

AMENDED IN SENATE JUNE 30, 2008

AMENDED IN SENATE JUNE 25, 2008

AMENDED IN SENATE JUNE 10, 2008

AMENDED IN ASSEMBLY APRIL 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 2479**

**Introduced by Assembly Member Hancock**

February 21, 2008

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*An act to amend Sections 751.50, 751.51, 751.52, 751.53, 751.56, 751.58, 751.60, and 751.61 of the Code of Civil Procedure, relating to An act relating to civil actions, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2479, as amended, Hancock. Civil actions: quiet title: earth movements.

The Cullen Earthquake Act authorizes counties and cities, and with the permission of a court, other persons and entities, to bring an action to equitably reestablish land boundaries, and to quiet title to land within the boundaries that are reestablished, when lands are disturbed by earth movements. The act generally refers to these earth movements as disasters.

*This bill would specify that the authority to bring an action, as described above, applies to any earth movement, whether abrupt or gradual, and would remove references to these earth movements as disasters. The bill would also make technical and conforming changes require the California Law Revision Commission to study specified*

*matters regarding gradual earth movements, including a general discussion of existing remedies of an affected property owner, and whether an action in rem should be established to enable a property owner to equitably reestablish boundaries and to quiet title to land within the boundaries that are reestablished, as specified. The bill would request the California Geological Survey of the Department of Conservation and other state agencies to assist with the study, and would require the commission to report its findings and recommendations to the Legislature on or before March 1, 2009.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: ~~no~~-yes.

State-mandated local program: no.

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

- 1     SECTION 1. (a) *The California Law Revision Commission*
- 2     *shall study all of the following matters and report its findings and*
- 3     *recommendations to the Legislature on or before March 1, 2009:*
- 4     (1) *A general discussion of existing remedies, including under*
- 5     *the law of accretion, for a property owner whose property is*
- 6     *affected, adversely or favorably, when the boundaries of land*
- 7     *owned by the person has been disturbed by gradual earth*
- 8     *movement, whether caused by nature or man, including, but not*
- 9     *limited to, slides, subsidence, or lateral or vertical displacements,*
- 10    *so that these lands are in a location different from that at which*
- 11    *they were located prior to the movement, and distinguishing*
- 12    *between earth movement caused by nature and earth movement*
- 13    *caused by man.*
- 14    (2) *Whether an action in rem should be established to enable*
- 15    *a property owner to equitably reestablish boundaries and to quiet*
- 16    *title to land within the boundaries so reestablished, when the*
- 17    *boundaries of land owned by either public or private entities have*
- 18    *been disturbed by any earth movement, abrupt or gradual,*
- 19    *including, but not limited to, slides, subsidence, or lateral or*
- 20    *vertical displacements, so that these lands are in a location*
- 21    *different from that at which they were located prior to the*
- 22    *movement, distinguishing between earth movement caused by*
- 23    *nature and earth movement caused by man.*

1 (3) A general discussion of the possible collateral consequences  
2 of enacting the provision described in paragraph (2), and  
3 recommendation for addressing those consequences, including all  
4 of the following:

5 (A) Whether a provision is necessary to set forth the measure  
6 of damages, if any, when a boundary is reestablished pursuant to  
7 the provision described in paragraph (2).

8 (B) The effect, if any, in the title recording of the property and  
9 title searches.

10 (C) The effect, if any, on the sale of the property, including any  
11 obligation to disclose the movement.

12 (D) Any other significant impact discovered by the commission  
13 in the course of the study required by this subdivision.

14 (b) The California Geological Survey, Department of  
15 Conservation, is requested to provide background information on  
16 the history and nature of gradual earth movement in California  
17 to the California Law Revision Commission for the purposes of  
18 the study required by subdivision (a). The California Law Revision  
19 Commission may also request relevant technical background  
20 information from other state agencies that is necessary to comply  
21 with the requirements of this act.

22 (c) In the report required by subdivision (a), the California Law  
23 Revision Commission shall issue a recommendation on whether  
24 the Legislature should adopt the policy described in paragraph  
25 (2) of subdivision (a).

26 SEC. 2. This act is an urgency statute necessary for the  
27 immediate preservation of the public peace, health, or safety within  
28 the meaning of Article IV of the Constitution and shall go into  
29 immediate effect. The facts constituting the necessity are:

30 In order to protect the real property interests of counties and  
31 cities, and to equitably reestablish land boundaries after an earth  
32 movement at the earliest possible time, it is necessary that this act  
33 take effect immediately.

34 SECTION 1. Section 751.50 of the Code of Civil Procedure  
35 is amended to read:

36 ~~751.50. If the boundaries of land owned either by public or by~~  
37 ~~private entities have been disturbed by any earth movement, abrupt~~  
38 ~~or gradual, including, but not limited to, slides, subsidence, or~~  
39 ~~lateral or vertical displacements, whether caused by nature or man,~~  
40 ~~so that these lands are in a location different from that at which~~

1 they were located prior to the movement, an action in rem may be  
2 brought to equitably reestablish boundaries and to quiet title to  
3 land within the boundaries so reestablished.

4 SEC. 2. Section 751.51 of the Code of Civil Procedure is  
5 amended to read:

6 751.51. (a) An action authorized by this chapter may be  
7 commenced by:

8 (1) A county in which lands were affected by an earth movement  
9 described in Section 751.50 with or without the joinder of a city  
10 or cities included in the county and within the area so affected.

11 (2) A city, if the earth movement has affected land in the city.

12 (3) Any other entity or person owning or having an interest in  
13 or lien upon land affected by the earth movement if granted  
14 permission by the court to bring the action, and if the county in  
15 which the land is located is made a party to the action.

16 (b) In an action authorized by this chapter every entity or person  
17 in actual and peaceable possession of, or having an estate or interest  
18 in or lien upon any of the land affected by the action, whose  
19 possession or evidence of estate or interest is either recorded or  
20 known to the plaintiffs, the city, if the land is within a city, the  
21 county in which the land is located, and the State of California  
22 must be designated in the complaint of the action, and given notice  
23 in the manner required by this chapter.

24 (c) All unknown entities, including owners, lien or interest  
25 claimants, heirs, devisees, legatees or assigns, may be described  
26 in the caption and complaint as “all entities claiming any interest  
27 in or lien upon, the real property herein described or any part of  
28 it.”

29 SEC. 3. Section 751.52 of the Code of Civil Procedure is  
30 amended to read:

31 751.52. An entity that is a permissive plaintiff under this  
32 chapter may bring a separate action with respect to separate  
33 portions of the area affected by the earth movement that are of  
34 sufficient size to equitably reestablish boundaries without harm to  
35 other areas that are commonly affected by the earth movement, its  
36 decision regarding the desirability of the separate action, and  
37 regarding the area to be dealt with in each action, to be approved  
38 by the court.

39 SEC. 4. Section 751.53 of the Code of Civil Procedure is  
40 amended to read:

1 751.53. The complaint shall substantially include:

2 (a) A statement of the facts which make the provisions of this  
3 chapter applicable.

4 (b) A description of the exterior boundaries of the real property  
5 area sought to be affected by the action.

6 (c) A specification of the estate, title, interest or claim owned,  
7 and in the actual possession of the plaintiff or plaintiffs in described  
8 parts of the entire real property sought to be affected by the action.

9 (d) A specification of the estate, title, interest, or claim, so far  
10 as each is known to the plaintiff or plaintiffs, and so far as each is  
11 capable of being discovered by reasonably diligent search by the  
12 plaintiff or plaintiffs, in each separate part of the entire real  
13 property sought to be affected by the action.

14 (e) A specification of the street areas sought to be vacated or  
15 offered by the plaintiff or plaintiffs, to be vacated in whole or in  
16 part for judicial equitable allocation to landowners for the  
17 mitigation of the losses inflicted upon the landowners by the  
18 particular earth movement or movements to which this chapter is  
19 applicable.

20 (f) A proposed replatting of the entire real property sought to  
21 be affected by the action, embodying the land boundaries as fixed  
22 by the earth movement, except as these boundaries have been  
23 equitably and judicially readjusted, or as liberalized by judicially  
24 directed use of the vacated lands.

25 SEC. 5. Section 751.56 of the Code of Civil Procedure is  
26 amended to read:

27 751.56. (a) An answer to the complaint must be served within  
28 90 days after the first publication of the notice, or such further  
29 time not exceeding 30 days, as the court for good cause may grant.

30 (b) An answer must:

31 (1) Specifically set out the particulars in which the claimant's  
32 estate, right, title, or interest in or to, or lien upon all or any part  
33 of the property is different from, or greater than, the interest of the  
34 claimant as it is described in the complaint.

35 (2) Be confined to rights based on events occurring at the time  
36 of, or since the time of, the earth movement.

37 (c) To whatever extent, if at all, the answering party has rights  
38 against anyone whatsoever, based upon facts or events which  
39 occurred before the earth movement, the claims shall remain  
40 unaffected by the action brought under this chapter and shall be

1 assertable subsequent to the conclusion of the action at any time  
2 and in any manner permitted by law, notwithstanding the judgment  
3 granted in this action, recognizing however the finality of this  
4 judgment as to the consequences, with respect to land boundaries  
5 as applicable to land in the earth movement area.

6 ~~SEC. 6. Section 751.58 of the Code of Civil Procedure is~~  
7 ~~amended to read:~~

8 ~~751.58. The vacating of streets, highways or other public ways~~  
9 ~~within or abutting the area affected by the earth movement, in~~  
10 ~~whole or in part, by the voluntary action of the governmental~~  
11 ~~agency under whose jurisdiction the streets, highways, or ways~~  
12 ~~are vested, for the purpose of making it possible for the court to~~  
13 ~~mitigate the hardships suffered by entities because of the change~~  
14 ~~in land boundaries caused by the earth movement can be~~  
15 ~~accomplished by the affected governmental agency expressing the~~  
16 ~~offer in the proceedings followed by the court's acceptance thereof~~  
17 ~~in an action authorized by this chapter, without complying with~~  
18 ~~any other formalities of law.~~

19 ~~SEC. 7. Section 751.60 of the Code of Civil Procedure is~~  
20 ~~amended to read:~~

21 ~~751.60. The judgment shall:~~

22 ~~(a) Determine the land boundaries of each parcel of land located~~  
23 ~~within the entire area of real property sought to be affected by the~~  
24 ~~action, whether owned publicly or privately, as fixed by the earth~~  
25 ~~movement, except as these boundaries have been judicially and~~  
26 ~~equitably readjusted and as liberalized by judicial equitable~~  
27 ~~allocation of lands voluntarily vacated by a city, county or the state~~  
28 ~~under this act.~~

29 ~~(b) Determine the entity or entities having estates, rights, titles,~~  
30 ~~interests and claims in and to each parcel, whether legal or~~  
31 ~~equitable, present or future, vested or contingent, or whether they~~  
32 ~~consist of mortgages or liens of any description.~~

33 ~~(c) Approve and direct the proper filing of an official map~~  
34 ~~covering the entire area of real property sought to be affected by~~  
35 ~~the action, as a substitute for the plat maps previously filed, but~~  
36 ~~rendered inaccurate by the earth movement.~~

37 ~~SEC. 8. Section 751.61 of the Code of Civil Procedure is~~  
38 ~~amended to read:~~

39 ~~751.61. In reaching the conclusions called for by Section~~  
40 ~~751.60, the court shall give effect to the changes in land boundaries~~

1 caused by the earth movement, mitigated, however, so far as can  
2 equitably be done by adjustment of land boundaries and by  
3 allocating to contiguous lots parts of the land released by a city,  
4 county or the state by its voluntary vacation of areas formerly  
5 constituting public ways, which vacatings of streets shall be  
6 approved by the judgment.

7 SEC. 9. This act is an urgency statute necessary for the  
8 immediate preservation of the public peace, health, or safety within  
9 the meaning of Article IV of the Constitution and shall go into  
10 immediate effect. The facts constituting the necessity are:

11 In order to protect the real property interests of counties and  
12 cities, and to equitably reestablish land boundaries after an earth  
13 movement at the earliest possible time, it is necessary that this act  
14 take effect immediately.