attachment 1 for your records.

**ENFORCEMENT AND FINE POLICY:**

**Fines:** To ensure compliance with the above-mentioned rules, homeowners may be fined not less than \$10.00 nor more than \$50.00 per occurrence or continuation of violations. Fine amounts are to be set by the Board of Directors based on the merits of each violation.

**Due Process Requirements:** Before the Board imposes any monetary penalties or suspension of membership rights or Common Area use privileges against any Member for failure to comply with the Declaration, the Bylaws or the Association Rules, the Board must act in good faith and satisfy each of the following requirements:

1. The Member must be given 15 days prior written notice specifying the nature of the damage or violation and stating the time, date and place that the member will have an opportunity to be heard. Notice may be delivered personally or by mail. If the notice is given by mail, it must be sent by first class or registered mail to the last address of the member as shown on the Association records.
2. The Member will be given an opportunity to be heard, orally or in writing, by the Board. Members shall have the opportunity to present witnesses on the Member’s behalf and to cross-examine any witnesses that may testify against the Member. After the hearing, the Board shall determine whether owner damage or a violation has occurred and, if so, may impose a “Reimbursement Assessment” which shall become effective not less than five (5) days after the date of the hearing or the Board may take such other action as may be appropriate.

### **DELINQUENT ASSESSMENT COLLECTION POLICY:**

Prompt payment of assessments by every member is critical to the Association's ability to provide necessary services. Among your Board's most important responsibilities, is the collection of assessments which are not paid on time. The Association's CC&R's and the California Davis-Stirling Act provide the Board with strong procedural tools to collect delinquent assessments. It is our hope that by reminding all Homeowners of the collection procedures, we will all make the prompt payment of assessments a priority.

The assessment collection policy for Pointe Marin Association is as follows:

#### **I. TYPES OF ASSESSMENTS**

- A. Regular Assessments: Regular assessments are due and payable on January 1<sup>st</sup> and July 1<sup>st</sup> and delinquent if not received by January 15<sup>th</sup> and July 15<sup>th</sup>.
- B. Special Assessments: Special Assessments are due on the date specified in the Notice of Special Assessment, which shall be at least 30 days after the Notice is mailed and are delinquent if not received within 15 days of the due date.
- C. Reimbursement Assessments: The Association can levy a Reimbursement Assessment against a Homeowner to (a) reimburse the Association for the costs of repairing damage caused by that Homeowner(s) or that Homeowner's invitee including, but not limited to family, tenants, guests, pets or (b) if a failure to comply with the governing documents has necessitated an expenditure of monies, including attorneys' fees, by the Association to bring the Homeowner(s) or the Homeowners' Lot into compliance. Reimbursement Assessments shall not be levied by the Association until Notice and Hearing has been given in accordance with the Association's governing documents and a determination of responsibility has been made by the Board. Reimbursement Assessments are due and payable when levied or at such later time as may be set. Reimbursement Assessments may be collected in any manner provided by law and the governing documents.

#### **II. DELINQUENCY**

- A. Reminder Notice: When the Association has not received an assessment payment within 15 days after the due date, it is PAST DUE, and the Homeowner may be sent a Reminder Notice.
- B. Late Charge: A late charge on any past due amount shall be levied 15 days after the due date. The late charge shall be the greater of \$10.00 or 10% of the past due assessment.
- C. Interest: The Association has the right to collect interest at an annual interest rate not to exceed 12% on all sums imposed, including the delinquent assessment, reasonable fees and costs of collection, and reasonable attorney's fees, commencing 30 days after the due date. In addition to any other costs, the Association may also charge for each past due assessment a flat collection fee to cover the manager's administrative costs of collection which shall be established by the Board of Directors.
- D. Acceleration of Assessments: If any installments of the regular assessment are delinquent, the Board may elect to accelerate the remaining installment payments so that the entire

remaining balance of the annual regular assessment is immediately due and payable. Upon acceleration, interest and a late charge on the full accelerated balance will accrue.

- E. Collection Agent: At any time after the assessment or charges are not received within 30 days of the due date, the delinquent account may be turned over to a collection agent, which may be the Association's attorney or a collection agency. Notice will be provided to the homeowner(s) by first class mail, and once the account is turned over to a collection agent, the Homeowner must make payments directly to the collection agent. Delays and additional charges may be incurred if payments are directed elsewhere. This requirement will continue until all assessments, costs, fees and interest have been paid by the Homeowner(s) and the Homeowner(s) is (are) current.
- F. Personal Debt and Lawsuit Option: The Association may opt to proceed with collection of the delinquency by civil action against the Homeowner(s) and not the property. If the Association decides to file an action which does not seek foreclosure, it may do so without further notice at any time after the assessment or charges are not received within 30 days of the due date.

### III. PRE-LIEN NOTICE

When an assessment (or any portion) remains unpaid 30 days or more after the due date, the Association may send the Homeowner(s) a written pre-lien notice by certified and first class mail, and enclose an itemization of charges a copy of this policy. The pre-lien notice shall also include notice of a Homeowner's right to dispute the debt under Civil Code Sections 1363.810 et seq. and the right to alternative dispute resolution (ADR) with a neutral third party under Civil Code Sections 1369.510 et seq. The pre-lien notice shall be sent no less than 30 days prior to the filing of a Notice of Delinquent Assessment.

### IV. PROBLEM RESOLUTION

- A. Association Sends Notice of Right to "Meet and Confer" (DIR): There are two window periods during which a Homeowner(s) will be offered and/or a Homeowner(s) may request an opportunity to participate in the Association's "meet and confer" process as set forth beginning with Civil Code Section 1363.810. This process is also known as Internal Dispute Resolution (IDR). Those opportunities are as follows:
  - 1. As described in the pre-lien notice;
  - 2. As described in the notice sent before the Association can initiate foreclosure (i.e. record Notice of Sale).
- B. Homeowner(s) Request to Meet about a Payment Plan:
  - 1. Within 15 days of the postmark on the pre-lien notice, a Homeowner(s) may submit a written request to the Board to meet with the Board to discuss a payment plan. When a payment plan meeting is requested, a Homeowner(s) will be provided with payment plan standards if those standards exist. The Board shall meet with the Homeowner(s) in Executive Session within 45 days of the postmark on that request.
  - 2. If a Homeowner(s) enters into a Payment Plan and stays in compliance with that plan, late fees will not accrue during the plan period. Interest may continue to accrue at the

discretion of the Association. The existence of a payment plan does not impede the Association's right to record a lien to secure the indebtedness.

C. Alternative Dispute Resolution (ADR):

There are also two times when a Homeowner(s) will be advised of the window period to request alternative dispute resolution with a neutral third party pursuant to California Civil Code Sections 1369.510 et seq (ADR) before the Association may initiate foreclosure. Those opportunities are:

1. Set forth in the pre-lien notice;
2. Before the Association initiates foreclosure (records a Notice of Sale) the Homeowner(s) will be offered the opportunity to participate in ADR and if requested by the Homeowner(s), the Association shall participate. The decision to pursue dispute resolution and which type (ADR or IDR) is the choice of the Homeowner(s). If the Association intends to pursue judicial foreclosure, binding arbitration is not an option.

D. Board Authority:

Neither the Management Company nor individual Board Members have the authority to waive any of the late penalties or fees listed above, or to negotiate a payment schedule different from that stated above. Any deviation to the stated policy must be approved at a duly called and noticed Board of Directors meeting with a quorum present.

E. The Lien and Foreclosure:

1. Board Authorization Required. If full payment is not received within 30 days after the pre-lien notice, the Association may authorize the recording of a Notice of Delinquent Assessment. The decision to record a Notice of Delinquent Assessment must be made by a majority vote of the Board of Directors in an open meeting. The vote shall be recorded in the minutes of that meeting.
2. Notice of Delinquent Assessment. If the Board authorizes the recording of a Notice of Delinquent Assessment, the Association or its Collection Agent may cause a Notice of Delinquent Assessment to be recorded. Upon recordation, a lien is created. Within 10 calendar days following recordation of the Notice of Delinquent Assessment, a copy shall be mailed by certified and first-class mail to all record Homeowner(s) of the residence, including to any secondary addresses if so provided by the Homeowner(s).
3. Collection Proceedings. If full payment is not received within 30 days of the recordation of the Notice of Delinquent Assessment and the amount of delinquent assessments totals \$1,800 or more or the assessments are more than 12 months delinquent, the Association may initiate foreclosure proceedings or a lawsuit for damages or undertake any other action allowed by law or equity. (Accelerated amounts, late charges, interest, and other costs do not apply toward the \$1800). Unless otherwise decided by the Board of Directors, the collection will be handled as a non-judicial foreclosure, which means that your home could be sold at a foreclosure sale without court action. While the amount of delinquent assessments totals less than \$1800 or the assessments are less than 12 months delinquent, the Association may attempt to secure or collect the debt by filing a small claims action or by any other manner provided by law, except for judicial or non-judicial foreclosure.



4. Decision to Foreclose. The decision to initiate foreclosure will be made only by the Board of Directors. The decision shall be approved by a majority vote taken in Executive Session and the vote shall be recorded in the minutes of the next meeting of the Board open to all members. The confidentiality of the Homeowner(s) shall be maintained by identifying the property by the parcel number rather than by the name of the Homeowner(s) and/or their address. The vote to approve foreclosure shall take place at least 30 days prior to any public sale. Notice of the Board's decision to foreclose will be provided by personal service to a resident Homeowner(s) or to the Homeowner(s) legal representative. Notice of the decision to foreclose will be mailed by first class mail to a non-resident Homeowner(s) at the last address provided in writing to the Association.

## **V. PAYMENTS**

- A. Overnight Payments: The address for mailing of overnight payment of assessments is:  
Bayside Management  
180 Harbor Drive, Suite 100  
Sausalito, CA 94965
- B. Application of Payments: Payments received by the Association shall first be applied to the principal owed, and after the principal owed is paid in full, such payments shall be applied to interest and collection expenses.
- C. Returned Check: A Homeowner(s) who issues a check to the Association, which is returned for any reason, shall pay a \$25 charge for processing such check. If the check cannot be negotiated, payment shall be demanded in accordance with California Civil Code Section 1719, which entitles the Association to triple damages for failure to pay amount of dishonored check. A Homeowner(s) shall reimburse the Association for any insufficient funds or other costs incurred in Automated Clearing House (ACH) transactions.

## **VI. HOMEOWNER(S) ADDRESS AND MAILING OF NOTICES:**

- A. Homeowner(s) Secondary Address. A Homeowner may notify the Association of a secondary address where collection notices should be sent (in addition to the Homeowner(s) primary address). The notification must be in writing and must be mailed to the Association in a manner that will indicate that the Association has received it (i.e., return receipt requested).
- B. Mailing of Notices. All notices that are required by state law to be mailed will be mailed to the Homeowner(s) of record at the last mailing address provided in writing to the Association by such Homeowner(s) and any secondary address the Homeowner(s) has submitted.

## **NOTICE ASSESSMENTS AND FORECLOSURE:**

This notice outlines some of the rights and responsibilities of homeowner(s) of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

## **ASSESSMENTS AND FORECLOSURE**

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of a homeowner(s) property through foreclosure. Foreclosure may occur either as a result of a court action, known as a judicial foreclosure, or without court action, often referred to as non-judicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or non-judicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest and assessments or dues in excess of one thousand eight hundred dollars (\$1800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1800) or more than 12 months delinquent, an association may use judicial or non-judicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 or Part 5 of Division 4 of the Civil Code. When using judicial or non-judicial foreclosure, the association records a lien on the homeowner(s) property. The homeowner(s) property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 5700 through 5720 of the CA Civil Code, inclusive)

In a judicial or non-judicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges and interest. The association may not use non-judicial foreclosure to collect fines or penalties, except for costs to repair common area damaged by a member or a member's guests, if the governing documents provide for this. (Section 5725 of the CA Civil Code)

The Association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 of the CA Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the homeowner(s) property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 5675 of the CA Civil Code)

At least 30 days prior to recording a lien on a homeowner(s) separate interest, the association must provide the homeowner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 5660 of the CA Civil Code)

If a lien is recorded against a homeowner(s) property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide a homeowner certain documents in this regard. (Section 5685 of the CA Civil Code)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

## **PAYMENTS**

When a homeowner(s) makes a payment, the homeowner may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of

payment and the person who received it. The association must inform homeowner(s) of a mailing address for overnight payments (Section 5655 of the CA Civil Code)

A homeowner(s) may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part 5 of Division 4 of the CA Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the CA Civil Code, if so requested by the homeowner(s). Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

A homeowner(s) is not liable for charges, interest and costs of collection, if it is established that the assessment was paid property on time. (Section 5685 of the CA Civil Code)

#### **MEETINGS AND PAYMENT PLANS**

A homeowner(s) of a separate interest that is not a time-share interest may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform homeowner(s) of the standards for payment plans, if any exists. (Section 5665 of the CA Civil Code)

The Board must meet with a homeowner(s) who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5655 of the CA Civil Code)

An association distributing the notice required by this section to a homeowner(s) of an interest that is described in Section 11212 of the Business and Professions Code that is not otherwise exempt from this section pursuant to subdivision (a) of Section 11211.7 of the Business and Professions Code may delete from the notice described in subdivision (a) the portion regarding meetings and payment plans.

#### **INTERNAL DISPUTE RESOLUTION:**

A summary of Internal Dispute Resolution (IDR) is provided in Article 1 below in compliance with California Civil Code Sections 5925 through 5965.

#### **ALTERNATIVE DISPUTE RESOLUTION:**

A summary of Alternative Dispute Resolution (ADR) is provided in Article 2 below in compliance with Civil Code Sections 5925 through 5965.

## **ARTICLE 2. INTERNAL DISPUTE RESOLUTION [5900 - 5920]**

### **SECTION 5900. APPLICATION OF ARTICLE**

- (a) This article applies to a dispute between an association and a member involving their rights, duties, or liabilities under this act, under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code), or under the governing documents of the common interest development or association.
- (b) This article supplements, and does not replace, Article 3 (commencing with Section 5925), relating to alternative dispute resolution as a prerequisite to an enforcement action.

### **SECTION 5905. FAIR, REASONABLE AND EXPEDITIOUS PROCEDURES**

- (a) An association shall provide a fair, reasonable, and expeditious procedure for resolving a dispute within the scope of this article.
- (b) In developing a procedure pursuant to this article, an association shall make maximum, reasonable use of available local dispute resolution programs involving a neutral third party, including low-cost mediation programs such as those listed on the Internet Web sites of the Department of Consumer Affairs and the United States Department of Housing and Urban Development.
- (c) If an association does not provide a fair, reasonable, and expeditious procedure for resolving a dispute within the scope of this article, the procedure provided in Section 5915 applies and satisfies the requirement of subdivision (a).

### **SECTION 5910. MINIMUM REQUIREMENTS OF ASSOCIATION PROCEDURE**

A fair, reasonable, and expeditious dispute resolution procedure shall, at a minimum, satisfy all of the following requirements:

- (a) The procedure may be invoked by either party to the dispute. A request invoking the procedure shall be in writing.
- (b) The procedure shall provide for prompt deadlines. The procedure shall state the maximum time for the association to act on a request invoking the procedure.
- (c) If the procedure is invoked by a member, the association shall participate in the procedure.
- (d) If the procedure is invoked by the association, the member may elect not to participate in the procedure. If the member participates but the dispute is resolved other than by agreement of the member, the member shall have a right of appeal to the board.
- (e) A written resolution, signed by both parties, of a dispute pursuant to the procedure that is not in conflict with the law or the governing documents binds the association and is judicially enforceable. A written agreement, signed by both parties, reached pursuant to the procedure that is not in conflict with the law or the governing documents binds the parties and is judicially enforceable.
- (f) The procedure shall provide a means by which the member and the association may explain their positions. The member and association may be assisted by an attorney or another person in explaining their positions at their own cost.
- (g) A member of the association shall not be charged a fee to participate in the process.

### **SECTION 5910.1**

An association may not file a civil action regarding a dispute in which the member has requested dispute resolution unless the association has complied with Section 5910 by engaging in good faith in the internal dispute resolution procedures after a member invokes those procedures.

### **SECTION 5915. DEFAULT MEET AND CONFER PROCEDURE**

- (a) This section applies to an association that does not otherwise provide a fair, reasonable, and expeditious dispute resolution procedure. The procedure provided in this section is fair, reasonable, and expeditious within the meaning of this article.
- (b) Either party to a dispute within the scope of this article may invoke the following procedure:
  - 1. The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.
  - 2. A member of an association may refuse a request to meet and confer. The association shall not refuse a request to meet and confer.
  - 3. The board shall designate a director to meet and confer.
  - 4. The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute. The parties may be assisted by an attorney or another person at their own cost when conferring.
  - 5. A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the board designee on behalf of the association.
- (c) A written agreement reached under this section binds the parties and is judicially enforceable if it is signed by both parties and both of the following conditions are satisfied:
  - 1. The agreement is not in conflict with law or the governing documents of the common interest development or association.
  - 2. The agreement is either consistent with the authority granted by the board to its designee or the agreement is ratified by the board.
- (d) A member shall not be charged a fee to participate in the process.

### **SECTION 5920. NOTICE IN POLICY STATEMENT**

The annual policy statement prepared pursuant to Section 5310 shall include a description of the internal dispute resolution process provided pursuant to this article.

### **ARTICLE 3. ALTERNATIVE DISPUTE RESOLUTION [5925 - 5965]**

#### **SECTION 5925. DEFINITIONS (As used in this article):**

- (a) "Alternative dispute resolution" means mediation, arbitration, conciliation, or other non-judicial procedure that involves a neutral party in the decision-making process. The form of alternative dispute resolution chosen pursuant to this article may be binding or nonbinding, with the voluntary consent of the parties.
- (b) "Enforcement action" means a civil action or proceeding, other than a cross-complaint, for any of the following purposes:
  - 1. Enforcement of this act.
  - 2. Enforcement of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code).
  - 3. Enforcement of the governing documents.

#### **SECTION 5930. ADR PREREQUISITE TO ENFORCEMENT ACTION**

- (a) An association or a member may not file an enforcement action in the superior court unless the parties have endeavored to submit their dispute to alternative dispute resolution pursuant to this article.
- (b) This section applies only to an enforcement action that is solely for declaratory, injunctive, or writ relief, or for that relief in conjunction with a claim for monetary damages not in excess of the jurisdictional limits stated in Sections 116.220 and 116.221 of the Code of Civil Procedure.
- (c) This section does not apply to a small claims action.
- (d) Except as otherwise provided by law, this section does not apply to an assessment dispute.

#### **SECTION 5935. REQUEST FOR RESOLUTION**

- (a) Any party to a dispute may initiate the process required by Section 5930 by serving on all other parties to the dispute a Request for Resolution. The Request for Resolution shall include all of the following:
  - 1. A brief description of the dispute between the parties.
  - 2. A request for alternative dispute resolution.
  - 3. A notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the request will be deemed rejected.
  - 4. If the party on whom the request is served is the member, a copy of this article.
- (b) Service of the Request for Resolution shall be by personal delivery, first-class mail, express mail, facsimile transmission, or other means reasonably calculated to provide the party on whom the request is served actual notice of the request.
- (c) A party on whom a Request for Resolution is served has 30 days following service to accept or reject the request. If a party does not accept the request within that period, the request is deemed rejected by the party.

#### **SECTION 5940. ADR PROCESS**

- (a) If the party on whom a Request for Resolution is served accepts the request, the parties shall complete the alternative dispute resolution within 90 days after the party initiating the request receives the acceptance, unless this period is extended by written stipulation signed by both parties.

- (b) Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code applies to any form of alternative dispute resolution initiated by a Request for Resolution under this article, other than arbitration.
- (c) The costs of the alternative dispute resolution shall be borne by the parties.

#### **SECTION 5945. TOLLING OF STATUTE OF LIMITATIONS**

If a Request for Resolution is served before the end of the applicable time limitation for commencing an enforcement action, the time limitation is tolled during the following periods:

- (a) The period provided in Section 5935 for response to a Request for Resolution.
- (b) If the Request for Resolution is accepted, the period provided by Section 5940 for completion of alternative dispute resolution, including any extension of time stipulated to by the parties pursuant to Section 5940.

#### **SECTION 5950. CERTIFICATION OF EFFORTS TO RESOLVE DISPUTE**

- (a) At the time of commencement of an enforcement action, the party commencing the action shall file with the initial pleading a certificate stating that one or more of the following conditions are satisfied:
  - 1. Alternative dispute resolution has been completed in compliance with this article.
  - 2. One of the other parties to the dispute did not accept the terms offered for alternative dispute resolution.
  - 3. Preliminary or temporary injunctive relief is necessary.
- (b) Failure to file a certificate pursuant to subdivision (a) is grounds for a demurrer or a motion to strike unless the court finds that dismissal of the action for failure to comply with this article would result in substantial prejudice to one of the parties.

#### **SECTION 5955. STAY OF LITIGATION FOR DISPUTE RESOLUTION**

- (a) After an enforcement action is commenced, on written stipulation of the parties, the matter may be referred to alternative dispute resolution. The referred action is stayed. During the stay, the action is not subject to the rules implementing subdivision (c) of Section 68603 of the Government Code.
- (b) The costs of the alternative dispute resolution shall be borne by the parties.

#### **SECTION 5960. ATTORNEY'S FEES**

In an enforcement action in which attorney's fees and costs may be awarded, the court, in determining the amount of the award, may consider whether a party's refusal to participate in alternative dispute resolution before commencement of the action was reasonable.

#### **SECTION 5965. NOTICE IN ANNUAL POLICY STATEMENT**

- (a) An association shall annually provide its members a summary of the provisions of this article that specifically references this article. The summary shall include the following language: "Failure of a member of the association to comply with the alternative dispute resolution requirements of Section 5930 of the CA Civil Code may result in the loss of the member's right to sue the association or another member of the association regarding enforcement of the governing documents or the applicable law."
- (b) The summary shall be included in the annual policy statement prepared pursuant to Section 5310.