

AMENDED IN ASSEMBLY JUNE 8, 2011

AMENDED IN SENATE MAY 2, 2011

SENATE BILL

No. 110

Introduced by Senator Rubio

January 14, 2011

An act to amend Section 1103.4 of the Civil Code, relating ~~the~~ to property disclosures.

LEGISLATIVE COUNSEL'S DIGEST

SB 110, as amended, Rubio. Real property disclosures: mining operations.

Existing law limits the liability of a transferor *or listing or selling agent* under certain conditions for failing to disclose natural hazards or to make other disclosures in specified property transactions ~~and either or transferee the transferor obtains~~ *if the error, inaccuracy, or omission was not within the personal knowledge of the transferor or the listing or selling agent and he or she acted in reliance upon* a report or opinion prepared by a licensed engineer, land surveyor, geologist, or expert in natural hazard discovery dealing with matters within the scope of the professional's license or expertise. Existing law conditions this limitation in specified ways, including the requirement that when an expert responds to a request regarding natural hazards, that the expert determine whether the property is within an airport influence zone, the jurisdiction of the San Francisco Bay Conservation and Development Commission, or designated farmland and, if so, *existing law requires the expert to* provide a specified notice or notices with his or her report.

This bill would further condition the limitation on liability described above by requiring an expert, when responding to a request regarding natural hazards, to also determine whether the property is presently

located within ~~1000 feet~~ *one mile* of a parcel of real property subject to mine operations identified in a Notice of Reclamation Plan Approval recorded with the county recorder, as specified, and to provide a specified notice in this regard.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 1103.4 of the Civil Code is amended to
2 read:

3 1103.4. (a) Neither the transferor nor any listing or selling
4 agent shall be liable for any error, inaccuracy, or omission of any
5 information delivered pursuant to this article if the error,
6 inaccuracy, or omission was not within the personal knowledge
7 of the transferor or the listing or selling agent, and was based on
8 information timely provided by public agencies or by other persons
9 providing information as specified in subdivision (c) that is
10 required to be disclosed pursuant to this article, and ordinary care
11 was exercised in obtaining and transmitting the information.

12 (b) The delivery of any information required to be disclosed by
13 this article to a prospective transferee by a public agency or other
14 person providing information required to be disclosed pursuant to
15 this article shall be deemed to comply with the requirements of
16 this article and shall relieve the transferor or any listing or selling
17 agent of any further duty under this article with respect to that item
18 of information.

19 (c) The delivery of a report or opinion prepared by a licensed
20 engineer, land surveyor, geologist, or expert in natural hazard
21 discovery dealing with matters within the scope of the
22 professional's license or expertise shall be sufficient compliance
23 for application of the exemption provided by subdivision (a) if the
24 information is provided to the prospective transferee pursuant to
25 a request therefor, whether written or oral. In responding to that
26 request, an expert may indicate, in writing, an understanding that
27 the information provided will be used in fulfilling the requirements
28 of Section 1103.2 and, if so, shall indicate the required disclosures,
29 or parts thereof, to which the information being furnished is
30 applicable. Where that statement is furnished, the expert shall not

1 be responsible for any items of information, or parts thereof, other
2 than those expressly set forth in the statement.

3 (1) In responding to the request, the expert shall determine
4 whether the property is within an airport influence area as defined
5 in subdivision (b) of Section 11010 of the Business and Professions
6 Code. If the property is within an airport influence area, the report
7 shall contain the following statement:

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NOTICE OF AIRPORT IN VICINITY

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This property is presently located in the vicinity of an
airport, within what is known as an airport influence area. For that
reason, the property may be subject to some of the annoyances or
inconveniences associated with proximity to airport operations
(for example: noise, vibration, or odors). Individual sensitivities
to those annoyances can vary from person to person. You may wish to
consider what airport annoyances, if any, are associated with the
property before you complete your purchase and determine whether they
are acceptable to you.

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(2) In responding to the request, the expert shall determine
whether the property is within the jurisdiction of the San Francisco
Bay Conservation and Development Commission, as defined in
Section 66620 of the Government Code. If the property is within
the commission’s jurisdiction, the report shall contain the following
notice:

NOTICE OF SAN FRANCISCO BAY CONSERVATION AND
DEVELOPMENT COMMISSION JURISDICTION

This property is located within the jurisdiction of the San
Francisco Bay Conservation and Development Commission. Use
and development of property within the commission’s jurisdiction
may be subject to special regulations, restrictions, and permit
requirements. You may wish to investigate and determine whether
they are acceptable to you and your intended use of the property
before you complete your transaction.

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(3) In responding to the request, the expert shall determine
whether the property is presently located within one mile of a
parcel of real property designated as “Prime Farmland,” “Farmland
of Statewide Importance,” “Unique Farmland,” “Farmland of Local
Importance,” or “Grazing Land” on the most current “Important

1 Farmland Map” issued by the California Department of
2 Conservation, Division of Land Resource Protection, utilizing
3 solely the county-level GIS map data, if any, available on the
4 Farmland Mapping and Monitoring Program Web site. If the
5 residential property is within one mile of a designated farmland
6 area, the report shall contain the following notice:

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8 NOTICE OF RIGHT TO FARM

9 This property is located within one mile of a farm or ranch land
10 designated on the current county-level GIS “Important Farmland
11 Map,” issued by the California Department of Conservation,
12 Division of Land Resource Protection. Accordingly, the property
13 may be subject to inconveniences or discomforts resulting from
14 agricultural operations that are a normal and necessary aspect of
15 living in a community with a strong rural character and a healthy
16 agricultural sector. Customary agricultural practices in farm
17 operations may include, but are not limited to, noise, odors, dust,
18 light, insects, the operation of pumps and machinery, the storage
19 and disposal of manure, bee pollination, and the ground or aerial
20 application of fertilizers, pesticides, and herbicides. These
21 agricultural practices may occur at any time during the 24-hour
22 day. Individual sensitivities to those practices can vary from person
23 to person. You may wish to consider the impacts of such
24 agricultural practices before you complete your purchase. Please
25 be advised that you may be barred from obtaining legal remedies
26 against agricultural practices conducted in a manner consistent
27 with proper and accepted customs and standards pursuant to
28 Section 3482.5 of the Civil Code or any pertinent local ordinance.

29 (4) In responding to the request, the expert shall determine
30 whether the property is presently located within ~~1000 feet~~ *one mile*
31 of a parcel of real property subject to mine operations identified
32 in a Notice of Reclamation Plan Approval recorded with the county
33 recorder pursuant to Section 2772.7 of the Public Resources Code.
34 If the residential property is within ~~1000 feet~~ *one mile* of real
35 property subject to mine operations identified in a Notice of
36 Reclamation Plan Approval, the report shall contain the following
37 notice:

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39 NOTICE OF MINING OPERATIONS

1 This property is located within ~~1000 feet~~ *one mile* of a mine
2 operation that has been identified in a Notice of Reclamation Plan
3 Approval recorded with the county recorder pursuant to Section
4 2772.7 of the Public Resources Code. Accordingly, the property
5 may be subject to inconveniences resulting from mining operations.
6 You may wish to consider the impacts of these practices before
7 you complete your transaction.

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