

ASSEMBLY BILL

No. 205

Introduced by Assembly Member Wood

January 29, 2015

An act to amend Sections 527.11 and 527.12 of the Code of Civil Procedure, relating to residential property, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 205, as introduced, Wood. Residential property: possession by declaration.

Until January 1, 2018, existing law permits an owner of specified 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 to register vacant real property with the local law enforcement agency and to execute a Declaration of Ownership of Residential Real Property that may be filed with the local law enforcement agency of the jurisdiction in which the property is located. Existing law requires 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.

This bill would extend the residential property subject to these provisions to include the City of Eureka in the County of Humboldt, the City of Fairfield in the City of Solano, and the Counties of Humboldt and Lake. By expanding the scope of the crime of perjury and by imposing new duties on local law enforcement agencies, this bill would create a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City of Eureka in the County of Humboldt, the City of Fairfield in the County of Solano, and the Counties of Humboldt and Lake..

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.

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 527.11 of the Code of Civil Procedure
2 is amended to read:

3 527.11. (a) The owner or owner’s agent of vacant real property
4 may register the property with the local law enforcement agency
5 using the form contained in subdivision (a) of Section 527.12.

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

9 (2) The registration shall be accompanied with a statement
10 providing the name, address, and telephone number at which the
11 owner can be contacted within a 24-hour period and a statement
12 that either the law enforcement agency or a licensed private security
13 services company has been retained to comply with the inspection

1 and reporting provisions of this section, together with a copy of
2 any agreement or contract to perform those services.

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

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

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

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

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

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

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

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

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

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

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

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

38 (4) Notify any person who does not produce written
39 authorization or other evidence pursuant to paragraph (3) that the
40 owner or owner’s agent may seek to obtain a court order pursuant

1 to subdivision (g) and that the person will be subject to arrest for
2 trespass if the person is subsequently found on the property in
3 violation of that order.

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

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

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

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

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

35 (5) The disposition of any personal property of a person subject
36 to a temporary restraining order or an injunction pursuant to this
37 subdivision shall be governed by the procedures set forth in Chapter
38 5 (commencing with Section 1980) of Title 5 of Part 4 of Division
39 3 of the Civil Code. The person subject to the temporary restraining

1 order or injunction shall be deemed to be a former tenant of the
2 property for purposes of the disposition of personal property only.

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

6 (i) A temporary restraining order or injunction ordering a person
7 to vacate and remove personal property pursuant to this section
8 shall not constitute a forcible entry under the provisions of Section
9 1159 of the Code of Civil Procedure.

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, including all activities
14 conducted by the law enforcement agency pursuant to subdivision
15 (f).

16 (k) This section applies only to one- to four-unit residences in
17 *the City of Eureka in the County of Humboldt*, the Cities of
18 Palmdale and Lancaster in the County of Los Angeles ~~and~~, the
19 City of Ukiah in the County of Mendocino, *the City of Fairfield*
20 *in the County of Solano, and the Counties of Humboldt and Lake.*

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

24 SEC. 2. Section 527.12 of the Code of Civil Procedure is
25 amended to read:

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

34
35 “DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL
36 PROPERTY
37

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

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

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

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

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

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

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

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

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

26
27 EXECUTED on _____, at
28 _____, California”

29
30 (b) Notwithstanding Section 47 of the Civil Code, a property
31 owner, or agent thereof, who files a declaration pursuant to this
32 section that includes false information regarding the right to possess
33 the property is liable to any person who, as a result of the
34 declaration, is caused to vacate the property, for reasonable
35 attorney’s fees, special damages not to exceed \$2,000, and all
36 damages resulting from the person having to vacate the property.

37 (c) This section applies only to one- to four-unit residences in
38 *the City of Eureka in the County of Humboldt*, the Cities of
39 Palmdale and Lancaster in the County of Los Angeles~~and~~, the

1 City of Ukiah in the County of Mendocino, *the City of Fairfield*
2 *in the County of Solano, and the Counties of Humboldt and Lake.*

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

6 SEC. 3. The Legislature finds and declares that a special law
7 is necessary and that a general law cannot be made applicable
8 within the meaning of Section 16 of Article IV of the California
9 Constitution because of the unique circumstances in the City of
10 Eureka in the County of Humboldt, the City of Fairfield in the
11 County of Solano, and the Counties of Humboldt and Lake, it is
12 first necessary to establish this program in a limited setting to
13 analyze its effectiveness before considering an extension to other
14 local jurisdictions.

15 SEC. 4. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution for certain
17 costs that may be incurred by a local agency or school district
18 because, in that regard, this act creates a new crime or infraction,
19 eliminates a crime or infraction, or changes the penalty for a crime
20 or infraction, within the meaning of Section 17556 of the
21 Government Code, or changes the definition of a crime within the
22 meaning of Section 6 of Article XIII B of the California
23 Constitution.

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

29 This act is an urgency statute necessary for the immediate
30 preservation of the public peace, health, or safety within the
31 meaning of Article IV of the Constitution and shall go into
32 immediate effect. The facts constituting the necessity are:

33 This authorization is necessary to expand the pilot program
34 created in 2014 by Assembly Bill 1513 (Ch. 666, Stats. 2014) to
35 those local jurisdictions that have expressly requested inclusion
36 in this program to enable them to address the challenges they are
37 facing with squatters in their respective jurisdictions.