

AMENDED IN ASSEMBLY MAY 11, 2006

AMENDED IN ASSEMBLY APRIL 27, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 3022

Introduced by Assembly Member Umberg

February 24, 2006

An act to amend Section 11010 of, and to add Section 11201 to, the Business and Professions Code, relating to flood control.

LEGISLATIVE COUNSEL'S DIGEST

AB 3022, as amended, Umberg. Flood control: seller disclosures.

Existing law requires any person who intends to offer subdivided lands within this state for sale or lease to file with the Department of Real Estate an application for a public report that contains specified information, *including a notice of intention*. Existing law also requires any person who intends to make a specified transfer of residential property to disclose natural hazards.

The bill would require ~~an express, written disclosure~~ that *the notice of intention as to* any subdivided lands offered for sale or lease on or after July 1, 2007, *and until January 1, 2012*, that contain “qualifying real property,” as defined, contain a statement that the property is located ~~behind~~ *nearby* a levee and subject to a risk of flooding. It would define “qualifying real property” for this purpose as located within certain zones of specified flood maps and, ~~but for its location behind~~ *a the protection provided by a nearby* levee, would be subject to a risk of flooding of greater than 1% in any year. The bill also would require that every contract for the sale of “qualifying real

property” entered into on or after July 1, 2007, and until January 1, 2012, contain specified provisions relative to levee failure and flooding.

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

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

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

3 11010. (a) Except as otherwise provided pursuant to
4 subdivision (c) or elsewhere in this chapter, any person who
5 intends to offer subdivided lands within this state for sale or lease
6 shall file with the Department of Real Estate an application for a
7 public report consisting of a notice of intention and a completed
8 questionnaire on a form prepared by the department.

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

- 12 (1) The name and address of the owner.
- 13 (2) The name and address of the subdivider.
- 14 (3) The legal description and area of lands.
- 15 (4) A true statement of the condition of the title to the land,
16 particularly including all encumbrances thereon.
- 17 (5) A true statement of the terms and conditions on which it is
18 intended to dispose of the land, together with copies of any
19 contracts intended to be used.
- 20 (6) A true statement of the provisions, if any, that have been
21 made for public utilities in the proposed subdivision, including
22 water, electricity, gas, telephone, and sewerage facilities. For
23 subdivided lands that were subject to the imposition of a
24 condition pursuant to subdivision (b) of Section 66473.7 of the
25 Government Code, the true statement of the provisions made for
26 water shall be satisfied by submitting a copy of the written
27 verification of the available water supply obtained pursuant to
28 Section 66473.7 of the Government Code.
- 29 (7) A true statement of the use or uses for which the proposed
30 subdivision will be offered.
- 31 (8) A true statement of the provisions, if any, limiting the use
32 or occupancy of the parcels in the subdivision.

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

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

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

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

21 (B) In the event that, as of the date the notice of intention and
22 application for issuance of a public report are otherwise deemed
23 to be qualitatively and substantially complete pursuant to Section
24 11010.2, the statement described in subparagraph (A) has not
25 been provided by any school district serving the subdivision, the
26 person who filed the notice of intention and application for
27 issuance of a public report shall immediately provide the
28 department with the name, address, and telephone number of that
29 district.

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

35
36 NOTICE OF AIRPORT IN VICINITY

37 This property is presently located in the vicinity of an
38 airport, within what is known as an airport influence area. For that
39 reason, the property may be subject to some of the annoyances or
40 inconveniences associated with proximity to airport operations

1 (for example: noise, vibration, or odors). Individual sensitivities
 2 to those annoyances can vary from person to person. You may wish to
 3 consider what airport annoyances, if any, are associated with the
 4 property before you complete your purchase and determine whether they
 5 are acceptable to you.

6
 7 (B) For purposes of this section, an “airport influence area,”
 8 also known as an “airport referral area,” is the area in which
 9 current or future airport-related noise, overflight, safety, or
 10 airspace protection factors may significantly affect land uses or
 11 necessitate restrictions on those uses as determined by an airport
 12 land use commission.

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

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

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

24 NOTICE OF SAN FRANCISCO BAY CONSERVATION
 25 AND DEVELOPMENT COMMISSION JURISDICTION

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

33 (17) (A) On or after July 1, 2007, *and until January 1, 2012*,
 34 as to any subdivision that contains “qualifying real property” as
 35 defined in Section 11201, the following statement:

36
 37 ~~NOTICE OF PROXIMITY TO LEVEE AND POTENTIAL~~
 38 ~~FLOOD RISKS~~

39 *NOTICE OF LEVEE FAILURE FLOOD HAZARD*

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1 This property would be subject to a risk of flooding but for the
 2 protection provided by ~~being located behind a~~ *a nearby* levee.
 3 Levee failure may result in flooding that may cause significant
 4 risk to life and property. ~~The State of California requires that this~~
 5 ~~property be covered by flood insurance provided through the~~
 6 ~~National Flood Insurance Program for a period of 4 years after~~
 7 ~~the first close of escrow of this property and recommends that~~
 8 ~~property owners maintain flood insurance after that.~~

9
 10 (B) Information about purchasing subsidized federal flood
 11 insurance.

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

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

21 SEC. 2. Section 11201 is added to the Business and
 22 Professions Code, to read:

23 11201. (a) Every sales contract relating to the *initial*
 24 *purchase of a “qualifying real property”* entered into on or after
 25 *July 1, 2007, and until January 1, 2012,* shall contain both of the
 26 following:

27 (1) A provision indicating that the buyer has received a copy
 28 of the ~~safety flood preparedness and evacuation~~ plan, if one is
 29 developed by the city, county, or city and county, that provides
 30 information regarding what should be done in case of levee
 31 failure.

32 (2) A condition that ~~requires provides~~ that the *builder or the*
 33 *builder’s agent, including an association as defined in*
 34 *subdivision (a) of Section 1351 of the Civil Code, shall obtain a*
 35 *policy sold pursuant to the National Flood Insurance Program or*
 36 *similar policy, if available, for qualifying real property* ~~will be~~
 37 ~~protected by a policy sold pursuant to the National Flood~~
 38 ~~Insurance Program~~ for a period of four years from the date of
 39 close of escrow of the qualifying real property.

1 (b) For purposes of this section, “qualifying real property”
2 shall mean a new residential unit that meets both of the following
3 conditions:

4 (1) The unit is located within Zones B or shaded X, as
5 indicated on current Flood Hazard Boundary Maps or current
6 Flood Insurance Rate Maps produced by the Federal Emergency
7 Management Agency.

8 (2) The unit would be subject to a risk of flooding in any year
9 greater than 1 percent but for the protection ~~providing by being~~
10 ~~located behind a~~ *provided by a nearby* levee.

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12

13 **CORRECTIONS:**

14 **Text–Page 4.**

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