

AMENDED IN ASSEMBLY JUNE 28, 2012

AMENDED IN ASSEMBLY JUNE 19, 2012

AMENDED IN SENATE APRIL 11, 2012

AMENDED IN SENATE MARCH 29, 2012

**SENATE BILL**

**No. 1472**

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

February 24, 2012

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An act to amend Section 2929.3 of the Civil Code, and to amend 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 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 in its sole discretion, as specified, if the person has purchased and is in the process of diligently 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, in writing, 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.

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:  
3 2929.3. (a) (1) A legal owner shall maintain vacant residential  
4 property purchased by that owner at a foreclosure sale, or acquired

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

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

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

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

36 (c) Notwithstanding subdivisions (a) and (b), a governmental  
37 entity may provide less than 30 days' notice to remedy a condition  
38 before imposing a civil fine if the entity determines that a specific  
39 condition of the property threatens public health or safety and

1 provided that notice of that determination and time for compliance  
2 is given.

3 (d) Fines and penalties collected pursuant to this section shall  
4 be directed to local nuisance abatement programs, including, but  
5 not limited to, legal abatement proceedings.

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

15 17980. (a) If any building is constructed, altered, converted,  
16 or maintained in violation of any provision of, or in violation of  
17 any order or notice that gives a reasonable time to correct that  
18 violation issued by an enforcement agency pursuant to this part,  
19 the building standards published in the California Building  
20 Standards Code, or other rules and regulations adopted pursuant  
21 to this part, or if a nuisance exists in any building or upon the lot  
22 on which it is situated, the enforcement agency shall, after 30 days'  
23 notice to abate the nuisance or violation, or a notice to abate with  
24 a shorter period of time if deemed necessary by the enforcement  
25 agency to prevent or remedy an immediate threat to the health and  
26 safety of the public or occupants of the structure, institute any  
27 appropriate action or proceeding to prevent, restrain, correct, or  
28 abate the violation or nuisance. Notwithstanding the above, if a  
29 person has purchased and is in the process of diligently abating  
30 any violation at a residential property that had been foreclosed on  
31 or after January 1, 2008, an enforcement agency shall not  
32 commence any action or proceeding until at least 60 days after the  
33 person takes title to the property, unless a shorter period of time  
34 is deemed necessary by the enforcement agency, in its sole  
35 discretion, to prevent or remedy an immediate threat to the health  
36 and safety of the neighboring community, public, or occupants of  
37 the structure.

38 (b) If any entity releases a lien securing a deed of trust or  
39 mortgage on a property for which a notice of pendency of action,  
40 as defined in Section 405.2 of the Code of Civil Procedure, has

1 been recorded against the property by an enforcement agency  
2 pursuant to subdivision (a) of Section 17985 of the Health and  
3 Safety Code or Section 405.7 or 405.20 of the Code of Civil  
4 Procedure, it shall notify in writing the enforcement agency that  
5 issued the order or notice within 30 days of releasing the lien.

6 (c) (1) Whenever the enforcement agency has inspected or  
7 caused to be inspected any building and has determined that the  
8 building is a substandard building or a building described in Section  
9 17920.10, the enforcement agency shall commence proceedings  
10 to abate the violation by repair, rehabilitation, vacation, or  
11 demolition of the building. The enforcement agency shall not  
12 require the vacating of a residential building unless it concurrently  
13 requires expeditious demolition or repair to comply with this part,  
14 the building standards published in the California Building  
15 Standards Code, or other rules and regulations adopted pursuant  
16 to this part. The owner shall have the choice of repairing or  
17 demolishing. However, if the owner chooses to repair, the  
18 enforcement agency shall require that the building be brought into  
19 compliance according to a reasonable and feasible schedule for  
20 expeditious repair. The enforcement agency may require vacation  
21 and demolition or may itself vacate the building, repair, demolish,  
22 or institute any other appropriate action or proceeding, if any of  
23 the following occur:

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

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

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

32 (2) In deciding whether to require vacation of the building or  
33 to repair as necessary, the enforcement agency shall give preference  
34 to the repair of the building whenever it is economically feasible  
35 to do so without having to repair more than 75 percent of the  
36 dwelling, as determined by the enforcement agency, and shall give  
37 full consideration to the needs for housing as expressed in the local  
38 jurisdiction's housing element.

1 (d) (1) Notwithstanding subdivision ~~(b)~~ (c) and notwithstanding  
2 local ordinances, tenants in a residential building shall be provided  
3 copies of any of the following:

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

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

11 (C) The enforcement agency's decision to repair or demolish.

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

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

18 (e) All notices issued by the enforcement agency to correct  
19 violations or to abate nuisances shall contain a provision notifying  
20 the owner that, in accordance with Sections 17274 and 24436.5  
21 of the Revenue and Taxation Code, a tax deduction may not be  
22 allowed for interest, taxes, depreciation, or amortization paid or  
23 incurred in the taxable year.

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

27 SEC. 3. Section 17980.7 of the Health and Safety Code is  
28 amended to read:

29 17980.7. If the owner fails to comply within a reasonable time  
30 with the terms of the order or notice issued pursuant to Section  
31 17980.6, the following provisions shall apply:

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

35 (b) (1) The enforcement agency may seek and the court may  
36 order the owner to not claim any deduction with respect to state  
37 taxes for interest, taxes, expenses, depreciation, or amortization  
38 paid or incurred with respect to the cited structure, in the taxable  
39 year of the initial order or notice, in lieu of the enforcement agency

1 processing a violation in accordance with Sections 17274 and  
2 24436.5 of the Revenue and Taxation Code.

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

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

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

20 (2) The court shall not appoint any person as a receiver unless  
21 the person has demonstrated to the court his or her capacity and  
22 expertise to develop and supervise a viable financial and  
23 construction plan for the satisfactory rehabilitation of the building.  
24 A court may appoint as a receiver a nonprofit organization or  
25 community development corporation. In addition to the duties and  
26 powers that may be granted pursuant to this section, the nonprofit  
27 organization or community development corporation may also  
28 apply for grants to assist in the rehabilitation of the building.

29 (3) If a receiver is appointed, the owner and his or her agent of  
30 the substandard building shall be enjoined from collecting rents  
31 from the tenants, interfering with the receiver in the operation of  
32 the substandard building, and encumbering or transferring the  
33 substandard building or real property upon which the building is  
34 situated.

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

38 (A) To take full and complete control of the substandard  
39 property.

1 (B) To manage the substandard building and pay expenses of  
2 the operation of the substandard building and real property upon  
3 which the building is located, including taxes, insurance, utilities,  
4 general maintenance, and debt secured by an interest in the real  
5 property.

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

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

11 (E) To collect all rents and income from the substandard  
12 building.

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

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

25 (H) To exercise the powers granted to receivers under Section  
26 568 of the Code of Civil Procedure.

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

30 (6) If the conditions of the premises or the repair or rehabilitation  
31 thereof significantly affect the safe and sanitary use of the  
32 substandard building by any tenant, to the extent that the tenant  
33 cannot safely reside in his or her unit, then the receiver shall  
34 provide relocation benefits in accordance with subparagraph (A)  
35 of paragraph (3) of subdivision (d).

36 (7) The relocation compensation provided for in this section  
37 shall not preempt any local ordinance that provides for greater  
38 relocation assistance.

39 (8) In addition to any reporting required by the court, the  
40 receiver shall prepare monthly reports to the state or local

1 enforcement agency which shall contain information on at least  
2 the following items:

- 3 (A) The total amount of rent payments received.
- 4 (B) Nature and amount of contracts negotiated relative to the  
5 operation or repair of the property.
- 6 (C) Payments made toward the repair of the premises.
- 7 (D) Progress of necessary repairs.
- 8 (E) Other payments made relative to the operation of the  
9 building.
- 10 (F) Amount of tenant relocation benefits paid.

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

19 (10) After discharging the receiver, the court may retain  
20 jurisdiction for a time period not to exceed 18 consecutive months,  
21 and require the owner and the enforcement agency responsible for  
22 enforcing Section 17980 to report to the court in accordance with  
23 a schedule determined by the court.

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

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

31 (13) This section shall not be construed to limit those rights  
32 available to tenants and owners under any other provision of the  
33 law.

34 (14) This section shall not be construed to deprive an owner of  
35 a substandard building of all procedural due process rights  
36 guaranteed by the California Constitution and the United States  
37 Constitution, including, but not limited to, receipt of notice of the  
38 violation claimed and an adequate and reasonable period of time  
39 to comply with any orders which are issued by the enforcement  
40 agency or the court.

1 (15) Upon the request of a receiver, a court may require the  
2 owner of the property to pay all unrecovered costs associated with  
3 the receivership in addition to any other remedy authorized by  
4 law.

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

9 (1) Order the owner to pay all reasonable and actual costs of  
10 the enforcement agency including, but not limited to, inspection  
11 costs, investigation costs, enforcement costs, attorney fees or costs,  
12 and all costs of prosecution.

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

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

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

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

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

32 (iv) The reasonable replacement value of property lost, stolen,  
33 or damaged (not through the fault or negligence of the displaced  
34 person, his or her agent or employee) in the process of moving,  
35 where insurance covering the loss, theft, or damage is not  
36 reasonably available.

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

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

7 (ii) If the court finds that a tenant has been substantially  
8 responsible for causing or substantially contributing to the  
9 substandard conditions, then the relocation benefits of this section  
10 shall not be paid to this tenant. Each other tenant on the premises  
11 who has been ordered to relocate due to the substandard conditions  
12 and who is not substantially responsible for causing or contributing  
13 to the conditions shall be paid these benefits and moving costs at  
14 the time that he or she actually relocates.

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

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

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

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

37 (e) The initiation of a proceeding or entry of a judgment pursuant  
38 to this section or Section 17980.6 shall be deemed to be a  
39 "proceeding" or "judgment" as provided by paragraph (4) or (5)  
40 of subdivision (a) of Section 1942.5 of the Civil Code.

- 1 (f) The term “owner,” for the purposes of this section, shall
- 2 include the owner, including any public entity that owns residential
- 3 real property, at the time of the initial notice or order and any
- 4 successor in interest who had actual or constructive knowledge of
- 5 the notice, order, or prosecution.
- 6 (g) These remedies shall be in addition to those provided by
- 7 any other law.
- 8 (h) This section and Section 17980.6 shall not impair the rights
- 9 of an owner exercising his or her rights established pursuant to
- 10 Chapter 12.75 (commencing with Section 7060) of Division 7 of
- 11 Title 1 of the Government Code.