

## Assembly Bill No. 459

### CHAPTER 392

An act to amend Section 11010 of the Business and Professions Code, and to add Section 1102.6c to the Civil Code, relating to transfer of real property.

[Approved by Governor September 29, 2005. Filed with  
Secretary of State September 29, 2005.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 459, Oropeza. Transfer of real property: disclosure of supplemental property taxes.

Existing law requires certain disclosures to be made upon the transfer of residential property and prescribes the manner and form of the disclosures. Among others, the seller of residential property subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act, or a fixed lien assessment collected in installments to secure bonds issued pursuant to the Improvement Bond Act of 1915, is required to make a good faith effort to obtain a disclosure notice concerning the tax assessment from each local agency that levies the tax or collects the assessment, on the property being transferred, and to deliver it to the prospective purchaser, as long as the notices are made available by the local agency.

This bill would make it the sole responsibility of the seller of residential property, or his or her agent, in addition to any other disclosures required, to deliver to the prospective purchaser a disclosure notice containing specified information about supplemental property tax assessments. The bill would further require that notice be included in the notice of intention that is filed with the Department of Real Estate by a person who intends to offer subdivided lands for sale or lease.

The bill would incorporate additional changes in Section 11010 of the Business and Professions Code proposed by SB 655, to be operative only if SB 655 and this bill are both chaptered and become effective on or before January 1, 2006, and this bill is chaptered last.

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

SECTION 1. Section 11010 of the Business and Professions Code is amended to read:

11010. (a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, any person who intends to offer subdivided lands within this state for sale or lease shall file with the Department of Real Estate an application for a public report consisting of a notice of

intention and a completed questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

- (1) The name and address of the owner.
- (2) The name and address of the subdivider.
- (3) The legal description and area of lands.
- (4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.

- (5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.

- (6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government Code, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government Code.

- (7) A true statement of the use or uses for which the proposed subdivision will be offered.

- (8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

- (9) A true statement of the amount of indebtedness that is a lien upon the subdivision or any part thereof, and that was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

- (10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

- (11) A notice pursuant to Section 1102.6c of the Civil Code.

- (12) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any

school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report shall immediately provide the department with the name, address, and telephone number of that district.

(13) (A) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision. If the property is located within an airport influence area, the following statement shall be included in the notice of intention:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an “airport influence area,” also known as an “airport referral area,” is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

(14) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(15) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(16) On or after July 1, 2005, as to property located within the jurisdiction of the San Francisco Bay Conservation and Development Commission, a statement that the property is so located and the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission’s jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(17) Any other information that the owner, his or her agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance of a public report based solely upon information contained in the notice of intention.

SEC. 1.5. Section 11010 of the Business and Professions Code is amended to read:

11010. (a) Except as otherwise provided pursuant to subdivision (c) or elsewhere in this chapter, a person who intends to offer subdivided lands within this state for sale or lease shall file with the Department of Real Estate an application for a public report consisting of a notice of intention and a completed questionnaire on a form prepared by the department.

(b) The notice of intention shall contain the following information about the subdivided lands and the proposed offering:

- (1) The name and address of the owner.
- (2) The name and address of the subdivider.
- (3) The legal description and area of lands.
- (4) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.
- (5) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.
- (6) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities. For subdivided lands that were subject to the imposition of a condition pursuant to subdivision (b) of Section 66473.7 of the Government Code, the true statement of the provisions made for water shall be satisfied by submitting a copy of the written verification of the available water supply obtained pursuant to Section 66473.7 of the Government Code.
- (7) A true statement of the use or uses for which the proposed subdivision will be offered.
- (8) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.
- (9) A true statement of the amount of indebtedness that is a lien upon the subdivision or any part thereof, and that was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.
- (10) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area, assessment district, or community facilities district within the boundaries of which, the subdivision, or any part thereof, is located, and that is to pay for the

construction or installation of any improvement or to furnish community or recreational facilities to that subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(11) A notice pursuant to Section 1102.6c of the Civil Code.

(12) (A) As to each school district serving the subdivision, a statement from the appropriate district that indicates the location of each high school, junior high school, and elementary school serving the subdivision, or documentation that a statement to that effect has been requested from the appropriate school district.

(B) In the event that, as of the date the notice of intention and application for issuance of a public report are otherwise deemed to be qualitatively and substantially complete pursuant to Section 11010.2, the statement described in subparagraph (A) has not been provided by any school district serving the subdivision, the person who filed the notice of intention and application for issuance of a public report shall immediately provide the department with the name, address, and telephone number of that district.

(13) (A) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision. If the property is located within an airport influence area, the following statement shall be included in the notice of intention:

NOTICE OF AIRPORT IN VICINITY

This property is presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.

(B) For purposes of this section, an “airport influence area,” also known as an “airport referral area,” is the area in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses as determined by an airport land use commission.

(14) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(15) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(16) On or after July 1, 2005, as to property located within the jurisdiction of the San Francisco Bay Conservation and Development Commission, a statement that the property is so located and the following notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND  
DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San Francisco Bay Conservation and Development Commission. Use and development of property within the commission's jurisdiction may be subject to special regulations, restrictions, and permit requirements. You may wish to investigate and determine whether they are acceptable to you and your intended use of the property before you complete your transaction.

(17) If the property is within an asbestos hazard zone mapped pursuant to Section 2686 of the Public Resources Code, the report shall contain the following notice:

NOTICE OF NATURALLY OCCURRING ASBESTOS HAZARD  
ZONE

This property is located within an area identified by the State Geologist as potentially containing naturally occurring asbestos. Exposure to asbestos may create a significant health risk, and the presence of asbestos-bearing minerals may result in restrictions on the use or development of the property. You should consider the potential risks associated with the property before you complete your purchase and determine whether they are acceptable to you.

(18) Any other information that the owner, his or her agent, or the subdivider may desire to present.

(c) The commissioner may, by regulation, or on the basis of the particular circumstances of a proposed offering, waive the requirement of the submission of a completed questionnaire if the commissioner determines that prospective purchasers or lessees of the subdivision interests to be offered will be adequately protected through the issuance of a public report based solely upon information contained in the notice of intention.

SEC. 2. Section 1102.6c is added to the Civil Code, to read:

1102.6c. (a) In addition to any other disclosure required pursuant to this article, it shall be the sole responsibility of the seller of any real property subject to this article, or his or her agent, to deliver to the prospective purchaser a disclosure notice that includes both of the following:

(1) A notice, in at least 12-point type or a contrasting color, as follows:

“California property tax law requires the Assessor to revalue real property at the time the ownership of the property changes. Because of this law, you may receive one or two supplemental tax bills, depending on when your loan closes.

The supplemental tax bills are not mailed to your lender. If you have arranged for your property tax payments to be paid through an impound account, the supplemental tax bills will not be paid by your lender. It is your responsibility to pay these supplemental bills directly to the Tax Collector.

If you have any question concerning this matter, please call your local Tax Collector's Office."

(2) A title, in at least 14-point type or a contrasting color, that reads as follows: "Notice of Your 'Supplemental' Property Tax Bill."

(b) The disclosure notice requirements of this section may be satisfied by delivering a disclosure notice pursuant to Section 1102.6b that satisfies the requirements of subdivision (a).

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 11010 of the Business and Professions Code proposed by both this bill and SB 655. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2006, (2) each bill amends Section 11010 of the Business and Professions Code, and (3) this bill is enacted after SB 655, in which case Section 1 of this bill shall not become operative.