

AMENDED IN ASSEMBLY MARCH 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1513**

---

---

**Introduced by Assembly Member Fox**

January 15, 2014

---

---

An act to add ~~Section~~ *Sections 1160.5 and 1160.6* to the Code of Civil Procedure, relating to residential property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1513, as amended, Fox. Residential property: possession by ~~foree~~ *declaration*.

*Existing law allows a plaintiff, upon motion, to have immediate possession of the premises of a manufactured home, mobilehome, or real property by a writ of possession issued by a court and directed to the sheriff of the county or marshal, for execution, where it appears to the satisfaction of the court, after a hearing on the motion, from the verified complaint and from any affidavits filed or oral testimony given by or on behalf of the parties, that the defendant resides out of state, has departed from the state, cannot, after due diligence, be found within the state, or has concealed himself or herself to avoid the service of summons.*

*This bill would allow a property owner, or an agent of the property owner, to execute, under penalty of perjury, a Declaration of Ownership of Residential property or an Unauthorized Occupant Declaration. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.*

*This bill would allow a property owner, or an agent of the property owner, to file the Declaration of Ownership of Residential property or Unauthorized Occupant Declaration with the district attorney of the*

*jurisdiction in which the property is located and to submit either declaration to a local law enforcement agency. The bill would require a local law enforcement agency to enforce the declaration as an order for immediate possession of the premises, as specified. By imposing new duties on local agencies this bill would create 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Under existing law, a person who by force, or by menaces and threats of violence, unlawfully holds and keeps the possession of any real property, whether acquired peaceably or otherwise, is guilty of a forcible detainer. Existing law also establishes the criteria for determining when a tenant is guilty of an unlawful detainer of a premises.~~

~~This bill would provide that a person who knowingly holds and occupies any residential property, owned or managed by another, by force or threats of violence, or knowingly enters residential property without the property owner's express written permission and refuses or fails to leave the property after being requested to leave by the owner or agent of the owner is guilty of a felony punishable pursuant to existing law.~~

~~By creating new crimes this bill 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 1160.5 is added to the Code of Civil*  
2 *Procedure, to read:*

3     *1160.5. A property owner, or an agent of the property owner,*  
4 *may execute the following “Declaration of Ownership” and file*  
5 *it with the district attorney of the jurisdiction in which the property*  
6 *is located. The property owner, or the agent of the property owner,*  
7 *shall post the declaration on the unoccupied residential property*  
8 *listed in the declaration. The property owner, or the agent of the*  
9 *property owner, may also submit the declaration to a local law*  
10 *enforcement agency that shall enforce the declaration as an order*  
11 *for immediate possession of the premises pursuant to Section 1166a*  
12 *of the Code of Civil Procedure.*

13  
14     *“DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL*  
15                                     *PROPERTY*

16     *I, \_\_\_\_\_, declare and state: I make this*  
17 *declaration based upon my own personal knowledge.*

18     *1. I am the owner \_\_\_\_\_, or the agent of the owner \_\_\_\_\_ (check one),*  
19 *of the residential property located at \_\_\_\_\_,*  
20 *California (“Property”).*

21     *2. Submitted with this declaration, and incorporated herein by*  
22 *reference, is a true and correct copy of the deed by which I*  
23 *obtained ownership of the Property.*

24     *3. Since obtaining ownership of the Property, no ownership*  
25 *interest in the Property has been conveyed or transferred to any*  
26 *other person or entity.*

27     *4. At the time of obtaining ownership of the Property, no person*  
28 *was occupying the Property and no ownership interest or right of*  
29 *possession in the Property has been conveyed or transferred to*  
30 *any other person or entity.*

31     *5. As of the present date, there are no persons authorized by*  
32 *me or my agent to reside within the Property. Any persons residing*  
33 *on this Property are doing so without any express or implied*  
34 *authorization from me or my agent.*

35     *6. I have not entered into any form of lease arrangement, rental*  
36 *agreement, or given any consent whatsoever to any persons to*  
37 *reside within the Property.*

1 7. I will advise the district attorney if there is any change in the  
2 status of the Property and an occupancy is authorized by me or  
3 my agent.

4 8. I declare under penalty of perjury that the foregoing is true  
5 and correct.

6 EXECUTED on \_\_\_\_\_, at  
7 \_\_\_\_\_, California”

8 SEC. 2. Section 1160.6 is added to the Code of Civil Procedure,  
9 to read:

10 1160.6. A property owner, or an agent of the property owner,  
11 may execute the following “Unauthorized Occupant Declaration”  
12 and file it with the district attorney of the jurisdiction in which the  
13 property is located. The property owner, or the agent of the  
14 property owner, may also submit the declaration to a local law  
15 enforcement agency that shall enforce the declaration as an order  
16 for immediate possession of the premises pursuant to Section 1166a  
17 of the Code of Civil Procedure.

18  
19 “UNAUTHORIZED OCCUPANT DECLARATION

20 I, \_\_\_\_\_, declare and state: I make this  
21 declaration based upon my own personal knowledge.

22 1. I am the owner\_\_\_\_, or the agent of the owner\_\_\_\_ (check one),  
23 of the residential property located at \_\_\_\_\_,  
24 California (“Property”).

25 2. Submitted with this Declaration, and incorporated herein by  
26 reference, is a true and correct copy of the deed by which I  
27 obtained ownership of the Property.

28 3. At the time of obtaining ownership of the Property, no person  
29 was occupying the Property and no ownership interest or right of  
30 possession in the Property has been conveyed or transferred to  
31 any other person or entity.

32 4. I have never entered into any form of lease arrangement,  
33 rental agreement, or given any consent whatsoever to the persons  
34 (“Subject Persons”) to reside within the Property.

35 5. As of the present date, there are Subject Persons present  
36 within, and asserting possession of, the Property.

37 6. The Subject Persons are residing within the Property without  
38 my consent and are unknown to me.

1 7. I have requested the Subject Persons to remove themselves  
2 and their personal property from the Property on the following  
3 occasions and in the following means:

- 4 A \_\_\_\_\_
- 5 B \_\_\_\_\_
- 6 C \_\_\_\_\_
- 7 D \_\_\_\_\_

8 8. Notwithstanding the efforts described above, the Subject  
9 Persons have refused to vacate the Property and to remove their  
10 personal property from the Property.

11 9. I have been advised and understand that Section 148.5 of the  
12 Penal Code Section makes it a crime to falsely report a  
13 misdemeanor or felony to a peace officer and that I will be  
14 committing a crime under that section if the statements made within  
15 this declaration are known to be false.

16 10. I declare under penalty of perjury that the foregoing is true  
17 and correct.

18 EXECUTED on \_\_\_\_\_,  
19 at \_\_\_\_\_, California”

20 SEC. 3. No reimbursement is required by this act pursuant to  
21 Section 6 of Article XIII B of the California Constitution for certain  
22 costs that may be incurred by a local agency or school district  
23 because, in that regard, this act creates a new crime or infraction,  
24 eliminates a crime or infraction, or changes the penalty for a crime  
25 or infraction, within the meaning of Section 17556 of the  
26 Government Code, or changes the definition of a crime within the  
27 meaning of Section 6 of Article XIII B of the California  
28 Constitution.

29 However, if the Commission on State Mandates determines that  
30 this act contains other costs mandated by the state, reimbursement  
31 to local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code.

34 SECTION 1. ~~Section 1160.5 is added to the Code of Civil  
35 Procedure, to read:~~

36 ~~1160.5. A person who does either of the following is guilty of  
37 a felony punishable pursuant to subdivision (h) of Section 1170  
38 of the Penal Code:~~

39 ~~(a) Knowingly holds and occupies any residential property,  
40 owned or managed by another, by force or threats of violence.~~

1     ~~(b) Knowingly enters residential property without the property~~  
2     ~~owner's express written permission and refuses or fails to leave~~  
3     ~~the residential property after being requested to leave by the~~  
4     ~~property owner or agent of the owner.~~

5     ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
6     ~~Section 6 of Article XIII B of the California Constitution because~~  
7     ~~the only costs that may be incurred by a local agency or school~~  
8     ~~district will be incurred because this act creates a new crime or~~  
9     ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
10    ~~for a crime or infraction, within the meaning of Section 17556 of~~  
11    ~~the Government Code, or changes the definition of a crime within~~  
12    ~~the meaning of Section 6 of Article XIII B of the California~~  
13    ~~Constitution.~~