

AMENDED IN ASSEMBLY APRIL 8, 2014
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 Sections ~~1160.5 and 1160.6~~ *1944.1, 1944.2, 1944.3, and 1944.4* to the ~~Code of Civil Procedure~~, *Civil Code*, relating to residential property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1513, as amended, Fox. Residential property: possession by 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. *The bill would require a sheriff to post the declaration on the property listed in the declaration.* By imposing new duties on local agencies this bill would create a state-mandated local program.

The bill would provide that its provisions apply only to one-unit to four-unit residences.

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.

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 ~~SECTION 1. Section 1944.1 is added to the Civil Code, to read:~~
5 ~~1944.1. may execute the following a “Declaration of~~
6 ~~Ownership” that includes language substantially similar to the~~
7 ~~language below and file it with the district attorney of the~~
8 ~~jurisdiction in which the property is located. The If the property~~
9 ~~owner, or the agent of the property owner, files the declaration~~
10 ~~with the district attorney, he or she shall also post the declaration~~
11 ~~on the unoccupied residential property listed in the declaration.~~
12 ~~The property owner, or the agent of the property owner, may also~~
13 ~~submit the declaration to a local law enforcement agency that shall~~
14 ~~enforce the declaration as an order for immediate possession of~~

1 the premises pursuant to Section 1166a of the Code of Civil
2 Procedure: *premises*.

3

4 “DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL
5 PROPERTY

6

7

8 I, _____, declare and state: I make this
9 declaration based upon my own personal knowledge.

10 1. I am the owner____, or the agent of the owner____(check one),
11 of the residential property located at _____,
12 California (“Property”).

13 2. Submitted with this declaration, and incorporated herein by
14 reference, is a true and correct copy of the deed by which I obtained
15 ownership of the Property.

16 3. Since obtaining ownership of the Property, no ownership
17 interest in the Property has been conveyed or transferred to any
18 other person or entity.

19 4. At the time of obtaining ownership of the Property, no person
20 was occupying the Property and no ownership interest or right of
21 possession in the Property has been conveyed or transferred to any
22 other person or entity.

23 5. As of the present date, there are no persons authorized by me
24 or my agent to reside within the Property. Any persons residing
25 on this Property are doing so without any express or implied
26 authorization from me or my agent.

27 6. I have not entered into any form of lease arrangement, rental
28 agreement, or given any consent whatsoever to any persons to
29 reside within the Property.

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

33 8. I declare under penalty of perjury that the foregoing is true
34 and correct.

35

36

37 EXECUTED on _____, at
38 _____, California”

39 ~~SEC. 2. Section 1160.6 is added to the Code of Civil Procedure,~~
40 ~~to read:~~

1 ~~1160.6. A property owner, or an agent of the property owner,~~
2 ~~SEC. 2. Section 1944.2 is added to the Civil Code, to read:~~
3 ~~1944.2. may execute the following an “Unauthorized Occupant~~
4 ~~Declaration” that includes language substantially similar to the~~
5 ~~language below and file it with the district attorney of the~~
6 ~~jurisdiction in which the property is located. The property owner,~~
7 ~~or the agent of the property owner, may also submit the declaration~~
8 ~~to a local law enforcement agency that shall enforce the declaration~~
9 ~~as an order for immediate possession of the premises pursuant to~~
10 ~~Section 1166a of the Code of Civil Procedure. premises.~~

11
12 “UNAUTHORIZED OCCUPANT DECLARATION

13
14
15 I, _____, declare and state: I make this
16 declaration based upon my own personal knowledge.

17 1. I am the owner____, or the agent of the owner____ (check one),
18 of the residential property located at _____,
19 California (“Property”).

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

23 3. At the time of obtaining ownership of the Property, no person
24 was occupying the Property and no ownership interest or right of
25 possession in the Property has been conveyed or transferred to any
26 other person or entity.

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

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

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

34 7. I have requested the Subject Persons to remove themselves
35 and their personal property from the Property on the following
36 ~~occasions and in the following means:~~ *occasion(s) and in the*
37 *following manner:* _____.

- 38 A _____
39 B _____
40 C _____

1 ~~D.~~ _____
 2 8. Notwithstanding the efforts described above, the Subject
 3 Persons have refused to vacate the Property and to remove their
 4 personal property from the Property.

5 9. I have been advised and understand that Section 148.5 of the
 6 Penal Code—~~Section~~ makes it a crime to falsely report a
 7 misdemeanor or felony to a peace officer and that I will be
 8 committing a crime under that section if the statements made within
 9 this declaration are known to be false.

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

12
 13
 14 EXECUTED on _____,
 15 at _____, California”

16 *SEC. 3. Section 1944.3 is added to the Civil Code, to read:*
 17 *1944.3. A declaration provided to a district attorney pursuant*
 18 *to Section 1944.1 or 1944.2 shall be posted by the sheriff on the*
 19 *property listed in the declaration.*

20 *SEC. 4. Section 1944.4 is added to the Civil Code, to read:*
 21 *1944.4. Sections 1944.1 to 1944.3, inclusive, apply only to*
 22 *one-unit to four-unit residences.*

23 ~~SEC. 3.~~

24 *SEC. 5. No reimbursement is required by this act pursuant to*
 25 *Section 6 of Article XIII B of the California Constitution for certain*
 26 *costs that may be incurred by a local agency or school district*
 27 *because, in that regard, this act creates a new crime or infraction,*
 28 *eliminates a crime or infraction, or changes the penalty for a crime*
 29 *or infraction, within the meaning of Section 17556 of the*
 30 *Government Code, or changes the definition of a crime within the*
 31 *meaning of Section 6 of Article XIII B of the California*
 32 *Constitution.*

33 However, if the Commission on State Mandates determines that
 34 this act contains other costs mandated by the state, reimbursement
 35 to local agencies and school districts for those costs shall be made
 36 pursuant to Part 7 (commencing with Section 17500) of Division
 37 4 of Title 2 of the Government Code.

- 1
- 2 **CORRECTIONS:**
- 3 **Text—Pages 2 and 4.**
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