

AMENDED IN ASSEMBLY MARCH 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 253**

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**Introduced by Assembly Member Levine**

February 6, 2013

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An act to amend Sections 11010.8 and 11010.9 of the Business and Professions Code, *and* 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 amended, 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,  
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  
 23 REAL PROPERTY SITUATED IN THE CITY OF \_\_\_\_, COUNTY OF \_\_\_\_,  
 24 STATE OF CALIFORNIA, DESCRIBED AS \_\_\_\_. THE TOTAL COST  
 25 FOR 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  
 28 IS \$\_\_\_\_ TO \$\_\_\_\_, EXCLUDING FINANCING COSTS. IF TWO-THIRDS  
 29 OF THE RESIDENTS IN THIS MARINA SIGN THIS PETITION  
 30 INDICATING THEIR INTENT TO PURCHASE THE FLOATING HOME  
 31 MARINA FOR PURPOSES OF CONVERTING IT TO RESIDENT  
 32 OWNERSHIP, THEN THE REQUIREMENTS FOR A NEW PARCEL, OR  
 33 TENTATIVE AND FINAL SUBDIVISION MAP IN COMPLIANCE WITH  
 34 THE SUBDIVISION MAP ACT MUST BE WAIVED, WITH CERTAIN  
 35 VERY LIMITED EXCEPTIONS. WAIVING THESE PROVISIONS OF  
 36 LAW ELIMINATES NUMEROUS PROTECTIONS WHICH ARE  
 37 AVAILABLE TO YOU.

38  
 39 \_\_\_\_\_  
 40 Buyer, unit #, date

\_\_\_\_\_ Petitioner, date

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

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

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

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

33 (h) For the purposes of this section, the meaning of “resident  
34 ownership” shall be as defined in Section 50781 of the Health and  
35 Safety Code.

36 ~~SEC. 6. Section 21080.8 of the Public Resources Code is~~  
37 ~~amended to read:~~

38 ~~21080.8. This division does not apply to the conversion of an~~  
39 ~~existing rental mobilehome park or rental floating home marina~~  
40 ~~to a resident initiated subdivision, cooperative, or condominium~~

1 ~~for mobilehomes or floating homes if the conversion will not result~~  
2 ~~in an expansion of or change in existing use of the property.~~

3 ~~SEC. 7.~~

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

O