

AMENDED IN ASSEMBLY APRIL 24, 2014

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 1944.1, 1944.2, 1944.3, and 1944.4 to the Civil Code~~, and repeal *Sections 602.55 and 602.56 of the Penal 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.

Existing law provides that every person who willfully commits a trespass is guilty of a misdemeanor.

This bill would, *only until January 1, 2018*, allow a property owner, or an agent of the property owner, to register vacant real property with

the local law enforcement agency and to execute, under penalty of perjury, a Declaration of Ownership of Residential ~~property or an Unauthorized Occupant Declaration~~ Real Property. 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~~ Real Property 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 located. The bill would require a sheriff ~~the property owner~~ to post the filed declaration on the property listed in the declaration. The bill would require the local law enforcement agency with which the property is registered to respond as soon as practicable after being notified that an unauthorized person has been found on the property and take specified action, including requiring a person who is found on the property to produce written authorization to be on the property, and advising any person who does not produce that authorization that he or she has 48 hours to obtain it, and is subject to arrest for trespass if he or she is subsequently found on the property without it. The bill would provide that a person who is found on the property not less than 48 hours after being so notified and convicted of trespass is subject to imprisonment in a county jail not exceeding one year, or a fine not exceeding \$1,000, or both that imprisonment and fine. The bill would also set forth procedures governing the disposition of personal property remaining on the real property following the arrest of a person for trespass. By imposing new duties on local law enforcement agencies and by expanding the scope of the crime of trespass 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. The Legislature finds and declares that the*
2 *practice of squatting on vacant property is a public nuisance and*
3 *is detrimental to the health, safety, and economy of local*
4 *communities and to the rights of real property owners. The intent*
5 *of this section is to provide a means to deter squatting at an early*
6 *stage and to provide a second chance for squatters to vacate the*
7 *premises in lieu of arrest. The Legislature also declares this section*
8 *not to be an abridgment of other statutes relating to trespass or*
9 *civil eviction proceedings.*

10 *SEC. 2. Section 602.55 is added to the Penal Code, immediately*
11 *following Section 602.5, to read:*

12 *602.55. The owner or owner's agent of vacant real property*
13 *may register the property with the local law enforcement agency*
14 *utilizing the form contained in subdivision (a) of Section 602.56.*

15 *(a) The registration shall be signed under penalty of perjury*
16 *and include:*

17 *(1) A statement that the property is vacant and is not authorized*
18 *to be occupied by any person.*

19 *(2) The name, address, and telephone number at which the*
20 *owner can be contacted within a 24-hour period.*

21 *(3) A statement that either the law enforcement agency or a*
22 *licensed private security services company has been retained to*
23 *comply with the inspection and reporting provisions of this section,*
24 *together with a copy of any agreement or contract to perform those*
25 *services.*

26 *(b) The owner or the owner's agent shall register the vacant*
27 *property no later than three days after the owner or owner's agent*
28 *learns that the property is vacant.*

29 *(c) The owner or owner's agent, immediately after authorizing*
30 *a person to occupy the vacant property, shall do both of the*
31 *following:*

32 *(1) Issue a written authorization to the person authorized to*
33 *occupy the property.*

1 (2) Notify the law enforcement agency where the property is
2 registered and terminate the registration.

3 (d) The licensed private security services company or law
4 enforcement agency selected by the owner or owner's agent
5 pursuant to this section shall do both of the following:

6 (1) Inspect the vacant property not less than once every three
7 days.

8 (2) Immediately notify the law enforcement agency with which
9 the property is registered if any unauthorized person is found on
10 the property.

11 (e) The law enforcement agency where the property is registered
12 shall respond as soon as practicable after being notified pursuant
13 to paragraph (2) of subdivision (d) that an unauthorized person
14 is found on the property. The responding officer shall do all of the
15 following:

16 (1) Verify that the property was inspected within the last three
17 days pursuant to paragraph (2) of subdivision (d) and found to be
18 vacant.

19 (2) Ascertain the identity of any person who is found on the
20 property.

21 (3) Require a person who is found on the property to produce
22 written authorization to be on the property.

23 (4) Advise any person who does not produce written
24 authorization pursuant to paragraph (3) that he or she has 48
25 hours to obtain written authorization from the owner of the
26 property, or the owner's agent, to be on the property, and that the
27 person will be subject to arrest for trespass if the person is
28 subsequently found on the property without that authorization.

29 (5) Verify with the owner or the owner's agent that the property
30 is vacant.

31 (f) Any person who is found on a vacant property not less than
32 48 hours after being notified as provided in paragraph (4) of
33 subdivision (e) is guilty of trespass and, upon conviction, is subject
34 to imprisonment in a county jail not exceeding one year, or by a
35 fine not exceeding one thousand dollars (\$1,000), or both.

36 (g) The procedures set forth in Chapter 5 (commencing with
37 Section 1980) of Title 5 of Part 4 of Division 3 of the Civil Code
38 govern the disposition of any personal property remaining on the
39 vacant property following the arrest for trespass pursuant to this
40 section of a person who owns the personal property. For purposes

1 of applying those procedures, a person who is arrested for trespass
2 shall be deemed to be a former tenant of the property.

3 (h) This section shall not be construed to limit the owner’s right
4 to have a person removed from the vacant property pursuant to
5 any other law.

6 (i) The arrest of a person and removal of personal property
7 pursuant to the provisions of this section is not a forcible entry
8 under the provisions of Section 1159 of the Code of Civil Procedure
9 and shall not be a basis for civil liability under that section.

10 (j) The local city council or board of supervisors shall establish
11 fees for registering a vacant property with the local law
12 enforcement agency and for the conduct of inspections by the law
13 enforcement agency pursuant to this section.

14 (k) This section shall remain in effect only until January 1, 2018,
15 and as of that date is repealed, unless a later enacted statute, that
16 is enacted before January 1, 2018, deletes or extends that date.

17 ~~SECTION 1. Section 1944.1 is added to the Civil Code, to read:~~
18 ~~1944.1.—~~

19 SEC. 3. Section 602.56 is added to the Penal Code, to read:

20 602.56. (a) A property owner, or an agent of the property
21 owner, may execute a “Declaration of Ownership” that includes
22 language substantially similar to the language below and file it
23 with the district attorney of the jurisdiction in which the property
24 is located. If the property owner, or the agent of the property owner,
25 files the declaration with the district attorney, he or she shall also
26 post the declaration on the unoccupied residential property listed
27 in the declaration. ~~The property owner, or the agent of the property~~
28 ~~owner, may also submit the declaration to a local law enforcement~~
29 ~~agency that shall enforce the declaration as an order for immediate~~
30 ~~possession of the premises.~~

31
32 “DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL
33 PROPERTY

34
35 I, _____, declare and state: I make this
36 declaration based upon my own personal knowledge.

37 1. I am the owner___, or the agent of the owner___(check one),
38 of the residential property located at _____,
39 California (“Property”).

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

4 3. Since obtaining ownership of the Property, no ownership
5 interest in the Property has been conveyed or transferred to any
6 other person or entity.

7 4. At the time of obtaining ownership of the Property, no person
8 was occupying the Property and no ownership interest or right of
9 possession in the Property has been conveyed or transferred to any
10 other person or entity.

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

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

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

21 8. I declare under penalty of perjury that the foregoing is true
22 and correct.

23
24 EXECUTED on _____, at
25 _____, California”

26
27 *(b) This section shall only apply to one-unit to four-unit*
28 *residences.*

29 *(c) This section shall remain in effect only until January 1, 2018,*
30 *and as of that date is repealed, unless a later enacted statute, that*
31 *is enacted before January 1, 2018, deletes or extends that date.*

32 ~~SEC. 2.— Section 1944.2 is added to the Civil Code, to read:~~
33 ~~1944.2. may execute an “Unauthorized Occupant Declaration”~~
34 ~~that includes language substantially similar to the language below~~
35 ~~and file it with the district attorney of the jurisdiction in which the~~
36 ~~property is located. The property owner, or the agent of the property~~
37 ~~owner, may also submit the declaration to a local law enforcement~~
38 ~~agency that shall enforce the declaration as an order for immediate~~
39 ~~possession of the premises.~~

40

“UNAUTHORIZED OCCUPANT DECLARATION

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

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

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

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

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

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

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

7. I have requested the Subject Persons to remove themselves and their personal property from the Property on the following occasion(s) and in the following manner: _____.

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

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

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

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EXECUTED on _____, at _____, California”

SEC. 3. Section 1944.3 is added to the Civil Code, to read:

1 ~~1944.3.—A declaration provided to a district attorney pursuant~~
2 ~~to Section 1944.1 or 1944.2 shall be posted by the sheriff on the~~
3 ~~property listed in the declaration.~~

4 ~~SEC. 4.— Section 1944.4 is added to the Civil Code, to read:~~

5 ~~1944.4.— Sections 1944.1 to 1944.3, inclusive, apply only to~~
6 ~~one-unit to four-unit residences.~~

7 ~~SEC. 5.—~~

8 ~~SEC. 4.~~ No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution for certain
10 costs that may be incurred by a local agency or school district
11 because, in that regard, this act creates a new crime or infraction,
12 eliminates a crime or infraction, or changes the penalty for a crime
13 or infraction, within the meaning of Section 17556 of the
14 Government Code, or changes the definition of a crime within the
15 meaning of Section 6 of Article XIII B of the California
16 Constitution.

17 However, if the Commission on State Mandates determines that
18 this act contains other costs mandated by the state, reimbursement
19 to local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.