

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE SEPTEMBER 2, 2003

AMENDED IN SENATE JULY 15, 2003

AMENDED IN SENATE JULY 8, 2003

AMENDED IN SENATE JUNE 27, 2003

AMENDED IN SENATE JUNE 11, 2003

AMENDED IN ASSEMBLY APRIL 28, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 920

Introduced by Assembly Member Nakano

February 20, 2003

An act to amend Sections 1102.6a, 1102.17, and 1103.2 of the Civil Code, relating to real estate disclosures.

LEGISLATIVE COUNSEL'S DIGEST

AB 920, as amended, Nakano. Real estate disclosures: nuisance: local government.

(1) Existing law requires the disclosure of specified attributes of residential real property prior to the transfer of title, including disclosures required by a city or county, as specified.

This bill would require a seller of residential real property, who has actual knowledge thereof, to disclose that the property is adjacent to an industrial use or affected by a nuisance created by such a use. ~~The~~

~~The bill would also provide, with respect to disclosure required by a city or county, that, on or after January 1, 2005, if a city or county adopts a different or additional disclosure form regarding the proximity or effects of an airport, the form would be required to contain specified information regarding annoyances or inconveniences associated with airport operations. The bill would further provide, on and after January 1, 2005, that if a city or county does not adopt a different or additional disclosure form, the provision of an airport influence area disclosure, as specified, or if there is not a current airport influence map, a written disclosure of an airport within two statute miles, shall be deemed to satisfy any city or county disclosure requirements unless a city or county adopts a modified statutory disclosure form regarding the proximity or effects of an airport in this regard.~~

~~(2) Existing law provides that certain hazardous area disclosures may be provided in a Local Option Real Estate Disclosure Statement, as specified.~~

~~This bill would specify that these disclosures may be provided in the report of a consultant, as specified. requires that certain natural hazards be disclosed pursuant to certain property transfers and that these disclosures be made on a specified statement. Existing law exempts transferors and their agents from liability for error, inaccuracies, or omissions in these disclosures when they are not within their personal knowledge, they are based on information contained in a report provided by specified parties, and ordinary care is exercised in obtaining and transmitting the information.~~

~~This bill would amend the Natural Hazard Disclosure Statement to provide an optional acknowledgement that representations made in the statement are based on an independent 3rd party report provided as a substituted disclosure, as specified, and that the transferor and the transferor's agent have not verified the information in the report and are not personally aware of any errors or inaccuracies in the statement. The bill would provide that the legal effect of a consultant's report delivered to satisfy the exemption described above is not changed when it is accompanied by a Natural Hazard Disclosure Statement, and that these reports shall always be accompanied by a signed and completed Natural Hazard Disclosure Statement.~~

~~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 1102.6a of the Civil Code is amended
2 to read:

3 1102.6a. (a) On and after July 1, 1990, any city or county may
4 elect to require disclosures on the form set forth in subdivision (b)
5 in addition to those disclosures required by Section 1102.6.
6 However, this section does not affect or limit the authority of a city
7 or county to require disclosures on a different disclosure form in
8 connection with transactions subject to this article pursuant to an
9 ordinance adopted prior to July 1, 1990. Such an ordinance
10 adopted prior to July 1, 1990, may be amended thereafter to revise
11 the disclosure requirements of the ordinance, in the discretion of
12 the city council or county board of supervisors.

13 (b) Disclosures required pursuant to this section pertaining to
14 the property proposed to be transferred, shall be set forth in, and
15 shall be made on a copy of, the following disclosure form:



1 NOTE TO PRINTING OFFICE: INSERT CAMERA-READY
2 COPY HERE

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1 (c) This section does not preclude the use of addenda to the
2 form specified in subdivision (b) to facilitate the required
3 disclosures. This section does not preclude a city or county from
4 using the disclosure form specified in subdivision (b) for a purpose
5 other than that specified in this section.

6 (d) (1) On and after January 1, 2005, ~~unless~~ if a city or county
7 adopts a different or additional disclosure form pursuant to this
8 section regarding the proximity or effects of an airport, *the*
9 *statement in that form shall contain, at a minimum, the information*
10 *in the statement “Notice of Airport in Vicinity” found in Section*
11 *11010 of the Business and Professions Code, or Section 1103.4 or*
12 *1353.*

13 (2) *On and after January 1, 2004, if a city or county does not*
14 *adopt a different or additional disclosure form pursuant to this*
15 *section, then the provision of an “airport influence area”*
16 *disclosure pursuant to Section 11010 of the Business and*
17 *Professions Code, or Section 1103.4 or 1353, or if there is not a*
18 *current airport influence map, a written disclosure of an airport*
19 *within two statute miles, shall be deemed to satisfy any city or*
20 *county requirements for the disclosure of airports in connection*
21 *with transfers of real property.*

22 SEC. 2. Section 1102.17 of the Civil Code is amended to read:
23 1102.17. The seller of residential real property subject to this
24 article who has actual knowledge that the property is adjacent to,
25 or zoned to allow, an industrial use described in Section 731a of
26 the Code of Civil Procedure, or affected by a nuisance created by
27 such a use, shall give written notice of that knowledge as soon as
28 practicable before transfer of title.

29 SEC. 3. Section 1103.2 of the Civil Code is amended to read:
30 1103.2. (a) The disclosures required by this article are set
31 forth in, and shall be made on a copy of, the following Natural
32 Hazard Disclosure Statement:

33

34 NATURAL HAZARD DISCLOSURE STATEMENT

35

36 This statement applies to the following property: _____

37



1 The transferor and his or her agent(s) *or a third-party consultant* disclose the
 2 following information with the knowledge that even though this is not a war-
 3 ranty, prospective transferees may rely on this information in deciding
 4 whether and on what terms to purchase the subject property. Transferor here-
 5 by authorizes any agent(s) representing any principal(s) in this action to pro-
 6 vide a copy of this statement to any person or entity in connection with any
 7 actual or anticipated sale of the property.

8
 9 The following are representations made by the transferor and his or her
 10 agent(s) based on their knowledge and maps drawn by the state and federal
 11 governments. This information is a disclosure and is not intended to be part
 12 of any contract between the transferee and transferor.

13
 14 THIS REAL PROPERTY LIES WITHIN THE FOLLOWING HAZ-
 15 ARDOUS AREA(S):

16
 17 A SPECIAL FLOOD HAZARD AREA (Any type Zone “A” or
 18 “V”) designated by the Federal Emergency Management Agency.

19
 20 Yes _____ No _____ Do not know and
 21 information not
 22 available from local
 23 jurisdiction _____
 24

25 AN AREA OF POTENTIAL FLOODING shown on a dam failure
 26 inundation map.

27
 28 Yes _____ No _____ Do not know and
 29 information not
 30 available from local
 31 jurisdiction _____
 32

33 A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to
 34 Section 51178 or 51179 of the Government Code. The owner of this
 35 property is subject to the maintenance requirements of Section 51182
 36 of the Government Code.

37
 38 Yes _____ No _____
 39



1 A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL
 2 FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125
 3 of the Public Resources Code. The owner of this property is subject
 4 to the maintenance requirements of Section 4291 of the Public
 5 Resources Code. Additionally, it is not the state’s responsibility to
 6 provide fire protection services to any building or structure located
 7 within the wildlands unless the Department of Forestry and Fire
 8 Protection has entered into a cooperative agreement with a local
 9 agency for those purposes pursuant to Section 4142 of the Public
 10 Resources Code.

11
 12 Yes ____ No ____

13
 14 AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the
 15 Public Resources Code.

16
 17 Yes ____ No ____

18
 19 A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public
 20 Resources Code.

21
 22 Yes (Landslide Zone) _____ Yes (Liquefaction Zone) _____
 23 No ____ Map not yet released by
 24 state ____

25
 26 THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE
 27 REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE
 28 ASSISTANCE AFTER A DISASTER.

29
 30 THE MAPS ON WHICH THESE DISCLOSURES ARE BASED
 31 ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT
 32 DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY
 33 WILL BE AFFECTED BY A NATURAL DISASTER. TRANSFEREE(S)
 34 AND TRANSFEROR(S) MAY WISH TO OBTAIN PROFESSIONAL
 35 ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS
 36 THAT MAY AFFECT THE PROPERTY.
 37



1 ~~Transferor represents that the information herein is true and correct to the~~
2 ~~best of the transferor's knowledge as of the date signed by the transferor.~~

3
4
5 Signature of
6 Transferor(s) _____ Date _____

7 Signature of
8 Transferor(s) _____ Date _____

9
10 ~~Agent represents that the information herein is true and correct to the best~~
11 ~~of the agent's knowledge as of the date signed by the agent.~~

12
13 Signature of Agent _____ Date _____

14 Signature of Agent _____ Date _____

15
16 *Check only one of the following:*

17
18 *Transferor(s) and agent(s) represent that the information herein is true*
19 *and correct to the best of the transferor(s) and agent(s) knowledge as of the*
20 *date signed by the transferor(s) and agent(s).*

21
22 *Transferor(s) signature above acknowledges that the representations*
23 *made in this Natural Hazard Disclosure Statement are based upon*
24 *information provided by an independent third party report provided as a*
25 *substituted disclosure pursuant to Section 1103.4 of the Civil Code. Neither*
26 *the transferor nor the transferor's agent (1) has independently verified the*
27 *information contained in this form and report or (2) is personally aware of*
28 *any errors or inaccuracies in the information contained on the statement.*
29 *This disclosure was prepared by the consultant signing below.*

30
31 *Signature of*
32 *Consultant(s)* _____ *Date* _____

33
34 Transferee represents that he or she has read and understands this document.

35
36 Signature of
37 Transferee(s) _____ Date _____

38 Signature of
39 Transferee(s) _____ Date _____

40



1 (b) If an earthquake fault zone, seismic hazard zone, very high
2 fire hazard severity zone, or wildland fire area map or
3 accompanying information is not of sufficient accuracy or scale
4 that a reasonable person can determine if the subject real property
5 is included in a natural hazard area, the transferor or transferor's
6 agent shall mark "Yes" on the Natural Hazard Disclosure
7 Statement. The transferor or transferor's agent may mark "No" on
8 the Natural Hazard Disclosure Statement if he or she attaches a
9 report prepared pursuant to subdivision (c) of Section 1103.4 that
10 verifies the property is not in the hazard zone. Nothing in this
11 subdivision is intended to limit or abridge any existing duty of the
12 transferor or the transferor's agents to exercise reasonable care in
13 making a determination under this subdivision.

14 (c) If the Federal Emergency Management Agency has issued
15 a Letter of Map Revision confirming that a property is no longer
16 within a special flood hazard area, then the transferor or
17 transferor's agent may mark "No" on the Natural Hazard
18 Disclosure Statement, even if the map has not yet been updated.
19 The transferor or transferor's agent shall attach a copy of the Letter
20 of Map Revision to the disclosure statement.

21 (d) If the Federal Emergency Management Agency has issued
22 a Letter of Map Revision confirming that a property is within a
23 special flood hazard area and the location of the letter has been
24 posted pursuant to subdivision (g) of Section 8589.3 of the
25 Government Code, then the transferor or transferor's agent shall
26 mark "Yes" on the Natural Hazard Disclosure Statement, even if
27 the map has not yet been updated. The transferor or transferor's
28 agent shall attach a copy of the Letter of Map Revision to the
29 disclosure statement.

30 (e) The disclosure required pursuant to this article may be
31 provided by the transferor and the transferor's agent in ~~the report~~
32 ~~of a consultant described in Section 1103.4 or the Local Option~~
33 Real Estate Disclosure Statement described in Section 1102.6a,
34 provided that ~~the report of the consultant or the Local Option Real~~
35 Estate Disclosure Statement includes substantially the same
36 information and substantially the same warnings that are required
37 by this section ~~and is prefaced by a summary of its findings made~~
38 ~~pursuant to this section.~~



1 (f) (1) *The legal effect of a consultant's report delivered to*
2 *satisfy the exemption provided by Section 1103.4 is not changed*
3 *when it is accompanied by a Natural Hazard Disclosure Statement.*

4 (2) *A consultant's report shall always be accompanied by a*
5 *completed and signed Natural Hazard Disclosure Statement.*

6 (g) The disclosure required by this article is only a disclosure
7 between the transferor, the transferor's agents, and the transferee,
8 and shall not be used by any other party, including, but not limited
9 to, insurance companies, lenders, or governmental agencies, for
10 any purpose.

11 ~~(g)~~
12 (h) In any transaction in which a transferor has accepted, prior
13 to June 1, 1998, an offer to purchase, the transferor, or his or her
14 agent, shall be deemed to have complied with the requirement of
15 subdivision (a) if the transferor or agent delivers to the prospective
16 transferee a statement that includes substantially the same
17 information and warning as the Natural Hazard Disclosure
18 Statement.

