

Assembly Bill No. 253

CHAPTER 432

An act to amend 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.

[Approved by Governor September 30, 2013. Filed with
Secretary of State September 30, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 253, 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.

The people of the State of California do enact as follows:

SECTION 1. Section 11010.85 is added to the Business and Professions Code, to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) As to nonpurchasing residents who are not lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent to market levels, as defined in an appraisal conducted in accordance with nationally recognized

professional appraisal standards, in equal annual increases over a four-year period.

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

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

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

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

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

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

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

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

MOBILEHOME PARK PETITION AND DISCLOSURE STATEMENT

SIGNING THIS PETITION INDICATES YOUR SUPPORT FOR CONVERSION OF THIS MOBILEHOME PARK TO RESIDENT OWNERSHIP. THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF ____, COUNTY OF ____, STATE OF CALIFORNIA, DESCRIBED AS _____. THE TOTAL COST FOR CONVERSION AND PURCHASE OF THE PARK IS \$_____ TO \$_____, EXCLUDING FINANCING COSTS. THE TOTAL COST TO YOU FOR CONVERSION AND PURCHASE OF YOUR OWNERSHIP INTEREST IS \$_____ TO \$_____, EXCLUDING FINANCING COSTS. IF TWO-THIRDS OF THE RESIDENTS IN THIS PARK SIGN THIS PETITION INDICATING THEIR INTENT TO PURCHASE THE MOBILEHOME PARK FOR PURPOSES OF CONVERTING IT TO RESIDENT OWNERSHIP, THEN

dedications, improvements, or in-lieu fees shall be required by the local agency. In no case shall the mitigation of a health or safety condition have the effect of reducing the number, or changing the location, of existing mobilehome spaces or floating home marina berths.

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

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

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

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