

AMENDED IN ASSEMBLY APRIL 24, 2013

AMENDED IN ASSEMBLY MARCH 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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, and to amend Sections 66427.4, ~~66427.5~~, and 66428.1 of, *and to add Section 66427.6 to*, the Government 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 *require the local agency to consider the results of the survey in making its decision to approve, conditionally approve, or disapprove the map, and would authorize the agency to disapprove the map if it finds that the results of the survey have not demonstrated the support of at least a majority of the park's homeowners. The bill would authorize local legislative bodies to enact local regulations to implement the survey requirements. The bill would further* 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.

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:
- 7 (1) A majority of the shareholders or members of the nonprofit
- 8 corporation constitute a majority of the homeowners of the
- 9 mobilehome park or floating home marina, and a majority of the
- 10 members of the board of directors of the nonprofit corporation are
- 11 homeowners of the mobilehome park or the floating home marina.

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

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

28 (4) All funds of tenants for the purchase of the mobilehome
29 park or floating home marina are deposited in escrow until the
30 document transferring title of the mobilehome park or floating
31 home marina to the nonprofit corporation is recorded. The escrow
32 also shall include funds of homeowners that shall be available to
33 the homeowners association nonprofit corporation for payment of
34 any and all costs reasonably associated with the processing and
35 conversion of the mobilehome park or floating home marina into
36 condominium interests. Payment of these costs may be made from
37 the funds deposited in escrow prior to the close of escrow upon
38 the direction of the homeowners association nonprofit corporation.

39 (b) The funds described by paragraph (4) of subdivision (a), or
40 any other funds subsequently received from tenants for purposes

1 other than the purchase of a separate subdivided interest in any
2 portion of the mobilehome park or floating home marina, are not
3 subject to the requirements of Section 11013.1, 11013.2, or
4 11013.4.

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

7 11010.9. (a) Notwithstanding any other provision of law, the
8 subdivider of a mobilehome park or floating home marina that is
9 proposed to be converted to resident ownership, prior to filing a
10 notice of intention pursuant to Section 11010, shall disclose to
11 homeowners and residents of the park or marina, by written notice,
12 the tentative price of the subdivided interest proposed to be sold
13 or leased.

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

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

32 SEC. 3. Section 66427.4 of the Government Code is amended
33 to read:

34 66427.4. (a) At the time of filing a tentative or parcel map for
35 a subdivision to be created from the conversion of a mobilehome
36 park or floating home marina to another use, the subdivider shall
37 also file a report on the impact of the conversion upon the displaced
38 residents of the mobilehome park or floating home marina to be
39 converted. In determining the impact of the conversion on displaced
40 mobilehome park or floating home marina residents, the report

1 shall address the availability of adequate replacement space in
 2 mobilehome parks or floating home marinas.

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

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

14 (d) This section establishes a minimum standard for local
 15 regulation of conversions of mobilehome parks and floating home
 16 marinas into other uses and shall not prevent a local agency from
 17 enacting more stringent measures.

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

21 ~~SEC. 4. Section 66427.5 of the Government Code is amended~~
 22 ~~to read:~~

23 ~~66427.5. At the time of filing a tentative or parcel map for a~~
 24 ~~subdivision to be created from the conversion of a rental~~
 25 ~~mobilehome park or rental floating home marina to resident~~
 26 ~~ownership, the subdivider shall avoid the economic displacement~~
 27 ~~of all nonpurchasing residents in the following manner:~~

28 ~~(a) The subdivider shall offer each existing tenant an option to~~
 29 ~~either purchase his or her condominium or subdivided unit, which~~
 30 ~~is to be created by the conversion of the park or marina to resident~~
 31 ~~ownership, or to continue residency as a tenant.~~

32 ~~(b) The subdivider shall file a report on the impact of the~~
 33 ~~conversion upon residents of the mobilehome park or the floating~~
 34 ~~home marina to be converted to resident owned subdivided interest.~~

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

1 ~~(d) (1) The subdivider shall obtain a survey of support of~~
2 ~~residents of the mobilehome park or the floating home marina for~~
3 ~~the proposed conversion.~~

4 ~~(2) The survey of support shall be conducted in accordance with~~
5 ~~an agreement between the subdivider and a resident homeowners'~~
6 ~~association, if any, that is independent of the subdivider or~~
7 ~~mobilehome park or floating home marina owner.~~

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

9 ~~(4) The survey shall be conducted so that each occupied~~
10 ~~mobilehome space and floating home berth has one vote.~~

11 ~~(5) The results of the survey shall be submitted to the local~~
12 ~~agency upon the filing of the tentative or parcel map, to be~~
13 ~~considered as part of the subdivision map hearing prescribed by~~
14 ~~subdivision (e).~~

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

20 ~~(f) The subdivider shall be required to avoid the economic~~
21 ~~displacement of all nonpurchasing residents in accordance with~~
22 ~~the following:~~

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

31 ~~(2) As to nonpurchasing residents who are lower income~~
32 ~~households, as defined in Section 50079.5 of the Health and Safety~~
33 ~~Code, the monthly rent, including any applicable fees or charges~~
34 ~~for use of any preconversion amenities, may increase from the~~
35 ~~preconversion rent by an amount equal to the average monthly~~
36 ~~increase in rent in the four years immediately preceding the~~
37 ~~conversion, except that in no event shall the monthly rent be~~
38 ~~increased by an amount greater than the average monthly~~
39 ~~percentage increase in the Consumer Price Index for the most~~
40 ~~recently reported period.~~

1 *SEC. 4. Section 66427.6 is added to the Government Code, to*
2 *read:*

3 *66427.6. At the time of filing a tentative or parcel map for a*
4 *subdivision to be created from the conversion of a rental floating*
5 *home marina to resident ownership, the subdivider shall avoid the*
6 *economic displacement of all nonpurchasing residents in the*
7 *following manner:*

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

12 *(b) The subdivider shall file a report on the impact of the*
13 *conversion upon residents of the floating home marina to be*
14 *converted to resident owned subdivided interest.*

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

19 *(d) (1) The subdivider shall obtain a survey of support of*
20 *residents of the floating home marina for the proposed conversion.*

21 *(2) The survey of support shall be conducted in accordance with*
22 *an agreement between the subdivider and a resident homeowners'*
23 *association, if any, that is independent of the subdivider or floating*
24 *home marina owner.*

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

26 *(4) The survey shall be conducted so that each occupied floating*
27 *home berth has one vote.*

28 *(5) The results of the survey shall be submitted to the local*
29 *agency upon the filing of the tentative or parcel map, to be*
30 *considered in the agency's decision as to whether to approve,*
31 *conditionally approve, or disapprove the map, and the agency may*
32 *disapprove the map if it finds that the results of the survey have*
33 *not demonstrated the support of at least a majority of the park's*
34 *homeowners.*

35 *(6) Local legislative bodies may enact local regulations to*
36 *implement the requirements of this subdivision.*

37 *(e) The subdivider shall be subject to a hearing by a legislative*
38 *body or advisory agency, which is authorized by local ordinance*
39 *to approve, conditionally approve, or disapprove the map. The*

1 *scope of the hearing shall be limited to the issue of compliance*
2 *with this section.*

3 *(f) The subdivider shall be required to avoid the economic*
4 *displacement of all nonpurchasing residents in accordance with*
5 *the following:*

6 *(1) As to nonpurchasing residents who are not lower income*
7 *households, as defined in Section 50079.5 of the Health and Safety*
8 *Code, the monthly rent, including any applicable fees or charges*
9 *for use of any preconversion amenities, may increase from the*
10 *preconversion rent to market levels, as defined in an appraisal*
11 *conducted in accordance with nationally recognized professional*
12 *appraisal standards, in equal annual increases over a four-year*
13 *period.*

14 *(2) As to nonpurchasing residents who are lower income*
15 *households, as defined in Section 50079.5 of the Health and Safety*
16 *Code, the monthly rent, including any applicable fees or charges*
17 *for use of any preconversion amenities, may increase from the*
18 *preconversion rent by an amount equal to the average monthly*
19 *increase in rent in the four years immediately preceding the*
20 *conversion, except that the monthly rent shall not be increased by*
21 *an amount greater than the average monthly percentage increase*
22 *in the Consumer Price Index for the most recently reported period.*

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

25 66428.1. (a) When at least two-thirds of the owners of
26 mobilehomes or floating homes who are tenants in the mobilehome
27 park or floating home marina sign a petition indicating their intent
28 to purchase the mobilehome park or the floating home marina for
29 purposes of converting it to resident ownership, and a field survey
30 is performed, the requirement for a parcel map or a tentative and
31 final map shall be waived unless any of the following conditions
32 exist:

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

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

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

1 (4) The conversion would result in the creation of more
2 condominium units or interests than the number of tenant lots,
3 spaces, or floating home berths that exist prior to conversion.

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

7
8 MOBILEHOME PARK PETITION AND
9 DISCLOSURE STATEMENT

10
11 SIGNING THIS PETITION INDICATES YOUR SUPPORT FOR
12 CONVERSION OF THIS MOBILEHOME PARK TO RESIDENT
13 OWNERSHIP. THIS DISCLOSURE STATEMENT CONCERNS THE
14 REAL PROPERTY SITUATED IN THE CITY OF ____, COUNTY OF ____,
15 STATE OF CALIFORNIA, DESCRIBED AS ____. THE TOTAL COST
16 FOR CONVERSION AND PURCHASE OF THE PARK IS \$____ TO \$____,
17 EXCLUDING FINANCING COSTS. THE TOTAL COST TO YOU FOR
18 CONVERSION AND PURCHASE OF YOUR OWNERSHIP INTEREST
19 IS \$____ TO \$____, EXCLUDING FINANCING COSTS. IF TWO-THIRDS
20 OF THE RESIDENTS IN THIS PARK SIGN THIS PETITION INDICATING
21 THEIR INTENT TO PURCHASE THE MOBILEHOME PARK FOR
22 PURPOSES OF CONVERTING IT TO RESIDENT OWNERSHIP, THEN
23 THE REQUIREMENTS FOR A NEW PARCEL, OR TENTATIVE AND
24 FINAL SUBDIVISION MAP IN COMPLIANCE WITH THE SUBDIVISION
25 MAP ACT MUST BE WAIVED, WITH CERTAIN VERY LIMITED
26 EXCEPTIONS. WAIVING THESE PROVISIONS OF LAW ELIMINATES
27 NUMEROUS PROTECTIONS WHICH ARE AVAILABLE TO YOU.

28
29 _____
30 Buyer, unit #, date

_____ Petitioner, date

31
32 (c) The petition signed by owners of floating homes in a floating
33 home marina proposed for conversion to resident ownership
34 pursuant to subdivision (a) shall read as follows:

35
36 FLOATING HOME MARINA PETITION AND
37 DISCLOSURE STATEMENT

38
39 SIGNING THIS PETITION INDICATES YOUR SUPPORT FOR
40 CONVERSION OF THIS FLOATING HOME MARINA TO RESIDENT

1 OWNERSHIP. THIS DISCLOSURE STATEMENT CONCERNS THE
 2 REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____,
 3 STATE OF CALIFORNIA, DESCRIBED AS _____. THE TOTAL COST
 4 FOR CONVERSION AND PURCHASE OF THE PARK IS \$_____ TO \$_____,
 5 EXCLUDING FINANCING COSTS. THE TOTAL COST TO YOU FOR
 6 CONVERSION AND PURCHASE OF YOUR OWNERSHIP INTEREST
 7 IS \$_____ TO \$_____, EXCLUDING FINANCING COSTS. IF TWO-THIRDS
 8 OF THE RESIDENTS IN THIS MARINA SIGN THIS PETITION
 9 INDICATING THEIR INTENT TO PURCHASE THE FLOATING HOME
 10 MARINA FOR PURPOSES OF CONVERTING IT TO RESIDENT
 11 OWNERSHIP, THEN THE REQUIREMENTS FOR A NEW PARCEL, OR
 12 TENTATIVE AND FINAL SUBDIVISION MAP IN COMPLIANCE WITH
 13 THE SUBDIVISION MAP ACT MUST BE WAIVED, WITH CERTAIN
 14 VERY LIMITED EXCEPTIONS. WAIVING THESE PROVISIONS OF
 15 LAW ELIMINATES NUMEROUS PROTECTIONS WHICH ARE
 16 AVAILABLE TO YOU.

17 _____
 18 _____

Buyer, unit #, date	Petitioner, date
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21 (d) The local agency shall provide an application for waiver
 22 pursuant to this section. After the waiver application is deemed
 23 complete pursuant to Section 65943, the local agency shall approve
 24 or deny the application within 50 days. The applicant shall have
 25 the right to appeal that decision to the governing body of the local
 26 agency.

27 (e) If a tentative or parcel map is required, the local agency shall
 28 not impose any offsite design or improvement requirements unless
 29 these are necessary to mitigate an existing health or safety
 30 condition. No other dedications, improvements, or in-lieu fees
 31 shall be required by the local agency. In no case shall the mitigation
 32 of a health or safety condition have the effect of reducing the
 33 number, or changing the location, of existing mobilehome spaces
 34 of floating home marina berths.

35 (f) If the local agency imposes requirements on an applicant to
 36 mitigate a health or safety condition, the applicant and the local
 37 agency shall enter into an unsecured improvement agreement. The
 38 local agency shall not require bonds or other security devices
 39 pursuant to Chapter 5 (commencing with Section 66499) for the
 40 performance of that agreement. The applicant shall have a period

1 of one year from the date the agreement was executed to complete
2 those improvements.

3 (g) If the waiver application provided for in this section is denied
4 by the local agency pursuant to the provisions of subdivision (a),
5 the applicant may proceed to convert the mobilehome park or the
6 floating home marina to a tenant-owned, condominium ownership
7 interest, but shall file a parcel map or a tentative and final map.
8 The local agency may not require the applicant to file and record
9 a tentative and final map unless the conversion creates five or more
10 parcels shown on the map. The number of condominium units or
11 interests created by the conversion shall not determine whether
12 the filing of a parcel or a tentative and final map shall be required.

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

16 SEC. 6. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act, within the meaning of Section
21 17556 of the Government Code.