

AMENDED IN SENATE APRIL 11, 2000

AMENDED IN SENATE MARCH 30, 2000

SENATE BILL

No. 1395

Introduced by Senator Monteith

January 26, 2000

An act to amend Sections 11010.3 and 11011 of, and to add Sections 11010.10 and 11010.35 to, the Business and Professions Code, relating to subdivided lands.

LEGISLATIVE COUNSEL'S DIGEST

SB 1395, as amended, Monteith. Real Estate Commissioner: subdivided lands.

(1) Existing law provides for the regulation of real estate transactions by the Real Estate Commissioner, including subdivided lands transactions.

This bill would exclude from these provisions the proposed sale or lease of 5 or more lots ~~or units~~ or other interests in a subdivision or the sale of one or more lots in a subdivision where the lot or lots are intended to be subdivided into 5 or more lots or other interests, *as specified*, provided that specified conditions are met, and would exclude the proposed sale or lease of lots or other interests in a subdivision that are zoned *exclusively* for commercial or industrial uses or are restricted to that use by a declaration of covenants, conditions, and restrictions, which has been recorded, as specified.

(2) Existing law also exempts specified sales or leases of lots or other subdivision interests from the filing of a specified public report with the Department of Real Estate and

authorizes the Real Estate Commissioner to prescribe filing fees by regulation in connection with applications to the department pursuant to these provisions.

This bill would authorize a person who plans to offer for sale or lease lots or other subdivision interests that are exempt from these provisions to submit a proposed declaration to the commissioner for review, and would require the commissioner to notify the applicant of any deficiency or inadequacy with the declaration within 60 days of its receipt or the declaration is deemed approved. The bill would also require notice to an applicant that a revised declaration is deficient or inadequate within 30 days and would require the commissioner, upon approval of the filing, to give notice to the applicant. The bill would also provide that the declaration is approved for any subsequent notice of intent filing for a public report and would authorize the commissioner to charge a filing fee to review a declaration not to exceed \$200.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 11010.3 of the Business and
2 Professions Code is amended to read:

3 11010.3. The provisions of this chapter shall not apply
4 to the proposed sale or lease of lots or other interests in
5 a subdivision that are zoned *exclusively* for industrial or
6 commercial uses or are restricted to that use by a
7 declaration of covenants, conditions, and restrictions,
8 which has been recorded in the official records of the
9 county or counties in which the subdivision is located.

10 SEC. 2. Section 11010.10 is added to the Business and
11 Professions Code, to read:

12 11010.10. A person who plans to offer for sale or lease
13 lots or other subdivision interests that are not subject to
14 the provisions of this chapter or that do not require the
15 submission of a notice of specified intention as in Section
16 11010, may submit to the commissioner for review the
17 proposed declaration for the subdivision, as defined in
18 subdivision (h) of Section 1351 of the Civil Code. The



1 commissioner shall notify the applicant of any deficiency
2 or inadequacy in the declaration within 60 days of its
3 receipt or the declaration shall be deemed approved. The
4 commissioner shall notify the applicant of any deficiency
5 or inadequacy in a declaration revised to correct any
6 previously notified deficiency or inadequacy within 30
7 days of its receipt or the revised declaration shall be
8 deemed approved. Upon approval of the filing, the
9 commissioner shall give notice to the applicant and the
10 declaration shall be approved for any subsequent notice
11 of intent filing for a public report.

12 SEC. 3. Section 11010.35 is added to the Business and
13 Professions Code, to read:

14 11010.35. (a) The provisions of this chapter shall not
15 apply to the proposed sale or lease of five or more ~~lots,~~
16 ~~units,~~ *lots* or other interests in a subdivision or to the sale
17 of one or more lots in a subdivision where the lot or lots
18 are intended to be further subdivided into five or more
19 lots or other interests, *to any person who acquires that*
20 *lot or other interest for the purpose of engaging in the*
21 *business of constructing residential, commercial, or*
22 *industrial buildings*, provided that (1) the buyer or lessee
23 is a single individual or entity, and (2) the purchase or
24 lease agreement includes a statement that prior to any
25 proposed offering for sale or lease of any lot or other
26 subdivision interest acquired pursuant to the exemption
27 granted by this subdivision, the buyer or lessee shall
28 comply with the provisions of this chapter that apply to
29 the proposed sale or lease, including the obtaining of a
30 public report. For the purposes of this subdivision, a
31 husband and wife shall be considered a single person and
32 an entity shall include, without limitation, partnerships,
33 corporations, limited liability companies, and trusts.

34 (b) The exemption provided by subdivision (a) does
35 not apply to any proposed sale or lease of lots that is done
36 for the purpose of evading any other provision of this
37 chapter.

38 SEC. 4. Section 11011 of the Business and Professions
39 Code is amended to read:



1 11011. (a) The commissioner may by regulation
2 prescribe filing fees in connection with applications to the
3 Department of Real Estate pursuant to this chapter that
4 are lower than the maximum fees specified in subdivision
5 (b) if the commissioner determines that the lower fees
6 are sufficient to offset the costs and expenses incurred in
7 the administration of this chapter. The commissioner
8 shall hold at least one hearing each calendar year to
9 determine if lower fees than those specified in subdivision
10 (b) should be prescribed.

11 (b) The filing fee for an application for a public report
12 to be issued under authority of this chapter shall not
13 exceed the following for each subdivision or phase of a
14 subdivision in which interests are to be offered for sale or
15 lease:

16 (1) A notice of intention without a completed
17 questionnaire: One hundred fifty dollars (\$150).

18 (2) An original public report for subdivision interests
19 described in Section 11004.5: One thousand seven
20 hundred dollars (\$1,700) plus ten dollars (\$10) for each
21 subdivision interest to be offered.

22 (3) An original public report for subdivision interests
23 other than those described in Section 11004.5: Six
24 hundred dollars (\$600) plus ten dollars (\$10) for each
25 subdivision interest to be offered.

26 (4) A conditional public report for subdivision
27 interests described in Section 11004.5: Five hundred
28 dollars (\$500).

29 (5) A conditional public report for subdivision
30 interests other than those described in Section 11004.5:
31 Five hundred dollars (\$500).

32 (6) A preliminary public report for subdivision
33 interests described in Section 11004.5: Five hundred
34 dollars (\$500).

35 (7) A preliminary public report for subdivision
36 interests other than those described in Section 11004.5:
37 Five hundred dollars (\$500).

38 (8) A renewal public report for subdivision interests
39 described in Section 11004.5: Six hundred dollars (\$600).



1 (9) A renewal public report for subdivision interests
2 other than those described in Section 11004.5: Six
3 hundred dollars (\$600).

4 (10) An amended public report for subdivision
5 interests described in Section 11004.5: Five hundred
6 dollars (\$500) plus ten dollars (\$10) for each subdivision
7 interest to be offered under the amended public report
8 for which a fee has not previously been paid.

9 (11) An amended public report to offer subdivision
10 interests other than those described in Section 11004.5:
11 Five hundred dollars (\$500) plus ten dollars (\$10) for
12 each subdivision interest to be offered under the
13 amended public report for which a fee has not previously
14 been paid.

15 (c) The filing fee to review a declaration as described
16 in Section 11010.10 shall not exceed two hundred dollars
17 (\$200).

18 (d) The actual subdivision fees established by
19 regulation under authority of this section and Section
20 10249.3 shall not exceed the amount reasonably required
21 by the department to administer this part and Article 8
22 (commencing with Section 10249) of Chapter 3 of Part 1.

23 (e) All fees collected by the department under
24 authority of this chapter shall be deposited into the Real
25 Estate Fund under Chapter 6 (commencing with Section
26 10450) of Part 1. All fees received by the department
27 pursuant to this chapter shall be deemed earned upon
28 receipt. No part of any fee is refundable unless the
29 commissioner determines that it was paid as the result of
30 a mistake or inadvertence.

31 This section shall remain in effect unless it is
32 superseded pursuant to Section 10226 or subdivision (a)
33 of Section 10226.5, whichever is applicable.

