

Assembly Bill No. 1513

Passed the Assembly August 28, 2014

Chief Clerk of the Assembly

Passed the Senate August 27, 2014

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 the owner or owner's agency may seek to obtain a court order and that the person will be subject to arrest for trespass if he or she is subsequently found on the property 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.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the practice of squatting on vacant property is a public nuisance and is detrimental to the health, safety, and economy of local communities and to the rights of real property owners. The intent of this section is to provide a means to prevent squatting in vacant residential real property and to provide a timely and orderly procedure for squatters to vacate the premises in lieu of arrest. The Legislature also declares this section not to be an abridgment of other statutes relating to trespass or civil eviction proceedings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Require 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.

(4) Notify any person who does not produce written authorization or other evidence pursuant to paragraph (3) that the owner or owner's agent may seek to obtain a court order pursuant to subdivision (g) and that the person will be subject to arrest for trespass if the person is subsequently found on the property in violation of that order.

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

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

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

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

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

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

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

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

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

(k) This section applies only to one- to four-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.

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

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

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

“DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL PROPERTY”

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

4. 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.

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

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

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

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

EXECUTED on _____, at _____, California”

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

(c) This section applies only to one- to four-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.

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

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

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

Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

Approved _____, 2014

Governor