

AMENDED IN ASSEMBLY JULY 5, 2011

AMENDED IN ASSEMBLY JUNE 8, 2011

AMENDED IN SENATE MAY 2, 2011

**SENATE BILL**

**No. 110**

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**Introduced by Senator Rubio**

January 14, 2011

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An act to amend Section 1103.4 of the Civil Code, relating 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 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~~ *area*, 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, *utilizing map coordinate data made available by the Office of Mine Reclamation*, when responding to a request regarding natural hazards, to also determine whether the property is presently located within 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 for which map coordinate data has been reported to the director.~~ *The bill would require, if the expert determines that the residential property is located within one mile of a mine operation, that the report contain a Notice of Mining Operations, as specified.*

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

1 information is provided to the prospective transferee pursuant to  
 2 a request therefor, whether written or oral. In responding to that  
 3 request, an expert may indicate, in writing, an understanding that  
 4 the information provided will be used in fulfilling the requirements  
 5 of Section 1103.2 and, if so, shall indicate the required disclosures,  
 6 or parts thereof, to which the information being furnished is  
 7 applicable. Where that statement is furnished, the expert shall not  
 8 be responsible for any items of information, or parts thereof, other  
 9 than those expressly set forth in the statement.

10 (1) In responding to the request, the expert shall determine  
 11 whether the property is within an airport influence area as defined  
 12 in subdivision (b) of Section 11010 of the Business and Professions  
 13 Code. If the property is within an airport influence area, the report  
 14 shall contain the following statement:

15  
 16 NOTICE OF AIRPORT IN VICINITY

17  
 18 This property is presently located in the vicinity of an  
 19 airport, within what is known as an airport influence area. For that  
 20 reason, the property may be subject to some of the annoyances or  
 21 inconveniences associated with proximity to airport operations  
 22 (for example: noise, vibration, or odors). Individual sensitivities  
 23 to those annoyances can vary from person to person. You may wish to  
 24 consider what airport annoyances, if any, are associated with the  
 25 property before you complete your purchase and determine whether they  
 26 are acceptable to you.  
 27

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

34 NOTICE OF SAN FRANCISCO BAY CONSERVATION AND  
 35 DEVELOPMENT COMMISSION JURISDICTION

36 This property is located within the jurisdiction of the San  
 37 Francisco Bay Conservation and Development Commission. Use  
 38 and development of property within the commission’s jurisdiction  
 39 may be subject to special regulations, restrictions, and permit  
 40 requirements. You may wish to investigate and determine whether

1 they are acceptable to you and your intended use of the property  
2 before you complete your transaction.

3 (3) In responding to the request, the expert shall determine  
4 whether the property is presently located within one mile of a  
5 parcel of real property designated as “Prime Farmland,” “Farmland  
6 of Statewide Importance,” “Unique Farmland,” “Farmland of Local  
7 Importance,” or “Grazing Land” on the most current “Important  
8 Farmland Map” issued by the California Department of  
9 Conservation, Division of Land Resource Protection, utilizing  
10 solely the county-level GIS map data, if any, available on the  
11 Farmland Mapping and Monitoring Program Web site. If the  
12 residential property is within one mile of a designated farmland  
13 area, the report shall contain the following notice:  
14

15 NOTICE OF RIGHT TO FARM

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

36 ~~(4) In responding to the request, the expert shall determine~~  
37 ~~whether the property is presently located within one mile of a~~  
38 ~~parcel of real property subject to mine operations identified in a~~  
39 ~~Notice of Reclamation Plan Approval recorded with the county~~  
40 ~~recorder pursuant to Section 2772.7 of the Public Resources Code.~~

1 If the residential property is within one mile of real property subject  
2 to mine operations identified in a Notice of Reclamation Plan  
3 Approval, the report shall contain the following notice:

4 -

5 NOTICE OF MINING OPERATIONS

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

13 (4) In responding to the request, the expert shall determine,  
14 utilizing map coordinate data made available by the Office of Mine  
15 Reclamation, whether the property is presently located within one  
16 mile of a mine operation for which map coordinate data has been  
17 reported to the director pursuant to Section 2207 of the Public  
18 Resources Code. If the expert determines, from the available map  
19 coordinate data, that the residential property is located within one  
20 mile of a mine operation, the report shall contain the following  
21 notice:

22

23 NOTICE OF MINING OPERATIONS:

24 This property is located within one mile of a mine operation for  
25 which the mine owner or operator has reported mine location data  
26 to the Department of Conservation pursuant to Section 2207 of  
27 the Public Resources Code. Accordingly, the property may be  
28 subject to inconveniences resulting from mining operations. You  
29 may wish to consider the impacts of these practices before you  
30 complete your transaction.

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