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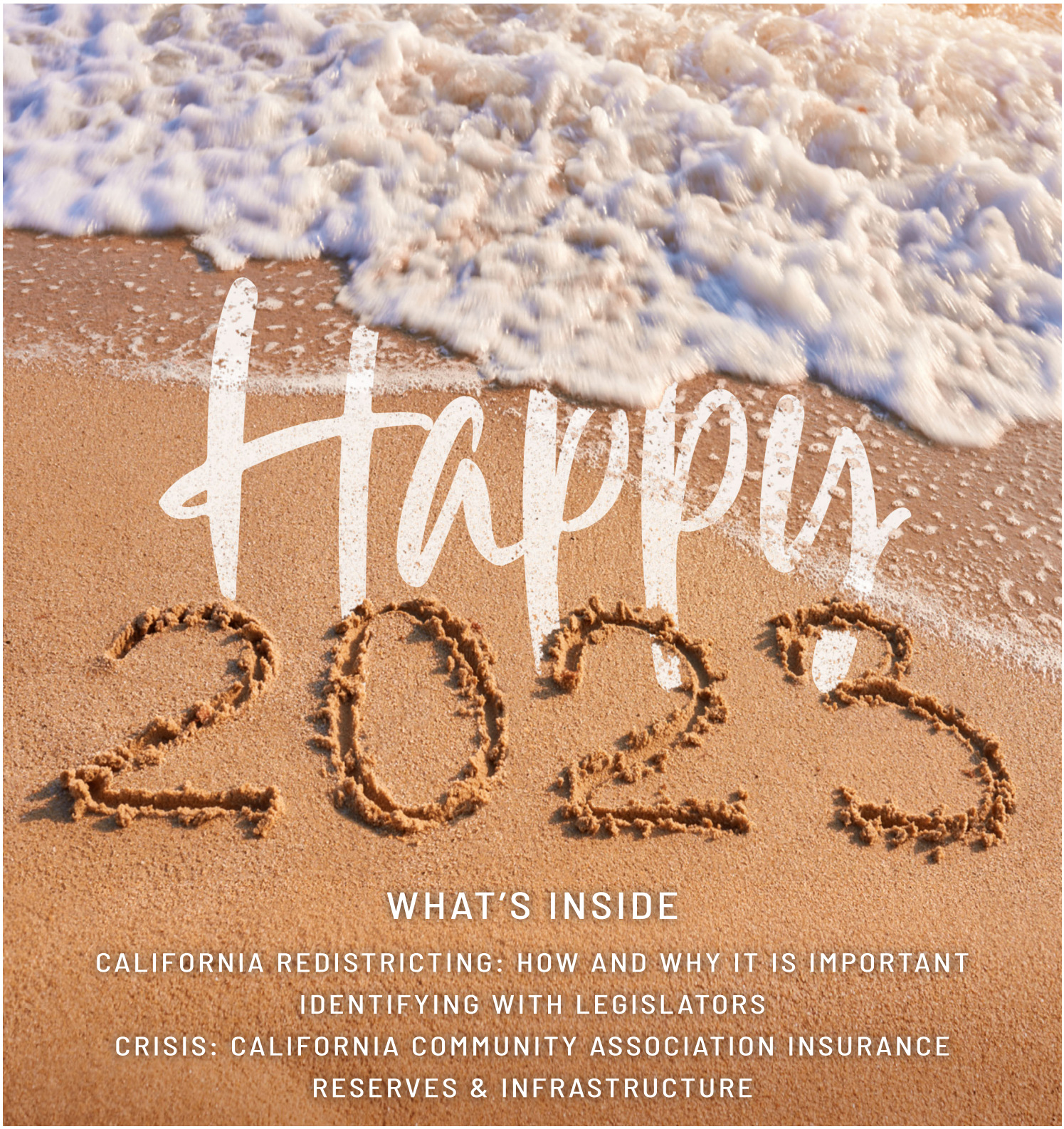

WHAT'S INSIDE

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CAI-CLAC LEGISLATIVE *Update:* AB 1410

BY: NORDBERG | DENICHILO, LLP

In what may be a record, only one piece of legislation specifically addresses community associations in California this year. AB 1410 (Rodriguez) started out as one of the most draconian bills aimed at California's community associations that might have ever been introduced. It was even nicknamed by some as the "I hate HOAs bill." However, with the work of CAI's California Legislative Action Committee, the bill that ultimately was enacted has little impact on associations and is much more easily manageable.

AB 1410 impacts California's community associations in three ways. In what is perhaps the most significant change, the legislature continues its efforts to create affordable housing by creating additional rental opportunities. AB 1410 bans enforcement of any restriction in an association's governing documents that prohibits the rental or leasing of a portion of an owner-occupied separate interest for a period of more than 30 days. The key to this part of the bill is that it only applies to ***owner-occupied*** units, essentially permitting roommates, so long as the rental is for a period of at least thirty days. It does not impact an association's ability to restrict rentals of properties that are non-owner occupied.

AB 1410 also expands on the prior law that prevented an association from taking any enforcement action against an owner for failing to water in times of Governor-declared drought. Under the new law, an association is prohibited from taking any enforcement action, excluding assessment collection, during a declared state of emergency if the nature of the emergency giving rise to the declaration makes it unsafe or impossible for the owner to prevent or fix the violation. California is almost always in some form of declared state of emergency. However, not many of the declared states of emergency make compliance with an association's governing documents unsafe or impossible. Given that reality, it is unlikely that this provision will have a significant impact on community associations in the state.

Lastly, AB 1410 expands on the legislature's previous efforts to protect free speech rights in associations, by preventing an association from prohibiting an owner or resident from using social media or other online resources to discuss any of the following, even if the content is critical of the association or its governance: (i) Development living; (ii) Association elections; (iii) Legislation; (iv) Election to public office; (v) The initiative, referendum, or recall processes; or (vi) Any other issues of concern to members and residents. In addition, the law states that an association shall not retaliate against a member or a resident for exercising any of the rights to peacefully assemble and freely communicate with one another and with others with respect to common interest development living or for social, political, or educational purposes, whether in person, or on social media. Despite the right of a resident or owner to express themselves on social media, the bill makes clear that associations are not required to provide owners access to the association's websites or social media accounts.