

Senate Bill No. 110

Passed the Senate August 15, 2011

Secretary of the Senate

Passed the Assembly July 11, 2011

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 110, 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 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 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.

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

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

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

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

(c) The delivery of 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 shall be sufficient compliance for application of the exemption provided by subdivision (a) if the information is provided to the prospective transferee pursuant to a request therefor, whether written or oral. In responding to that request, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of Section 1103.2 and, if so, shall indicate the required disclosures, or parts thereof, to which the information being furnished is applicable. Where that statement is furnished, the expert shall not be responsible for any items of information, or parts thereof, other than those expressly set forth in the statement.

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

NOTICE OF AIRPORT IN VICINITY

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.

(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.

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

NOTICE OF RIGHT TO FARM

This property is located within one mile of a farm or ranch land designated on the current county-level GIS "Important Farmland Map," issued by the California Department of Conservation, Division of Land Resource Protection. Accordingly, the property

may be subject to inconveniences or discomforts resulting from agricultural operations that are a normal and necessary aspect of living in a community with a strong rural character and a healthy agricultural sector. Customary agricultural practices in farm operations may include, but are not limited to, noise, odors, dust, light, insects, the operation of pumps and machinery, the storage and disposal of manure, bee pollination, and the ground or aerial application of fertilizers, pesticides, and herbicides. These agricultural practices may occur at any time during the 24-hour day. Individual sensitivities to those practices can vary from person to person. You may wish to consider the impacts of such agricultural practices before you complete your purchase. Please be advised that you may be barred from obtaining legal remedies against agricultural practices conducted in a manner consistent with proper and accepted customs and standards pursuant to Section 3482.5 of the Civil Code or any pertinent local ordinance.

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

NOTICE OF MINING OPERATIONS:

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

Approved _____, 2011

Governor