

ASSEMBLY BILL

No. 864

Introduced by Assembly Member Davis

February 22, 2007

An act to amend Section 17980 of, and to add Section 17994 to, the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 864, as introduced, Davis. Substandard buildings: new ownership interest: registration.

(1) The State Housing Law regulates buildings used for human habitation and requires specified local agencies to enforce building standards.

Under existing law, if any sale or other transfer of property to a 3rd party occurs during the period between the issuance of a notice of violation relating to substandard buildings and the abatement of the violation, or any administrative or judicial actions related thereto, the transferor is required to record a Notice of Conveyance of Substandard Property with the county recorder where the property is located, within 5 days after the sale or transfer occurs, identifying the name and address of the buyer or transferee. The notice is required to be executed with a signature that the information is true and correct, under penalty of perjury.

Under existing law, any person who obtains an ownership interest in any property after a notice of pendency of an action or proceeding relating to substandard buildings was recorded with respect to the property is subject to any order to correct the violation, including time limitations, specified in the citation or other notice of violation.

This bill would require a person or entity that proposes to acquire an ownership interest in a property for which an enforcement agency has recorded with the county recorder any of specified documents relating to substandard building violations, to register with that enforcement agency by submitting specified information and documents to the agency, signed under penalty of perjury, prior to completing an agreement of sale, completing an exchange of property, or closing escrow. The bill would impose a state-mandated local program by imposing additional duties upon enforcement agencies.

The bill would make failure to comply with the reporting requirements a misdemeanor, punishable by specified fines and terms of imprisonment in the county jail. By creating a new crime, and by expanding the scope of the existing crime of perjury, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 17980 of the Health and Safety Code is
2 amended to read:
3 17980. (a) If any building is constructed, altered, converted,
4 or maintained in violation of any provision of, or in violation of,
5 any order or notice that gives a reasonable time to correct that
6 violation issued by an enforcement agency pursuant to this part,
7 the building standards published in the California Building
8 Standards Code, or other rules and regulations adopted pursuant
9 to this part, or if a nuisance exists in any building or upon the lot
10 on which it is situated, the enforcement agency shall, after 30 days'
11 notice to abate the nuisance or violation, or a notice to abate with
12 a shorter period of time if deemed necessary by the enforcement

1 agency to prevent or remedy an immediate threat to the health and
2 safety of the public or occupants of the structure, institute any
3 appropriate action or proceeding to prevent, restrain, correct, or
4 abate the violation or nuisance.

5 (b) (1) Whenever the enforcement agency has inspected or
6 caused to be inspected any building and has determined that the
7 building is a substandard building or a building described in Section
8 17920.10, the enforcement agency shall commence proceedings
9 to abate the violation by repair, rehabilitation, vacation, or
10 demolition of the building. The enforcement agency shall not
11 require the vacating of a residential building unless it concurrently
12 requires expeditious demolition or repair to comply with this part,
13 the building standards published in the California Building
14 Standards Code, or other rules and regulations adopted pursuant
15 to this part. The owner shall have the choice of repairing or
16 demolishing. However, if the owner chooses to repair, the
17 enforcement agency shall require that the building be brought into
18 compliance according to a reasonable and feasible schedule for
19 expeditious repair. The enforcement agency may require vacation
20 and demolition or may itself vacate the building, repair, demolish,
21 or institute any other appropriate action or proceeding, if any of
22 the following occur:

23 (A) The repair work is not done within the period required by
24 the notice.

25 (B) The owner does not make a timely choice of repair or
26 demolition.

27 (C) The owner selects an option which cannot be completed
28 within a reasonable period of time, as determined by the
29 enforcement agency, for any reason, including, but not limited to,
30 an outstanding judicial or administrative order.

31 (2) In deciding whether to require vacation of the building or
32 to repair as necessary, the enforcement agency shall give preference
33 to the repair of the building whenever it is economically feasible
34 to do so without having to repair more than 75 percent of the
35 dwelling, as determined by the enforcement agency, and shall give
36 full consideration to the needs for housing as expressed in the local
37 jurisdiction's housing element.

38 (c) (1) Notwithstanding subdivision (b) and notwithstanding
39 local ordinances, tenants in a residential building shall be provided
40 copies of any of the following:

1 (A) The notice of any violation described in subdivision (a) that
 2 affects the health and safety of the occupants and that causes the
 3 building to be substandard pursuant to Section 17920.3 or in
 4 violation of Section 17920.10.

5 (B) An order of the code enforcement agency issued after
 6 inspection of the premises declaring the dwelling to be in violation
 7 of any provision described in subdivision (a).

8 (C) The enforcement agency’s decision to repair or demolish.

9 (D) The issuance of a building or demolition permit following
 10 the abatement order of an enforcement agency.

11 (2) Each document provided pursuant to paragraph (1) shall be
 12 provided to each affected residential unit by the enforcement
 13 agency that issued the order or notice, in the manner prescribed
 14 by subdivision (a) of Section 17980.6.

15 (d) All notices issued by the enforcement agency to correct
 16 violations or to abate nuisances shall contain a provision notifying
 17 the owner that, in accordance with Sections 17274 and 24436.5
 18 of the Revenue and Taxation Code, a tax deduction may not be
 19 allowed for interest, taxes, depreciation, or amortization paid or
 20 incurred in the taxable year. In addition, ~~in Los Angeles County,~~
 21 the notice shall contain a provision notifying the owner that ~~within~~
 22 ~~10 days of recordation of a notice of substandard conditions or~~
 23 ~~similar document,~~ the owner is required to comply with Section
 24 ~~17997~~ 17994.

25 (e) The enforcement agency may charge the owner of the
 26 building for its postage or mileage cost for sending or posting the
 27 notices required to be given by this section.

28 SEC. 2. Section 17994 is added to the Health and Safety Code,
 29 to read:

30 17994. (a) This section applies to a property for which an
 31 enforcement agency has recorded with the county recorder any of
 32 the following documents:

- 33 (1) A notice of pending action pursuant to Section 17985.
- 34 (2) A notice of substandard conditions or a notice of substandard
 35 building pursuant to a local ordinance.
- 36 (3) A document stating that a building is uninhabitable.

37 (b) Prior to completing an agreement of sale, completing an
 38 exchange of property, or closing escrow, a person who proposes
 39 to acquire an ownership interest in a property that is subject to this

1 section shall register with the enforcement agency by doing all of
2 the following:

3 (1) Filing with the enforcement agency a notarized document
4 containing the following information:

5 (A) The person's name.

6 (B) The names of any coowners.

7 (C) The address of any person identified under subparagraph
8 (A) or (B). The address shall not be a post office box or other
9 mailbox number. If the property is vacant, the address provided
10 under this paragraph shall not be the address of the property.

11 (D) The telephone number, fax number, and e-mail address of
12 any person identified under subparagraph (A) or (B).

13 (E) The address of the subject property.

14 (F) The date of the proposed transfer.

15 (G) A plan of correction for the substandard conditions that
16 includes relevant dates and amounts.

17 (2) Providing the enforcement agency with an identification
18 document, and the expiration date of that document. The
19 identification document shall contain the name, date of birth,
20 description, and picture of the person, and shall be issued by the
21 federal government, the State of California, another state, a county,
22 or a municipal government. The identification document may be,
23 but is not limited to, a driver's license, an identification card, an
24 identification card issued to a member of the United States Armed
25 Forces, or a passport issued by a foreign government.

26 (3) Verifying under penalty of perjury that the information
27 provided in the documents submitted under this subdivision is true
28 and correct.

29 (c) If the entity that proposes to acquire an ownership interest
30 in the property is a corporation, limited liability company,
31 partnership, limited partnership, trust, or real estate investment
32 trust, the information required under subdivision (b) shall be
33 supplied for the following person:

34 (1) For a corporation, a corporate officer.

35 (2) For a limited liability company, the managing or
36 administrative member.

37 (3) For a partnership or a limited partnership, a general partner.

38 (4) For a trust, a trustee.

39 (5) For a real estate investment trust, a general partner or an
40 officer.

1 (d) If the person or entity that proposes to acquire an ownership
 2 interest in the property resides or is domiciled outside this state,
 3 the person or entity shall designate for the purposes of this section
 4 a natural person who resides in this state and who manages the
 5 property. This designation shall be accompanied by a notarized
 6 statement by the designated person that he or she accepts the
 7 designation.

8 (e) In addition to the registration required under subdivision
 9 (b), the person or entity that proposes to acquire an ownership
 10 interest in the property shall deposit into an escrow account an
 11 amount sufficient to fund the correction of the violations that are
 12 the subject of the recorded notice described in subdivision (a).

13 (f) The enforcement agency, upon request, may disclose to the
 14 subject property’s tenants the name and address of the person or
 15 entity that proposes to acquire an ownership interest in the property.

16 (g) Nothing in this section prevents local government from
 17 adopting and enforcing laws consistent with this section. Where
 18 local laws duplicate or supplement this section, this section shall
 19 be construed as providing alternative remedies and not preempting
 20 the field of the subject matter.

21 (h) Notwithstanding Chapter 6 (commencing with Section
 22 17995), a person or entity that fails to comply with this section or
 23 provides false information to an enforcement agency is guilty of
 24 a misdemeanor and shall be punished by a term of imprisonment
 25 in the county jail for a period of not more than one year, or by a
 26 fine of not more than ten thousand dollars (\$10,000), or by both
 27 the term of imprisonment and the fine.

28 (i) This section does not apply to real property owned by a
 29 governmental entity.

30 SEC. 3. No reimbursement is required by this act pursuant to
 31 Section 6 of Article XIII B of the California Constitution for certain
 32 costs that may be incurred by a local agency or school district
 33 because, in that regard, this act creates a new crime or infraction,
 34 eliminates a crime or infraction, or changes the penalty for a crime
 35 or infraction, within the meaning of Section 17556 of the
 36 Government Code, or changes the definition of a crime within the
 37 meaning of Section 6 of Article XIII B of the California
 38 Constitution.

39 However, if the Commission on State Mandates determines that
 40 this act contains other costs mandated by the state, reimbursement

1 to local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

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