

## CISD LEGISLATIVE UPDATE October 2008

### **AB 180 (Bass) Mortgages: foreclosure consultants**

**Introduced:** 01/24/2007

**Last Amend:** 08/19/2008

**Status:** 09/29/2008 Chaptered

**Potential Impact on CISD:** FYI

**Summary:** Existing law defines a foreclosure consultant as a person who offers, for compensation, to perform specified services for a homeowner relating to a foreclosure sale, including obtaining the remaining proceeds from a foreclosure sale of that residence. This bill would delete the provisions of law authorizing a foreclosure consultant to provide the service described above, increase the cancellation window from three to five days and require registration by the foreclosure specialist at the Department of Justice. This bill contains other related provisions and other existing laws.

### **AB 529 (Torrico) Mortgages: adjustable interest rates: notification**

**Introduced:** 02/21/2007

**Last Amend:** 08/12/2008

**Status:** 10/06/2008 Vetoed

**Potential Impact on CISD:** FYI, this is a sample of the new disclosure laws applicable to variable rates.

**Summary:** Existing state and federal law regulate the provision of loans that are secured by real property. Existing law prohibits a lender from accelerating the maturity date of the principal and interest on loans secured by a mortgage or deed of trust on residential real property solely by reason of specified transfers of the title. This bill would require a lender who provides a loan secured by property improved by 4 or fewer residential units, and the interest rate on the loan is initially fixed and then becomes adjustable, to notify the borrower of specified items of information 120 days, 60 days, and 30 days prior to an interest rate adjustment, as specified. The bill would provide that the notification requirements are satisfied if the lender either personally delivers the notice or mails it, as specified.

### **AB 567 (Saldana) Common Interest Development Bureau**

**Introduced:** 02/21/2007

**Last Amend:** 08/11/2008

**Status:** 09/29/2008 Vetoed

**Potential Impact on CISD:** Establishes a CISD Bureau to offer training and resolve disputes over governing documents. Would impose a \$10 biannual fee per CISD door.

**Summary:** This bill would revise Civil Code § 1363.7 and add Civil Code § 1380 to establish in the Department of Consumer Affairs the Common Interest Development Bureau. The bill would require the bureau, among other things, to offer training materials and courses to common interest development directors, officers, and owners, in subjects relevant to the operation of a common interest development and the rights and duties of an association or owner. The bill would require the bureau to maintain a toll-free telephone number and Internet Web site for purposes of further providing that information and assistance, and would require an association director or agent to meet certain requirements in that regard.

### **\*AB 811 (Levine) Contractual assessments: energy efficiency improvements**

**Introduced:** 02/22/2007

**Last Amend:** 07/01/2008

**Status:** 07/03/2008 Chaptered to take effect immediately.

**Potential Impact on CISD:** Disclosure Issue: These renewable energy improvements would be financed by the city and assessments imposed against the benefiting houses as a tax.

**Summary:** This bill would additionally authorize a legislative body of any city to determine that it would be in the public interest to designate an area within which authorized city officials and free and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to real property, as specified. The bill would require the resolution of intention to include the kinds of

distributed generation renewable energy sources or energy efficiency improvements that may be financed as well as a statement specifying that it is in the public interest to finance those distributed generation renewable energy sources or energy efficiency improvements. The bill would further require a report to include the types of distributed generation renewable energy sources or energy efficiency improvements that may be financed through the use of contractual assessments. The bill would authorize a property owner, upon written consent of an authorized city official, to purchase directly the related equipment and materials for the distributed generation renewable energy sources or energy efficiency improvements and to contract directly for those sources or improvements .

**AB 952 (Mullin) Assessments: low- and moderate-income residents**

**Introduced:** 02/22/2007

**Last Amend:** 08/22/2008

**Status:** 09/29/2008 Vetoed

**Potential Impact on CISD:** May need to revise MMD to reflect responsibility of HOA to offer payment plan.

**Summary:** Classes are gone, but has a payment plan for the owner-occupants of any unit who request such a plan. No reimbursement for legal costs, collection costs, owner to provide documents supporting need for payment plan.

**AB 1830 (Lieu) Subprime lending reform**

**Introduced:** 01/23/2008

**Last Amend:** 08/22/2008

**Status:** 10/06/2008 Vetoed

**Potential Impact on CISD:** FYI

**Summary:** This bill would allow the DRE to suspend brokers licenses for violation of federal lending laws, would establish a new class of "higher priced mortgage loans" with limits on prepayment penalties and a prohibition on neg-am loans and limit broker compensation for placing these loans. Would require a borrower to prove that they can repay for the entire life of the loan, including taxes and insurance.

**\*AB 1892 (Smyth) Common interest developments: solar energy**

**Introduced:** 02/07/2008

**Last Amend:** 06/30/2008

**Status:** 06/30/2008 Chaptered

**Potential Impact on CISD:** Will require rewriting a portion of our architectural approval regulations.

**Summary:** This bill would prohibit a declaration or other governing document from prohibiting, or being construed to limit or prohibit, installation of solar energy systems (a clothesline?), on or in the owner's separate interest or his or her exclusive use common area. Maintains the "reasonable restrictions" contained in existing law.

**AB 1955 (Plescia) Assessments**

**Introduced:** 02/19/2008

**Last Amend:** 08/22/2008

**Status:** 09/29/2008 Vetoed

**Potential Impact on CISD:**

**Summary:** Association may not use value based assessments unless value based assessment was used before December 31, 2008.

**AB 2046 (Jones) Groundwater regulation bill**

**Introduced:** 02/19/2008

**Last Amend:** 07/01/2008

**Status:** 10/06/2008 Vetoed

**Potential Impact on CISD:** FYI

**Summary:** This bill requires local water agencies to formulate a treatment plan for groundwater before counting it a supply source for residents.

**AB 2173 (Caballero) Calculation of School Developer Fees**

**Introduced:** 02/20/2008

**Last Amend:** 08/14/2008

**Status:** 10/06/2008 Vetoed

**Potential Impact on CISD:** FYI

**Summary:** Bill provides opportunity for builders and members of the public to meet with school district for purposes of discussing school "needs" analysis.

**\*AB 2180 (Lieu) Solar Energy**

**Introduced:** 02/20/2008

**Last Amend:** 08/08/2008

**Status:** 09/28/2008 Chaptered

**Potential Impact on CISD:** Will affect arch regs.

**Summary:** Provides that application for installation of solar devices must be responded to within 60 days from receipt of the application or will be deemed approved (except for reasonable request for additional information) and provides up to a one-thousand-dollar penalty against an association that unreasonably impedes solar energy installation. Bill works in conjunction with AB 1892.

**AB 2259 (Mullin) Rental Restrictions**

**Introduced:** 02/21/2008

**Last Amend:** 08/05/2008

**Status:** 09/29/2008 Vetoed

**Potential Impact on CISD:** May want to revise central provisions in CCR's to require owners to provide the HOA verification of the date owner acquired title to separate interest and contact info of tenants and date of tenancy.

**Summary:** Beginning January 1 of 2009, if an association passes a restriction on rentals, such restriction would be unenforceable, except as against (a) those who purchase after the date of the imposition of the restriction, and (b) those who, despite being owners at the date of the imposition, consent to the restriction.

**\*AB 2280 (Saldana) Density Bonus**

**Introduced:** 02/21/2008

**Last Amend:** 09/17/2008

**Status:** 09/29/2008 Chaptered

**Potential Impact on CISD:** FYI

**Summary:** The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for low-, very low, or moderate-income households or qualifying residents. This bill would impose certain procedures on the application for a density bonus and other incentives or concessions. This bill contains other related provisions.

**AB 2309 (DeSaulnier) Utility Education on Existing Homes**

**Introduced:** 02/21/2008

**Last Amend:** 08/14/2008

**Status:** 09/29/2008 Vetoed

**Potential Impact on CISD:** FYI

**Summary:** Allows for Utility-conducted energy efficiency audits for existing homes.

**AB 2447 (Jones) Fire Risk Housing**

**Introduced:** 02/21/2008

**Last Amend:** 08/20/2008

**Status:** 10/01/2008 Vetoed

**Potential Impact on CISD:** FYI

**Summary:** Prohibits construction of new housing in fire risk areas absent a mitigating finding by the City or County that there is "sufficient fire protection."

**\*[AB 2604 \(Torrico\)](#) Fee Deferral**

**Introduced:** 02/22/2008

**Last Amend:** 07/01/2008

**Status:** 08/04/2008 Chaptered

**Potential Impact on CISD:** FYI

**Summary:** Law encourages local governments to defer requirements for payment of local impact fees charged early in the development process. Sets repayment at COE.

**[AB 2733 \(Brownlee\)](#) Disclosures**

**Introduced:** 02/22/2008

**Last Amend:** 09/05/2008

**Status:** 10/06/2008 Vetoed

**Potential Impact on CISD:** Real property disclosures.

**Summary:** Residential property within ¼ mile of environmental hazard site, as designated by the federal National Priority List or the Resource Recovery and Conservation Act (42 USC 6401), needs an additional "natural hazard" style disclosure in the White Report.

**\*[AB 2738 \(Jones\)](#) Indemnity and Wrap-Up Restrictions**

**Introduced:** 02/22/2008

**Last Amend:** 08/30/2008

**Status:** 10/06/2008 Chaptered

**Potential Impact on CISD:** FYI CD-Wrap Issues

**Summary:** A bill which allows subcontractors to satisfy their defense obligations during the Calderon Process by either defending themselves or contributing to developer's defense costs. Requires builders disclose the terms of wrap-up and OCIP insurance policies to subcontractors.

**[AB 2806 \(Karnette\)](#) CID: Board Member Education**

**Introduced:** 02/22/2008

**Last Amend:** 08/11/2008

**Status:** 09/29/2008 Vetoed

**Potential Impact on CISD:**

**Summary:** Beginning in July 2010, each member of BOD (residential) and each candidate therefore, shall provide a statement indicating they have attended a course on law of CISD to be disclosed in ballot materials. Dependent upon passage of 567 or 2259.

**[AB 2846 \(Feuer\)](#) Assessments**

**Introduced:** 02/22/2008

**Last Amend:** 08/05/2008

**Status:** 10/06/2008 Chaptered

**Potential Impact on CISD:** Assessment dispute provisions within our CC&Rs should include reference to this alternative.

**Summary:** This bill would provide that, if a dispute exists between the owner of a separate interest and the homeowners' association regarding assessments imposed by the association, and the amount in dispute does not exceed the jurisdictional limits of the small claims court, the owner of the separate interest may either request alternative dispute resolution in accordance with the procedures described above or pay the disputed amount under protest and commence an action in small claims court. The bill would require the owner, if he or she elects to pay the disputed amount under protest, to provide written notice of this fact to the association at the time payment is made. This was similar to the old rule under 1354 before 1369.510 was implemented.

**[AB 2863 \(Leno\)](#) Solar Power Sales to and by Owner's Associations**

**Introduced:** 02/22/2008

**Last Amend:** 08/13/2008

**Status:** 09/28/2008 Chaptered

**Potential Impact on CISD:** Disclosure Requirements if the CISD generates solar electricity.

**Summary:** Exempts an “Independent Solar Energy Producer” from regulation as an “electricity producer” certain disclosures be given in accordance with Public Utility Code Section 2869 and requires the electrical generator to sell the power to the users at a rate not to exceed the lower of the rate charged by the local electric utility or independent solar energy producer.

**\*AB 2881 (Wolk) Disclosures – Farmlands**

**Introduced:** 02/22/2008

**Last Amend:** 08/04/2008

**Status:** 09/30/2008 Chaptered

**Potential Impact on CISD:** Disclosure Requirement

**Summary:** Residential property within 1 mile of certain farmlands, as designated in a “Important Farmlands” map prepared by the State of California Department of Conservation, would require an additional “airport influence” style disclosure in the White Report.

**AB 2939 (Hancock) Green Building Codes**

**Introduced:** 02/22/2008

**Last Amend:** 08/22/2008

**Status:** 10/01/2008 Vetoed

**Potential Impact on CISD:** FYI

**Summary:** Would authorize a city or county to modify compliance with California Green Building Code standards due to local climatic, geologic or topographic conditions and to exceed such standards at any time.

**\*AJR 45 (Coto) Homebuilders Seek Permanent Increase in Federal Loan Limits**

**Introduced:** 01/31/2008

**Last Amend:** 07/01/2008

**Status:** 08/01/2008 Chaptered

**Potential Impact on CISD:** FYI

**Summary:** Recently Congress increased the federal conforming loan limit. The increase - which means in some California markets lenders can make lower-interest loans for as much as \$729,750 as opposed to the previous \$417,000 - is only temporary and will expire at the end of this calendar year. This bill is a resolution which calls on Congress and the President to make the conforming loan limit increase permanent.

**SB 127 (Kuehl) Property transfers: disclosures**

**Introduced:** 01/23/2007

**Last Amend:** 08/15/2008

**Status:** 09/29/2008 Vetoed

**Potential Impact on CISD:** Provisions regarding production of records in Civ. 1365 and 1368 should be reviewed against this.

**Summary:** This bill amends 1368 to require certain transfer disclosures be delivered within 20 days of acceptance of an offer or opening of escrow for a separate interest in a CISD. This bill is dependent upon passage of AB 2259 (Rental Restrictions).

**SB 153 (Migden) Property taxation: change in ownership: exclusion**

**Introduced:** 01/22/2008

**Last Amend:** 08/26/2008

**Status:** 10/06/2008 Chaptered

**Potential Impact on CISD:** Calculation of taxes

**Summary:** The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests results in a change in ownership of the real property, and provides that certain transfers do not result in a change of ownership. This bill would provide that a transfer of a cotenancy interest, as defined,

in real property from one cotenant to the other that takes effect upon the death of the transferor cotenant does not constitute a change of ownership, as provided.

**[\\*SB 375 \(Steinberg\)](#) COG**

**Introduced:** 02/21/2007

**Last Amend:** 08/22/2008

**Status:** 09/30/2008 Chaptered

**Potential Impact on CISD:** FYI

**Summary:** Bill contains project-level CEQA streamlining reforms as well as new transportation and zoning requirements designed to provide greater certainty in the project review and approval process in light of AB 32, the state's "Global Warming Solutions Act of 2006." CBIA is reportedly developing an SB 375 Implementation Guide and will be scheduling educational seminars.

**[\\*SB 1137 \(Pesata\)](#) Bill to Provide Notice to Tenants during Foreclosure**

**Introduced:** 02/07/2008

**Last Amend:** 07/07/2008

**Status:** 07/08/2008 Chaptered

**Potential Impact on CISD:** FYI

**Summary:** Operative on 9/6/08, on owner's principal residence for loans initiated between 1/1/03 and 12/31/07, notice of default may not be filed until 30 days after beneficiary's agent contacts borrower to explore options to avoid foreclosure. Notice of Sale of distressed property in which tenant resides must be accompanied by a written notice to tenant that tenant is entitled to a 60 day Notice of Eviction following trustee's sale. Sixty day Notice to quite must be given to tenant after trustee's sale.

**[\\*SB 1185 \(Lowenthal\)](#) Map Extension Measure to Aid Homebuilders, Housing Recovery**

**Introduced:** 02/12/2008

**Last Amend:** 07/14/2008

**Status:** 07/15/2008 Chaptered

**Potential Impact on CISD:** 1 year extension to Maps

**Summary:** Proposes to extend the life of expiring subdivision maps for a period of one year. Also has changed two of the notice forms used on condo conversions.

**[\\*SB 1191 \(Alquist\)](#) Local government: community service districts: broadband access**

**Introduced:** 02/12/2008

**Last Amend:** 06/27/2008

**Status:** 07/08/2008 Chaptered

**Potential Impact on CISD:** Expansion of CISD

**Summary:** Existing law authorizes a community services district to be formed to, among other things, provide fire protection services, organize, promote, conduct, and advertise programs of community recreation, provide transportation services, abate graffiti, and construct, maintain, and operate mailboxes. This authorizes a community services district to acquire, own, improve, maintain, and operate broadband facilities and to provide broadband services, until a private person or entity is ready, willing, and able to acquire, construct, improve, maintain, and operate broadband facilities and to provide broadband services, and to sell those services at a comparable cost and quality of service to the district and its property owners, residents, and visitors.

**[\\*SB 1448 \(Scott\)](#) Real Estate Brokers/Salespersons Fines**

**Introduced:** 02/21/2008

**Last Amend:** 07/02/2008

**Status:** 07/21/2008 Chaptered

**Potential Impact on CISD:** FYI

**Summary:** Bill increases fines for unlicensed individuals holding themselves out as licensed broker or salesperson.

**[\\*SB 1473 \(Calderon\)](#) CBIA's Greenbuilding Program to Set Standard for State Codes**

**Introduced:** 02/12/2008

**Last Amend:** 08/08/2008

**Status:** 10/01/2008 Chaptered

**Potential Impact on CISD:** FYI

**Summary:** Establishes the Building Standard's Commission as the authority for developing workable standards for green building.

**\*[SB 1511 \(Ducheny\)](#) Common interest developments: mortgages: successors in interest**

**Introduced:** 02/21/2008

**Last Amend:** 08/04/2008

**Status:** 09/29/2008 Chaptered

**Potential Impact on CISD:** Consider adding such a request to the lender provisions of our CCRS.

**Summary:** This bill would allow an association, with respect to separate interests governed by the association, to record a request that a mortgagee or trustee under a deed of trust or mortgage relating to any of those separate interest mail to the association a copy of the trustee's deed upon sale to any successor in interest who acquired title to the real property at a foreclosure sale. The bill would require the mortgagee or trustee to mail that information to the association within 15 business days following the date the sale is recorded.

**[SB 1557 \(Wiggins\)](#) State environmental goals and policy report**

**Introduced:** 02/22/2008

**Last Amend:** 06/25/2008

**Status:** 10/01/2008 Vetoed

**Potential Impact on CISD:** FYI

**Summary:** Forces infrastructure improvements into urban core areas and away from newly developing suburban areas in order to reduce greenhouse gas emissions. Bill revises existing "smart-growth" planning priorities dictated by the state.

**\*[SB 1595 \(Kehoe\)](#) Public resources: fire protection: fuels management: forest protection**

**Introduced:** 02/22/2008

**Last Amend:** 08/15/2008

**Status:** 09/29/2008 Chaptered

**Potential Impact on CISD:** FYI

**Summary:** Existing law requires that a person who owns, an occupied dwelling within a very high fire hazard severity zone, maintain at all times a firebreak for a prescribed number of feet from the dwelling. This bill would delete certain terrain qualifications thereby applying these provisions to any land within a very high fire severity zone as designated by a local agency without regard to the type of terrain. The bill would also change the current brush clearance requirements and would instead require the owner or person in control of a qualified property to significantly reduce the risk of ignition of a habitable structure by maintaining additional defensible space. The bill would require the Department of Forestry and Fire Protection to develop, periodically update, and post a guidance document on vegetation management on its Internet Web site. This bill contains other related provisions and other existing laws.