

AMENDED IN SENATE MAY 17, 2001

AMENDED IN SENATE APRIL 18, 2001

SENATE BILL

No. 1122

Introduced by Senator Poochigian

February 23, 2001

An act to amend Section 1102.6b of the Civil Code, and to add Section 53754 to the Government Code, relating to real estate disclosure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1122, as amended, Poochigian. Real estate: disclosures of transfer.

Existing law requires certain disclosures to be made upon the transfer of real estate and prescribes the manner and form of the disclosures. In the case of the transfer of real property subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act, the seller is required to make a good faith effort to notify the prospective purchaser of the lien in the manner and time provided in a prescribed disclosure form. Existing law, the Proposition 218 Omnibus Implementation Act, imposes prior notice, protest, and hearing requirements when a local government levies a new or increased assessment upon real property.

This bill would require the legislative body of a local government levying an assessment to designate an office to perform certain duties relating to the assessment including furnishing to any requester or the owner of any property subject to the assessment a notice of assessment containing specified information in a prescribed form. The bill would

require the seller to make a good faith effort to obtain and deliver to the prospective purchaser the notice of the assessment.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1102.6b of the Civil Code is amended
2 to read:

3 1102.6b. (a) This section applies to all transfers of real
4 property for which all of the following apply:

5 (1) The transfer is subject to this article.

6 (2) The property being transferred is subject to a continuing
7 lien securing the levy of special taxes pursuant to the Mello-Roos
8 Community Facilities Act (Chapter 2.5 (commencing with
9 Section 53311) of Part 1 of Division 2 of Title 5 of the Government
10 Code) or securing the levy of any assessment as defined in
11 subdivision (b) of Section 53750 of the Government Code
12 pursuant to any state law or local charter provision.

13 (3) A notice is not required pursuant to Section 53341.5 of the
14 Government Code.

15 (b) In addition to *any* other disclosure required pursuant to this
16 article, the seller of any real property subject to this section shall
17 make a good faith effort to obtain a disclosure notice concerning
18 the special tax as provided for in Section 53340.2 of the
19 Government Code, or an assessment as provided in Section 53754
20 of the Government Code, from each local agency that levies a
21 special tax pursuant to the Mello-Roos Community Facilities Act,
22 or that levies an assessment, on the property being transferred, and
23 shall deliver that notice or those notices to the prospective
24 purchaser, as long as the notices are made available by the local
25 agency.

26 (c) If a disclosure received pursuant to subdivision (b) has been
27 delivered to the transferee, a seller or his or her agent is not
28 required to provide additional information concerning, and
29 information in the disclosure shall be deemed to satisfy the
30 responsibility of the seller or his or her agent to inform the
31 transferee regarding the special tax or assessment and the district.
32 Notwithstanding subdivision (b), nothing in this section imposes



1 a duty to discover a special tax or assessment or the existence of
2 any levying district not actually known to the agents.

3 SEC. 2. Section 53754 is added to the Government Code, to
4 read:

5 53754. (a) The legislative body levying the assessment shall
6 designate an office, department, or bureau of the local agency that
7 shall be responsible for annually preparing the current roll of
8 assessment levy obligations by assessor’s parcel number on
9 nonexempt property within the district and that will be responsible
10 for estimating future assessment levies. The designated office,
11 department, or bureau shall establish procedures to promptly
12 respond to inquiries concerning current and future estimated
13 assessment liability. Neither the designated office, department, or
14 bureau, nor the legislative body, shall be liable if any estimate of
15 future tax liability is inaccurate, nor for any failure of any seller to
16 request a Notice of Assessment or to provide the notice to a buyer.

17 (b) For purposes of enabling sellers of real property subject to
18 the levy of assessments to satisfy the notice requirements of
19 subdivision (b) of Section 1102.6 of the Civil Code, the designated
20 office, department, or bureau shall furnish a Notice of Assessment
21 to any individual requesting the notice or any owner of property
22 subject to an assessment levied by the local agency within five
23 working days of receiving a request for such notice. The local
24 agency may charge a reasonable fee for this service not to exceed
25 ten dollars (\$10).

26 (c) The notice shall contain the heading “NOTICE OF
27 ASSESSMENT” in type no smaller than 8-point type, and shall
28 be in substantially the following form. The form may be modified
29 as needed to clearly and accurately describe the assessment
30 structure and other characteristics of districts created before
31 January 1, 2002, or to clearly and accurately consolidate
32 information about the structure and other characteristics of two or
33 more districts that levy or are authorized to levy assessments with
34 respect to the lot, parcel, or unit. The notice shall be completed by
35 the designated office, department, or bureau except for the
36 signatures and date of signing:

37
38 NOTICE OF ASSESSMENT
39
40 BENEFIT ASSESSMENT NO. _____



1 (CITY) (COUNTY) (SPECIAL DISTRICT), CALIFORNIA
 2
 3 TO: THE PROSPECTIVE PURCHASER OF THE REAL
 4 PROPERTY KNOWN AS:
 5
 6 THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR
 7 PURCHASING THIS PROPERTY.

8
 9 This property is subject to an assessment (or “benefit
 10 assessment”), which is in addition to the regular property taxes
 11 and any other charges and levies on the parcel. This assessment
 12 may not be imposed on all parcels within the city or county where
 13 the property is located. If you fail to pay this assessment when due
 14 each year, the property may be foreclosed upon and sold. The
 15 assessment is used to provide public facilities or services that may
 16 particularly benefit the property. YOU SHOULD TAKE THIS
 17 ASSESSMENT AND THE BENEFITS FROM THE PUBLIC
 18 FACILITIES AND SERVICES FOR WHICH IT PAYS INTO
 19 ACCOUNT IN DECIDING WHETHER TO BUY THIS
 20 PROPERTY.

21
 22 ~~(1) The maximum assessment that may be levied against this~~
 23 ~~parcel to pay for public facilities is \$_____ during the _____~~
 24 ~~tax year. This amount will increase by _____ percent per year after~~
 25 ~~that (if applicable). The assessment will be levied each year until~~
 26 ~~all of the authorized facilities are built and all assessment bonds are~~
 27 ~~repaid, but in any case not after the _____-_____ tax year.~~

28 ~~An additional assessment will be used to pay for ongoing~~
 29 ~~services, if applicable. The maximum amount of this assessment~~
 30 ~~is _____ dollars (\$_____) during the _____ tax year. This~~
 31 ~~amount may increase by _____, if applicable, and may be levied~~
 32 ~~until the _____-_____ tax year (or forever, as applicable).~~

33
 34 *(1) The assessment against this property to pay for public*
 35 *facilities is _____ dollars (\$_____) during the _____-_____ tax year.*
 36 *The assessment will be levied each year until all of the authorized*
 37 *facilities are built and all the assessment bonds are repaid, but in*
 38 *any case not after the _____-_____ tax year.*

39 (2) The authorized facilities that are being paid for by the
 40 assessments, and by the money received from the sale of bonds that



1 are being repaid by the assessments, are:

2

3 (LIST)

4

5 These facilities may not yet have all been constructed or
6 acquired and it is possible that some may never be constructed or
7 acquired.

8 In addition, the assessments may be used to pay for costs of the
9 following services:

10

11 (LIST)

12

13 YOU MAY OBTAIN A COPY OF THE RESOLUTION OF
14 FORMATION THAT AUTHORIZED CREATION OF THE
15 ASSESSMENT DISTRICT AND THAT SPECIFIES MORE
16 PRECISELY HOW THE ASSESSMENT IS APPORTIONED
17 AND HOW THE PROCEEDS OF THE LEVY WILL BE USED,
18 FROM THE ____ (name of jurisdiction) BY CALLING ____
19 (telephone number). THERE MAY BE A CHARGE FOR THIS
20 DOCUMENT NOT TO EXCEED THE ESTIMATED
21 REASONABLE COST OF PROVIDING THE DOCUMENT.

22

23 I (WE) ACKNOWLEDGE THAT I (WE) HAVE RECEIVED
24 A COPY OF THIS NOTICE. I (WE) UNDERSTAND THAT I
25 (WE) MAY TERMINATE THE CONTRACT TO PURCHASE
26 OR DEPOSIT RECEIPT AFTER RECEIVING THIS NOTICE
27 FROM THE OWNER OR AGENT SELLING THE PROPERTY.
28 THE CONTRACT MAY BE TERMINATED WITHIN THREE
29 DAYS IF THE NOTICE WAS RECEIVED IN PERSON OR
30 WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE
31 MAIL BY GIVING WRITTEN NOTICE OF THAT
32 TERMINATION TO THE OWNER OR AGENT SELLING THE
33 PROPERTY.

O

