

Senate Bill No. 310

CHAPTER 256

An act to amend Section 11010.8 of, and to add Section 11010.9 to, the Business and Professions Code, to amend Section 7312 of the Corporations Code, and to amend Sections 66427.4 and 66427.5 of the Government Code, relating to mobilehome parks.

[Approved by Governor August 1, 1995. Filed with
Secretary of State August 1, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 310, Craven. Mobilehome parks: conversion to resident ownership.

(1) Existing law regulates mobilehome parks in various capacities, including requiring a subdivider, at the time of filing a tentative or parcel map for a subdivision to be created using financing or funds from a specified source, to avoid the economic displacement of nonpurchasing residents, as specified, and file a report, as specified, regarding the impact of the conversion upon the displaced residents of the mobilehome park to be converted. Existing law also requires a subdivider to offer each existing tenant the option to purchase his or her condominium unit, which is to be created by conversion of a mobilehome park into condominium units.

This bill would replace the reference to subdivisions from the specified funding source with a reference to subdivisions created from the conversion of a rental mobilehome park to resident ownership, and would add further requirements for avoiding economic displacement of nonpurchasing residents, including requiring that the subdivider be subject to a hearing on the matter, as specified. This bill would also reorganize certain existing provisions relating to the option to purchase condominium units and interests. This bill would specify that the provisions relating to avoiding economic displacement and the report on the impact of the conversion shall not apply to the conversion of a rental park to resident ownership.

(2) Existing law regulates the membership of nonprofit mutual benefit corporations, and generally prohibits the holding of multiple or fractional memberships in these corporations, with certain exceptions.

This bill would add to the specified exceptions by providing that a bona fide secured party who, pursuant to a security interest in a membership in a mobilehome park acquisition corporation, as defined, has taken title to the membership, and who is actively



attempting to resell the membership, according to specified conditions, may own more than one membership.

(3) Existing law requires any person who intends to offer subdivided lands for sale or lease, as specified, to file with the Department of Real Estate an application for a public report consisting of, among other things, a notice of intention, as specified. Existing law provides that the notice of intention is not applicable to the purchase of a mobilehome park by a nonprofit corporation, under specified circumstances, including the requirement that a permit to issue securities is obtained from the Department of Corporations, as specified.

This bill would change all references to “tenants” of mobilehome parks to “homeowners,” and would define that term for purposes of these provisions. The bill would offer alternative requirements for the exemption from filing a notice of intention, in the case of a nonissuer transaction, pursuant to specified provisions of law, and would provide that a permit to issue securities is not required under certain of these conditions.

This bill would provide that, notwithstanding any other provision of law, the subdivider of a mobilehome park that is proposed to be converted to resident ownership shall make a written disclosure, as specified, to homeowners and residents of the park, with regard to the tentative price of the subdivided interest proposed to be sold or leased. The bill would provide that the written disclosure shall not be construed to authorize the subdivider to engage in specified prohibited activities, with regard to subdividing the park into ownership interests, prior to the issuance of a public report.

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

SECTION 1. Section 11010.8 of the Business and Professions Code is amended to read:

11010.8. (a) The requirement that a notice of intention be filed pursuant to Section 11010 is not applicable to the purchase of a mobilehome park by a nonprofit corporation if all of the following occur:

(1) A majority of the shareholders or members of the nonprofit corporation constitute a majority of the homeowners of the mobilehome park, and a majority of the members of the board of directors of the nonprofit corporation are homeowners of the mobilehome park.

(2) All members of the corporation are residents of the mobilehome park. Members of the nonprofit corporation may enter into leases with the corporation that are greater than five years in length. “Homeowners” or “residents” of the mobilehome park shall include a bona fide secured party who has, pursuant to a security interest in a membership, taken title to the membership by means



of foreclosure, repossession, or voluntary repossession, and who is actively attempting to resell the membership to a prospective resident or homeowner of the mobilehome park, in accordance with subdivision (f) of Section 7312 of the Corporations Code.

(3) A permit to issue securities under Section 25113 of the Corporations Code is obtained from the Department of Corporations. In the case of a nonissuer transaction (as defined by Section 25011 of the Corporations Code) involving the offer to resell or the resale of memberships by a bona fide secured party as described in paragraph (2) of this section, a permit is not required where the transaction is exempt from the qualification requirements of Section 25130 of the Corporations Code pursuant to subdivision (e) of Section 25104 of the Corporations Code. The exemption from qualification pursuant to subdivision (e) of Section 25104 of the Corporations Code available to a bona fide secured party does not eliminate the requirement of this section that the nonprofit corporation shall either file a notice of intention pursuant to Section 11010 or obtain a permit pursuant to Section 25113 of the Corporations Code.

(4) All funds of tenants for the purchase of the mobilehome park are deposited in escrow until the document transferring title of the mobilehome park to the nonprofit corporation is recorded. The escrow also shall include funds of homeowners that shall be available to the homeowners association nonprofit corporation for payment of any and all costs reasonably associated with the processing and conversion of the mobilehome park into condominium interests. Payment of these costs may be made from the funds deposited in escrow prior to the close of escrow upon the direction of the homeowners association nonprofit corporation.

(b) The funds described by paragraph (4) of subdivision (a), or any other funds subsequently received from tenants for purposes other than the purchase of a separate subdivided interest in any portion of the mobilehome park, are not subject to the requirements of Section 11013.1, 11013.2, or 11013.4.

SEC. 2. Section 11010.9 is added to the Business and Professions Code, to read:

11010.9. (a) Notwithstanding any other provision of law, the subdivider of a mobilehome park that is proposed to be converted to resident ownership, prior to filing a notice of intention pursuant to Section 11010, shall disclose to homeowners and residents of the park, by written notice, the tentative price of the subdivided interest proposed to be sold or leased.

(b) The disclosure notice required by subdivision (a) shall include a statement that the tentative price is not binding, could change between the time of disclosure and the time of governmental approval to commence the actual sale or lease of the subdivided interests in the park, as the result of conditions imposed by the state



or local government for approval of the park conversion, increased financing costs, or other factors and, in the absence of bad faith, shall not give rise to a claim for liability against the provider of this information.

(c) The disclosure notice required by subdivision (a) shall not be construed to authorize the subdivider of a mobilehome park that is proposed to be converted to resident ownership to offer to sell or lease, sell or lease, or accept money for the sale or lease of, subdivided interests in the park, or to engage in any other activities that are otherwise prohibited, with regard to subdividing the park into ownership interests, prior to the issuance of a public report pursuant to this chapter.

SEC. 3. Section 7312 of the Corporations Code is amended to read:

7312. No person may hold more than one membership, and no fractional memberships may be held, provided, however, that:

(a) Two or more persons may have an indivisible interest in a single membership when authorized by, and in a manner or under the circumstances prescribed by, the articles or bylaws subject to Section 7612.

(b) If the articles or bylaws provide for classes of membership and if the articles or bylaws permit a person to be a member of more than one class, a person may hold a membership in one or more classes.

(c) Any branch, division, or office of any person, which is not formed primarily to be a member, may hold a separate membership.

(d) In the case of membership in an owners association, (as defined in Section 11003.1 of the Business and Professions Code, and created in connection with any of the forms of development referred to in Section 11004.5 of the Business and Professions Code) the articles or bylaws may permit a person who owns an interest, or who has a right of exclusive occupancy, in more than one lot, parcel, area, apartment, or unit to hold a separate membership in the owners association for each lot, parcel, area, apartment, or unit.

(e) In the case of membership in a mutual water company, as defined in Section 330.24 of the Civil Code, the articles or bylaws may permit a person entitled to membership by reason of the ownership, lease, or right of occupancy of more than one lot, parcel, or other service unit to hold a separate membership in the mutual water company for each such lot, parcel, or other service unit.

(f) In the case of membership in a mobilehome park acquisition corporation, as described in Section 11010.8 of the Business and Professions Code, a bona fide secured party who has, pursuant to a security interest in a membership, taken title to the membership by way of foreclosure, repossession or voluntary repossession, and who is actively attempting to resell the membership to a prospective homeowner or resident of the mobilehome park, may own more than one membership.



SEC. 4. Section 66427.4 of the Government Code is amended to read:

66427.4. (a) At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a mobilehome park to another use, the subdivider shall also file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted. In determining the impact of the conversion on displaced mobilehome park residents, the report shall address the availability of adequate replacement space in mobilehome parks.

(b) The subdivider shall make a copy of the report available to each resident of the mobilehome park at least 15 days prior to the hearing on the map by the advisory agency or, if there is no advisory agency, by the legislative body.

(c) The legislative body, or an advisory agency which is authorized by local ordinance to approve, conditionally approve, or disapprove the map, may require the subdivider to take steps to mitigate any adverse impact of the conversion on the ability of displaced mobilehome park residents to find adequate space in a mobilehome park.

(d) This section establishes a minimum standard for local regulation of conversions of mobilehome parks into other uses and shall not prevent a local agency from enacting more stringent measures.

(e) This section shall not be applicable to a subdivision which is created from the conversion of a rental mobilehome park to resident ownership.

SEC. 5. Section 66427.5 of the Government Code is amended to read:

66427.5. At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a rental mobilehome park to resident ownership, the subdivider shall avoid the economic displacement of all nonpurchasing residents in the following manner:

(a) The subdivider shall offer each existing tenant an option to either purchase his or her condominium or subdivided unit, which is to be created by the conversion of the park to resident ownership, or to continue residency as a tenant.

(b) The subdivider shall file a report on the impact of the conversion upon residents of the mobilehome park to be converted to resident owned subdivided interest.

(c) The subdivider shall make a copy of the report available to each resident of the mobilehome park at least 15 days prior to the hearing on the map by the advisory agency or, if there is no advisory agency, by the legislative body.

(d) The subdivider shall be subject to a hearing by a legislative body or advisory agency, which is authorized by local ordinance to approve, conditionally approve, or disapprove the map. The scope of the hearing shall be limited to the issue of compliance with this



section. The subdivider shall be required to avoid the economic displacement of all nonpurchasing residents in accordance with the following:

(1) As to nonpurchasing residents who are not lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent to market levels, as defined in an appraisal conducted in accordance with nationally recognized professional appraisal standards, in equal annual increases over a four-year period.

(2) As to nonpurchasing residents who are lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion, except that in no event shall the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period.

