

Senate Bill No. 1395

CHAPTER 279

An act to amend Sections 11010.2, 11010.3, and 11011 of, and to add Sections 11010.10 and 11010.35 to, the Business and Professions Code, relating to subdivided lands.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1395, 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, parcels, or other interests in a subdivision or the sale of one or more lots or parcels in a subdivision where the lot or lots, or parcel or parcels, 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 in which the lots or other interests are limited to commercial or industrial uses by zoning or are limited to that use by a declaration of covenants, conditions, and restrictions, which declaration 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 interests in a subdivision that are exempt from these provisions to submit an application, along with any required supporting documentation, to the commissioner requesting review of the declaration, and would require the commissioner to notify the applicant of any deficiency or inadequacy in 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, following the first notice of deficiency or inadequacy, is deficient or inadequate within 30 days of receipt 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 a subsequent notice of intent filing for any public report for the subdivision identified in the application, as specified, and



would authorize the commissioner to charge a filing fee to review a declaration not to exceed \$200.

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

SECTION 1. Section 11010.2 of the Business and Professions Code is amended to read:

11010.2. (a) As used in this section:

(1) “Quantitative” means the number and type of documents required to make the filing substantially complete, as defined in the regulations of the commissioner, without regard to the content of those requirements.

(2) “Qualitatively complete” means that all deficiencies and substantive inadequacies contained in the documents that were required to make the filing substantially complete have been corrected.

(3) “Substantially complete” means that a notice and application contain all requirements as set forth in the regulations of the commissioner.

(b) Upon receipt of a notice of intention pursuant to Section 11010 and an application for issuance of a public report, the commissioner shall review the notice and application to determine if the notice and application are substantially complete, with respect to quantitative requirements. The commissioner shall notify the applicant in writing of that determination within 10 days of receipt of the notice and application.

(1) If the notice and application are not substantially complete with respect to the quantitative requirements pursuant to this subdivision, the notification shall specify the information needed to make the notice and application substantially complete. Upon receipt of any resubmittal of a notice and application, the commissioner shall notify the applicant in writing of that determination within 10 days of receipt of the notice and application.

(2) If the commissioner determines that the notice and application are substantially complete with respect to the quantitative requirements pursuant to this subdivision, the commissioner shall provide the applicant with a list of all deficiencies and substantive inadequacies necessary for the notice and application to be qualitatively complete, within 60 days of that determination, in the case of subdivisions specified in Section 11000.1 or 11004.5, and within 20 days of that determination, in the case of other subdivisions.

(c) Upon receipt of all documents, materials, writings, and other information submitted in response to the list in paragraph (2) of subdivision (b), the commissioner shall notify the applicant whether the notice and application are qualitatively complete within 30 days, in the case of subdivisions specified in Section 11000.1 or 11004.5, and



within 20 days of receipt, in the case of other subdivisions. If the application and notice are not qualitatively complete, the notification shall include a list of any remaining deficiencies and substantive inadequacies. Upon receipt of any resubmittal of documents, materials, writings, and other information in response to a list of any remaining deficiencies and substantive inadequacies, the commissioner shall provide notification within the time limits specified in this subdivision.

(d) The commissioner shall issue a public report within 15 days, in the case of a subdivision specified in Section 11000.1 or 11004.5, or 10 days, in the case of other subdivisions, after the notice and application are determined to be qualitatively and substantially complete, and submittal of recorded or filed instruments and evidence of financial arrangements required by the commissioner.

(e) Upon receipt of an application for approval of a declaration as provided in Section 11010.10, the commissioner shall notify the applicant of any deficiency or inadequacy in the declaration within 60 days of its receipt. The commissioner shall notify the applicant of any deficiency or inadequacy in a declaration that has been revised following the first notice of deficiency or inadequacy within 30 days of its receipt.

(f) The commissioner shall adopt regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, that define “substantially complete” and that list all the requirements necessary for a notice of intention and application to be considered “substantially complete.”

(g) The commissioner may adopt emergency regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to increase, as set forth below, those time periods specified in subdivisions (b), (c), and (d), upon a showing that the number of notices of intention and applications for a subdivision public report filed with the department for any immediately preceding six-month period has increased by more than 15 percent over the monthly average number of notices and applications filed for the base period commencing July 1, 1983, and ending June 30, 1986:

(1) The time for issuing the notice provided in subdivision (b) shall increase to 15 days.

(2) The time for providing the listing required by paragraph (2) of subdivision (b) shall increase to 90 days, in the case of subdivisions specified in Sections 11000.1 and 11004.5, and to 30 days, in the case of other subdivisions.

(3) The time period provided in subdivision (c) for responding to receipt of documents intended to correct deficiencies shall be 30 days without regard to the type of subdivision being processed.

(4) The time periods provided in subdivision (d) within which the commissioner is required to issue a public report in the case of



subdivisions specified in Sections 11000.1 and 11004.5, shall increase to 30 days and in the case of other subdivisions shall increase to 15 days.

This section does not apply to filings made exclusively under Section 11010.1. Nothing in this section requires the commissioner to issue a public report where grounds for denial exist, provided that issuance of a public report shall not be denied for inadequate information if the cause thereof is the commissioner's failure to comply with this section.

Notwithstanding other provisions of this section, the commissioner shall not be required to issue a public report if grounds for denial exist under Section 11018 or 11018.5. However, the commissioner may not base the denial of a public report on the lack of adequate information if the commissioner has not acted within the time periods prescribed in this section.

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

11010.3. The provisions of this chapter shall not apply to the proposed sale or lease of lots or other interests in a subdivision in which lots or other interests are (a) limited to industrial or commercial uses by zoning or (b) limited to industrial or commercial uses by a declaration of covenants, conditions, and restrictions, which declaration has been recorded in the official records of the county or counties in which the subdivision is located.

SEC. 3. Section 11010.10 is added to the Business and Professions Code, to read:

11010.10. A person who plans to offer for sale or lease lots or other interests in a subdivision which sale or lease (a) is not subject to the provisions of this chapter, (b) does not require the submission of a notice of intention as provided in Section 11010, or (c) is subject to this chapter and for which the local jurisdiction requires review and approval of the declaration, as defined in subdivision (h) of Section 1351 of the Civil Code, prior to or concurrently with the recordation of the subdivision map and prior to the approval of the declaration pursuant to a notice of intention for a public report, may submit an application requesting review of the declaration, along with any required supporting documentation, to the commissioner, without the filing of a notice of intention for the subdivision for which the declaration is being prepared. Upon approval, the commissioner shall give notice to the applicant that the declaration shall be approved for a subsequent notice of intent filing for any public report for the subdivision identified in the application, provided that the subdivision setup is substantially the same as that originally described in the application for review of the declaration.

SEC. 4. Section 11010.35 is added to the Business and Professions Code, to read:



11010.35. (a) The provisions of this chapter shall not apply to the proposed sale or lease of five or more lots, parcels, or other interests in a subdivision or the sale of one or more lots or parcels in a subdivision where the lot or lots or parcel or parcels are intended to be further subdivided into five or more lots, parcels, or other subdivision interests as defined in Sections 11000, 11000.1, and 11004.5, to any person who acquires the lots, parcels, or other subdivision interests for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings, or for the purpose of resale or lease of the lots, parcels, or other subdivision interests to persons engaged in this business, provided that the purchase or lease agreement or a separate disclosure document includes a statement or provision that the purchaser or lessee is required to comply with the applicable provisions of this chapter prior to offering for sale or lease any lot, parcel, or other subdivision interest acquired pursuant to the exemption granted by this subdivision.

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

(c) The provisions of subdivision (a) are intended to clarify the application of this chapter to the commercial sale or lease of residential subdivision interests and should not be interpreted to impose requirements on transactions entered into prior to the date on which this section became operative.

SEC. 5. Section 11011 of the Business and Professions Code is amended to read:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

