

AMENDED IN ASSEMBLY MAY 2, 2013

AMENDED IN ASSEMBLY APRIL 24, 2013

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 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

1 members of the board of directors of the nonprofit corporation are  
2 homeowners of the mobilehome park or the floating home marina.

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

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

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

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

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

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

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

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

34 SEC. 3. Section 66427.4 of the Government Code is amended  
35 to read:

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

1 converted. In determining the impact of the conversion on displaced  
2 mobilehome park or floating home marina residents, the report  
3 shall address the availability of adequate replacement space in  
4 mobilehome parks or floating home marinas.

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

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

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

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

23 SEC. 4. Section 66427.6 is added to the Government Code, to  
24 read:

25 66427.6. At the time of filing a tentative or parcel map for a  
26 subdivision to be created from the conversion of a rental floating  
27 home marina to resident ownership, the subdivider shall avoid the  
28 economic displacement of all nonpurchasing residents in the  
29 following manner:

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

34 (b) The subdivider shall file a report on the impact of the  
35 conversion upon residents of the floating home marina to be  
36 converted to resident owned subdivided interest.

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

- 1 (d) (1) The subdivider shall obtain a survey of support of  
2 residents of the floating home marina for the proposed conversion.
- 3 (2) The survey of support shall be conducted in accordance with  
4 an agreement between the subdivider and a resident homeowners'  
5 association, if any, that is independent of the subdivider or floating  
6 home marina owner.
- 7 (3) The survey shall be obtained pursuant to a written ballot.
- 8 (4) The survey shall be conducted so that each occupied floating  
9 home berth has one vote.
- 10 (5) The results of the survey shall be submitted to the local  
11 agency upon the filing of the tentative or parcel map, to be  
12 considered in the agency's decision as to whether to approve,  
13 conditionally approve, or disapprove the map, and the agency may  
14 disapprove the map if it finds that the results of the survey have  
15 not demonstrated the support of at least a majority of the ~~park's~~  
16 *marina's* homeowners.
- 17 (6) Local legislative bodies may enact local regulations to  
18 implement the requirements of this subdivision.
- 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 the monthly rent shall not be increased by  
2 an amount greater than the average monthly percentage increase  
3 in the Consumer Price Index for the most recently reported period.

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

6 66428.1. (a) When at least two-thirds of the owners of  
7 mobilehomes or floating homes who are tenants in the mobilehome  
8 park or floating home marina sign a petition indicating their intent  
9 to purchase the mobilehome park or the floating home marina for  
10 purposes of converting it to resident ownership, and a field survey  
11 is performed, the requirement for a parcel map or a tentative and  
12 final map shall be waived unless any of the following conditions  
13 exist:

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

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

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

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

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

27  
28 MOBILEHOME PARK PETITION AND  
29 DISCLOSURE STATEMENT  
30

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

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

8  
9  
10 \_\_\_\_\_  
Buyer, unit #, date

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

11  
12 (c) The petition signed by owners of floating homes in a floating  
13 home marina proposed for conversion to resident ownership  
14 pursuant to subdivision (a) shall read as follows:

15  
16 FLOATING HOME MARINA PETITION AND  
17 DISCLOSURE STATEMENT  
18

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

37  
38 \_\_\_\_\_  
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 or 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. No reimbursement is required by this act pursuant to  
 37 Section 6 of Article XIII B of the California Constitution because  
 38 a local agency or school district has the authority to levy service  
 39 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O