

AMENDED IN SENATE MARCH 29, 2012

**SENATE BILL**

**No. 1472**

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**Introduced by Senators Pavley and DeSaulnier  
(Coauthors: Senators Hancock and Leno)**

February 24, 2012

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*An act to amend Section 2929.3 of the Code of Civil Procedure and Sections 17980 and 17980.7 of the Health and Safety Code, relating to real property.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1472, as amended, Pavley. Real property: blight.

*(1) Existing law, until January 1, 2013, requires a legal owner to maintain vacant residential property purchased at a foreclosure sale or acquired by that owner through foreclosure under a mortgage or deed of trust. Existing law, until January 1, 2013, authorizes a governmental entity to impose civil fines and penalties for failure to maintain that property of up to \$1,000 per day for a violation. Existing law, until January 1, 2013, requires a governmental entity that seeks to impose those fines and penalties to give notice of the claimed violation and an opportunity to correct the violation at least 14 days prior to imposing the fines and penalties, and to allow a hearing for contesting those fines and penalties.*

*This bill would change the civil fine to up to \$5,000 per day for a violation. This bill would delete the repeal clause for these provisions and thus extend the operation of these provisions indefinitely.*

*(2) The State Housing Law requires the housing or building department or, if there is no building department, the health department, of every city, county, or city and county, or a specified environmental agency, to enforce within its jurisdiction all of the State Housing Law,*

*the building standards published in the State Building Standards Code, and other specified rules and regulations. If there is a violation of these provisions or any order or notice that gives a reasonable time to correct that violation, or if a nuisance exists, an enforcement agency is required, after 30 days' notice to abate the nuisance, to institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance.*

*This bill would prohibit an enforcement agency from commencing any action or proceeding until at least 60 days after a person takes title to the property, unless a shorter period of time is deemed necessary by the enforcement agency, as specified, if the person has purchased and is in the process of abating any violation at a residential property that had been foreclosed on or after January 1, 2008. This bill would require any entity that releases a lien securing a deed of trust or mortgage on a property for which a notice of pendency of action, as defined, has been recorded against the property, as specified, to notify the enforcement agency that issued the order or notice within 30 days of releasing the lien.*

*(3) Existing law authorizes, among other things, the enforcement agency to seek and the court to order imposition of specified penalties or the enforcement agency, tenant, or tenant association or organization to seek, and the court to order, the appointment of a receiver for a substandard building, if the owner of the property fails to comply within a reasonable time with the terms of an order or notice.*

*This bill would authorize a court to require the owner of the property to pay all unrecovered costs associated with the receivership in addition to any other remedy authorized by law.*

~~Existing law authorizes local government entities to impose civil fines on specified property owners when the condition of their property constitutes a nuisance.~~

~~This bill would express the intent of the Legislature to enact legislation to amend the Civil Code and the Health and Safety Code to provide communities throughout California with additional tools to fight blight.~~

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 2929.3 of the Civil Code is amended to*  
2     *read:*

1 2929.3. (a) (1) A legal owner shall maintain vacant residential  
2 property purchased by that owner at a foreclosure sale, or acquired  
3 by that owner through foreclosure under a mortgage or deed of  
4 trust. A governmental entity may impose a civil fine of up to ~~one~~  
5 *five* thousand dollars ~~(\$1,000)~~ (\$5,000) per day for a violation. If  
6 the governmental entity chooses to impose a fine pursuant to this  
7 section, it shall give notice of the alleged violation, including a  
8 description of the conditions that gave rise to the allegation, and  
9 notice of the entity’s intent to assess a civil fine if action to correct  
10 the violation is not commenced within a period of not less than 14  
11 days and completed within a period of not less than 30 days. The  
12 notice shall be mailed to the address provided in the deed or other  
13 instrument as specified in subdivision (a) of Section 27321.5 of  
14 the Government Code, or, if none, to the return address provided  
15 on the deed or other instrument.

16 (2) The governmental entity shall provide a period of not less  
17 than 30 days for the legal owner to remedy the violation prior to  
18 imposing a civil fine and shall allow for a hearing and opportunity  
19 to contest any fine imposed. In determining the amount of the fine,  
20 the governmental entity shall take into consideration any timely  
21 and good faith efforts by the legal owner to remedy the violation.  
22 The maximum civil fine authorized by this section is ~~one~~ *five*  
23 thousand dollars ~~(\$1,000)~~ (\$5,000) for each day that the owner  
24 fails to maintain the property, commencing on the day following  
25 the expiration of the period to remedy the violation established by  
26 the governmental entity.

27 (3) Subject to the provisions of this section, a governmental  
28 entity may establish different compliance periods for different  
29 conditions on the same property in the notice of alleged violation  
30 mailed to the legal owner.

31 (b) For purposes of this section, “failure to maintain” means  
32 failure to care for the exterior of the property, including, but not  
33 limited to, permitting excessive foliage growth that diminishes the  
34 value of surrounding properties, failing to take action to prevent  
35 trespassers or squatters from remaining on the property, or failing  
36 to take action to prevent mosquito larvae from growing in standing  
37 water or other conditions that create a public nuisance.

38 (c) Notwithstanding subdivisions (a) and (b), a governmental  
39 entity may provide less than 30 days’ notice to remedy a condition  
40 before imposing a civil fine if the entity determines that a specific

1 condition of the property threatens public health or safety and  
2 provided that notice of that determination and time for compliance  
3 is given.

4 (d) Fines and penalties collected pursuant to this section shall  
5 be directed to local nuisance abatement programs.

6 (e) A governmental entity may not impose fines on a legal owner  
7 under both this section and a local ordinance.

8 (f) These provisions shall not preempt any local ordinance.

9 (g) This section shall only apply to residential real property.

10 (h) The rights and remedies provided in this section are  
11 cumulative and in addition to any other rights and remedies  
12 provided by law.

13 ~~(i) This section shall remain in effect only until January 1, 2013,~~  
14 ~~and as of that date is repealed, unless a later enacted statute, that~~  
15 ~~is enacted before January 1, 2013, deletes or extends that date.~~

16 *SEC. 2. Section 17980 of the Health and Safety Code is*  
17 *amended to read:*

18 17980. (a) If any building is constructed, altered, converted,  
19 or maintained in violation of any provision of, or in violation of  
20 any order or notice that gives a reasonable time to correct that  
21 violation issued by an enforcement agency pursuant to this part,  
22 the building standards published in the California Building  
23 Standards Code, or other rules and regulations adopted pursuant  
24 to this part, or if a nuisance exists in any building or upon the lot  
25 on which it is situated, the enforcement agency shall, after 30 days'  
26 notice to abate the nuisance or violation, or a notice to abate with  
27 a shorter period of time if deemed necessary by the enforcement  
28 agency to prevent or remedy an immediate threat to the health and  
29 safety of the public or occupants of the structure, institute any  
30 appropriate action or proceeding to prevent, restrain, correct, or  
31 abate the violation or nuisance. *Notwithstanding the above, if a*  
32 *person has purchased and is in the process of abating any violation*  
33 *at a residential property that had been foreclosed on or after*  
34 *January 1, 2008, an enforcement agency shall not commence any*  
35 *action or proceeding until at least sixty days after the person takes*  
36 *title to the property, unless a shorter period of time is deemed*  
37 *necessary by the enforcement agency to prevent or remedy an*  
38 *immediate threat to the health and safety of the public or occupants*  
39 *of the structure.*

1 (b) If any entity releases a lien securing a deed of trust or  
2 mortgage on a property for which a notice of pendency of action,  
3 as defined in Section 405.2 of the Code of Civil Procedure, has  
4 been recorded against the property by an enforcement agency  
5 pursuant to subdivision (a) of Section 17985 of the Health and  
6 Safety Code or Section 405.7 or 405.20 of the Code of Civil  
7 Procedure, it shall notify the enforcement agency that issued the  
8 order or notice within 30 days of releasing the lien.

9 ~~(b)~~

10 (c) (1) Whenever the enforcement agency has inspected or  
11 caused to be inspected any building and has determined that the  
12 building is a substandard building or a building described in Section  
13 17920.10, the enforcement agency shall commence proceedings  
14 to abate the violation by repair, rehabilitation, vacation, or  
15 demolition of the building. The enforcement agency shall not  
16 require the vacating of a residential building unless it concurrently  
17 requires expeditious demolition or repair to comply with this part,  
18 the building standards published in the California Building  
19 Standards Code, or other rules and regulations adopted pursuant  
20 to this part. The owner shall have the choice of repairing or  
21 demolishing. However, if the owner chooses to repair, the  
22 enforcement agency shall require that the building be brought into  
23 compliance according to a reasonable and feasible schedule for  
24 expeditious repair. The enforcement agency may require vacation  
25 and demolition or may itself vacate the building, repair, demolish,  
26 or institute any other appropriate action or proceeding, if any of  
27 the following occur:

28 (A) The repair work is not done within the period required by  
29 the notice.

30 (B) The owner does not make a timely choice of repair or  
31 demolition.

32 (C) The owner selects an option which cannot be completed  
33 within a reasonable period of time, as determined by the  
34 enforcement agency, for any reason, including, but not limited to,  
35 an outstanding judicial or administrative order.

36 (2) In deciding whether to require vacation of the building or  
37 to repair as necessary, the enforcement agency shall give preference  
38 to the repair of the building whenever it is economically feasible  
39 to do so without having to repair more than 75 percent of the  
40 dwelling, as determined by the enforcement agency, and shall give

1 full consideration to the needs for housing as expressed in the local  
 2 jurisdiction’s housing element.

3 ~~(e)~~

4 (d) (1) Notwithstanding subdivision (b) and notwithstanding  
 5 local ordinances, tenants in a residential building shall be provided  
 6 copies of any of the following:

7 (A) The notice of any violation described in subdivision (a) that  
 8 affects the health and safety of the occupants and that causes the  
 9 building to be substandard pursuant to Section 17920.3 or in  
 10 violation of Section 17920.10.

11 (B) An order of the code enforcement agency issued after  
 12 inspection of the premises declaring the dwelling to be in violation  
 13 of any provision described in subdivision (a).

14 (C) The enforcement agency’s decision to repair or demolish.

15 (D) The issuance of a building or demolition permit following  
 16 the abatement order of an enforcement agency.

17 (2) Each document provided pursuant to paragraph (1) shall be  
 18 provided to each affected residential unit by the enforcement  
 19 agency that issued the order or notice, in the manner prescribed  
 20 by subdivision (a) of Section 17980.6.

21 ~~(e)~~

22 (e) All notices issued by the enforcement agency to correct  
 23 violations or to abate nuisances shall contain a provision notifying  
 24 the owner that, in accordance with Sections 17274 and 24436.5  
 25 of the Revenue and Taxation Code, a tax deduction may not be  
 26 allowed for interest, taxes, depreciation, or amortization paid or  
 27 incurred in the taxable year. In addition, in Los Angeles County,  
 28 the notice shall contain a provision notifying the owner that within  
 29 10 days of recordation of a notice of substandard conditions or  
 30 similar document, the owner is required to comply with Section  
 31 17997.

32 ~~(e)~~

33 (f) The enforcement agency may charge the owner of the  
 34 building for its postage or mileage cost for sending or posting the  
 35 notices required to be given by this section.

36 *SEC. 3. Section 17980.7 of the Health and Safety Code is*  
 37 *amended to read:*

38 17980.7. If the owner fails to comply within a reasonable time  
 39 with the terms of the order or notice issued pursuant to Section  
 40 17980.6, the following provisions shall apply:

1 (a) The enforcement agency may seek and the court may order  
2 imposition of the penalties provided for under Chapter 6  
3 (commencing with Section 17995).

4 (b) (1) The enforcement agency may seek and the court may  
5 order the owner to not claim any deduction with respect to state  
6 taxes for interest, taxes, expenses, depreciation, or amortization  
7 paid or incurred with respect to the cited structure, in the taxable  
8 year of the initial order or notice, in lieu of the enforcement agency  
9 processing a violation in accordance with Sections 17274 and  
10 24436.5 of the Revenue and Taxation Code.

11 (2) If the owner fails to comply with the terms of the order or  
12 notice to correct the condition that caused the violation pursuant  
13 to Section 17980.6, the court may order the owner to not claim  
14 these tax benefits for the following year.

15 (c) The enforcement agency, tenant, or tenant association or  
16 organization may seek and the court may order, the appointment  
17 of a receiver for the substandard building pursuant to this  
18 subdivision. In its petition to the court, the enforcement agency,  
19 tenant, or tenant association or organization shall include proof  
20 that notice of the petition was served not less than three days prior  
21 to filing the petition, pursuant to Article 3 (commencing with  
22 Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of  
23 Civil Procedure, to all persons with a recorded interest in the real  
24 property upon which the substandard building exists.

25 (1) In appointing a receiver, the court shall consider whether  
26 the owner has been afforded a reasonable opportunity to correct  
27 the conditions cited in the notice of violation.

28 (2) The court shall not appoint any person as a receiver unless  
29 the person has demonstrated to the court his or her capacity and  
30 expertise to develop and supervise a viable financial and  
31 construction plan for the satisfactory rehabilitation of the building.  
32 A court may appoint as a receiver a nonprofit organization or  
33 community development corporation. In addition to the duties and  
34 powers that may be granted pursuant to this section, the nonprofit  
35 organization or community development corporation may also  
36 apply for grants to assist in the rehabilitation of the building.

37 (3) If a receiver is appointed, the owner and his or her agent of  
38 the substandard building shall be enjoined from collecting rents  
39 from the tenants, interfering with the receiver in the operation of  
40 the substandard building, and encumbering or transferring the

1 substandard building or real property upon which the building is  
2 situated.

3 (4) Any receiver appointed pursuant to this section shall have  
4 all of the following powers and duties in the order of priority listed  
5 in this paragraph, unless the court otherwise permits:

6 (A) To take full and complete control of the substandard  
7 property.

8 (B) To manage the substandard building and pay expenses of  
9 the operation of the substandard building and real property upon  
10 which the building is located, including taxes, insurance, utilities,  
11 general maintenance, and debt secured by an interest in the real  
12 property.

13 (C) To secure a cost estimate and construction plan from a  
14 licensed contractor for the repairs necessary to correct the  
15 conditions cited in the notice of violation.

16 (D) To enter into contracts and employ a licensed contractor as  
17 necessary to correct the conditions cited in the notice of violation.

18 (E) To collect all rents and income from the substandard  
19 building.

20 (F) To use all rents and income from the substandard building  
21 to pay for the cost of rehabilitation and repairs determined by the  
22 court as necessary to correct the conditions cited in the notice of  
23 violation.

24 (G) To borrow funds to pay for repairs necessary to correct the  
25 conditions cited in the notice of violation and to borrow funds to  
26 pay for any relocation benefits authorized by paragraph (6) and,  
27 with court approval, secure that debt and any moneys owed to the  
28 receiver for services performed pursuant to this section with a lien  
29 on the real property upon which the substandard building is located.  
30 The lien shall be recorded in the county recorder's office in the  
31 county within which the building is located.

32 (H) To exercise the powers granted to receivers under Section  
33 568 of the Code of Civil Procedure.

34 (5) The receiver shall be entitled to the same fees, commissions,  
35 and necessary expenses as receivers in actions to foreclose  
36 mortgages.

37 (6) If the conditions of the premises or the repair or rehabilitation  
38 thereof significantly affect the safe and sanitary use of the  
39 substandard building by any tenant, to the extent that the tenant  
40 cannot safely reside in his or her unit, then the receiver shall



1 provide relocation benefits in accordance with subparagraph (A)  
2 of paragraph (3) of subdivision (d).

3 (7) The relocation compensation provided for in this section  
4 shall not preempt any local ordinance that provides for greater  
5 relocation assistance.

6 (8) In addition to any reporting required by the court, the  
7 receiver shall prepare monthly reports to the state or local  
8 enforcement agency which shall contain information on at least  
9 the following items:

10 (A) The total amount of rent payments received.

11 (B) Nature and amount of contracts negotiated relative to the  
12 operation or repair of the property.

13 (C) Payments made toward the repair of the premises.

14 (D) Progress of necessary repairs.

15 (E) Other payments made relative to the operation of the  
16 building.

17 (F) Amount of tenant relocation benefits paid.

18 (9) The receiver shall be discharged when the conditions cited  
19 in the notice of violation have been remedied in accordance with  
20 the court order or judgment and a complete accounting of all costs  
21 and repairs has been delivered to the court. Upon removal of the  
22 condition, the owner, the mortgagee, or any lienor of record may  
23 apply for the discharge of all moneys not used by the receiver for  
24 removal of the condition and all other costs authorized by this  
25 section.

26 (10) After discharging the receiver, the court may retain  
27 jurisdiction for a time period not to exceed 18 consecutive months,  
28 and require the owner and the enforcement agency responsible for  
29 enforcing Section 17980 to report to the court in accordance with  
30 a schedule determined by the court.

31 (11) The prevailing party in an action pursuant to this section  
32 shall be entitled to reasonable attorney's fees and court costs as  
33 may be fixed by the court.

34 (12) The county recorder may charge and collect fees for the  
35 recording of all notices and other documents required by this  
36 section pursuant to Article 5 (commencing with Section 27360)  
37 of Chapter 6 of Division 2 of Title 3 of the Government Code.

38 (13) ~~Nothing in this~~ This section shall *not* be construed to limit  
39 those rights available to tenants and owners under any other  
40 provision of the law.

1 (14) ~~Nothing in this~~ *This* section shall *not* be construed to  
2 deprive an owner of a substandard building of all procedural due  
3 process rights guaranteed by the California Constitution and the  
4 United States Constitution, including, but not limited to, receipt  
5 of notice of the violation claimed and an adequate and reasonable  
6 period of time to comply with any orders which are issued by the  
7 enforcement agency or the court.

8 (15) *Upon the request of a receiver, a court may require the*  
9 *owner of the property to pay all unrecovered costs associated with*  
10 *the receivership in addition to any other remedy authorized by*  
11 *law.*

12 (d) If the court finds that a building is in a condition which  
13 substantially endangers the health and safety of residents pursuant  
14 to Section 17980.6, upon the entry of any order or judgment, the  
15 court shall do all of the following:

16 (1) Order the owner to pay all reasonable and actual costs of  
17 the enforcement agency including, but not limited to, inspection  
18 costs, investigation costs, enforcement costs, attorney fees or costs,  
19 and all costs of prosecution.

20 (2) Order that the local enforcement agency shall provide the  
21 tenant with notice of the court order or judgment.

22 (3) (A) Order that if the owner undertakes repairs or  
23 rehabilitation as a result of being cited for a notice under this  
24 chapter, and if the conditions of the premises or the repair or  
25 rehabilitation thereof significantly affect the safe and sanitary use  
26 of the premises by any lawful tenant, so that the tenant cannot  
27 safely reside in the premises, then the owner shall provide or pay  
28 relocation benefits to each lawful tenant. These benefits shall  
29 consist of actual reasonable moving and storage costs and  
30 relocation compensation. The actual moving and storage costs  
31 shall consist of all of the following:

32 (i) Transportation of the tenant's personal property to the new  
33 location. The new location shall be in close proximity to the  
34 substandard premises, except where relocation to a new location  
35 beyond a close proximity is determined by the court to be justified.

36 (ii) Packing, crating, unpacking, and uncrating the tenant's  
37 personal property.

38 (iii) Insurance of the tenant's property while in transit.

39 (iv) The reasonable replacement value of property lost, stolen,  
40 or damaged (not through the fault or negligence of the displaced

1 person, his or her agent or employee) in the process of moving,  
2 where insurance covering the loss, theft, or damage is not  
3 reasonably available.

4 (v) The cost of disconnecting, dismantling, removing,  
5 reassembling, reconnecting, and reinstalling machinery, equipment,  
6 or other personal property of the tenant, including connection  
7 charges imposed by utility companies for starting utility service.

8 (B) (i) The relocation compensation shall be an amount equal  
9 to the differential between the contract rent and the fair market  
10 rental value determined by the federal Department of Housing and  
11 Urban Development for a unit of comparable size within the area  
12 for the period that the unit is being repaired, not to exceed 120  
13 days.

14 (ii) If the court finds that a tenant has been substantially  
15 responsible for causing or substantially contributing to the  
16 substandard conditions, then the relocation benefits of this section  
17 shall not be paid to this tenant. Each other tenant on the premises  
18 who has been ordered to relocate due to the substandard conditions  
19 and who is not substantially responsible for causing or contributing  
20 to the conditions shall be paid these benefits and moving costs at  
21 the time that he or she actually relocates.

22 (4) Determine the date when the tenant is to relocate, and order  
23 the tenant to notify the enforcement agency and the owner of the  
24 address of the premises to which he or she has relocated within  
25 five days after the relocation.

26 (5) (A) Order that the owner shall offer the first right to  
27 occupancy of the premises to each tenant who received benefits  
28 pursuant to subparagraph (A) of paragraph (3), before letting the  
29 unit for rent to a third party. The owner's offer on the first right  
30 to occupancy to the tenant shall be in writing, and sent by first-class  
31 certified mail to the address given by the tenant at the time of  
32 relocation. If the owner has not been provided the tenant's address  
33 by the tenant as prescribed by this section, the owner shall not be  
34 required to provide notice under this section or offer the tenant the  
35 right to return to occupancy.

36 (B) The tenant shall notify the owner in writing that he or she  
37 will occupy the unit. The notice shall be sent by first-class certified  
38 mail no later than 10 days after the notice has been mailed by the  
39 owner.

1 (6) Order that failure to comply with any abatement order under  
2 this chapter shall be punishable by civil contempt, penalties under  
3 Chapter 6 (commencing with Section 17995), and any other  
4 penalties and fines as are available.

5 (e) The initiation of a proceeding or entry of a judgment pursuant  
6 to this section or Section 17980.6 shall be deemed to be a  
7 “proceeding” or “judgment” as provided by paragraph (4) or (5)  
8 of subdivision (a) of Section 1942.5 of the Civil Code.

9 (f) The term “owner,” for the purposes of this section, shall  
10 include the owner, including any public entity that owns residential  
11 real property, at the time of the initial notice or order and any  
12 successor in interest who had actual or constructive knowledge of  
13 the notice, order, or prosecution.

14 (g) These remedies shall be in addition to those provided by  
15 any other law.

16 (h) ~~Nothing in this~~ *This section or in and* Section 17980.6 shall  
17 *not* impair the rights of an owner exercising his or her rights  
18 established pursuant to Chapter 12.75 (commencing with Section  
19 7060) of Division 7 of Title 1 of the Government Code.

20 ~~SECTION 1. It is the intent of the Legislature to enact~~  
21 ~~legislation to amend the Civil Code and the Health and Safety~~  
22 ~~Code to provide communities throughout California with additional~~  
23 ~~tools to fight blight.~~