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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1513

Introduced by Assembly Member Fox

January 15, 2014

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 *or other evidence demonstrating the person's right to possession*, and notifying any person who does not produce that authorization *or other evidence that he or she has 48 hours to obtain it*, *the owner or owner's agency may seek to obtain a court order and is that the person will be* subject to arrest for trespass if he or she is subsequently found on the property *without it in violation of that order*. 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 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

1 that either the law enforcement agency or a licensed private security
2 services company has been retained to comply with the inspection
3 and reporting provisions of this section, together with a copy of
4 any agreement or contract to perform those services.

5 (b) The owner or the owner’s agent shall register the vacant
6 property no later than three days after the owner or owner’s agent
7 learns that the property is vacant.

8 (c) The owner or owner’s agent, immediately after authorizing
9 a person to occupy the vacant property, shall do both of the
10 following:

11 (1) Issue a written authorization to the person authorized to
12 occupy the property.

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

15 (d) The owner or the owner’s agent, immediately upon the sale
16 of the vacant property, shall notify the law enforcement agency
17 where the property is registered that the property has been sold,
18 and to terminate the registration.

19 (e) The licensed private security services company or law
20 enforcement agency selected by the owner or owner’s agent
21 pursuant to this section shall do both of the following:

22 (1) Inspect the vacant property not less than once every three
23 days.

24 (2) Immediately notify the law enforcement agency with which
25 the property is registered if any unauthorized person is found on
26 the property.

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

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

35 (2) Ascertain the identity of any person who is found on the
36 property.

37 (3) Require a person who is found on the property to produce
38 written authorization to be on the property *or other evidence*
39 *demonstrating the person’s right to possession.*

1 (4) Notify any person who does not produce written
2 authorization *or other evidence* pursuant to paragraph (3) that ~~he~~
3 ~~or she has 48 hours to obtain written authorization from the owner~~
4 ~~of the property, or the owner's agent, to be on the property, the~~
5 *owner or owner's agent may seek to obtain a court order pursuant*
6 *to subdivision (g)* and that the person will be subject to arrest for
7 trespass if the person is subsequently found on the property ~~without~~
8 ~~that authorization in violation of that order.~~

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

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

21 (2) The summons and complaint in an action brought pursuant
22 to this subdivision may be served personally or by posting a copy
23 of the summons and complaint at a prominent location on the
24 property and mailing a copy of the summons and complaint to the
25 property's address. Posting and mailing a copy of the summons
26 and complaint shall be sufficient service even if the mailed copy
27 is returned as undeliverable if the owner or owner's agent has proof
28 of the mailing.

29 (3) The court may order a hearing on a temporary restraining
30 order within three days following service of the summons and
31 complaint. The date, time, and location of the hearing may be
32 included with the summons and complaint or may be separately
33 served on any person occupying the property in the manner set out
34 in paragraph (2).

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

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

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

11 (i) A temporary restraining order or injunction ordering a person
12 to vacate and remove personal property pursuant to this section
13 shall not constitute a forcible entry under the provisions of Section
14 1159 of the Code of Civil Procedure.

15 (j) The local city council or board of supervisors shall establish
16 fees for registering a vacant property with the local law
17 enforcement agency and for the conduct of inspections by the law
18 enforcement agency pursuant to this section, including all activities
19 conducted by the law enforcement agency pursuant to subdivision
20 (f).

21 (k) This section applies only to one- to four-unit residences in
22 the Cities of Palmdale and Lancaster in the County of Los Angeles
23 and the City of Ukiah in the County of Mendocino.

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

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

29 527.12. (a) A property owner, or an agent of the property
30 owner, may execute a “Declaration of Ownership” that includes
31 language substantially similar to the language below and file it
32 with the local law enforcement agency of the jurisdiction in which
33 the property is located. If the property owner, or the agent of the
34 property owner, files the declaration with the local law enforcement
35 agency, he or she shall also post the declaration on the unoccupied
36 residential property listed in the declaration.

37
38 “DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL
39 PROPERTY

40

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

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

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

9 3. Since obtaining ownership of the Property, no ownership
10 interest in the Property has been conveyed or transferred to any
11 other person or entity.

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

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

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

23 7. I will advise the local law enforcement agency if there is any
24 change in the status of the Property and an occupancy is authorized
25 by me or my agent.

26 8. I declare under penalty of perjury that the foregoing is true
27 and correct.

28
29 EXECUTED on _____, at
30 _____, California”

31
32
33 (b) Notwithstanding Section 47 of the Civil Code, a property
34 owner, or agent thereof, who files a declaration pursuant to this
35 section that includes false information regarding the right to possess
36 the property is liable to any person who, as a result of the
37 declaration, is caused to vacate the property, for *reasonable*
38 *attorney’s fees, special damages not to exceed \$2,000, and all*
39 *damages resulting from the person having to vacate the property.*

1 (c) This section applies only to one- to four-unit residences in
2 the Cities of Palmdale and Lancaster in the County of Los Angeles
3 and the City of Ukiah in the County of Mendocino.

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

7 SEC. 4. The Legislature finds and declares that a special law
8 is necessary and that a general law cannot be made applicable
9 within the meaning of Section 16 of Article IV of the California
10 Constitution because of the unique circumstances in the Cities of
11 Palmdale and Lancaster in the County of Los Angeles and the City
12 of Ukiah in the County of Mendocino, it is first necessary to
13 establish this program in a limited setting to analyze its
14 effectiveness before considering an extension to other local
15 jurisdictions.

16 SEC. 5. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution for certain
18 costs that may be incurred by a local agency or school district
19 because, in that regard, this act creates a new crime or infraction,
20 eliminates a crime or infraction, or changes the penalty for a crime
21 or infraction, within the meaning of Section 17556 of the
22 Government Code, or changes the definition of a crime within the
23 meaning of Section 6 of Article XIII B of the California
24 Constitution.

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