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# NEWSLETTER

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## **NEW CALIFORNIA STATUTE - RENTAL RESTRICTIONS IN CC&Rs**

In recent years, many condominium associations have added rental prohibitions to their CC&Rs, but a new statute that takes effect January 1, 2012, will limit any such restrictions recorded after January 1, 2012. Those rental prohibitions will only apply to owners who buy their property after the CC&R amendment is recorded, so it may take a full generation of new owners before it will have an impact on the association. This new statute is found at Civil Code Section 1360.2.

It has no effect on either of the following:

- Rental prohibitions in CC&Rs or CC&R amendments recorded before January 1, 2012. Those rental prohibitions will still apply to all owners.
- Rental restrictions recorded after January 1, 2012, that do not “prohibit” leasing. The statute definitely applies to a prohibition against all leasing, but it’s less clear how it applies to partial prohibitions such as a cap on the number of rental units or a prohibition against renting units within the first year or two of ownership. Until proven otherwise, we should assume that Section 1360.2 applies to these restrictions as well.

On the other hand, CC&R restrictions that add only requirements (not prohibitions) for renting or leasing are not affected by Section 1360.2. For example, minimum six-month or one-year lease terms, requirements that owners provide the Board with copies of their leases, and the like are all still enforceable against all owners, no matter when they purchased their unit.

There is one other change to statute that takes effect in January 2012. If you have any leasing prohibitions in your governing documents, you need to prepare a statement describing the leasing prohibition and include it with the other documents given to escrow when any of the association’s units are sold.

If your association is seriously considering adding rental prohibitions, you should move fast to get them approved by the owners and recorded by December 31, 2011. The amendment should be drafted and mail-in ballots sent out to the owners by early November at the absolute latest. This office can prepare the documentation you will need for this vote – a CC&R amendment, ballot, and voting instructions – for the flat fee of \$400.00. Feel free to send an email to the above email address if you have any questions.