

AMENDED IN SENATE MAY 31, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 763

Introduced by Assembly Member Saldana
(Coauthors: Assembly Members Arambula, Coto, Hernandez,
Mendoza, and Solorio)
(Coauthors: Senators Cedillo and Padilla)

February 22, 2007

An act to amend Sections 66452.5, 66452.8, 66452.9, 66459, and 66499.37 of, to add Sections 66452.11 and 66452.12 to, and to repeal and add Section 66427.1 of, the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 763, as amended, Saldana. Condominium conversion: tenant notification.

The Subdivision Map Act prohibits a legislative body from approving a final map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project, unless the legislative body finds that there has been compliance with certain tenant notice requirements.

This bill would recast the specified prohibition and would make other, technical changes to related provisions of existing law.

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 66427.1 of the Government Code is
2 repealed.

3 SEC. 2. Section 66427.1 is added to the Government Code, to
4 read:

5 66427.1. (a) The legislative body shall not approve a final
6 map for a subdivision to be created from the conversion of
7 residential real property into a condominium project, a community
8 apartment project, or a stock cooperative project, unless it finds
9 as follows:

10 (1) Each tenant of the proposed condominium, community
11 apartment project, or stock cooperative project, and each person
12 applying for the rental of a unit in the residential real property, has
13 received or will have received all applicable notices and rights
14 now or hereafter required by this chapter or Chapter 3
15 (commencing with Section 66451).

16 (2) Each of the tenants of the proposed condominium,
17 community apartment project, or stock cooperative project has
18 received or will receive each of the following notices:

19 (A) Written notification, pursuant to Section 66452.9, of
20 intention to convert, provided at least 60 days prior to the filing
21 of a tentative map pursuant to Section 66452.

22 (B) Ten days' written notification that an application for a public
23 report will be, or has been, submitted to the Department of Real
24 Estate, that the period for each tenant's right to purchase begins
25 with the issuance of the final public report, and that the report will
26 be available on request.

27 (C) Written notification that the subdivider has received the
28 public report from the Department of Real Estate. This notice shall
29 be provided within five days after the date that the subdivider
30 receives the public report from the Department of Real Estate.

31 (D) Written notification within 10 days after approval of a final
32 map for the proposed conversion.

33 (E) One hundred eighty days' written notice of intention to
34 convert, provided prior to termination of tenancy due to the
35 conversion or proposed conversion pursuant to Section 66452.11,
36 but not before the local authority has approved a tentative map for
37 the conversion. The notice given pursuant to this paragraph shall
38 not alter or abridge the rights or obligations of the parties in

1 performance of their covenants, including, but not limited to, the
2 provision of services, payment of rent, or the obligations imposed
3 by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

4 (F) Notice of an exclusive right to contract for the purchase of
5 his or her respective unit upon the same terms and conditions that
6 the unit will be initially offered to the general public or terms more
7 favorable to the tenant. The exclusive right to purchase shall
8 commence on the date the subdivision public report is issued, as
9 provided in Section 11018.2 of the Business and Professions Code,
10 and shall run for a period of not less than 90 days, unless the tenant
11 gives prior written notice of his or her intention not to exercise the
12 right.

13 (b) The written notices to tenants required by subparagraphs
14 (A) and (B) of paragraph (2) of subdivision (a) shall be deemed
15 satisfied if those notices comply with the legal requirements for
16 service by mail.

17 (c) This section shall not diminish, limit or expand, other than
18 as provided ~~herein~~ *in this section*, the authority of any city, county,
19 or city and county to approve or disapprove condominium projects.

20 (d) If a rental agreement was negotiated in Spanish, Chinese,
21 Tagalog, Vietnamese, or Korean, all required written notices
22 regarding the conversion of residential real property into a
23 condominium project, a community apartment project, or a stock
24 cooperative project shall be issued in the tenant's primary language.

25 SEC. 3. Section 66452.5 of the Government Code is amended
26 to read:

27 66452.5. (a) (1) The subdivider, or any tenant of the subject
28 property, in the case of a proposed conversion of residential real
29 property to a condominium project, community apartment project,
30 or stock cooperative project, may appeal from any action of the
31 advisory agency with respect to a tentative map to the appeal board
32 established by local ordinance or, if none, to the legislative body.

33 (2) The appeal shall be filed with the clerk of the appeal board,
34 or if there is none, with the clerk of the legislative body within 10
35 days after the action of the advisory agency from which the appeal
36 is being taken.

37 (3) Upon the filing of an appeal, the appeal board or legislative
38 body shall set the matter for hearing. The hearing shall be held
39 within 30 days after the date of a request filed by the subdivider
40 or the appellant. If there is no regular meeting of the legislative

body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. Within 10 days following the conclusion of the hearing, the appeal board or legislative body shall render its decision on the appeal.

(b) (1) The subdivider, any tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, or the advisory agency may appeal from the action of the appeal board to the legislative body. The appeal shall be filed in writing with the clerk of the legislative body within 10 days after the action of the appeal board from which the appeal is being taken.

(2) After the filing of an appeal, the legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of the request filed by the subdivider or the appellant. If there is no regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. Within 10 days following the conclusion of the hearing, the legislative body shall render its decision on the appeal.

(c) (1) If there is an appeal board and it fails to act upon an appeal within the time limit specified in this chapter, the decision from which the appeal was taken shall be deemed affirmed and an appeal therefrom may thereupon be taken to the legislative body as provided in subdivision (b) of this section. If no further appeal is taken, the tentative map, insofar as it complies with applicable requirements of this division and any local ordinance, shall be deemed approved or conditionally approved as last approved or conditionally approved by the advisory agency, and it shall be the duty of the clerk of the legislative body to certify or state that approval, or if the advisory agency is one which is not authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, the advisory agency shall submit its report to the legislative body as if no appeal had been taken.

1 (2) If the legislative body fails to act upon an appeal within the
2 time limit specified in this chapter, the tentative map, insofar as it
3 complies with applicable requirements of this division and any
4 local ordinance, shall be deemed to be approved or conditionally
5 approved as last approved or conditionally approved, and it shall
6 be the duty of the clerk of the legislative body to certify or state
7 that approval.

8 (d) (1) Any interested person adversely affected by a decision
9 of the advisory agency or appeal board may file an appeal with
10 the legislative body concerning any decision of the advisory agency
11 or appeal board. The appeal shall be filed with the clerk of the
12 legislative body within 10 days after the action of the advisory
13 agency or appeal board that is the subject of the appeal. Upon the
14 filing of the appeal, the legislative body shall set the matter for
15 hearing. The hearing shall be held within 30 days after the date of
16 a request filed by the subdivider or the appellant. If there is no
17 regular meeting of the legislative body within the next 30 days for
18 which notice can be given pursuant to Section 66451.3, the appeal
19 may be heard at the next regular meeting for which notice can be
20 given, or within 60 days from the date of the receipt of the request,
21 whichever period is shorter. The hearing may be a public hearing
22 for which notice shall be given in the time and manner provided.

23 (2) Upon conclusion of the hearing, the legislative body shall,
24 within 10 days, declare its findings based upon the testimony and
25 documents produced before it or before the advisory board or the
26 appeal board. The legislative body may sustain, modify, reject, or
27 overrule any recommendations or rulings of the advisory board or
28 the appeal board and may make any findings that are not
29 inconsistent with the provisions of this chapter or any local
30 ordinance adopted pursuant to this chapter.

31 (e) Each decision made pursuant to this section shall be
32 supported by findings that are consistent with the provisions of
33 this division and any local ordinance adopted pursuant to this
34 division.

35 (f) Notice of each hearing provided for in this section shall be
36 sent by United States mail to each tenant of the subject property,
37 in the case of a conversion of residential real property to a
38 condominium project, community apartment project, or stock
39 cooperative project, at least three days prior to the hearing. The
40 notice requirement of this subdivision shall be deemed satisfied if

1 the notice complies with the legal requirements for service by mail.
2 Pursuant to Section 66451.2, fees may be collected from the
3 subdivider or from persons appealing or filing an appeal for
4 expenses incurred under this section.

5 SEC. 4. Section 66452.8 of the Government Code is amended
6 to read:

7 66452.8. (a) Commencing at a date not less than 60 days prior
8 to the filing of a tentative map pursuant to Section 66452, the
9 subdivider or his or her agent shall give notice of the filing, in the
10 form outlined in subdivision (b), to each person applying after that
11 date for rental of a unit of the subject property immediately prior
12 to the acceptance of any rent or deposit from the prospective tenant
13 by the subdivider.

14 (b) The notice shall be as follows:

15
16 “To the prospective occupant(s) of

17 _____:
18 (address)
19

20 The owner(s) of this building, at (address), has filed or plans to
21 file a tentative map with the (city, county, or city and county) to
22 convert this building to a (condominium, community apartment,
23 or stock cooperative project). No units may be sold in this building
24 unless the conversion is approved by the (city, county, or city and
25 county) and until after a public report is issued by the Department
26 of Real Estate. If you become a tenant of this building, you shall
27 be given notice of each hearing for which notice is required
28 pursuant to Sections 66451.3 and 66452.5 of the Government
29 Code, and you have the right to appear and the right to be heard
30 at any such hearing.

31
32 _____
33 (signature of owner or owner’s agent)
34

35 _____
36 (dated)
37

38 I have received this notice on _____.

39 _____
40 (date)

_____”
(prospective tenant’s signature)”

(c) Failure by a subdivider or his or her agent to give the notice required in subdivision (a) shall not be grounds to deny the conversion. However, if the subdivider or his or her agent fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to the notice, and who does not purchase his or her unit pursuant to subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, an amount equal to the sum of the following:

(1) Actual moving expenses incurred when moving from the subject property, but not to exceed one thousand one hundred dollars (\$1,100).

(2) The first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed one thousand one hundred dollars (\$1,100).

(d) The requirements of subdivision (c) constitute a minimum state standard. However, nothing in that subdivision shall be construed to prohibit any city, county, or city and county from requiring, by ordinance or charter provision, a subdivider to compensate any tenant, whose tenancy is terminated as the result of a condominium, community apartment project, or stock cooperative conversion, in amounts or by services which exceed those set forth in paragraphs (1) and (2) of that subdivision. If that requirement is imposed by any city, county, or city and county, a subdivider who meets the compensation requirements of the local ordinance or charter provision shall be deemed to satisfy the requirements of subdivision (c).

SEC. 5. Section 66452.9 of the Government Code is amended to read:

66452.9. (a) Pursuant to subparagraph (A) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give notice 60 days prior to the filing of a tentative map pursuant to Section 66452 in the form outlined in subdivision (b), to each tenant of the subject property.

(b) The notice shall be as follows:

"To the occupant(s) of

(address)

1 The owner(s) of this building, at (address), plans to file a
2 tentative map with the (city, county, or city and county) to convert
3 this building to a (condominium, community apartment, or stock
4 cooperative project). You shall be given notice of each hearing for
5 which notice is required pursuant to Sections 66451.3 and 66452.5
6 of the Government Code, and you have the right to appear and the
7 right to be heard at any such hearing.

8
9
10 _____
(signature of owner or owner's agent)

11 _____
12 (date)"
13

14 The written notices to tenants required by this section shall be
15 deemed satisfied if the notices comply with the legal requirements
16 for service by mail.

17 SEC. 6. Section 66452.11 is added to the Government Code,
18 to read:

19 66452.11. (a) Pursuant to the provisions of subparagraph (E)
20 of paragraph (2) of subdivision (a) of Section 66427.1, the
21 subdivider shall give written notice of the intent to convert 180
22 days prior to the termination of tenancy in the form outlined in
23 subdivision (b), to each tenant of the subject property.

24 (b) The notice shall be as follows:

25
26 "To the occupant(s) of

27 _____:
28 (address)
29

30 The owner(s) of this building, at (address), plans to convert this
31 building to a (condominium, community apartment, or stock
32 cooperative project). This is a notice of the owner's intention to
33 convert the building to a (condominium, community apartment,
34 or stock cooperative project).

35 A tentative map to convert the building to a (condominium,
36 community apartment, or stock cooperative project) was approved
37 by the City on _____. If the City approves a final map, you
38 may be required to vacate the premises, but that cannot happen
39 for at least 180 days from the date this notice was served upon
40 you.

Any future notice given to you to terminate your tenancy because of the conversion cannot be effective for at least 180 days from the date this notice was served upon you. This present notice is not a notice to terminate your tenancy; it is not a notice that you must now vacate the premises.

(signature of owner or owner's agent)

(date)"

The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

SEC. 7. Section 66452.12 is added to the Government Code, to read:

66452.12. (a) Pursuant to subparagraph (F) of paragraph (2) of subdivision (a) of Section 66427.1, the subdivider shall give written notice on the date of issuance of the subdivision public report to each tenant of his or her exclusive right for at least 90 days to contract for the purchase of his or her respective unit in the form outlined in subdivision (b).

(b) The notice shall be as follows:

"To the occupant(s) of

(address)

The owner(s) of this building, at (address), have received the final subdivision report on the proposed conversion of this building to a (condominium, community apartment, or stock cooperative project). Commencing on this date you have the exclusive right for 90 days to contract for the purchase of your rental unit upon the same or more favorable terms and conditions than the unit will initially be offered to the general public.

(signature of owner or owner's agent)

(date)"

1 The written notices to tenants required by this section shall be
2 deemed satisfied if the notices comply with the legal requirements
3 for service by mail.

4 SEC. 8. Section 66459 of the Government Code is amended
5 to read:

6 66459. (a) If a final map has been approved for a condominium
7 project, community apartment project, or stock cooperative project,
8 and the subdivider or subsequent owner of the project, on or after
9 January 1, 1993, rents a dwelling in that project, he or she shall,
10 prior to offering the separate interest for sale to the general public,
11 deliver the following notice, printed in at least 14-point bold print,
12 prior to the execution of the rental agreement:

13 TO THE PROSPECTIVE TENANTS OF

14 _____
15
16 (address)

17
18 THE UNIT YOU MAY RENT HAS BEEN APPROVED FOR
19 SALE TO THE PUBLIC AS A CONDOMINIUM PROJECT,
20 COMMUNITY APARTMENT PROJECT, OR STOCK
21 COOPERATIVE PROJECT (WHICHEVER APPLIES). THE
22 RENTAL UNIT MAY BE SOLD TO THE PUBLIC, AND, IF IT
23 IS OFFERED FOR SALE, YOUR LEASE MAY BE
24 TERMINATED. YOU WILL BE NOTIFIED AT LEAST 90
25 DAYS PRIOR TO ANY OFFERING TO SELL. IF YOU STILL
26 LAWFULLY RESIDE IN THE UNIT, YOU WILL BE GIVEN
27 A RIGHT OF FIRST REFUSAL TO PURCHASE THE UNIT.

28
29 _____
30 (signature of owner or owner's agent)

31 _____
32 (dated)

33
34 (b) The condominium project, community apartment project,
35 or stock cooperative project shall not be referred to in a lease or
36 rental agreement as an "apartment" or "apartments" on or after the
37 date of the approval by the local agency of the final map for the
38 condominium project, community apartment project, or stock
39 cooperative project in which the final map was approved on or
40 after January 1, 1993.

1 (c) Any tenant of a condominium project, community apartment
2 project, or stock cooperative project pursuant to this section shall
3 be given at least 90 days' written notice of the intention to sell the
4 rental unit to the general public. This subdivision shall not alter
5 or abridge the rights or obligations of the parties in performance
6 of their covenants, including, but not limited to, the provision of
7 services, payment of rent, or other obligations imposed by Sections
8 1941, 1941.1, and 1941.2 of the Civil Code.

9 (d) Any tenant who lawfully resides in a condominium project,
10 community apartment project, or stock cooperative project pursuant
11 to this section shall be given a right of first refusal by the
12 subdivider or subsequent owner of the project for the purchase of
13 his or her rental unit upon the same terms and conditions that the
14 unit will be initially offered to the general public or terms and
15 conditions more favorable to the tenant. This right to purchase
16 shall run for a period of 90 days from the date of the notice, unless
17 the tenant gives written notice within the 90-day period of his or
18 her intention not to exercise that right.

19 (e) Failure to comply with this section shall not invalidate the
20 transfer of title to real property.

21 (f) Failure by a subdivider or his or her agent to give the notice
22 required in subdivision (a) shall not be grounds to deny the
23 conversion. However, if the subdivider or his or her agent fails to
24 give notice pursuant to this section, he or she shall pay to each
25 prospective tenant who becomes a tenant and who was entitled to
26 that notice, and who does not purchase his or her unit pursuant to
27 subparagraph (F) of paragraph (2) of subdivision (a) of Section
28 66427.1, an amount equal to the sum of the following:

29 (1) Actual moving expenses incurred when moving from the
30 subject property, but not to exceed one thousand one hundred
31 dollars (\$1,100).

32 (2) The first month's rent on the tenant's new rental unit, if any,
33 immediately after moving from the subject property, but not to
34 exceed one thousand one hundred dollars (\$1,100).

35 (g) This section shall not apply to any of the following:

36 (1) An owner of four dwelling units or less.

37 (2) Transfers pursuant to court order, including, but not limited
38 to, transfers ordered by a probate court in the administration of an
39 estate, transfers by any foreclosure sale after default, transfers by
40 any foreclosure sale after default in an obligation secured by a

1 mortgage, or transfers by a sale under a power of sale after a default
2 in an obligation secured by a deed of trust or secured by any other
3 instrument containing a power of sale, and any subsequent transfer
4 by a mortgagor or beneficiary of a deed of trust who accepts a
5 deed in lieu of foreclosure or purchases the property at a foreclosure
6 sale.

7 (3) Transfers by a fiduciary in the course of the administration
8 of a decedent's estate, guardianship, conservatorship, or trust. For
9 purposes of this paragraph, a "fiduciary" means a state- or federally
10 chartered bank, trust company, savings association, savings bank,
11 credit union, or industrial loan company.

12 SEC. 9. Section 66499.37 of the Government Code is amended
13 to read:

14 66499.37. Any action or proceeding to attack, review, set aside,
15 void, or annul the decision of an advisory agency, appeal board,
16 or legislative body concerning a subdivision, or of any of the
17 proceedings, acts, or determinations taken, done, or made prior to
18 the decision, or to determine the reasonableness, legality, or validity
19 of any condition attached thereto, including, but not limited to, the
20 approval of a tentative map or final map, shall not be maintained
21 by any person unless the action or proceeding is commenced and
22 service of summons effected within 90 days after the date of the
23 decision. Thereafter all persons are barred from any action or
24 proceeding or any defense of invalidity or unreasonableness of the
25 decision or of the proceedings, acts, or determinations. The
26 proceeding shall take precedence over all matters of the calendar
27 of the court except criminal, probate, eminent domain, forcible
28 entry, and unlawful detainer proceedings.