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AMENDED IN SENATE JUNE 25, 2013

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

Introduced by Assembly Member Levine

February 6, 2013

An act to amend ~~Sections 11010.8 and~~ *Section 11010.9* of, *and to add Section 11010.85 to*, 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:~~

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 Business~~
20 ~~Oversight, Division of Corporations. In the case of a nonissuer~~
21 ~~transaction (as defined by Section 25011 of the Corporations Code)~~
22 ~~involving the offer to resell or the resale of memberships by a bona~~
23 ~~fide secured party as described in paragraph (2) of this section, a~~
24 ~~permit is not required where the transaction is exempt from the~~
25 ~~qualification requirements of Section 25130 of the Corporations~~
26 ~~Code pursuant to subdivision (e) of Section 25104 of the~~
27 ~~Corporations Code. The exemption from qualification pursuant to~~
28 ~~subdivision (e) of Section 25104 of the Corporations Code~~
29 ~~available to a bona fide secured party does not eliminate the~~
30 ~~requirement of this section that the nonprofit corporation shall~~
31 ~~either file a notice of intention pursuant to Section 11010 or obtain~~
32 ~~a permit pursuant to Section 25113 of 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 *SECTION 1. Section 11010.85 is added to the Business and*
11 *Professions Code, to read:*

12 *11010.85. (a) The requirement that a notice of intention be*
13 *filed pursuant to Section 11010 is not applicable to the purchase*
14 *of a floating home marina by a nonprofit corporation if all of the*
15 *following occur:*

16 *(1) A majority of the shareholders or members of the nonprofit*
17 *corporation constitute a majority of the homeowners of the floating*
18 *home marina, and a majority of the members of the board of*
19 *directors of the nonprofit corporation are homeowners of the*
20 *floating home marina.*

21 *(2) All members of the corporation are residents of the floating*
22 *home marina. Members of the nonprofit corporation may enter*
23 *into leases with the corporation that are greater than five years*
24 *in length. "Homeowners" or "residents" of the floating home*
25 *marina shall include a bona fide secured party who has, pursuant*
26 *to a security interest in a membership, taken title to the membership*
27 *by means of foreclosure, repossession, or voluntary repossession,*
28 *and who is actively attempting to resell the membership to a*
29 *prospective resident or homeowner of the floating home marina,*
30 *in accordance with subdivision (f) of Section 7312 of the*
31 *Corporations Code.*

32 *(3) A permit to issue securities under Section 25113 of the*
33 *Corporations Code is obtained from the Department of Business*
34 *Oversight, Division of Corporations. In the case of a nonissuer*
35 *transaction (as defined by Section 25011 of the Corporations Code)*
36 *involving the offer to resell or the resale of memberships by a bona*
37 *fide secured party as described in paragraph (2) of this section,*
38 *a permit is not required where the transaction is exempt from the*
39 *qualification requirements of Section 25130 of the Corporations*
40 *Code pursuant to subdivision (e) of Section 25104 of the*

1 *Corporations Code. The exemption from qualification pursuant*
2 *to subdivision (e) of Section 25104 of the Corporations Code*
3 *available to a bona fide secured party does not eliminate the*
4 *requirement of this section that the nonprofit corporation shall*
5 *either file a notice of intention pursuant to Section 11010 or obtain*
6 *a permit pursuant to Section 25113 of the Corporations Code.*

7 *(4) All funds of tenants for the purchase of the floating home*
8 *marina are deposited in escrow until the document transferring*
9 *title of the floating home marina to the nonprofit corporation is*
10 *recorded. The escrow also shall include funds of homeowners that*
11 *shall be available to the homeowners association nonprofit*
12 *corporation for payment of any and all costs reasonably associated*
13 *with the processing and conversion of the floating home marina*
14 *into condominium interests. Payment of these costs may be made*
15 *from the funds deposited in escrow prior to the close of escrow*
16 *upon the direction of the homeowners association nonprofit*
17 *corporation.*

18 *(b) The funds described by paragraph (4) of subdivision (a), or*
19 *any other funds subsequently received from tenants for purposes*
20 *other than the purchase of a separate subdivided interest in any*
21 *portion of the floating home marina, are not subject to the*
22 *requirements of Section 11013.1, 11013.2, or 11013.4.*

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

25 11010.9. (a) Notwithstanding any other provision of law, the
26 subdivider of a mobilehome park or floating home marina that is
27 proposed to be converted to resident ownership, prior to filing a
28 notice of intention pursuant to Section 11010, shall disclose to
29 homeowners and residents of the park or marina, by written notice,
30 the tentative price of the subdivided interest proposed to be sold
31 or leased.

32 (b) The disclosure notice required by subdivision (a) shall
33 include a statement that the tentative price is not binding, could
34 change between the time of disclosure and the time of
35 governmental approval to commence the actual sale or lease of
36 the subdivided interests in the park or marina, as the result of
37 conditions imposed by the state or local government for approval
38 of the park or marina conversion, increased financing costs, or
39 other factors and, in the absence of bad faith, shall not give rise to
40 a claim for liability against the provider of this information.

1 (c) The disclosure notice required by subdivision (a) shall not
2 be construed to authorize the subdivider of a mobilehome park or
3 floating home marina that is proposed to be converted to resident
4 ownership to offer to sell or lease, sell or lease, or accept money
5 for the sale or lease of, subdivided interests in the park or marina,
6 or to engage in any other activities that are otherwise prohibited,
7 with regard to subdividing the park or marina into ownership
8 interests, prior to the issuance of a public report pursuant to this
9 chapter.

10 SEC. 3. Section 66427.4 of the Government Code is amended
11 to read:

12 66427.4. (a) At the time of filing a tentative or parcel map for
13 a subdivision to be created from the conversion of a mobilehome
14 park or floating home marina to another use, the subdivider shall
15 also file a report on the impact of the conversion upon the displaced
16 residents of the mobilehome park or floating home marina to be
17 converted. In determining the impact of the conversion on displaced
18 mobilehome park or floating home marina residents, the report
19 shall address the availability of adequate replacement space in
20 mobilehome parks or floating home marinas.

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

25 (c) The legislative body, or an advisory agency that is authorized
26 by local ordinance to approve, conditionally approve, or disapprove
27 the map, may require the subdivider to take steps to mitigate any
28 adverse impact of the conversion on the ability of displaced
29 mobilehome park or floating home marina residents to find
30 adequate space in a mobilehome park or floating home marina,
31 respectively.

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

36 (e) This section shall not be applicable to a subdivision that is
37 created from the conversion of a rental mobilehome park or rental
38 floating home marina to resident ownership.

39 SEC. 4. Section 66427.6 is added to the Government Code, to
40 read:

1 66427.6. At the time of filing a tentative or parcel map for a
2 subdivision to be created from the conversion of a rental floating
3 home marina to resident ownership, the subdivider shall avoid the
4 economic displacement of all nonpurchasing residents in the
5 following manner:

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

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

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

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

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

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

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

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

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

35 (e) The subdivider shall be subject to a hearing by a legislative
36 body or advisory agency, which is authorized by local ordinance
37 to approve, conditionally approve, or disapprove the map. The
38 scope of the hearing shall be limited to the issue of compliance
39 with this section.

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

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

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

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

23 66428.1. (a) When at least two-thirds of the owners of
24 mobilehomes or floating homes who are tenants in the mobilehome
25 park or floating home marina sign a petition indicating their intent
26 to purchase the mobilehome park or the floating home marina for
27 purposes of converting it to resident ownership, and a field survey
28 is performed, the requirement for a parcel map or a tentative and
29 final map shall be waived unless any of the following conditions
30 exists:

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

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

36 (3) The existing parcels that exist prior to the proposed
37 conversion were not created by a recorded parcel or final map.

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

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

4
5 MOBILEHOME PARK PETITION AND
6 DISCLOSURE STATEMENT
7

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

26 _____
27 Buyer, unit #, date

Petitioner, date

28
29 (c) The petition signed by owners of floating homes in a floating
30 home marina proposed for conversion to resident ownership
31 pursuant to subdivision (a) shall read as follows:

32
33 FLOATING HOME MARINA PETITION AND
34 DISCLOSURE STATEMENT
35

36 SIGNING THIS PETITION INDICATES YOUR SUPPORT FOR
37 CONVERSION OF THIS FLOATING HOME MARINA TO RESIDENT
38 OWNERSHIP. THIS DISCLOSURE STATEMENT CONCERNS THE
39 REAL PROPERTY SITUATED IN THE CITY OF ____, COUNTY OF ____,
40 STATE OF CALIFORNIA, DESCRIBED AS _____. THE TOTAL COST

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

14
 15 _____
 16 Buyer, unit #, date Petitioner, date

17
 18 (d) The local agency shall provide an application for waiver
 19 pursuant to this section. After the waiver application is deemed
 20 complete pursuant to Section 65943, the local agency shall approve
 21 or deny the application within 50 days. The applicant shall have
 22 the right to appeal that decision to the governing body of the local
 23 agency.

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

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

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

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

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