

ASSEMBLY BILL

No. 253

Introduced by Assembly Member Levine

February 6, 2013

An act to amend Sections 11010.8 and 11010.9 of the Business and Professions Code, to amend Sections 66427.4, 66427.5, and 66428.1 of the Government Code, and to amend Section 21080.8 of the Public Resources Code, relating to floating home marinas.

LEGISLATIVE COUNSEL'S DIGEST

AB 253, as introduced, Levine. Floating home marinas: conversion: subdivision map requirements.

(1) Existing law, the Subdivision Map Act, generally requires that a tentative and final map shall be required for all subdivisions creating 5 or more condominiums, as defined, with specified exceptions. Existing law requires a subdivider, at the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a mobilehome park to another use, to file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted, addressing the availability of adequate replacement space in mobilehome parks. Existing law exempts from these requirements the conversion of a rental mobilehome park to resident ownership, and instead requires a subdivider for that conversion to avoid the economic displacement of nonpurchasing residents, as specified, and file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted. Existing law also subjects the subdivider of a rental mobilehome park to resident ownership to a hearing regarding the impact of the conversion upon the displaced residents of the park, and

requires the subdivider to offer each existing tenant the option to purchase his or her condominium unit to be created by the conversion.

This bill would extend the same requirements to the conversion of floating home marinas. The bill would require a subdivider, at the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a floating home marina to another use, to file a report on the impact of the conversion upon the displaced residents of the floating home marina to be converted, addressing the availability of adequate replacement space in floating home marinas. The bill would exempt from these requirements the conversion of a rental floating home marina to resident ownership, and would instead require a subdivider for that conversion to avoid the economic displacement of nonpurchasing residents, as specified, and file a report on the impact of the conversion upon the displaced residents of the floating home marina to be converted. The bill would also subject the subdivider of a rental floating home marina to resident ownership to a hearing regarding the impact of the conversion upon the displaced residents of the marina, and would require the subdivider to offer each existing tenant the option to purchase his or her condominium unit to be created by the conversion.

(2) Existing law exempts mobilehome parks from the requirement of the filing of a tentative and final map for all subdivisions creating 5 or more condominiums, if at least $\frac{2}{3}$ of the owners of mobilehomes who are tenants have applied, as specified, for a waiver, unless specified conditions exist.

This bill would exempt floating home marinas from the requirement of the filing of a tentative and final map for all subdivisions creating 5 or more condominiums, if at least $\frac{2}{3}$ of the owners of floating homes who are tenants have applied, as specified, for a waiver, unless specified conditions exist.

(3) Existing law, the Subdivided Lands Act, requires any person who intends to offer subdivided lands for sale or lease, as specified, to file with the Department of Real Estate an application for a public report consisting of, among other things, a notice of intention, as specified. Existing law exempts from the notice of intention requirement the purchase of a mobilehome park by a nonprofit corporation, under specified circumstances. Existing law requires the subdivider of a mobilehome park that is proposed to be converted to resident ownership to make a written disclosure, as specified, to homeowners and residents

of the park, with regard to the tentative price of the subdivided interest proposed to be sold or leased.

This bill would exempt from the notice of intention requirement the purchase of a floating home marina by a nonprofit corporation, under specified circumstances. The bill would also require the subdivider of a floating home marina that is proposed to be converted to resident ownership to make a specified written disclosure to homeowners and residents of the marina, with regard to the tentative price of the subdivided interest proposed to be sold or leased.

(4) Existing law, the California Environmental Quality Act (CEQA), requires the lead public agency, as defined, after the conduct of an initial study, to prepare a negative declaration or an environmental impact report for a proposed project, as specified. Existing law exempts from the environmental impact report and other requirements of CEQA the conversion of an existing rental mobilehome park to a resident initiated subdivision, cooperative, or condominium for mobilehomes under specified circumstances.

This bill would exempt from the environmental impact report and other requirements of CEQA the conversion of an existing rental floating home marina to a resident initiated subdivision, cooperative, or condominium for floating homes under specified circumstances.

Because this bill would require local agencies to provide a higher level of service, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 11010.8 of the Business and Professions
- 2 Code is amended to read:
- 3 11010.8. (a) The requirement that a notice of intention be filed
- 4 pursuant to Section 11010 is not applicable to the purchase of a
- 5 mobilehome park *or floating home marina* by a nonprofit
- 6 corporation if all of the following occur:

1 (1) A majority of the shareholders or members of the nonprofit
2 corporation constitute a majority of the homeowners of the
3 mobilehome park *or floating home marina*, and a majority of the
4 members of the board of directors of the nonprofit corporation are
5 homeowners of the mobilehome park *or the floating home marina*.

6 (2) All members of the corporation are residents of the
7 mobilehome park *or the floating home marina*. Members of the
8 nonprofit corporation may enter into leases with the corporation
9 that are greater than five years in length. “Homeowners” or
10 “residents” of the mobilehome park *or floating home marina* shall
11 include a bona fide secured party who has, pursuant to a security
12 interest in a membership, taken title to the membership by means
13 of foreclosure, repossession, or voluntary repossession, and who
14 is actively attempting to resell the membership to a prospective
15 resident or homeowner of the mobilehome park *or floating home*
16 *marina*, in accordance with subdivision (f) of Section 7312 of the
17 Corporations Code.

18 (3) A permit to issue securities under Section 25113 of the
19 Corporations Code is obtained from the Department of
20 Corporations. In the case of a nonissuer transaction (as defined by
21 Section 25011 of the Corporations Code) involving the offer to
22 resell or the resale of memberships by a bona fide secured party
23 as described in paragraph (2) of this section, a permit is not
24 required where the transaction is exempt from the qualification
25 requirements of Section 25130 of the Corporations Code pursuant
26 to subdivision (e) of Section 25104 of the Corporations Code. The
27 exemption from qualification pursuant to subdivision (e) of Section
28 25104 of the Corporations Code available to a bona fide secured
29 party does not eliminate the requirement of this section that the
30 nonprofit corporation shall either file a notice of intention pursuant
31 to Section 11010 or obtain a permit pursuant to Section 25113 of
32 the Corporations Code.

33 (4) All funds of tenants for the purchase of the mobilehome
34 park *or floating home marina* are deposited in escrow until the
35 document transferring title of the mobilehome park *or floating*
36 *home marina* to the nonprofit corporation is recorded. The escrow
37 also shall include funds of homeowners that shall be available to
38 the homeowners association nonprofit corporation for payment of
39 any and all costs reasonably associated with the processing and
40 conversion of the mobilehome park *or floating home marina* into

1 condominium interests. Payment of these costs may be made from
2 the funds deposited in escrow prior to the close of escrow upon
3 the direction of the homeowners association nonprofit corporation.

4 (b) The funds described by paragraph (4) of subdivision (a), or
5 any other funds subsequently received from tenants for purposes
6 other than the purchase of a separate subdivided interest in any
7 portion of the mobilehome park *or floating home marina*, are not
8 subject to the requirements of Section 11013.1, 11013.2, or
9 11013.4.

10 SEC. 2. Section 11010.9 of the Business and Professions Code
11 is amended to read:

12 11010.9. (a) Notwithstanding any other provision of law, the
13 subdivider of a mobilehome park *or floating home marina* that is
14 proposed to be converted to resident ownership, prior to filing a
15 notice of intention pursuant to Section 11010, shall disclose to
16 homeowners and residents of the park *or marina*, by written notice,
17 the tentative price of the subdivided interest proposed to be sold
18 or leased.

19 (b) The disclosure notice required by subdivision (a) shall
20 include a statement that the tentative price is not binding, could
21 change between the time of disclosure and the time of
22 governmental approval to commence the actual sale or lease of
23 the subdivided interests in the park *or marina*, as the result of
24 conditions imposed by the state or local government for approval
25 of the park *or marina* conversion, increased financing costs, or
26 other factors and, in the absence of bad faith, shall not give rise to
27 a claim for liability against the provider of this information.

28 (c) The disclosure notice required by subdivision (a) shall not
29 be construed to authorize the subdivider of a mobilehome park *or*
30 *floating home marina* that is proposed to be converted to resident
31 ownership to offer to sell or lease, sell or lease, or accept money
32 for the sale or lease of, subdivided interests in the park *or marina*,
33 or to engage in any other activities that are otherwise prohibited,
34 with regard to subdividing the park *or marina* into ownership
35 interests, prior to the issuance of a public report pursuant to this
36 chapter.

37 SEC. 3. Section 66427.4 of the Government Code is amended
38 to read:

39 66427.4. (a) At the time of filing a tentative or parcel map for
40 a subdivision to be created from the conversion of a mobilehome

1 park *or floating home marina* to another use, the subdivider shall
2 also file a report on the impact of the conversion upon the displaced
3 residents of the mobilehome park *or floating home marina* to be
4 converted. In determining the impact of the conversion on displaced
5 mobilehome park *or floating home marina* residents, the report
6 shall address the availability of adequate replacement space in
7 mobilehome parks *or floating home marinas*.

8 (b) The subdivider shall make a copy of the report available to
9 each resident of the mobilehome park *or floating home marina* at
10 least 15 days prior to the hearing on the map by the advisory
11 agency or, if there is no advisory agency, by the legislative body.

12 (c) The legislative body, or an advisory agency which is
13 authorized by local ordinance to approve, conditionally approve,
14 or disapprove the map, may require the subdivider to take steps to
15 mitigate any adverse impact of the conversion on the ability of
16 displaced mobilehome park *or floating home marina* residents to
17 find adequate space in a mobilehome park *or floating home marina*,
18 *respectively*.

19 (d) This section establishes a minimum standard for local
20 regulation of conversions of mobilehome parks *and floating home*
21 *marinas* into other uses and shall not prevent a local agency from
22 enacting more stringent measures.

23 (e) This section shall not be applicable to a subdivision which
24 is created from the conversion of a rental mobilehome park *or*
25 *rental floating home marina* to resident ownership.

26 SEC. 4. Section 66427.5 of the Government Code is amended
27 to read:

28 66427.5. At the time of filing a tentative or parcel map for a
29 subdivision to be created from the conversion of a rental
30 mobilehome park *or rental floating home marina* to resident
31 ownership, the subdivider shall avoid the economic displacement
32 of all nonpurchasing residents in the following manner:

33 (a) The subdivider shall offer each existing tenant an option to
34 either purchase his or her condominium or subdivided unit, which
35 is to be created by the conversion of the park *or marina* to resident
36 ownership, or to continue residency as a tenant.

37 (b) The subdivider shall file a report on the impact of the
38 conversion upon residents of the mobilehome park *or the floating*
39 *home marina* to be converted to resident owned subdivided interest.

1 (c) The subdivider shall make a copy of the report available to
2 each resident of the mobilehome park *or the floating home marina*
3 at least 15 days prior to the hearing on the map by the advisory
4 agency or, if there is no advisory agency, by the legislative body.

5 (d) (1) The subdivider shall obtain a survey of support of
6 residents of the mobilehome park *or the floating home marina* for
7 the proposed conversion.

8 (2) The survey of support shall be conducted in accordance with
9 an agreement between the subdivider and a resident homeowners'
10 association, if any, that is independent of the subdivider or
11 mobilehome park *or floating home marina* owner.

12 (3) The survey shall be obtained pursuant to a written ballot.

13 (4) The survey shall be conducted so that each occupied
14 mobilehome space *and floating home berth* has one vote.

15 (5) The results of the survey shall be submitted to the local
16 agency upon the filing of the tentative or parcel map, to be
17 considered as part of the subdivision map hearing prescribed by
18 subdivision (e).

19 (e) The subdivider shall be subject to a hearing by a legislative
20 body or advisory agency, which is authorized by local ordinance
21 to approve, conditionally approve, or disapprove the map. The
22 scope of the hearing shall be limited to the issue of compliance
23 with this section.

24 (f) The subdivider shall be required to avoid the economic
25 displacement of all nonpurchasing residents in accordance with
26 the following:

27 (1) As to nonpurchasing residents who are not lower income
28 households, as defined in Section 50079.5 of the Health and Safety
29 Code, the monthly rent, including any applicable fees or charges
30 for use of any preconversion amenities, may increase from the
31 preconversion rent to market levels, as defined in an appraisal
32 conducted in accordance with nationally recognized professional
33 appraisal standards, in equal annual increases over a four-year
34 period.

35 (2) As to nonpurchasing residents who are lower income
36 households, as defined in Section 50079.5 of the Health and Safety
37 Code, the monthly rent, including any applicable fees or charges
38 for use of any preconversion amenities, may increase from the
39 preconversion rent by an amount equal to the average monthly
40 increase in rent in the four years immediately preceding the

1 conversion, except that in no event shall the monthly rent be
2 increased by an amount greater than the average monthly
3 percentage increase in the Consumer Price Index for the most
4 recently reported period.

5 SEC. 5. Section 66428.1 of the Government Code is amended
6 to read:

7 66428.1. (a) When at least two-thirds of the owners of
8 mobilehomes *or floating homes* who are tenants in the mobilehome
9 park *or floating home marina* sign a petition indicating their intent
10 to purchase the mobilehome park *or the floating home marina* for
11 purposes of converting it to resident ownership, and a field survey
12 is performed, the requirement for a parcel map or a tentative and
13 final map shall be waived unless any of the following conditions
14 exist:

15 (1) There are design or improvement requirements necessitated
16 by significant health or safety concerns.

17 (2) The local agency determines that there is an exterior
18 boundary discrepancy that requires recordation of a new parcel or
19 tentative and final map.

20 (3) The existing parcels which exist prior to the proposed
21 conversion were not created by a recorded parcel or final map.

22 (4) The conversion would result in the creation of more
23 condominium units or interests than the number of tenant lots ~~or~~,
24 spaces, *or floating home berths* that exist prior to conversion.

25 (b) The petition signed by owners of mobilehomes in a
26 mobilehome park proposed for conversion to resident ownership
27 pursuant to subdivision (a) shall read as follows:

28
29 MOBILEHOME PARK PETITION AND
30 DISCLOSURE STATEMENT

31
32 SIGNING THIS PETITION INDICATES YOUR SUPPORT FOR
33 CONVERSION OF THIS MOBILEHOME PARK TO RESIDENT
34 OWNERSHIP. THIS DISCLOSURE STATEMENT CONCERNS THE
35 REAL PROPERTY SITUATED IN THE CITY OF ____, COUNTY OF ____,
36 STATE OF CALIFORNIA, DESCRIBED AS _____. THE TOTAL COST
37 FOR CONVERSION AND PURCHASE OF THE PARK IS \$_____ TO \$_____,
38 EXCLUDING FINANCING COSTS. THE TOTAL COST TO YOU FOR
39 CONVERSION AND PURCHASE OF YOUR OWNERSHIP INTEREST
40 IS \$_____ TO \$_____, EXCLUDING FINANCING COSTS. IF TWO-THIRDS

1 OF THE RESIDENTS IN THIS PARK SIGN THIS PETITION INDICATING
 2 THEIR INTENT TO PURCHASE THE MOBILEHOME PARK FOR
 3 PURPOSES OF CONVERTING IT TO RESIDENT OWNERSHIP, THEN
 4 THE REQUIREMENTS FOR A NEW PARCEL, OR TENTATIVE AND
 5 FINAL SUBDIVISION MAP IN COMPLIANCE WITH THE SUBDIVISION
 6 MAP ACT MUST BE WAIVED, WITH CERTAIN VERY LIMITED
 7 EXCEPTIONS. WAIVING THESE PROVISIONS OF LAW ELIMINATES
 8 NUMEROUS PROTECTIONS WHICH ARE AVAILABLE TO YOU.

9
 10 _____
 11 Buyer, unit #, date

_____ Petitioner, date

12
 13 *(c) The petition signed by owners of floating homes in a floating*
 14 *home marina proposed for conversion to resident ownership*
 15 *pursuant to subdivision (a) shall read as follows:*

16
 17 *FLOATING HOME MARINA PETITION AND*
 18 *DISCLOSURE STATEMENT*

19
 20 *SIGNING THIS PETITION INDICATES YOUR SUPPORT FOR*
 21 *CONVERSION OF THIS FLOATING HOME MARINA TO RESIDENT*
 22 *OWNERSHIP. THIS DISCLOSURE STATEMENT CONCERNS THE REAL*
 23 *PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE*
 24 *OF CALIFORNIA, DESCRIBED AS _____. THE TOTAL COST FOR*
 25 *CONVERSION AND PURCHASE OF THE PARK IS \$_____ TO \$_____,*
 26 *EXCLUDING FINANCING COSTS. THE TOTAL COST TO YOU FOR*
 27 *CONVERSION AND PURCHASE OF YOUR OWNERSHIP INTEREST IS*
 28 *\$_____ TO \$_____, EXCLUDING FINANCING COSTS. IF TWO-THIRDS OF*
 29 *THE RESIDENTS IN THIS MARINA SIGN THIS PETITION INDICATING*
 30 *THEIR INTENT TO PURCHASE THE FLOATING HOME MARINA FOR*
 31 *PURPOSES OF CONVERTING IT TO RESIDENT OWNERSHIP, THEN THE*
 32 *REQUIREMENTS FOR A NEW PARCEL, OR TENTATIVE AND FINAL*
 33 *SUBDIVISION MAP IN COMPLIANCE WITH THE SUBDIVISION MAP*
 34 *ACT MUST BE WAIVED, WITH CERTAIN VERY LIMITED EXCEPTIONS.*
 35 *WAIVING THESE PROVISIONS OF LAW ELIMINATES NUMEROUS*
 36 *PROTECTIONS WHICH ARE AVAILABLE TO YOU.*

37
 38 _____
 39 Buyer, unit #, date

_____ Petitioner, date

1 ~~(e)~~

2 ~~(d)~~ The local agency shall provide an application for waiver
3 pursuant to this section. After the waiver application is deemed
4 complete pursuant to Section 65943, the local agency shall approve
5 or deny the application within 50 days. The applicant shall have
6 the right to appeal that decision to the governing body of the local
7 agency.

8 ~~(d)~~

9 ~~(e)~~ If a tentative or parcel map is required, the local agency shall
10 not impose any offsite design or improvement requirements unless
11 these are necessary to mitigate an existing health or safety
12 condition. No other dedications, improvements, or in-lieu fees
13 shall be required by the local agency. In no case shall the mitigation
14 of a health or safety condition have the effect of reducing the
15 number, or changing the location, of existing mobilehome spaces
16 *of floating home marina berths*.

17 ~~(e)~~

18 ~~(f)~~ If the local agency imposes requirements on an applicant to
19 mitigate a health or safety condition, the applicant and the local
20 agency shall enter into an unsecured improvement agreement. The
21 local agency shall not require bonds or other security devices
22 pursuant to Chapter 5 (commencing with Section 66499) for the
23 performance of that agreement. The applicant shall have a period
24 of one year from the date the agreement was executed to complete
25 those improvements.

26 ~~(f)~~

27 ~~(g)~~ If the waiver application provided for in this section is denied
28 by the local agency pursuant to the provisions of subdivision (a),
29 the applicant may proceed to convert the mobilehome park *or the*
30 *floating home marina* to a tenant-owned, condominium ownership
31 interest, but shall file a parcel map or a tentative and final map.
32 The local agency may not require the applicant to file and record
33 a tentative and final map unless the conversion creates five or more
34 parcels shown on the map. The number of condominium units or
35 interests created by the conversion shall not determine whether
36 the filing of a parcel or a tentative and final map shall be required.

37 ~~(g)~~

38 ~~(h)~~ For the purposes of this section, the meaning of “resident
39 ownership” shall be as defined in Section 50781 of the Health and
40 Safety Code.

1 SEC. 6. Section 21080.8 of the Public Resources Code is
2 amended to read:

3 21080.8. This division does not apply to the conversion of an
4 existing rental mobilehome park *or rental floating home marina*
5 to a resident initiated subdivision, cooperative, or condominium
6 for mobilehomes *or floating homes* if the conversion will not result
7 in an expansion of or change in existing use of the property.

8 SEC. 7. *No reimbursement is required by this act pursuant to*
9 *Section 6 of Article XIII B of the California Constitution because*
10 *a local agency or school district has the authority to levy service*
11 *charges, fees, or assessments sufficient to pay for the program or*
12 *level of service mandated by this act, within the meaning of Section*
13 *17556 of the Government Code.*

O