

AMENDED IN SENATE AUGUST 2, 2016

AMENDED IN SENATE JUNE 30, 2016

AMENDED IN ASSEMBLY JANUARY 5, 2016

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY MARCH 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 73

Introduced by Assembly Member Waldron

December 18, 2014

An act to amend Section 1710.2 of the Civil Code, relating to real property, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 73, as amended, Waldron. Real property: disclosure.

Existing law requires certain disclosures to be made upon the transfer of residential property and prescribes the manner and form of the disclosures. Existing law provides that no cause of action arises against a real property owner or agent, or any agent of a transferee of real property, for the failure to disclose to the transferee the occurrence of an occupant's death upon the real property, as specified, or that an occupant of that property had or died from Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus. Existing law declares the Legislature's intent to occupy the field of regulation of disclosure related to deaths ~~occurring~~ *occurring* upon real property and of AIDS in situations affecting the transfer of real property or any estate or interest in real property.

This bill would delete the prohibition against a cause of action arising for failure to disclose that an occupant of that property had or died from this virus. *The bill would further revise the above provisions to specify that the owner of real property, his or her agent, or an agent of a transferee of real property is not required to disclose the occurrence or manner of death of an occupant, as specified, or that an occupant of the property was living with human immunodeficiency virus (HIV).* The bill would also delete the reference to AIDS from the declaration of legislative ~~intent~~. *intent and instead refer to the HIV-positive status of a prior occupant in situations affecting the transfer of real property or any estate or interest in real property.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 ~~SECTION 1. Section 1710.2 of the Civil Code is amended to~~
2 ~~read:~~
3 ~~1710.2. (a) No cause of action arises against an owner of real~~
4 ~~property or his or her agent, or any agent of a transferee of real~~
5 ~~property, for the failure to disclose to the transferee the occurrence~~
6 ~~of an occupant's death upon the real property or the manner of~~
7 ~~death where the death has occurred more than three years prior to~~
8 ~~the date the transferee offers to purchase, lease, or rent the real~~
9 ~~property. As used in this section, "agent" includes any person~~
10 ~~licensed pursuant to Part 1 (commencing with Section 10000) of~~
11 ~~Division 4 of the Business and Professions Code. As used in this~~
12 ~~section, "transferee" includes a purchaser, lessee, or renter of real~~
13 ~~property.~~
14 ~~(b) It is the intention of the Legislature to occupy the field of~~
15 ~~regulation of disclosure related to deaths occurring upon real~~
16 ~~property in situations affecting the transfer of real property or any~~
17 ~~estate or interest in real property.~~
18 ~~(c) This section shall not be construed to alter the law relating~~
19 ~~to disclosure pertaining to any other physical or mental condition~~
20 ~~or disease, and this section shall not relieve any owner or agent of~~
21 ~~any obligation to disclose the physical condition of the premises.~~

1 ~~(d) Nothing in this section shall be construed to immunize an~~
2 ~~owner or his or her agent from making an intentional~~
3 ~~misrepresentation in response to a direct inquiry from a transferee~~
4 ~~or a prospective transferee of real property, concerning deaths on~~
5 ~~the real property.~~

6 *SECTION 1. Section 1710.2 of the Civil Code is amended to*
7 *read:*

8 *1710.2. (a) ~~No cause of action arises against an~~ (1) Subject*
9 *to subdivision (d), an owner of real property or his or her agent,*
10 *or any agent of a transferee of real property, for the failure is not*
11 *required to disclose either of the following to the transferee the*
12 *occurrence of an occupant's death upon the real property or the*
13 *manner of death where the death has occurred more than three*
14 *years prior to the date the transferee offers to purchase, lease, or*
15 *rent the real property, or that an occupant of that property was*
16 *afflicted with, or died from, Human T-Lymphotropic Virus Type*
17 *III/Lymphadenopathy-Associated Virus. As used in this section,*
18 *"agent" includes any person licensed pursuant to Part 1*
19 *(commencing with Section 10000) of Division 4 of the Business*
20 *and Professions Code. As used in this section, "transferee" includes*
21 *a purchaser, lessee, or renter of real property. transferee, as these*
22 *are not material facts that require disclosure:*

23 *(A) The occurrence of an occupant's death upon the real*
24 *property or the manner of death where the death has occurred*
25 *more than three years prior to the date the transferee offers to*
26 *purchase, lease, or rent the real property.*

27 *(B) That an occupant of that property was living with human*
28 *immunodeficiency virus (HIV).*

29 *(2) As used in this section:*

30 *(A) "Agent" includes any person licensed pursuant to Part 1*
31 *(commencing with Section 10000) of Division 4 of the Business*
32 *and Professions Code.*

33 *(B) "Transferee" includes a purchaser, lessee, or renter of real*
34 *property.*

35 *(b) It is the ~~intention~~ intent of the Legislature to occupy the field*
36 *of regulation of disclosure related to ~~deaths occurring upon real~~*
37 *property and of AIDS in situations affecting the transfer of real*
38 *property or any estate or interest in real property. either of the*
39 *following:*

40 *(1) Deaths occurring upon real property.*

1 (2) *The HIV-positive status of a prior occupant in situations*
2 *affecting the transfer of real property or any estate or interest in*
3 *real property.*

4 (c) This section shall not be construed to alter the law relating
5 to disclosure pertaining to any other physical or mental condition
6 or disease, and this section shall not relieve any owner or agent of
7 any obligation to disclose the physical condition of the premises.

8 (d) ~~Nothing in this section shall~~ *This section shall not* be
9 construed to immunize an owner or his or her agent from making
10 an intentional misrepresentation in response to a direct inquiry
11 from a transferee or a prospective transferee of real property,
12 concerning deaths on the real property.

13 SEC. 2. This act is an urgency statute necessary for the
14 immediate preservation of the public peace, health, or safety within
15 the meaning of Article IV of the Constitution and shall go into
16 immediate effect. The facts constituting the necessity are:

17 ~~AIDS~~ *In order to protect HIV and AIDS patients and the AIDS*
18 *HIV/AIDS community require a change in state law to protect them*
19 *from discrimination in real property transactions that may otherwise*
20 *impose severe emotional distress. distress, it is necessary for this*
21 *act to take effect immediately.*