



April 12, 2021

Assembly Member Jacqui Irwin
Post Office Box 942849
Capitol Office, Room 5119
Sacramento, California
94249-0044

Dear Assembly Member Irwin:

On behalf of the Tahoe Donner Association (TDA), we would like to thank you for your concern and attention regarding homeowner association (HOA) banking and insurance requirements as well as expenditure oversight based on certain thresholds. Tahoe Donner Association is a nonprofit mutual benefit corporation located in Truckee, California, and one of America's largest homeowner associations of its kind, boasting nearly 6,500 properties, owning and managing over 7,000 acres, representing 25,000 members and supporting a \$28MM operating and capital budget. We understand and appreciate the interest our legislators have concerning the improvement of homeowner association operations in a multitude of facets.

In this regard, I am writing you to express our interest and request clarification related to Assembly Bill 1101 (AB1101) Common interest developments: funds: insurance.

Regarding large associations, we believe there are two significant opportunities for improvement to the current law not addressed in AB1101 and one major concern in the bill as proposed:

1. **Concern:** The Legislative Counsel's Digest states, *"...that the funds are covered by insurance provided by the federal government."*
 - a. The actual text of the bill seems to only apply to funds that a managing agent accepts, which are less restrictive than the Legislative Counsel's Digest suggests. If we are reading the bill correctly, since TDA is self-managed, AB1101 may not apply to TDA.
 - b. If AB1101 would apply, the concern is the practicality of having to spread millions of dollars of reserve investments over dozens of banks. This could have the unintended consequence of mismanaged funds simply due to the complexity of working across so many institutions in an attempt to comply with deposit limits.
 - c. Such a restriction would also preclude investments in Treasury bills, as they are backed but not insured by the federal government. We keep a very safe portfolio, but this language, if it were to apply, would greatly complicate management practices. It would also compromise our ability to earn greater returns on long-term





capital reserve investments for our members' assets, which are currently invested in extraordinarily safe instruments. See Exhibit A – TDA Investment Policy.

We request clarification as to whether this provision only applies to funds managed by a third-party agent OR modifies the provision to account for the needs of large associations as described above and to include treasury debt and highly rated corporate (S&P BBB+), money market, commercial paper and municipal bond instruments as acceptable investments for HOAs of our size. The act states that “in no event may funds be invested in stocks or high-risk investment options.” We request clarification and/or definition of “high-risk” as it pertains to this clause.

2. **Opportunity:** as a large-scale homeowner association, the provisions of Section 5500 are impractical, if not onerous. As described in Section 5500 and Section 5501, several monthly review requirements are onerous, such as a review of the association’s operating revenues and expenses compared to the current year’s budget. TDA has 1,689 ledger accounts to budget for across 35 departments, and these results are reviewed internally by each department’s manager before their presentation to the Board of Directors and Finance Committee. Additionally, the check register and general ledger entries for an association of our size are thousands of lines long each month, resulting in a 600-page report provided to each 5501 Subcommittee attendee each month. TDA estimates the cost of conducting 5501 Subcommittee meetings at \$50,000 annually to the association. This further amendment would result in far greater cost and time to the organization. TDA staff would be happy to share the size and scope of the information provided in the 5501 Subcommittee meetings to gain a better understanding of the scale and range of information being provided on a monthly basis.
 - a. A more practical and more effective approach to ensuring the integrity of association finances is an in-depth annual audit by a certified public accountant (CPA). Furthermore, TDA maintains an active Finance Committee that conducts monthly meetings where all financial topics are addressed, including but not limited to cash position, operating performance vs. budget, financial forecast, capital expenditure vs. budget and financial statement review.

We request that language be added to AB1101 exempting HOAs that meet the requirements of a qualified audit conducted by a CPA from the requirements of Section 5500. Such an exemption might require having completed a “clean” audit the year prior.

3. **Opportunity:** Section 5502 provides that any transfer over \$10,000 must be approved by the Board. For an association of our size, this does not cover regular weekly or bi-weekly activities such as payroll.





- a. AB1101 provides for a revised dollar amount for smaller associations; likewise, a revised dollar threshold for Board approval, or a qualification differentiating routing expenses from unusual expenditures, is in order.

We request that language be added to AB1101 specifying a higher threshold to require Board approval applicable to, say, associations with an operating budget in excess of \$5MM for transfers in excess of, say, 5% of the annual operating budget. Or, we request that the transfer thresholds be further scaled by size of association. For example, if the act states that associations with 51 owners or more require Board approval for transfers of \$10,000 or more, then further state that associations with 501 owners or more require Board approval for transfers of \$100,000 or more and that associations with 5,001 owners or more require Board approval for transfers of \$1,000,000 or more.

I would be happy to work with your staff to address some of the opportunities mentioned above.

Thank you for your service and consideration.

Sincerely,

DAVID MICKAELIAN
General Manager
Tahoe Donner Association

/rb

Cc: Tahoe Donner Association Board of Directors

Assembly Member Megan Dahle
Assembly Member Jim Wood

