

AMENDED IN SENATE JULY 3, 1995  
AMENDED IN ASSEMBLY MAY 15, 1995  
AMENDED IN ASSEMBLY APRIL 24, 1995

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 530**

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**Introduced by Assembly Member Weggeland**

February 17, 1995

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~~An act to add Section 1102.1 to the Civil Code, relating to real~~ *An act to amend Section 1102 of, to amend and renumber Sections 1102.1 and 1102.2 of, and to add Section 1102.1 to, the Civil Code, relating to real estate transfers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 530, as amended, Weggeland. Real estate transfers: disclosure.

Existing law requires specified written disclosures to be made to prospective transferees of real property, the waiver of which is declared void as against public policy.

This bill would declare the intent of the Legislature with regard to these real estate transfer disclosure statements. *The bill would also make technical, nonsubstantive changes.*

Vote: majority. 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 1102 of the Civil Code is*  
2 *amended to read:*

3 1102. (a) Except as provided in Section ~~1102.1~~ 1102.2,  
4 this article applies to any transfer by sale, exchange,  
5 installment land sale contract, as defined in Section 2985,  
6 lease with an option to purchase, any other option to  
7 purchase, or ground lease coupled with improvements, of  
8 real property, or residential stock cooperative, improved  
9 with or consisting of not less than one nor more than four  
10 dwelling units.

11 (b) Any waiver of the requirements of this article is  
12 void as against public policy.

13 SEC. 2. Section 1102.1 is added to the Civil Code, to  
14 read:

15 1102.1. In enacting Chapter 817 of the Statutes of  
16 1994, it was the intent of the Legislature to clarify and  
17 facilitate the use of the real estate disclosure statement,  
18 as specified in Section 1102.6. The Legislature intended  
19 the statement to be used by both transferors making  
20 required disclosures and by agents making disclosures  
21 required by Section 2079; and the Legislature did not  
22 intend to adversely affect the existing obligations of the  
23 parties to a real estate contract, or their agents, to disclose  
24 any fact, including the physical conditions of the property  
25 and previously received reports of physical inspections,  
26 materially affecting the value and desirability of the  
27 property, and that nothing in this article shall be  
28 construed to change the duty of a real estate broker or  
29 salesperson pursuant to Section 2079.

30 It is also the intent of the Legislature that the delivery  
31 of a real estate transfer disclosure statement may not be  
32 waived in an “as is” sale, as held in *Loughrin v. Superior*  
33 *Court*, 15 Cal. App. 4th 1188.

34 SEC. 3. *Section 1102.1 of the Civil Code is amended*  
35 *and renumbered to read:*

36 ~~1102.1.~~  
37 1102.2. This article does not apply to the following:



1 (a) Transfers which are required to be preceded by  
2 the furnishing to a prospective transferee of a copy of a  
3 public report pursuant to Section 11018.1 of the Business  
4 and Professions Code and transfers which can be made  
5 without a public report pursuant to Section 11010.4 of the  
6 Business and Professions Code.

7 (b) Transfers pursuant to court order, including, but  
8 not limited to, transfers ordered by a probate court in  
9 administration of an estate, transfers pursuant to a writ of  
10 execution, transfers by any foreclosure sale, transfers by  
11 a trustee in bankruptcy, transfers by eminent domain,  
12 and transfers resulting from a decree for specific  
13 performance.

14 (c) Transfers to a mortgagee by a mortgagor or  
15 successor in interest who is in default, transfers to a  
16 beneficiary of a deed of trust by a trustor or successor in  
17 interest who is in default, transfers by any foreclosure sale  
18 after default, transfers by any foreclosure sale after  
19 default in an obligation secured by a mortgage, transfers  
20 by a sale under a power of sale or any foreclosure sale  
21 under a decree of foreclosure after default in an  
22 obligation secured by a deed of trust or secured by any  
23 other instrument containing a power of sale, or transfers  
24 by a mortgagee or a beneficiary under a deed of trust who  
25 has acquired the real property at a sale conducted  
26 pursuant to a power of sale under a mortgage or deed of  
27 trust or a sale pursuant to a decree of foreclosure or has  
28 acquired the real property by a deed in lieu of foreclosure.

29 (d) Transfers by a fiduciary in the course of the  
30 administration of a decedent's estate, guardianship,  
31 conservatorship, or trust.

32 (e) Transfers from one coowner to one or more other  
33 coowners.

34 (f) Transfers made to a spouse, or to a person or  
35 persons in the lineal line of consanguinity of one or more  
36 of the transferors.

37 (g) Transfers between spouses resulting from a  
38 judgment of dissolution of marriage or of legal separation  
39 or from a property settlement agreement incidental to  
40 such a judgment.



1 (h) Transfers by the Controller in the course of  
2 administering Chapter 7 (commencing with Section  
3 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

4 (i) Transfers under Chapter 7 (commencing with  
5 Section 3691) or Chapter 8 (commencing with Section  
6 3771) of Part 6 of Division 1 of the Revenue and Taxation  
7 Code.

8 (j) Transfers or exchanges to or from any  
9 governmental entity.

10 *SEC. 4. Section 1102.2 of the Civil Code is amended*  
11 *and renumbered to read:*

12 ~~1102.2.~~

13 1102.3. The transferor of any real property subject to  
14 this article shall deliver to the prospective transferee the  
15 written statement required by this article, as follows:

16 (a) In the case of a sale, as soon as practicable before  
17 transfer of title.

18 (b) In the case of transfer by a real property sales  
19 contract, as defined in Section 2985, or by a lease together  
20 with an option to purchase, or a ground lease coupled  
21 with improvements, as soon as practicable before  
22 execution of the contract. For the purpose of this  
23 subdivision, "execution" means the making or  
24 acceptance of an offer.

25 With respect to any transfer subject to subdivision (a)  
26 or (b), the transferor shall indicate compliance with this  
27 article either on the receipt for deposit, the real property  
28 sales contract, the lease, or any addendum attached  
29 thereto or on a separate document.

30 If any disclosure, or any material amendment of any  
31 disclosure, required to be made by this article, is  
32 delivered after the execution of an offer to purchase, the  
33 transferee shall have three days after delivery in person  
34 or five days after delivery by deposit in the mail, to  
35 terminate his or her offer by delivery of a written notice  
36 of termination to the transferor or the transferor's agent.

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