

## Assembly Bill No. 1224

### CHAPTER 396

An act to amend Sections 987.60, 987.67, 987.69, 987.71, 987.74, 987.75, 987.785, 987.79, and 987.84 of, and to add Section 987.93 to, the Military and Veterans Code, relating to veterans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 2012. Filed with  
Secretary of State September 20, 2012.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1224, Committee on Veterans Affairs. Veterans: veterans' farm and home purchases.

The Veterans' Farm and Home Purchase Act of 1974 authorizes the Department of Veterans Affairs to assist veterans in acquiring homes and farms, including cooperative dwelling units, by generally providing that the department may purchase a farm or home that the department then sells to a purchaser, as defined.

This bill would authorize the Department of Veterans Affairs to adopt regulations necessary to implement the act described above for cooperative dwelling units in accordance with the Administrative Procedure Act. The bill would also revise provisions relating to forfeiture and the calculation of net gain in connection with the sale of a cooperative dwelling unit.

The Veterans' Farm and Home Purchase Act of 1974 requires the purchaser to make an initial payment of at least 2% of the selling price of the property or a higher amount as determined by the Department of Veterans Affairs based on the creditworthiness of the purchaser.

This bill would require consideration of the purchaser's military record, employment record, financial condition, and other similar factors as determined by the Department of Veterans Affairs.

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 987.60 of the Military and Veterans Code is amended to read:

987.60. (a) The department may acquire the farm or home from its owner or may contract with a veteran for the construction of a dwelling and other improvements for a farm or home, upon the terms agreed under all of the following terms and conditions:

(1) The department is satisfied of the desirability of the property submitted.

(2) The veteran has agreed with the department that he or she, or members of his or her immediate family, will actually reside on the property within 60 days from the date of purchase by the department, or, if the residence on the property is not complete on the date of purchase, within 60 days after the residence is completed, and will continue to reside on the property until all payments due the department have been paid or the farm or home is sold, except where the occupancy requirement is waived pursuant to Section 987.62.

(3) If the department is to contract with a veteran for the construction of a dwelling and other buildings, or for the purchase of a mobilehome, all of the following are required:

(A) The veteran shall be the owner of the real property on which the dwelling and other buildings are to be constructed, or shall be the owner of the real property or shall be the owner of an undivided interest in common in a portion of a parcel of real property on which a mobilehome or cooperative dwelling unit is to be situated, and agrees to convey that property to the department without cost.

(B) The veteran has paid a reasonable fee set by the department to cover the cost of any preliminary service of the department that may be necessary to process the application.

(C) The veteran has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract, executed by a contractor licensed by the State of California for the construction of the improvements in accordance with the plans and specifications within 12 months after the acquisition of the property by the department. The department may require a bond or other security instrument executed by the contractor in an amount determined by the department providing for compliance with the terms of the contract and for the payment of persons furnishing material or labor on the job, executed by a surety company, or other financial institution, authorized to do business in the State of California. The department may also require course-of-construction insurance for public liability, property damage, and workers' compensation.

(D) The plans, specifications, contract, and other required documents or security instruments are approved by the department.

(E) The veteran has placed in escrow all sums of money to be advanced by him or her, where the cost is in excess of the maximum that may be expended by the department.

(b) As used in this section, "immediate family" includes only the veteran's spouse, natural or adoptive dependent children, and parents only if the parents are dependent upon the veteran for 50 percent or more of their support.

SEC. 2. Section 987.67 of the Military and Veterans Code is amended to read:

987.67. (a) Except as set forth in regulations adopted by the department pursuant to Section 987.93 with respect to cooperative dwelling units in lieu of, or in addition to, the provisions of this section, before the purchase of any property by the department there shall be filed with the department (1) an appraisal of the market value of the property by an employee or an authorized agent of the department, (2) an appraisal of the market value of the property by either the Federal Housing Administration or the Veteran's Administration, and in addition there may be filed with the department an appraisal of the market value of the property by an authorized appraiser of a banking corporation formed under the laws of this state or of a national banking association having a place of business in this state, or (3) an appraisal of the market value of the property by an appraiser licensed or certified in this state. Each appraisal shall be certified by the maker thereof. The certification shall state that it is made in good faith, and that the valuation is honestly determined and represents the bona fide opinion of the maker.

(b) The department shall establish guidelines to ensure greater participation of state-licensed or state-certified real estate appraisers and shall establish an outreach program to effectively disseminate information concerning the participation to professional appraisal associations or trade groups.

SEC. 3. Section 987.69 of the Military and Veterans Code is amended to read:

987.69. The department shall then enter into a contract with the veteran for the sale of the property to the veteran. The department shall fix the selling price of the property as the purchase price thereof, as the total cost of improvements constructed, or as the value of the property, as determined by the department when the property is acquired by the department in a manner other than by purchase, to which the department may add all expenses incurred and estimated to be incurred by the department in relation thereto, inclusive of interest, administration, appraisals, examination of title, insurance premiums, mortgage guaranty fees, origination fees, incidental expenses, and the sum deemed necessary to meet unforeseen contingencies. In the case of real property acquired for the purpose of constructing improvements thereon, the department shall forthwith after acquiring that real property enter into the contract with the veteran authorized by this section at a selling price that does not exceed the department's appraised value of the land, if the loan is to include the value of the land, and the amount of the department's appraised value of the improvements to be constructed thereon and any of the other additions herein authorized. After the execution of the contract between the veteran and the department and the making of the initial payment thereon the department shall be authorized to pay the cost of the improvements contracted to be constructed on the real property, making progress payments thereon in the amounts and at those times that the department approves. The department shall, upon written request of the veteran and his or her contractor, have authority to approve additions to or deletions from the improvements contracted to be constructed

and any savings affected or added cost incurred shall be deducted from or added to the amount due the department by the veteran under the terms of his or her contract.

The department may establish provisions under regulations adopted by the department pursuant to Section 987.93 with respect to cooperative dwelling units in lieu of, or in addition to, those set forth in this section.

Where the department enters into a contract for the sale of property on trust to an Indian veteran, the contract shall include the following conditions:

(a) The dwelling house or other improvements contracted to be constructed on trust land shall be completed in compliance with the standards of the building code applicable on the trust land. If there is no building code in force on the trust land, the applicable standards shall be those of the building code of the county in which the trust land is located.

(b) On the completion of construction, the Indian veteran shall provide to the department an inspection certificate from a qualified building inspector certifying that the dwelling house or other improvements comply with the standards of the building code as required by subdivision (a).

SEC. 4. Section 987.71 of the Military and Veterans Code is amended to read:

987.71. (a) The purchaser shall make an initial payment of at least 2 percent of the selling price of the property or a higher amount that shall be determined based upon the creditworthiness of the purchaser, and with consideration of his or her military record, employment record, financial condition, and other similar factors as determined by the department. The department may waive the initial payment in any case where the value of the property as determined by the department from an appraisal equals the amount to be paid by the department plus at least 5 percent. In the case of a purchase requiring a loan guaranty by the United States Department of Veterans Affairs, the department may waive the initial payment and the purchaser shall pay the loan guaranty fee, which may be added to the loan amount. The department may require the purchaser to pay a loan origination fee, not to exceed 1 percent of the loan amount, which may be added to the loan amount.

(b) The balance of the loan amount may be amortized over a period fixed by the department, not exceeding 40 years for farms or homes, not including cooperative housing stock related to mobilehomes, and not exceeding 30 years for mobilehomes, including cooperative housing stock related to mobilehomes, located in mobilehome parks, as defined in Section 18214 of the Health and Safety Code, together with interest thereon at the rate determined by the department pursuant to Section 987.87 for these amortization purposes.

(c) The department may, in order to allow the veteran to purchase the home selected without incurring excessive monthly payments, at the time of initial purchase, postpone the commencement of payment of the principal balance for a period not to exceed five years if the veteran's current income meets the standards for purchase on these terms and if the department determines, in accordance with previously established criteria for these

determinations, that the veteran's income can reasonably be expected to increase sufficiently within the five-year period to make the transition to fully amortized principal and interest payments, so long as the total term of the contract of purchase does not exceed 40 years, or 30 years where the contract relates to a mobilehome located in a mobilehome park, as defined in Section 18214 of the Health and Safety Code.

(d) The purchaser on any installment date may pay any or all installments still remaining unpaid.

(e) In any individual case, the department may for good cause postpone, from time to time, upon terms the department determines to be proper, the payment of the whole or any part of any installment of the purchase price or interest thereon.

(f) Each installment shall include an amount sufficient to pay the principal and interest on the participation contract to which the interest of the department is subject, and any amount as may be required by a covenant or provision contained in any resolution of issuance.

(g) When a purchaser makes an initial payment of less than 20 percent of the selling price of the property, the department shall do all of the following:

(1) Take prudent measures to minimize losses from loan defaults and loan delinquencies.

(2) (A) Ensure the continued financial solvency of the loan program by charging fees to cover the costs, as determined by the department, of any loan guaranty, primary mortgage insurance, or other similar arrangement.

(B) Fees charged under this paragraph may be included in the amount of the loan, collected in advance, or collected as part of the monthly payment.

(h) (1) Subject to paragraph (2), the department may provide initial payment assistance to lower income first-time purchasers by providing a deferred-payment second loan, upon which simple interest shall be charged at a rate established by the department.

(2) A deferred-payment second loan described in paragraph (1) is subject to all of the following conditions:

(A) The loan may not exceed 3 percent of the selling price of the farm or home.

(B) The loan shall be secured by a deed of trust or, if authorized by the department, another form of security.

(C) The loan shall be due and payable upon the payment in full of the contract or upon the sale or transfer of the farm or home.

SEC. 5. Section 987.74 of the Military and Veterans Code is amended to read:

987.74. (a) All properties purchased by the department shall be covered by insurance. Except as set forth in regulations adopted by the department pursuant to Section 987.93 in lieu of, or in addition to, the provisions of this subdivision, with respect to cooperative dwelling units, insurance purchased by the department shall be guaranteed replacement cost coverage as described in subdivisions (e) and (f) of Section 10102 of the Insurance Code against fire and other hazards for the full replacement cost of the

improvements or structures, shall include limited building code upgrade as described in Section 10103 of the Insurance Code, and shall be placed with a company or companies as the department may determine from time to time.

The department may charge purchasers a premium to cover the cost to the department for insurance obtained pursuant to this subdivision. The premium shall not exceed the actual cost to the department for the coverage provided.

(b) The contract made between the department and the purchaser shall provide that the purchaser maintain the farm or home as his or her place of residence and keep in good order and repair all buildings, fences, and other permanent improvements situated thereon. Insurance policies purchased by the department shall be obtained to insure and keep insured against fire and other hazards, all buildings, fences, and other permanent improvements on the property. All policies shall be written with any loss payable to the department and the purchaser as their interests may appear. Insurance shall be in the amount, with the insurance companies, and under the terms and conditions as may be specified by the department.

(c) Upon renewal, the department shall assist the purchaser in determining the insurance level necessary to repair or replace the damaged or destroyed dwelling with like or equivalent construction and in determining how best to purchase additional coverage, if desired. The purchaser shall be solely responsible for requesting in writing and maintaining any additional amounts of insurance necessary to protect his or her interest in the property, and shall bear the risk of any loss in excess of the amount of insurance in force at the time of the loss.

(d) The department shall annually send a disclosure notice to all purchasers who have residential property insurance provided through the department. The notice shall identify the type of coverage, and shall disclose all of the following in a clear and reasonable manner:

- (1) The limits of liability for the structure and improvements.
- (2) The amount of any deductibles.
- (3) Whether the policy covers the increased costs due to changes in building ordinances or laws regulating construction or repair.
- (4) A statement explaining the importance of having guaranteed replacement cost coverage.
- (5) A statement that the policy provided by the department provides limited building code upgrade coverage and the applicable limits and restrictions to that coverage.

SEC. 6. Section 987.75 of the Military and Veterans Code is amended to read:

987.75. (a) If the purchaser or, if applicable, the related stock corporation, fails or neglects to pay, satisfy, and discharge at maturity all taxes and assessments, and all other charges and encumbrances which are a lien upon the property being purchased from the department, or any part thereof, and also all taxes and assessments levied or assessed upon the interest created by the contract of purchase of such property; or to keep the

buildings, fences, other permanent improvements upon such property insured and in good order and repair, or to keep the crops upon such property insured; or to keep in good order and repair all buildings, fences, and other permanent improvements situated upon such property; then, in such event, the department may pay, satisfy, discharge, settle, or compromise the taxes, assessments, charges, or encumbrances, or insure the buildings, fences, permanent improvements, or crops, or do the work and supply the materials necessary to keep the buildings, fences, and other improvements in good order and repair. All moneys so expended by the department shall be added to the selling price of the property and bear interest at the rate of interest designated in Section 987.71 from the date of expending the same, and shall be repaid by the purchaser to the department on demand. The department may amortize the repayment of such expenditures or permit repayment in installments upon the terms and conditions which it deems proper.

(b) The department may establish provisions under regulations adopted by the department pursuant to Section 987.93 with respect to cooperative dwelling units in lieu of, or in addition to, the provisions of this section.

SEC. 7. Section 987.785 of the Military and Veterans Code is amended to read:

987.785. Except as set forth in regulations adopted by the department pursuant to Section 987.93 with respect to a cooperative dwelling unit, whenever the department cancels a contract and takes possession of a property pursuant to Section 987.77 and elects to sell the property covered by a forfeited contract, the department may, at its option, establish a procedure for listing the property for sale, together with similarly located properties, with a licensed real estate broker. The department may, in this connection, prepare schedules of properties available for sale by geographic areas and may offer a schedule from time to time to any licensed real estate broker within the geographic area covered by the schedule for a fee which shall be sufficient to cover the costs to the department in compiling the schedules and making them available. If the department enters into a real estate listing agreement, exclusive or otherwise, with a licensed real estate broker, the department shall cooperate with the broker in all customary respects and make the property available at reasonable times for inspections by prospective purchasers.

SEC. 8. Section 987.79 of the Military and Veterans Code is amended to read:

987.79. (a) Except as otherwise provided in subdivision (b), the department may, in the contract of purchase with a veteran, provide that, in the event of default by the veteran and forfeiture of his or her rights under the contract and subsequent sale of the property by the department, it may pay to the veteran any net gain realized by the department upon the sale. The department is the sole judge of the net gain.

(b) The net gain realized by the department upon the sale of a cooperative dwelling unit owned by a limited equity housing cooperative shall be determined in accordance with regulations adopted by the department pursuant to Section 987.93.

SEC. 9. Section 987.84 of the Military and Veterans Code is amended to read:

987.84. Except as may otherwise be permitted by the department pursuant to regulations adopted by the department pursuant to Section 987.93, the right to declare a forfeiture for breach of a condition contained in any deed to real property or in any cooperative dwelling unit ownership documents may not be enforced as against the interest of the department in said property or any portion thereof.

SEC. 10. Section 987.93 is added to the Military and Veterans Code, to read:

987.93. The department may adopt regulations necessary to implement this article for cooperative dwelling units that are consistent with the objectives and purposes of this article and in a manner in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 11. 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 for the Department of Veterans Affairs to offer housing finance opportunities to veterans, including cooperative dwelling loans, as soon as possible, it is necessary that this act go into immediate effect.