

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE JULY 8, 2013

AMENDED IN SENATE JUNE 24, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1024

Introduced by Assembly Member ~~Torres Gonzalez~~

(Coauthors: Assembly Members Alejo, Bocanegra, Ian Calderon, Campos, Eggman, Garcia, Gomez, Roger Hernández, Medina, Perea, V. Manuel Pérez, Quirk-Silva, Rendon, and Salas)

(Coauthors: Senators Calderon, Correa, De León, Hernandez, Hueso, Lara, Padilla, and Torres)

February 22, 2013

An act to amend ~~Sections 11003.4 and 11013.1 of, and to add Section 11013.6 to, the Business and Professions Code, and to amend Section 5100 of the Civil Code, relating to land use. Section 6064 of the Business and Professions Code, relating to attorneys.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1024, as amended, ~~Torres Gonzalez. Real property: divided lands. Attorneys: admission to practice.~~

Existing law authorizes the Supreme Court to admit an applicant as an attorney at law in all the courts of the state, upon certification by the examining committee of the State Bar of California that the applicant has fulfilled the requirements for admission to practice law, as specified.

This bill would additionally authorize the Supreme Court to admit to the practice of law an applicant who is not lawfully present in the United States, upon certification by the committee that the applicant has fulfilled those requirements for admission, as specified.

~~(1) Existing law exempts a limited-equity housing cooperative or a workforce housing cooperative trust from provisions of existing law governing subdivided land transactions that are applicable to stock cooperatives if the limited-equity housing cooperative or workforce housing cooperative trust complies with specified conditions.~~

~~This bill would revise the conditions for the exemption to, among other things, require that every party that executes a regulatory agreement with the cooperative satisfy itself that the rights of the cooperative members are provided adequate protection, as specified. By expanding the applicability of a crime, this bill would impose a state-mandated local program.~~

~~(2) Existing law prohibits the sale or lease of lots or parcels within a subdivision that is subject to a blanket encumbrance unless the encumbrance includes a specified release clause or certain conditions are met.~~

~~This bill would authorize the sale or lease of an individual interest in a defined stock cooperative or limited housing cooperative that is subject to a blanket encumbrance if specified conditions are met.~~

~~(3) The Davis-Stirling Common Interest Development Act establishes procedures for elections.~~

~~This bill would exempt a stock cooperative with bylaws that provide that all members and shareholders automatically become directors of the homeowners' association from the procedures applicable to the election of directors of the homeowners' association.~~

~~(4) 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-no*.

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

- 1 *SECTION 1. Section 6064 of the Business and Professions*
- 2 *Code is amended to read:*

1 6064. (a) Upon certification by the examining committee that
2 the applicant has fulfilled the requirements for admission to
3 practice law, the Supreme Court may admit ~~such~~ *the* applicant as
4 an attorney at law in all the courts of this ~~State~~ *state* and may direct
5 an order to be entered upon its records to that effect. A certificate
6 of admission thereupon shall be given to the applicant by the clerk
7 of the court.

8 (b) *Upon certification by the examining committee that an*
9 *applicant who is not lawfully present in the United States has*
10 *fulfilled the requirements for admission to practice law, the*
11 *Supreme Court may admit that applicant as an attorney at law in*
12 *all the courts of this state and may direct an order to be entered*
13 *upon its records to that effect. A certificate of admission thereupon*
14 *shall be given to the applicant by the clerk of the court.*

15 SECTION 1. ~~Section 11003.4 of the Business and Professions~~
16 ~~Code is amended to read:~~

17 ~~11003.4. (a) A “limited-equity housing cooperative” or a~~
18 ~~“workforce housing cooperative trust” is a corporation that meets~~
19 ~~the criteria of Section 11003.2 and that also meets the criteria of~~
20 ~~Sections 817 and 817.1 of the Civil Code, as applicable. Except~~
21 ~~as provided in subdivision (b), a limited-equity housing or~~
22 ~~workforce housing cooperative trust shall be subject to all the~~
23 ~~requirements of this chapter pertaining to stock cooperatives.~~

24 ~~(b) A limited-equity housing cooperative or a workforce housing~~
25 ~~cooperative trust shall be exempt from the requirements of this~~
26 ~~chapter if the limited-equity housing cooperative or workforce~~
27 ~~housing cooperative trust complies with all the following~~
28 ~~conditions:~~

29 ~~(1) The United States Department of Housing and Urban~~
30 ~~Development, the United States Department of Agriculture, the~~
31 ~~National Consumers Cooperative Bank, the California Housing~~
32 ~~Finance Agency, the Public Employees’ Retirement System~~
33 ~~(PERS), the State Teachers’ Retirement System (STRS), the~~
34 ~~Department of Housing and Community Development, the Federal~~
35 ~~Home Loan Bank System or any of its member institutions, a state~~
36 ~~or federally chartered credit union, a state or federally certified~~
37 ~~community development financial institution, or the city, county,~~
38 ~~school district, or redevelopment agency in which the cooperative~~
39 ~~is located, alone or in any combination with each other, directly~~
40 ~~finances or subsidizes at least 50 percent of the total construction~~

1 or development cost or one hundred thousand dollars (\$100,000);
2 whichever is less; or the real property to be occupied by the
3 cooperative was sold or leased by the Transportation Agency, other
4 state agency, a city, a county, or a school district for the
5 development of the cooperative and has a regulatory agreement
6 approved by the Department of Housing and Community
7 Development for the term of the permanent financing;
8 notwithstanding the source of the permanent subsidy or financing.

9 (2) No more than 20 percent of the total development cost of a
10 limited-equity mobilehome park, and no more than 10 percent of
11 the total development cost of other limited-equity housing
12 cooperatives, is provided by purchasers of membership shares.

13 (3) A regulatory agreement that covers the cooperative for a
14 term of at least as long as the duration of the permanent financing
15 or subsidy, notwithstanding the source of the permanent subsidy
16 or financing, has been duly executed between the recipient of the
17 financing and either (A) one of the federal or state agencies
18 specified in paragraph (1) or (B) a local public agency that is
19 providing financing for the project under a regulatory agreement
20 meeting standards of the Department of Housing and Community
21 Development. The regulatory agreement shall make provision for
22 at least all of the following:

23 (A) Assurances for completion of the common areas and
24 facilities to be owned or leased by the limited-equity housing
25 cooperative, unless a construction agreement between the same
26 parties contains written assurances for completion.

27 (B) Governing instruments for the organization and operation
28 of the housing cooperative by the members.

29 (C) The ongoing fiscal management of the project by the
30 cooperative, including an adequate budget, reserves, and provisions
31 for maintenance and management.

32 (D) Distribution of a membership information report to any
33 prospective purchaser of a membership share, prior to purchase
34 of that share. The membership information report shall contain
35 full disclosure of the financial obligations and responsibilities of
36 cooperative membership, the resale of shares, the financing of the
37 cooperative including any arrangements made with any partners,
38 membership share accounts, occupancy restrictions, management
39 arrangements, and any other information pertinent to the benefits,
40 risks, and obligations of cooperative ownership.

1 ~~(4) Every party that executes the regulatory agreement shall~~
2 ~~satisfy itself that the bylaws, articles of incorporation, occupancy~~
3 ~~agreement, subscription agreement, any lease of the regulated~~
4 ~~premises, any arrangement with partners, and arrangement for~~
5 ~~membership share accounts provide adequate protection of the~~
6 ~~rights of cooperative members.~~

7 ~~(5) Every provider of financing or subsidies shall receive from~~
8 ~~the attorney for the recipient of the financing or subsidy a legal~~
9 ~~opinion that the cooperative meets the requirements of Section~~
10 ~~817 of the Civil Code and the exemption provided by this section.~~

11 ~~(e) Any limited-equity cooperative, or workforce housing~~
12 ~~cooperative trust that meets the requirements for exemption~~
13 ~~pursuant to subdivision (b) may elect to be subject to all provisions~~
14 ~~of this chapter.~~

15 ~~(d) The developer of the cooperative shall notify the Bureau of~~
16 ~~Real Estate, on a form provided by the bureau, that an exemption~~
17 ~~is claimed under this section. The Bureau of Real Estate shall retain~~
18 ~~this form for at least four years for statistical purposes.~~

19 ~~SEC. 2. Section 11013.1 of the Business and Professions Code~~
20 ~~is amended to read:~~

21 ~~11013.1. It shall be unlawful, except as provided in Section~~
22 ~~11013.2 or 11013.6, for the owner, subdivider, or agent to sell or~~
23 ~~lease lots or parcels within a subdivision that is subject to a blanket~~
24 ~~encumbrance unless there exists in the blanket encumbrance or~~
25 ~~other supplementary agreement a provision, hereinafter referred~~
26 ~~to as a release clause, which by its terms shall unconditionally~~
27 ~~provide that the purchaser or lessee of a lot or parcel can obtain~~
28 ~~legal title or other interest contracted for, free and clear of the~~
29 ~~blanket encumbrance, upon compliance with the terms and~~
30 ~~conditions of the purchase or lease.~~

31 ~~SEC. 3. Section 11013.6 is added to the Business and~~
32 ~~Professions Code, to read:~~

33 ~~11013.6. Notwithstanding Sections 11013.1 and 11013.2, an~~
34 ~~individual interest in a stock cooperative, as defined in Section~~
35 ~~4190 of the Civil Code, or a limited equity housing cooperative,~~
36 ~~as defined in Section 817 of the Civil Code, may be sold or leased~~
37 ~~subject to a blanket encumbrance if all of the following conditions~~
38 ~~are met:~~

1 (a) ~~The notice required pursuant to Section 1133 of the Civil~~
2 ~~Code is provided to every prospective purchaser and lessee of the~~
3 ~~interest and is included in every purchase and lease contract.~~

4 (b) ~~The property subject to the sale or lease has obtained a public~~
5 ~~report from the Bureau of Real Estate that accounts for the blanket~~
6 ~~encumbrance.~~

7 (c) ~~The governing documents for the association require the~~
8 ~~association to create within one year of the sale of at least 50~~
9 ~~percent of the individual interests in the stock cooperative or~~
10 ~~limited-equity housing cooperative and maintain during the term~~
11 ~~of the blanket encumbrance a financing reserve amount equal to~~
12 ~~at least three months of the amount of the debt service payments~~
13 ~~due on the blanket encumbrance or a lesser amount acceptable to~~
14 ~~the commissioner.~~

15 ~~SEC. 4. Section 5100 of the Civil Code is amended to read:~~

16 ~~5100. (a) Notwithstanding any other law or provision of the~~
17 ~~governing documents, elections regarding assessments legally~~
18 ~~requiring a vote, election and removal of directors, amendments~~
19 ~~to the governing documents, or the grant of exclusive use of~~
20 ~~common area pursuant to Section 4600 shall be held by secret~~
21 ~~ballot in accordance with the procedures set forth in this article.~~

22 (b) ~~This article also governs an election on any topic that is~~
23 ~~expressly identified in the operating rules as being governed by~~
24 ~~this article.~~

25 (c) ~~The provisions of this article apply to both incorporated and~~
26 ~~unincorporated associations, notwithstanding any contrary~~
27 ~~provision of the governing documents.~~

28 (d) ~~The procedures set forth in this article shall apply to votes~~
29 ~~cast directly by the membership, but do not apply to votes cast by~~
30 ~~delegates or other elected representatives.~~

31 (e) ~~In the event of a conflict between this article and the~~
32 ~~provisions of the Nonprofit Mutual Benefit Corporation Law (Part~~
33 ~~3 (commencing with Section 7110) of Division 2 of Title 1 of the~~
34 ~~Corporations Code) relating to elections, the provisions of this~~
35 ~~article shall prevail.~~

36 (f) ~~Directors shall not be required to be elected pursuant to this~~
37 ~~article if the governing documents provide that one member from~~
38 ~~each separate interest is a director.~~

39 ~~SEC. 5. No reimbursement is required by this act pursuant to~~
40 ~~Section 6 of Article XIII B of the California Constitution because~~

1 ~~the only costs that may be incurred by a local agency or school~~
2 ~~district will be incurred because this act creates a new crime or~~
3 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
4 ~~for a crime or infraction, within the meaning of Section 17556 of~~
5 ~~the Government Code, or changes the definition of a crime within~~
6 ~~the meaning of Section 6 of Article XIII B of the California~~
7 ~~Constitution.~~

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