

ASSEMBLY BILL

No. 1356

Introduced by Assembly Member Houston

February 23, 2007

An act to amend Section 1695.17 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1356, as introduced, Houston. Real property: equity purchasers.

(1) Under existing law, an equity purchaser is liable for all damages resulting from any statement made or act committed by the representative of the equity purchaser, as defined, in any manner connected with the equity purchaser's acquisition of a residence in foreclosure, receipt of any consideration or property from or on behalf of the equity seller, or the performance of certain prohibited acts. Existing law requires the representative of the equity purchaser to provide a statement in writing to all parties to the contract, under penalty of perjury, and written proof of licensure and bonding to the equity seller, as specified.

This bill would instead require the representative of an equity purchaser to provide to the parties to a contract written proof of licensure, as specified. The bill would also require the representative to provide a statement under penalty of perjury and written proof that he or she has satisfied certain minimal professional liability coverage or bonding requirements or that he or she has an unrestricted real estate license in good standing and that his or her license is not restricted pursuant to the Real Estate Recovery Program, as specified.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 1695.17 of the Civil Code is amended
2 to read:

3 1695.17. (a) ~~Any~~ A representative, as defined in subdivision
4 (b) of Section 1695.15, deemed to be the agent or employee, or
5 both the agent and the employee of the equity purchaser ~~shall be~~
6 ~~is~~ required to provide ~~both of the following:~~ *written proof to the*
7 *parties to the contract that the representative has a valid current*
8 *California Real Estate Sales License and that the representative*
9 *meets the financial responsibility requirement described in*
10 *subdivision (c).*

11 ~~(1) Written proof to the equity seller that the representative has~~
12 ~~a valid current California Real Estate Sales License and that the~~
13 ~~representative is bonded by an admitted surety insurer in an amount~~
14 ~~equal to twice the fair market value of the real property which is~~
15 ~~the subject of the contract.~~

16 ~~(2) A statement in writing, under penalty of perjury, that the~~
17 ~~representative has a valid current California Real Estate Sales~~
18 ~~License, is bonded by an admitted surety insurer in an amount~~
19 ~~equal to at least twice the value of the real property which is the~~
20 ~~subject of the contract and has complied with paragraph (1). The~~
21 ~~written statement required by this paragraph shall be provided to~~
22 ~~all parties to the contract prior to the transfer of any interest in the~~
23 ~~real property which is the subject of the contract.~~

24 (b) The failure to comply with subdivision (a) shall at the option
25 of the equity seller render the equity purchase contract void and
26 the equity purchaser shall be liable to the equity seller for all
27 damages proximately caused by the failure to comply.

28 (c) *For purposes of this section, a representative shall*
29 *demonstrate financial responsibility by providing written proof of*

1 *and a statement under penalty of perjury that he or she has any*
2 *of the following:*

3 *(1) Professional liability coverage in an amount equal to at*
4 *least twice the value of the property that is subject to the contract.*

5 *(2) A surety bond in an amount equal to at least twice the value*
6 *of the property that is subject to the contract.*

7 *(3) An unrestricted real estate license in good standing as*
8 *described by the regulations of the Real Estate Commissioner*
9 *pursuant to Chapter 6 (commencing with Section 2705) of Title*
10 *10 of the California Code of Regulations, and that his or her*
11 *license is not restricted under the Real Estate Recovery Program*
12 *pursuant to Chapter 6.5 (commencing with Section 10470) of Part*
13 *1 of Division 4 of the Business and Professions Code.*

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.