

AMENDED IN ASSEMBLY JUNE 9, 2008

AMENDED IN SENATE MAY 23, 2008

AMENDED IN SENATE MAY 13, 2008

AMENDED IN SENATE MAY 1, 2008

AMENDED IN SENATE MARCH 24, 2008

**SENATE BILL**

**No. 1185**

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**Introduced by Senator Lowenthal**

(Principal coauthor: Assembly Member Houston)

**(Coauthor: Senator Dutton)**

(Coauthors: Assembly Members Solorio and Walters)

February 12, 2008

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An act to amend Sections 66452.6; and 66463.5 of, to add Section 66452.21 to, and to amend and renumber Sections 66452.11 and 66452.12 of, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1185, as amended, Lowenthal. Land use: subdivision maps.

(1) The Subdivision Map Act establishes a statewide regulatory framework for controlling the subdividing of land. It generally requires a subdivider to submit, and have approved by, the city, county, or city and county in which the land is situated a tentative or vesting tentative map, which confers a vested right to proceed with development in substantial compliance with specified ordinances, policies, and standards. The act provides for the expiration of tentative or vesting tentative maps, after specified periods of time, and specifically extends by 12 months the expiration date of any tentative or vesting tentative

map or parcel map for which a tentative or vesting tentative map has been approved that had not expired on May 15, 1996. This extension is in addition to any other extension of the expiration date provided for in specified provisions of the act. Any legislative, administrative, or other approval by any local agency, state agency, or other political subdivision of the state that pertains to a development project included in a map that is extended is to be extended by 12 months under specified conditions.

This bill would extend the applicable expiration date to 12 months, as specified, for any vesting tentative map, in addition to a tentative map, generally, that has not expired as of the date adding these provisions and that will expire, as specified, before January 1, 2011. By adding to the procedures officials in counties, cities, and cities and counties must follow, this bill would impose a state-mandated local program.

(2) The Subdivision Map Act provides that when a tentative map is required, an approved or conditionally approved tentative map must expire 24 months after its approval or conditional approval, or after any additional time period as prescribed by local ordinance, not to exceed an additional 12 months. A subdivider may file with the appropriate legislative body, prior to the expiration of the approved or conditionally approved tentative map, an application to extend the time at which the map will expire for a period or periods not to exceed a total of 5 years.

This bill instead would allow the subdivider to file an application to extend the time at which the map will expire for a period or periods not to exceed a total of 6 years. By adding to the procedures officials in counties, cities, and cities and counties must follow, this bill would impose a state-mandated local program.

(3) 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.

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

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

SECTION 1. Section 66452.6 of the Government Code is amended to read:

66452.6. (a) (1) An approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months. However, if the subdivider is required to expend one hundred seventy-eight thousand dollars (\$178,000) or more to construct, improve, or finance the construction or improvement of public improvements outside the property boundaries of the tentative map, excluding improvements of public rights-of-way which abut the boundary of the property to be subdivided and which are reasonably related to the development of that property, each filing of a final map authorized by Section 66456.1 shall extend the expiration of the approved or conditionally approved tentative map by 36 months from the date of its expiration, as provided in this section, or the date of the previously filed final map, whichever is later. The extensions shall not extend the tentative map more than 10 years from its approval or conditional approval. However, a tentative map on property subject to a development agreement authorized by Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 may be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement. The number of phased final maps that may be filed shall be determined by the advisory agency at the time of the approval or conditional approval of the tentative map.

(2) Commencing January 1, 2005, and each calendar year thereafter, the amount of one hundred seventy-eight thousand dollars (\$178,000) shall be annually increased by operation of law according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting. The effective date of each annual adjustment shall be March 1. The adjusted amount shall apply to tentative and vesting tentative maps whose applications were received after the effective date of the adjustment.

(3) "Public improvements," as used in this subdivision, include traffic controls, streets, roads, highways, freeways, bridges,

1 overcrossings, street interchanges, flood control or storm drain  
2 facilities, sewer facilities, water facilities, and lighting facilities.

3 (b) (1) The period of time specified in subdivision (a), including  
4 any extension thereof granted pursuant to subdivision (e), shall  
5 not include any period of time during which a development  
6 moratorium, imposed after approval of the tentative map, is in  
7 existence. However, the length of the moratorium shall not exceed  
8 five years.

9 (2) The length of time specified in paragraph (1) shall be  
10 extended for up to three years, but in no event beyond January 1,  
11 1992, during the pendency of any lawsuit in which the subdivider  
12 asserts, and the local agency which approved or conditionally  
13 approved the tentative map denies, the existence or application of  
14 a development moratorium to the tentative map.

15 (3) Once a development moratorium is terminated, the map  
16 shall be valid for the same period of time as was left to run on the  
17 map at the time that the moratorium was imposed. However, if the  
18 remaining time is less than 120 days, the map shall be valid for  
19 120 days following the termination of the moratorium.

20 (c) The period of time specified in subdivision (a), including  
21 any extension thereof granted pursuant to subdivision (e), shall  
22 not include the period of time during which a lawsuit involving  
23 the approval or conditional approval of the tentative map is or was  
24 pending in a court of competent jurisdiction, if the stay of the time  
25 period is approved by the local agency pursuant to this section.  
26 After service of the initial petition or complaint in the lawsuit upon  
27 the local agency, the subdivider may apply to the local agency for  
28 a stay pursuant to the local agency's adopted procedures. Within  
29 40 days after receiving the application, the local agency shall either  
30 stay the time period for up to five years or deny the requested stay.  
31 The local agency may, by ordinance, establish procedures for  
32 reviewing the requests, including, but not limited to, notice and  
33 hearing requirements, appeal procedures, and other administrative  
34 requirements.

35 (d) The expiration of the approved or conditionally approved  
36 tentative map shall terminate all proceedings and no final map or  
37 parcel map of all or any portion of the real property included within  
38 the tentative map shall be filed with the legislative body without  
39 first processing a new tentative map. Once a timely filing is made,  
40 subsequent actions of the local agency, including, but not limited

1 to, processing, approving, and recording, may lawfully occur after  
2 the date of expiration of the tentative map. Delivery to the county  
3 surveyor or city engineer shall be deemed a timely filing for  
4 purposes of this section.

5 (e) Upon application of the subdivider filed prior to the  
6 expiration of the approved or conditionally approved tentative  
7 map, the time at which the map expires pursuant to subdivision  
8 (a) may be extended by the legislative body or by an advisory  
9 agency authorized to approve or conditionally approve tentative  
10 maps for a period or periods not exceeding a total of six years. The  
11 period of extension specified in this subdivision shall be in addition  
12 to the period of time provided by subdivision (a). Prior to the  
13 expiration of an approved or conditionally approved tentative map,  
14 upon an application by the subdivider to extend that map, the map  
15 shall automatically be extended for 60 days or until the application  
16 for the extension is approved, conditionally approved, or denied,  
17 whichever occurs first. If the advisory agency denies a subdivider's  
18 application for an extension, the subdivider may appeal to the  
19 legislative body within 15 days after the advisory agency has  
20 denied the extension.

21 (f) For purposes of this section, a development moratorium  
22 includes a water or sewer moratorium, or a water and sewer  
23 moratorium, as well as other actions of public agencies which  
24 regulate land use, development, or the provision of services to the  
25 land, including the public agency with the authority to approve or  
26 conditionally approve the tentative map, which thereafter prevents,  
27 prohibits, or delays the approval of a final or parcel map. A  
28 development moratorium shall also be deemed to exist for purposes  
29 of this section for any period of time during which a condition  
30 imposed by the city or county could not be satisfied because of  
31 either of the following:

32 (1) The condition was one that, by its nature, necessitated action  
33 by the city or county, and the city or county either did not take the  
34 necessary action or by its own action or inaction was prevented or  
35 delayed in taking the necessary action prior to expiration of the  
36 tentative map.

37 (2) The condition necessitates acquisition of real property or  
38 any interest in real property from a public agency, other than the  
39 city or county that approved or conditionally approved the tentative  
40 map, and that other public agency fails or refuses to convey the

1 property interest necessary to satisfy the condition. However,  
2 nothing in this subdivision shall be construed to require any public  
3 agency to convey any interest in real property owned by it. A  
4 development moratorium specified in this paragraph shall be  
5 deemed to have been imposed either on the date of approval or  
6 conditional approval of the tentative map, if evidence was included  
7 in the public record that the public agency which owns or controls  
8 the real property or any interest therein may refuse to convey that  
9 property or interest, or on the date that the public agency which  
10 owns or controls the real property or any interest therein receives  
11 an offer by the subdivider to purchase that property or interest for  
12 fair market value, whichever is later. A development moratorium  
13 specified in this paragraph shall extend the tentative map up to the  
14 maximum period as set forth in subdivision (b), but not later than  
15 January 1, 1992, so long as the public agency which owns or  
16 controls the real property or any interest therein fails or refuses to  
17 convey the necessary property interest, regardless of the reason  
18 for the failure or refusal, except that the development moratorium  
19 shall be deemed to terminate 60 days after the public agency has  
20 officially made, and communicated to the subdivider, a written  
21 offer or commitment binding on the agency to convey the necessary  
22 property interest for a fair market value, paid in a reasonable time  
23 and manner.

24 SEC. 2. Section 66452.11 of the Government Code, as added  
25 by Section 6 of Chapter 612 of the Statutes of 2007, is amended  
26 and renumbered to read:

27 66452.14 (a) Pursuant to the provisions of subparagraph (E)  
28 of paragraph (2) of subdivision (a) of Section 66427.1, the  
29 subdivider shall give written notice of the intent to convert 180  
30 days prior to the termination of tenancy in the form outlined in  
31 subdivision (b), to each tenant of the subject property.

32 (b) The notice shall be as follows:

33  
34 "To the occupant(s) of

35 \_\_\_\_\_:  
36 (address)  
37

38 The owner(s) of this building, at (address), plans to convert this  
39 building to a (condominium, community apartment, or stock  
40 cooperative project). This is a notice of the owner's intention to

1 convert the building to a (condominium, community apartment,  
2 or stock cooperative project).

3 A tentative map to convert the building to a (condominium,  
4 community apartment, or stock cooperative project) was approved  
5 by the City on \_\_\_\_\_. If the City approves a final map, you  
6 may be required to vacate the premises, but that cannot happen  
7 for at least 180 days from the date this notice was served upon  
8 you.

9 Any future notice given to you to terminate your tenancy because  
10 of the conversion cannot be effective for at least 180 days from  
11 the date this notice was served upon you. This present notice is  
12 not a notice to terminate your tenancy; it is not a notice that you  
13 must now vacate the premises.

14  
15 \_\_\_\_\_  
16 (signature of owner or owner's agent)

17 \_\_\_\_\_  
18 (date)"  
19

20 The written notices to tenants required by this section shall be  
21 deemed satisfied if such notices comply with the legal requirements  
22 for service by mail.

23 SEC. 3. Section 66452.12 of the Government Code, as added  
24 by Section 7 of Chapter 612 of the Statutes of 2007, is amended  
25 and renumbered to read:

26 66452.15 (a) Pursuant to subparagraph (F) of paragraph (2)  
27 of subdivision (a) of Section 66427.1, the subdivider shall give  
28 written notice within five days after receipt of the subdivision  
29 public report to each tenant of his or her exclusive right for at least  
30 90 days after issuance of the subdivision public report to contract  
31 for the purchase of his or her respective unit in the form outlined  
32 in subdivision (b).

33 (b) The notice shall be as follows:

34  
35 "To the occupant(s) of

36 \_\_\_\_\_:  
37 (address)  
38

39 The owner(s) of this building, at (address), have received the  
40 final subdivision report on the proposed conversion of this building

1 to a (condominium, community apartment, or stock cooperative  
2 project). Commencing on the date of issuance of the subdivision  
3 public report, you have the exclusive right for 90 days to contract  
4 for the purchase of your rental unit upon the same or more  
5 favorable terms and conditions than the unit will initially be offered  
6 to the general public.

7  
8  
9 \_\_\_\_\_  
(signature of owner or owner's agent)

10 \_\_\_\_\_  
11 (date)"  
12

13 The written notices to tenants required by this section shall be  
14 deemed satisfied if the notices comply with the legal requirements  
15 for service by mail.

16 SEC. 4. Section 66452.21 is added to the Government Code,  
17 to read:

18 66452.21. (a) The expiration date of any tentative or vesting  
19 tentative subdivision map or parcel map for which a tentative or  
20 vesting tentative map, as the case may be, has been approved that  
21 has not expired on the date that the act that adds this section  
22 becomes effective and that will expire before January 1, 2011,  
23 shall be extended by 12 months.

24 (b) The extension provided by subdivision (a) shall be in  
25 addition to any extension of the expiration date provided for in  
26 Section 66452.6, 66452.11, 66452.13, or 66463.5.

27 (c) Any legislative, administrative, or other approval by any  
28 state agency that pertains to a development project included in a  
29 map that is extended pursuant to subdivision (a) shall be extended  
30 by 12 months if this approval has not expired on the date that the  
31 act that adds this section becomes effective. This extension shall  
32 be in addition to any extension provided for in Section 66452.13.

33 (d) For purposes of this section, the determination of whether  
34 a tentative subdivision map or parcel map expires before January  
35 1, 2011, shall count only those extensions of time pursuant to  
36 subdivision (e) of Section 66452.6 or subdivision (e) of Section  
37 66463.5 approved on or before the date ~~of that~~ the act that adds  
38 this section becomes effective and any additional time in  
39 connection with the filing of a final map pursuant to subdivision  
40 (a) of Section 66452.6 for a map that was recorded on or before

1 ~~the of the act date~~ *date that the act* that adds this section becomes  
2 effective. The determination shall not include any development  
3 moratorium or litigation stay allowed or permitted by Section  
4 66452.6 or 66463.5.

5 SEC. 5. Section 66463.5 of the Government Code is amended  
6 to read:

7 66463.5. (a) When a tentative map is required, an approved  
8 or conditionally approved tentative map shall expire 24 months  
9 after its approval or conditional approval, or after any additional  
10 period of time as may be prescribed by local ordinance, not to  
11 exceed an additional 12 months.

12 (b) The expiration of the approved or conditionally approved  
13 tentative map shall terminate all proceedings, and no parcel map  
14 of all or any portion of the real property included within the  
15 tentative map shall be filed without first processing a new tentative  
16 map. Once a timely filing is made, subsequent actions of the local  
17 agency, including, but not limited to, processing, approving, and  
18 recording, may lawfully occur after the date of expiration of the  
19 tentative map. Delivery to the county surveyor or city engineer  
20 shall be deemed a timely filing for purposes of this section.

21 (c) Upon application of the subdivider filed prior to the  
22 expiration of the approved or conditionally approved tentative  
23 map, the time at which the map expires may be extended by the  
24 legislative body or by an advisory agency authorized to approve  
25 or conditionally approve tentative maps for a period or periods not  
26 exceeding a total of six years. Prior to the expiration of an approved  
27 or conditionally approved tentative map, upon the application by  
28 the subdivider to extend that map, the map shall automatically be  
29 extended for 60 days or until the application for the extension is  
30 approved, conditionally approved, or denied, whichever occurs  
31 first. If the advisory agency denies a subdivider's application for  
32 an extension, the subdivider may appeal to the legislative body  
33 within 15 days after the advisory agency has denied the extension.

34 (d) (1) The period of time specified in subdivision (a) shall not  
35 include any period of time during which a development  
36 moratorium, imposed after approval of the tentative map, is in  
37 existence. However, the length of the moratorium shall not exceed  
38 five years.

39 (2) Once a moratorium is terminated, the map shall be valid for  
40 the same period of time as was left to run on the map at the time

1 that the moratorium was imposed. However, if the remaining time  
2 is less than 120 days, the map shall be valid for 120 days following  
3 the termination of the moratorium.

4 (e) The period of time specified in subdivision (a), including  
5 any extension thereof granted pursuant to subdivision (c), shall  
6 not include the period of time during which a lawsuit involving  
7 the approval or conditional approval of the tentative map is, or  
8 was, pending in a court of competent jurisdiction, if the stay of the  
9 time period is approved by the local agency pursuant to this section.  
10 After service of the initial petition or complaint in the lawsuit upon  
11 the local agency, the subdivider may apply to the local agency for  
12 a stay pursuant to the local agency's adopted procedures. Within  
13 40 days after receiving the application, the local agency shall either  
14 stay the time period for up to five years or deny the requested stay.  
15 The local agency may, by ordinance, establish procedures for  
16 reviewing the requests, including, but not limited to, notice and  
17 hearing requirements, appeal procedures, and other administrative  
18 requirements.

19 (f) For purposes of this section, a development moratorium shall  
20 include a water or sewer moratorium or a water and sewer  
21 moratorium, as well as other actions of public agencies that regulate  
22 land use, development, or the provision of services to the land,  
23 including the public agency with the authority to approve or  
24 conditionally approve the tentative map, which thereafter prevents,  
25 prohibits, or delays the approval of a parcel map.

26 (g) Notwithstanding subdivisions (a), (b), and (c), for the  
27 purposes of Chapter 4.5 (commencing with Section 66498.1),  
28 subdivisions (b), (c), and (d) of Section 66498.5 shall apply to  
29 vesting tentative maps prepared in connection with a parcel map  
30 except that, for purposes of this section, the time periods specified  
31 in subdivisions (b), (c), and (d) of Section 66498.5 shall be  
32 determined from the recordation of the parcel map instead of the  
33 final map.

34 SEC. 6. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 a local agency or school district has the authority to levy service  
37 charges, fees, or assessments sufficient to pay for the program or  
38 level of service mandated by this act, within the meaning of Section  
39 17556 of the Government Code.

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

5 In order to permit cities, counties, and a city and county to  
6 preserve development applications that are set to expire and that  
7 cannot be processed presently due to prevailing adverse economic  
8 conditions in the construction industry, it is necessary that this act  
9 take immediate effect.

O