

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY MAY 2, 2013

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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 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

1 mobilehome park or floating home marina, and a majority of the
2 members of the board of directors of the nonprofit corporation are
3 homeowners of the mobilehome park or the floating home marina.

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

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

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

1 the funds deposited in escrow prior to the close of escrow upon
2 the direction of the homeowners association nonprofit corporation.

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

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

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

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

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

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

38 66427.4. (a) At the time of filing a tentative or parcel map for
39 a subdivision to be created from the conversion of a mobilehome
40 park or floating home marina to another use, the subdivider shall

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

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

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

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

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

25 SEC. 4. Section 66427.6 is added to the Government Code, to
 26 read:

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

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

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

39 (c) The subdivider shall make a copy of the report available to
 40 each resident of the floating home marina at least 15 days prior to

1 the hearing on the map by the advisory agency or, if there is no
2 advisory agency, by the legislative body.

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

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

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

10 (4) The survey shall be conducted so that each occupied floating
11 home berth has one vote.

12 (5) The results of the survey shall be submitted to the local
13 agency upon the filing of the tentative or parcel map, to be
14 considered in the agency's decision as to whether to approve,
15 conditionally approve, or disapprove the map, and the agency may
16 disapprove the map if it finds that the results of the survey have
17 not demonstrated the support of at least a majority of the marina's
18 homeowners.

19 (6) Local legislative bodies may enact local regulations to
20 implement the requirements of this subdivision.

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

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

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

37 (2) As to nonpurchasing residents who are lower income
38 households, as defined in Section 50079.5 of the Health and Safety
39 Code, the monthly rent, including any applicable fees or charges
40 for use of any preconversion amenities, may increase from the

1 preconversion rent by an amount equal to the average monthly
2 increase in rent in the four years immediately preceding the
3 conversion, except that the monthly rent shall not be increased by
4 an amount greater than the average monthly percentage increase
5 in the Consumer Price Index for the most recently reported period.

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

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

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

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

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

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

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

29
30 MOBILEHOME PARK PETITION AND
31 DISCLOSURE STATEMENT
32

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

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

10
 11 _____
 12 Buyer, unit #, date

_____ Petitioner, date

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

17
 18 FLOATING HOME MARINA PETITION AND
 19 DISCLOSURE STATEMENT

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

1			
2	Buyer, unit #, date	Petitioner, date	

3

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

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

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

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

39 SEC. 6. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

- 1 a local agency or school district has the authority to levy service
- 2 charges, fees, or assessments sufficient to pay for the program or
- 3 level of service mandated by this act, within the meaning of Section
- 4 17556 of the Government Code.

O