

Senate Bill No. 1185

Passed the Senate July 14, 2008

Secretary of the Senate

Passed the Assembly July 14, 2008

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

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

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

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

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

(c) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (e), shall

not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is or was pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

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

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

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

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

(2) The condition necessitates acquisition of real property or any interest in real property from a public agency, other than the city or county that approved or conditionally approved the tentative map, and that other public agency fails or refuses to convey the property interest necessary to satisfy the condition. However, nothing in this subdivision shall be construed to require any public agency to convey any interest in real property owned by it. A development moratorium specified in this paragraph shall be deemed to have been imposed either on the date of approval or conditional approval of the tentative map, if evidence was included in the public record that the public agency which owns or controls the real property or any interest therein may refuse to convey that property or interest, or on the date that the public agency which owns or controls the real property or any interest therein receives an offer by the subdivider to purchase that property or interest for fair market value, whichever is later. A development moratorium specified in this paragraph shall extend the tentative map up to the maximum period as set forth in subdivision (b), but not later than January 1, 1992, so long as the public agency which owns or controls the real property or any interest therein fails or refuses to convey the necessary property interest, regardless of the reason for the failure or refusal, except that the development moratorium shall be deemed to terminate 60 days after the public agency has officially made, and communicated to the subdivider, a written

offer or commitment binding on the agency to convey the necessary property interest for a fair market value, paid in a reasonable time and manner.

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

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

(b) The notice shall be as follows:

“To the occupant(s) of

(address)

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

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

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

(signature of owner or owner’s agent)

(date)”

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

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

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

(b) The notice shall be as follows:

“To the occupant(s) of

_____:

(address)

The owner(s) of this building, at (address), have received the final subdivision report on the proposed conversion of this building to a (condominium, community apartment, or stock cooperative project). Commencing on the date of issuance of the subdivision public report, you have the exclusive right for 90 days to contract for the purchase of your rental unit upon the same or more favorable terms and conditions than the unit will initially be offered to the general public.

(signature of owner or owner’s agent)

(date)”

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

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

66452.21. (a) The expiration date of any tentative or vesting tentative subdivision map or parcel map for which a tentative or

vesting tentative map, as the case may be, has been approved that has not expired on the date that the act that added this section became effective and that will expire before January 1, 2011, shall be extended by 12 months.

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

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

(d) For purposes of this section, the determination of whether a tentative subdivision map or parcel map expires before January 1, 2011, shall count only those extensions of time pursuant to subdivision (e) of Section 66452.6 or subdivision (e) of Section 66463.5 approved on or before the date that the act that added this section became effective and any additional time in connection with the filing of a final map pursuant to subdivision (a) of Section 66452.6 for a map that was recorded on or before the date that the act that added this section became effective. The determination shall not include any development moratorium or litigation stay allowed or permitted by Section 66452.6 or 66463.5.

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

66463.5. (a) When a tentative map is required, 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.

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

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

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

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

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

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer

moratorium, as well as other actions of public agencies that regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a parcel map.

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

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

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

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

Approved _____, 2008

Governor