

**Assembly Bill No. 2273**

CHAPTER 527

An act to amend Sections 4 and 5 of Chapter 317 of the Statutes of 1913, relating to City of Richmond tidelands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 2000. Filed with Secretary of State September 19, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2273, Aroner. City of Richmond tidelands.

Existing law authorizes the City of Richmond to lease, for a term not to exceed 25 years, any wharves, docks, or piers constructed by it.

This bill, in addition to authorizing the lease of wharves, docks, and piers, would authorize the City of Richmond to lease other aids or improvements to commerce, navigation, and other trust purposes. The bill also would increase to 55 years the term of the leases the city is authorized to enter.

The bill would authorize the State Lands Commission to make certain conveyances of tide, submerged, and other lands, enter into agreements, execute patents, and receive and accept lands, for the purposes of effectuating enumerated exchanges, agreements, and adjustments related to the Richmond Harbor Development Area and lands included in Tideland Survey Number Eight.

The bill would authorize the City of Richmond to terminate the public trust over portions of granted tidelands under certain circumstances.

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

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

SECTION 1. As used in this act:

(a) "City" means the City of Richmond, a municipal corporation of the State of California, in Contra Costa County.

(b) "Granted lands trust" means the statutory trust created by the grant of tidelands to the City of Richmond in Chapter 317 of the Statutes of 1913.

(c) "Public trust" means the public trust for commerce, navigation, and fisheries.

(d) "Redevelopment agency" means the Richmond Redevelopment Agency, a public body, corporate and politic.



(e) “Richmond Harbor Development Area” means those lands being a portion of Lots 18, 19, 30, and 31 Section 24, and a portion of Lots 2 and 3, Section 25, Township 1 North, Range 5 West, Mount Diablo Base and Meridian, as shown on the map entitled “Map No. 1 of Salt Marsh and Tidelands” filed June 11, 1917, Rack Map No. 9, in the office of the Recorder of Contra Costa County, California, more particularly described as follows: The Remainder Parcel and Parcel H as shown on Parcel Map MS 753-98 filed December 29, 1998, in Book 176 of Parcel Maps, Page 11, Contra Costa County Records.

(f) “Surplus property authority” means the Surplus Property Authority of the City of Richmond, a surplus property authority created pursuant to the Municipal Federal Surplus Property Law of the State of California.

(g) “Tideland Survey Number Eight” means those lands being a portion of Sections 24 and 25, Township 1 North, Range 5 West, Mount Diablo Base and Meridian described in the patent recorded in Book 1 of Patents, Page 57, January 20, 1868, Contra Costa County Records.

SEC. 2. (a) The Legislature hereby finds and declares as follows:

(1) Certain of the tide and submerged lands within Tideland Survey Number Eight and the Richmond Harbor Development Area, both filled and unfilled, have been authorized to be, and have been, laid off and sold to private parties pursuant to various acts, including an 1863 statute entitled “An Act to Provide for the Sale of certain Lands belonging to the State” (Ch. 397, Stats. 1863) and an 1868 statute entitled “An Act to Survey and Dispose of Certain Salt Marsh and Tidelands belonging to the State of California” (Ch. 543, Stats. 1867–8), as amended.

(2) Certain of the tidelands within Tideland Survey Number Eight and the Richmond Harbor Development Area were authorized to be, and were, granted to the city subject to the public trust and certain other restrictions, by Chapter 317 of the Statutes of 1913.

(3) In 1916, the city and certain private claimants of tide and submerged lands entered a land title settlement agreement in an effort to resolve disputed title to tide and submerged lands, including lands within Tideland Survey Number Eight and the Richmond Harbor Development Area. The principal object of the 1916 agreement was to remove obstacles that prevented the implementation of a program of harbor development in furtherance of the city’s 1913 grant. Pursuant to the 1916 agreement, the private parties conveyed to the city tide and submerged lands that had been claimed to be in private ownership and that were needed by the city for the planned program of harbor development. The 1916 agreement further provided, regarding certain other privately claimed lands, that it was the parties’ intention that the private parties’ claimed title to the lands be confirmed. Thereafter,



bulkheads were built, channels dredged, fill placed, streets dedicated, and harbor facilities built in reliance on the plan embodied in the 1916 agreement. Properties that were not conveyed to the city were subsequently conveyed by the private parties to others, also in consequence of the 1916 agreement.

(4) On one of the parcels not conveyed to the city, Ford Motor Company constructed, in 1931, an automobile assembly building, which has since been listed on the National Register of Historic Places. A portion of the Ford Assembly Building was built on pilings over water, and cargo vessels were used in connection with the operations at the Ford Assembly Building. The Ford Assembly Building has been idle for many years and was severely damaged during the 1989 Loma Prieta earthquake. There is now a plan for adaptive reuse of the Ford Assembly Building, most of which sits on filled land that at one time was tide and submerged land. These plans include provision for public access along the waterfront perimeter of the Ford Assembly Building, as well as commercial recreation uses on the portion of the plant adjacent to the water. The access plans are part of an overall public access plan for the entirety of the Richmond Harbor.

(5) There is uncertainty concerning the validity and the geographic extent of title to the parcel upon which the Ford Assembly Building is built and other adjacent and nearby parcels within Tideland Survey Number Eight. There is also uncertainty concerning whether this property is subject to the public trust or other encumbrances that may have arisen because the lands were once sovereign lands of the state. The state contends that a portion of the property was not conveyed by it either to private parties or to the city, and that other portions, assuming that they were legally conveyed, are held today subject to the public trust. The city contends that it or certain other public or private entities hold those disputed areas in fee simple, free of the public trust or any other encumbrances. It is in the public interest that this dispute be resolved in a manner that furthers public trust purposes.

(6) These disputes limit the potential development of the Richmond Harbor Development Area and other property within Tideland Survey Number Eight, threaten the city's ability to preserve the historic Ford Assembly Building, and render uncertain the expansion of desirable public access and commercial recreation facilities along this portion of the Richmond waterfront.

(7) It is intended that the resolution of these disputes and the consolidation and adjustment of public and private ownerships will be accomplished by and through exchanges of and boundary adjustments to lands referenced above. These exchanges and adjustments shall be for the purpose of effectuating the proposals referenced in paragraph (4) for the Richmond Harbor Development Area, including the public trust uses, and facilitating related plans for



developing facilities outside the Richmond Harbor Development Area.

(8) The proposed exchanges, agreements, and adjustments will not interfere with, and will, in fact, be consistent with and further the purposes of, the public trust if all of the following occur:

(A) The value of any lands or interests in lands to be conveyed and made subject to the public trust, the value of any public trust easements to be conveyed or created, and the value of any public trust interest created regarding certain of the areas in dispute, and other areas, taken together, exceeds the combined value of the lands to be conveyed subject to the public trust easement, the land to be conveyed free of any public trust interest and the value of the public trust interest to be terminated pursuant to exchanges, agreements, and adjustments.

(B) The lands over which the public trust will be terminated have been filled and reclaimed, those parcels consisting entirely of dry land lying above the present mean high tide line, and are not necessary in their public trust encumbered status for the highly beneficial program for development of the waterfront of the city, represented by the plans for the Richmond Harbor Development Area and plans for related or supporting facilities outside the Richmond Harbor Development Area, due to the current state of the lands.

(C) The lands over which the public trust will be terminated are nonwaterfront, having been cut off from direct access to the waters of San Francisco Bay by past filling of intervening property.

(D) Streets in or serving the Richmond Harbor Development Area and other property within Tideland Survey Number Eight have provided, and will continue to provide, public access to the water.

(E) The lands over which the public trust will be terminated constitute a relatively small portion of the tidelands granted to the city.

(F) The lands over which the public trust will be terminated are no longer needed or required for the promotion of the public trust or the granted lands trust, and the lands to be acquired through the exchange will serve public trust needs.

(b) It is therefore the intent of the Legislature, on, and subject to, the terms and conditions set forth in this act, to authorize, ratify, and confirm any agreement by the city and State Lands Commission, or by the city and State Lands Commission with any public or private entity, to enter into an exchange or exchanges of tide or submerged lands, or settlement regarding conflicting claims of ownership, and by that agreement or settlement terminate the public trust over filled tidelands consistent with the findings and declarations stated in this act.



SEC. 3. For the purposes of effectuating the exchanges, agreements, and adjustments referred to in Section 2, the State Lands Commission may do all of the following:

(a) Convey to the city, redevelopment agency, surplus property authority, or any private party, by patent, all of the right, title, and interest held by the state by virtue of its sovereign trust title to tide and submerged lands, including any public trust interest in and to all of the historic tide and submerged lands within the Richmond Harbor Development Area that are now above the mean high tide line, subject to the reservations that the State Lands Commission determines to be appropriate.

(b) Because of the factual circumstances listed in Section 2, enter an agreement and execute a patent or patents to the city, redevelopment agency, or any private party through which it may recognize a proprietary fee interest in lands below the mean high tide line at the Ford Assembly Building, reserving therefrom a public trust easement.

(c) In the property included within the perimeter description of Tideland Survey Number Eight, but outside of the Richmond Harbor Development Area, enter into agreements with the city, redevelopment agency, surplus property authority, or any private party to settle the location and extent of land subject to the public trust, or enter into exchange agreements pursuant to Section 6307 of the Public Resources Code. Land received or confirmed in the state as public trust lands through such agreements shall be patented by the State Lands Commission to the city, to be held in trust by the city as lands subject to the public trust, and the terms, conditions, and reservations of the granted lands trust and other reservations that may be included in the patents by the State Lands Commission.

(d) Receive and accept on behalf of the state in its sovereign capacity any lands or any interest in lands, conveyed to the state in its sovereign capacity pursuant to this act and pursuant to any exchange, agreement, or adjustment authorized, ratified, or confirmed by this act, including, but not limited to, any public trust easement conveyed to the state in its sovereign capacity.

(e) Convey to the city by patent all of the right, title, and interest of the state in any lands conveyed to the state in its sovereign capacity pursuant to this act and pursuant to any exchange, agreement, or adjustment authorized, ratified, or confirmed by this act, including, but not limited to, any public trust easement, conveyed to the state in its sovereign capacity subject to the terms, conditions, and reservations that the State Lands Commission determines are necessary to meet the requirements of this act and the granted lands trust.

SEC. 4. In determining the value of any tide or submerged lands to be conveyed under this act, the city and the State Lands Commission shall give effect in their evaluation to all factors bearing



upon the value, if any, of the public's interest being conveyed, released, quitclaimed, or settled, and the rights, claims, and equities of the person in whose favor the conveyance, release, quitclaim, or settlement is being made and the predecessors in interest. In those cases in which the lawfully sold tide or submerged lands have been filled, reclaimed, or improved without the expenditure of either state funds or of public moneys held in trust, the lands may be valued by excluding the value of the fill or improvements, or both. Consideration under this act may consist of lands, property, interest in property, easements, moneys, or other things of value given by the grantee or any other person.

SEC. 5. Section 4 of Chapter 317 of the Statutes of 1913 is amended to read:

Sec. 4. The City of Richmond may lease for a term not exceeding 55 years any wharves, docks, piers, or other aids or improvements to commerce, navigation, and other trust purposes constructed by it.

SEC. 6. Section 5 of Chapter 317 of the Statutes of 1913 is amended to read:

Sec. 5. The City of Richmond may lease the lands conveyed to it by Chapter 317 of the Statutes of 1913, for a term not to exceed 55 years and upon which wharves, docks, or other aids or improvements to commerce, navigation, and other trust purposes have not been actually constructed. The leases shall not be assignable or transferable, nor shall any lessee have the right to sublet the leased premises or any part thereof except by the consent of the city council of the City of Richmond set forth in an order of the city council.

SEC. 7. (a) Subject to the requirements for approval by the State Lands Commission specified in subdivision (b), whenever it is determined by the city that any portions of the tide or submerged lands granted to the city, by Chapter 317 of the Statutes of 1913 or other acts of the Legislature, are filled and reclaimed, cut off from access to the waters of San Francisco Bay, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust for commerce, navigation, and fisheries or the granted lands trust, and when it is further determined that there is no substantial interference with the public trust uses and purposes the city may terminate the public trust over those portions of the tidelands and exchange those portions of the tidelands, or any interest in those lands, to any state agency, political subdivision, person, entity, or corporation, or the United States, or any agency thereof, for lands or interests in lands of equal or greater value and for purposes of the granted lands trust.

(b) No exchange and trust termination under subdivision (a) shall be effective unless and until the State Lands Commission, at a regular open meeting with the proposed exchange and trust termination as a properly scheduled agenda item, does both of the following:



(1) Finds that the lands or interests in lands to be acquired by the city and the value of the public trust interest to be created by agreement of the city have a value equal to or greater than the value of the tidelands for which they are to be exchanged and the value of the tidelands over which the public trust will be terminated.

(2) Adopts a resolution approving the proposed exchange and trust termination, which finds and declares that the tidelands to be exchanged and over which the public trust will be terminated have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay, constitute a relatively small portion of the tide and submerged lands granted to the city, and are no longer needed or required for the promotion of the public trust; and, further, that no substantial interference with the public trust uses and purposes will ensue by virtue of the exchange, and trust termination. Upon adoption of the resolution, or at the time that may otherwise be specified in the resolution, the tidelands to be exchanged and with respect to which the public trust is to be terminated shall thereupon be free from the public trust.

SEC. 8. Any agreement, exchange, or adjustment pursuant to this act shall be conclusively presumed to be valid unless held to be invalid in an appropriate proceeding in a court of competent jurisdiction to determine the validity of the agreement, exchange, or adjustment, and commenced within 60 days after the recording of the agreement, exchange, or adjustment.

SEC. 9. An action may be brought under Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure by the parties to any agreement entered into pursuant to this act to confirm the validity of the agreement. Notwithstanding any provision of Section 764.080 of the Code of Civil Procedure, the statement of decision in the action shall include a recitation of the underlying facts and a determination whether the agreement meets the requirements of this act, Sections 3 and 4 of Article X of the California Constitution, and any other law applicable to the validity of the agreement.

SEC. 10. Agreements, exchanges, or adjustments made by the city, redevelopment agency, or surplus property authority pursuant to this act are hereby found to be of statewide significance and importance and, therefore, any ordinance, charter provision, or other provision of local law inconsistent with this act does not apply to the agreements, exchanges, or adjustments.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Richmond Harbor Development Area is planned for development by the City of Richmond and will include important areas of private development and significant public access elements.



Those public access elements will tie into a larger area of continuous public access along the Richmond waterfront. The redevelopment of the Richmond Harbor Development Area and larger development projects will maximize public access to a broad area of the Richmond waterfront, in furtherance of the public trust and granted lands trust under which the remaining granted tide and submerged lands are held. In order to make lands available for public access, and to terminate legal uncertainties to title to inland areas for development as soon as possible, it is necessary that this act take effect immediately.

