

AMENDED IN SENATE AUGUST 6, 2014

AMENDED IN SENATE JULY 1, 2014

AMENDED IN ASSEMBLY MAY 6, 2014

AMENDED IN ASSEMBLY APRIL 24, 2014

AMENDED IN ASSEMBLY APRIL 8, 2014

AMENDED IN ASSEMBLY MARCH 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 1513**

**Introduced by Assembly Member Fox**

January 15, 2014

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An act to add and repeal Sections 527.11 and 527.12 of the Code of Civil Procedure, 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 allow an owner of residential property in the Cities of Palmdale and Lancaster in the County of Los Angeles or the City of Ukiah in the County of Mendocino, 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 Real Property. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

This bill would further allow the property owner, or an agent of the property owner, to file the Declaration of Ownership of Residential Real Property with the local law enforcement agency of the jurisdiction in which the property is located. The bill would require 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 notifying 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 allow the property owner, or an agent of the property owner, to file an action for a temporary restraining order and injunctive relief against a person who is found on the property not less than 48 hours after that person has been so notified. The bill would provide that a property owner, or an agent of the property owner, who files a declaration that includes false information regarding the right to possess the property is liable to any person who, as a result of the declaration, vacates the property, for damages, as specified. By imposing new duties on local law enforcement 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~~ *1 to 4-unit* residences in the Cities of Palmdale and Lancaster in the County of Los Angeles and the City of Ukiah in the County of Mendocino. This bill would provide that its provisions would be operative until January 1, 2018.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Cities of Palmdale and Lancaster

in the County of Los Angeles and the City of Ukiah in the County of Mendocino.

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 prevent squatting in vacant  
6 residential real property and to provide a timely and orderly  
7 procedure for squatters to vacate the premises in lieu of arrest. The  
8 Legislature also declares this section not to be an abridgment of  
9 other statutes relating to trespass or civil eviction proceedings.

10 SEC. 2. Section 527.11 is added to the Code of Civil Procedure,  
11 to read:

12 527.11. (a) The owner or owner’s agent of vacant real property  
13 may register the property with the local law enforcement agency  
14 using the form contained in subdivision (a) of Section 527.12.

15 (1) The registration shall be signed under penalty of perjury and  
16 state that the property is vacant and is not authorized to be occupied  
17 by any person.

18 (2) The registration shall be accompanied with a statement  
19 providing the name, address, and telephone number at which the  
20 owner can be contacted within a 24-hour period and a statement  
21 that either the law enforcement agency or a licensed private security  
22 services company has been retained to comply with the inspection  
23 and reporting provisions of this section, together with a copy of  
24 any agreement or contract to perform those services.

1 (b) The owner or the owner's agent shall register the vacant  
2 property no later than three days after the owner or owner's agent  
3 learns that the property is vacant.

4 (c) The owner or owner's agent, immediately after authorizing  
5 a person to occupy the vacant property, shall do both of the  
6 following:

7 (1) Issue a written authorization to the person authorized to  
8 occupy the property.

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

11 (d) The owner or the owner's agent, immediately upon the sale  
12 of the vacant property, shall notify the law enforcement agency  
13 where the property is registered that the property has been sold,  
14 and to terminate the registration.

15 (e) The licensed private security services company or law  
16 enforcement agency selected by the owner or owner's agent  
17 pursuant to this section shall do both of the following:

18 (1) Inspect the vacant property not less than once every three  
19 days.

20 (2) Immediately notify the law enforcement agency with which  
21 the property is registered if any unauthorized person is found on  
22 the property.

23 (f) The law enforcement agency where the property is registered  
24 shall respond as soon as practicable after being notified pursuant  
25 to paragraph (2) of subdivision (e) that an unauthorized person is  
26 found on the property. The responding officer shall do all of the  
27 following:

28 (1) Verify that the property was inspected within the last three  
29 days pursuant to paragraph (2) of subdivision (e) and found to be  
30 vacant.

31 (2) Ascertain the identity of any person who is found on the  
32 property.

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

35 (4) Notify any person who does not produce written  
36 authorization pursuant to paragraph (3) that he or she has 48 hours  
37 to obtain written authorization from the owner of the property, or  
38 the owner's agent, to be on the property, and that the person will  
39 be subject to arrest for trespass if the person is subsequently found  
40 on the property without that authorization.

1 (5) Verify with the owner or the owner’s agent that the property  
2 is vacant.

3 (g) (1) The owner or owner’s agent of vacant real property  
4 may file an action for a temporary restraining order and injunctive  
5 relief against any person who is found on the vacant property not  
6 less than 48 hours after that person has been notified pursuant to  
7 paragraph (4) of subdivision (f). A person subject to a temporary  
8 restraining order or an injunction obtained pursuant to this  
9 subdivision is subject to arrest and imprisonment for trespass  
10 pursuant to Section 602.5 of the Penal Code for failing to vacate  
11 the property pursuant to the temporary restraining order or  
12 injunction and for civil contempt for violating a court order.

13 (2) The summons and complaint in an action brought pursuant  
14 to this subdivision may be served personally or by posting a copy  
15 of the summons and complaint at a prominent location on the  
16 property and mailing a copy of the summons and complaint to the  
17 property’s address. Posting and mailing a copy of the summons  
18 and complaint shall be sufficient service even if the mailed copy  
19 is returned as undeliverable if the owner or owner’s agent has proof  
20 of the mailing.

21 (3) The court may order a hearing on a temporary restraining  
22 order within three days following service of the summons and  
23 complaint. The date, time, and location of the hearing may be  
24 included with the summons and complaint or may be separately  
25 served on any person occupying the property in the manner set out  
26 in paragraph (2).

27 (4) The court may include in any temporary restraining order  
28 granted pursuant to this subdivision an order directing that the  
29 property be vacated in not less than 48 hours. The order may be  
30 enforced by the local law enforcement agency where the property  
31 is registered or the county sheriff.

32 (5) The disposition of any personal property of a person subject  
33 to a temporary restraining order or an injunction pursuant to this  
34 subdivision shall be governed by the procedures set forth in Chapter  
35 5 (commencing with Section 1980) of Title 5 of Part 4 of Division  
36 3 of Civil Code. The person subject to the temporary restraining  
37 order or injunction shall be deemed to be a former tenant of the  
38 property for purposes of the disposition of personal property only.

1 (h) This section shall not be construed to limit an owner from  
2 seeking other legal remedies to have a person removed from the  
3 vacant property pursuant to any other law.

4 (i) A temporary restraining order or injunction ordering a person  
5 to vacate and remove personal property pursuant to this section  
6 shall not constitute a forcible entry under the provisions of Section  
7 1159 of the Code of Civil Procedure.

8 (j) The local city council or board of supervisors shall establish  
9 fees for registering a vacant property with the local law  
10 enforcement agency and for the conduct of inspections by the law  
11 enforcement agency pursuant to this section, *including all activities*  
12 *conducted by the law enforcement agency pursuant to subdivision*  
13 *(f).*

14 (k) This section applies only to ~~one-unit~~ *one-* to four-unit  
15 residences in the Cities of Palmdale and Lancaster in the County  
16 of Los Angeles and the City of Ukiah in the County of Mendocino.

17 (l) This section shall remain in effect only until January 1, 2018,  
18 and as of that date is repealed, unless a later enacted statute, that  
19 is enacted before January 1, 2018, deletes or extends that date.

20 SEC. 3. Section 527.12 is added to the Code of Civil Procedure,  
21 to read:

22 527.12. (a) A property owner, or an agent of the property  
23 owner, may execute a “Declaration of Ownership” that includes  
24 language substantially similar to the language below and file it  
25 with the local law enforcement agency of the jurisdiction in which  
26 the property is located. If the property owner, or the agent of the  
27 property owner, files the declaration with the local law enforcement  
28 agency, he or she shall also post the declaration on the unoccupied  
29 residential property listed in the declaration.

30

31 “DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL  
32 PROPERTY

33

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

36 1. I am the owner\_\_\_\_, or the agent of the owner\_\_\_\_(check one),  
37 of the residential property located at \_\_\_\_\_,  
38 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 local~~ *the local* law enforcement agency if  
19 there is any change in the status of the Property and an occupancy  
20 is authorized by me or 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 (b) Notwithstanding Section 47 of the Civil Code, a property  
27 owner, or agent thereof, who files a declaration pursuant to this  
28 section that includes false information regarding the right to possess  
29 the property is liable to any person who, as a result of the  
30 declaration, is caused to vacate the property, for all damages  
31 resulting from the person having to vacate the property.

32 (c) This section applies only to ~~one-unit one-~~ to four-unit  
33 residences in the Cities of Palmdale and Lancaster in the County  
34 of Los Angeles and the City of Ukiah in the County of Mendocino.

35 (d) This section shall remain in effect only until January 1, 2018,  
36 and as of that date is repealed, unless a later enacted statute, that  
37 is enacted before January 1, 2018, deletes or extends that date.

38 SEC. 4. The Legislature finds and declares that a special law  
39 is necessary and that a general law cannot be made applicable  
40 within the meaning of Section 16 of Article IV of the California

1 Constitution because of the unique circumstances in the Cities of  
2 Palmdale and Lancaster in the ~~Country~~ *County* of Los Angeles  
3 and the City of Ukiah in the County of Mendocino,; it is first  
4 necessary to establish this program in a limited setting to analyze  
5 its effectiveness before considering an extension to other local  
6 jurisdictions.

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

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