

AMENDED IN ASSEMBLY APRIL 16, 2007

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 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, concurrently with the completion of an agreement of sale, an exchange of property, or 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

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

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

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

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

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

35 (2) In deciding whether to require vacation of the building or
36 to repair as necessary, the enforcement agency shall give preference
37 to the repair of the building whenever it is economically feasible
38 to do so without having to repair more than 75 percent of the
39 dwelling, as determined by the enforcement agency, and shall give

1 full consideration to the needs for housing as expressed in the local
2 jurisdiction’s housing element.

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

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

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

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

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

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

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

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) Concurrent with the completion of an agreement of sale,
39 exchange of property, or closure of escrow, a person who acquires
40 an ownership interest in a property that is subject to this section

1 shall register with the enforcement agency by doing all of the
2 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 transfer.

15 (G) A plan of correction for the substandard conditions that
16 includes a timeline, costs of repair, and available financial
17 resources. *Proof of liability insurance, if any, shall also be*
18 *provided.*

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

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

31 (4) *If the property owner has more than 16 units, and any*
32 *portion of the property is occupied, the person who acquires an*
33 *ownership interest shall post the information required under*
34 *subparagraphs (A) to (F), inclusive, of paragraph (1), on a notice*
35 *that is typed in not less than a 20-point font, and is placed in a*
36 *locked bulletin board that is located on the property, affixed in a*
37 *visible and conspicuous location, and is not more than five feet*
38 *above the ground.*

39 (c) If the entity that acquires an ownership interest in the
40 property is a corporation, limited liability company, partnership,

1 limited partnership, trust, or real estate investment trust, the
2 information required under subdivision (b) shall be supplied for
3 the following person:

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

5 (2) For a limited liability company, the managing or
6 administrative member.

7 (3) For a partnership or a limited partnership, ~~a general partner~~
8 *limited or general partners*.

9 (4) For a trust, a trustee.

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

12 (d) If the person or entity that acquires an ownership interest in
13 the property resides or is domiciled outside this state, the person
14 or entity shall designate for the purposes of this section a natural
15 person who resides in this state and who manages the property.
16 This designation shall be accompanied by a notarized statement
17 by the designated person that he or she accepts the designation.

18 (e) In addition to the registration required under subdivision
19 (b), the person or entity that acquires an ownership interest in the
20 property shall deposit into an escrow account established by a city
21 or county for that purpose, an amount sufficient to fund the
22 correction of the violations that are the subject of the recorded
23 notice described in subdivision (a). An ordinance establishing an
24 escrow account shall specify, at a minimum, the conditions under
25 which the funds shall be released.

26 (f) The enforcement agency, upon request, may disclose to the
27 subject property's tenants, *or tenants association or organization*,
28 the name and address of the person or entity that acquires an
29 ownership interest in the property.

30 (g) Nothing in this section prevents local government from
31 adopting and enforcing laws consistent with this section. Where
32 local laws duplicate or supplement this section, this section shall
33 be construed as providing alternative remedies and not preempting
34 the field of the subject matter.

35 (h) Notwithstanding Chapter 6 (commencing with Section
36 17995), a person or entity that fails to comply with this section or
37 provides false information to an enforcement agency is guilty of
38 a misdemeanor and shall be punished by a term of imprisonment
39 in the county jail for a period of not more than one year, or by a

1 fine of not more than ten thousand dollars (\$10,000), or by both
2 the term of imprisonment and the fine.

3 *(i) A person or entity that is not in compliance with this section*
4 *shall not demand rent, collect rent, issue a notice of rent increase,*
5 *or issue a three-day notice to pay rent or quit pursuant to*
6 *subdivision (2) of Section 1161 of the Code of Civil Procedure.*

7 ~~(i)~~

8 *(j) This section does not apply to real property owned by a*
9 *governmental entity.*

10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution for certain
12 costs that may be incurred by a local agency or school district
13 because, in that regard, this act creates a new crime or infraction,
14 eliminates a crime or infraction, or changes the penalty for a crime
15 or infraction, within the meaning of Section 17556 of the
16 Government Code, or changes the definition of a crime within the
17 meaning of Section 6 of Article XIII B of the California
18 Constitution.

19 However, if the Commission on State Mandates determines that
20 this act contains other costs mandated by the state, reimbursement
21 to local agencies and school districts for those costs shall be made
22 pursuant to Part 7 (commencing with Section 17500) of Division
23 4 of Title 2 of the Government Code.