

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

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 amended, 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~~ *acquires* 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~~ *concurrently with the completion of* an agreement of sale, ~~completing~~ an exchange of property, or ~~closing~~ *closure of* 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.

The bill would also delete a notice requirement specific to Los Angeles County.

(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

1 on which it is situated, the enforcement agency shall, after 30 days’
2 notice to abate the nuisance or violation, or a notice to abate with
3 a shorter period of time if deemed necessary by the enforcement
4 agency to prevent or remedy an immediate threat to the health and
5 safety of the public or occupants of the structure, institute any
6 appropriate action or proceeding to prevent, restrain, correct, or
7 abate the violation or nuisance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (1) A notice of pending action pursuant to Section 17985.

35 (2) A notice of substandard conditions or a notice of substandard
36 building pursuant to a local ordinance.

37 (3) A document stating that a building is uninhabitable.

38 ~~(b) Prior to completing an agreement of sale, completing an
39 exchange of property, or closing escrow, a person who proposes
40 to acquire~~

1 (b) Concurrent with the completion of an agreement of sale,
2 exchange of property, or closure of escrow, a person who acquires
3 an ownership interest in a property that is subject to this section
4 shall register with the enforcement agency by doing all of the
5 following:

6 (1) Filing with the enforcement agency a notarized document
7 containing the following information:

8 (A) The person's name.

9 (B) The names of any coowners.

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

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

16 (E) The address of the subject property.

17 (F) The date of the ~~proposed~~ transfer.

18 (G) A plan of correction for the substandard conditions that
19 includes ~~relevant dates and amounts~~ a timeline, costs of repair,
20 and available financial resources.

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

30 (3) Verifying under penalty of perjury that the information
31 provided in the documents submitted under this subdivision is true
32 and correct.

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

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

39 (2) For a limited liability company, the managing or
40 administrative member.

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

2 (4) For a trust, a trustee.

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

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

12 (e) In addition to the registration required under subdivision
13 (b), the person or entity that ~~proposes to acquire~~ *acquires* an
14 ownership interest in the property shall deposit into an escrow
15 account *established by a city or county for that purpose*, an amount
16 sufficient to fund the correction of the violations that are the subject
17 of the recorded notice described in subdivision (a). *An ordinance*
18 *establishing an escrow account shall specify, at a minimum, the*
19 *conditions under which the funds shall be released.*

20 (f) The enforcement agency, upon request, may disclose to the
21 subject property’s tenants the name and address of the person or
22 entity that ~~proposes to acquire~~ *acquires* an ownership interest in
23 the property.

24 (g) Nothing in this section prevents local government from
25 adopting and enforcing laws consistent with this section. Where
26 local laws duplicate or supplement this section, this section shall
27 be construed as providing alternative remedies and not preempting
28 the field of the subject matter.

29 (h) Notwithstanding Chapter 6 (commencing with Section
30 17995), a person or entity that fails to comply with this section or
31 provides false information to an enforcement agency is guilty of
32 a misdemeanor and shall be punished by a term of imprisonment
33 in the county jail for a period of not more than one year, or by a
34 fine of not more than ten thousand dollars (\$10,000), or by both
35 the term of imprisonment and the fine.

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

38 SEC. 3. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution for certain
40 costs that may be incurred by a local agency or school district

1 because, in that regard, this act creates a new crime or infraction,
2 eliminates a crime or infraction, or changes the penalty for a crime
3 or infraction, within the meaning of Section 17556 of the
4 Government Code, or changes the definition of a crime within the
5 meaning of Section 6 of Article XIII B of the California
6 Constitution.

7 However, if the Commission on State Mandates determines that
8 this act contains other costs mandated by the state, reimbursement
9 to local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.

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