

AMENDED IN ASSEMBLY JUNE 5, 2007
AMENDED IN ASSEMBLY JUNE 1, 2007
AMENDED IN ASSEMBLY MAY 1, 2007
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 provide that enforcement agency with specified information and documents, 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 exempt from these provisions real property owned by a governmental entity and real property owned by a financial institution, as specified, that has a recorded deed of trust on the real property and acquires possession of the real property pursuant to the terms and conditions of the loan.

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
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
13 agency to prevent or remedy an immediate threat to the health and
14 safety of the public or occupants of the structure, institute any
15 appropriate action or proceeding to prevent, restrain, correct, or
16 abate the violation or nuisance.

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

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

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

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

5 (2) In deciding whether to require vacation of the building or
6 to repair as necessary, the enforcement agency shall give preference
7 to the repair of the building whenever it is economically feasible
8 to do so without having to repair more than 75 percent of the
9 dwelling, as determined by the enforcement agency, and shall give
10 full consideration to the needs for housing as expressed in the local
11 jurisdiction's housing element.

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

15 (A) The notice of any violation described in subdivision (a) that
16 affects the health and safety of the occupants and that causes the
17 building to be substandard pursuant to Section 17920.3 or in
18 violation of Section 17920.10.

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

22 (C) The enforcement agency's decision to repair or demolish.

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

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

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

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

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

1 17994. (a) This section applies to a property for which an
2 enforcement agency has recorded with the county recorder any of
3 the following documents:

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

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

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

8 (b) Concurrent with the completion of an agreement of sale,
9 exchange of property, or closure of escrow, a person who acquires
10 an ownership interest in a property that is subject to this section
11 shall provide the enforcement agency with all of the following:

12 (1) A notarized document containing the following information:

13 (A) The person's name.

14 (B) The names of any coowners.

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

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

21 (E) The address of the subject property.

22 (F) The date of the transfer.

23 (G) A plan of correction for the substandard conditions that
24 includes estimates of a timeline, costs of repair, and available
25 financial resources, or a demolition plan that is in compliance with
26 local law, and includes estimates of a timeline and, if applicable,
27 relocation of tenants. Proof of liability insurance, if any, shall also
28 be provided.

29 (2) An identification document, and the expiration date of that
30 document. The identification document shall contain the name,
31 date of birth, description, and picture of the person, and shall be
32 issued by the federal government, the State of California, another
33 state, a county, a municipal government, or another country as
34 provided in this paragraph. The identification document may be,
35 but is not limited to, a driver's license, an identification card, or
36 an identification card issued to a member of the United States
37 Armed Forces. The identification document may also be a consulate
38 identification card issued by another country to its citizens and
39 nationals, if that identification card has been approved as valid

1 identification by the city or county where the property is located,
 2 or a passport issued by a foreign government.

3 (3) Verification under penalty of perjury that the information
 4 provided in the documents submitted under this subdivision is true
 5 and correct.

6 (c) If the entity that acquires an ownership interest in the
 7 property is a corporation, limited liability company, partnership,
 8 limited partnership, trust, or real estate investment trust, the
 9 information required under subdivision (b) shall be supplied for
 10 the following persons:

- 11 (1) For a corporation, a corporate officer.
- 12 (2) For a limited liability company, the managing or
 13 administrative member.
- 14 (3) For a partnership or a limited partnership, limited and general
 15 partners.
- 16 (4) For a trust, a trustee.
- 17 (5) For a real estate investment trust, a general partner or an
 18 officer.

19 (d) If the person or entity that acquires an ownership interest in
 20 the property resides or is domiciled outside this state, the person
 21 or entity shall designate for the purposes of this section a natural
 22 person who resides in this state and who manages the property.
 23 This designation shall be accompanied by a notarized statement
 24 by the designated person that he or she accepts the designation.

25 (e) (1) The enforcement agency, upon request, may disclose to
 26 the subject property’s tenants, or any tenant’s association or
 27 organization, the name and address of the person or entity that
 28 acquires an ownership interest in the property.

29 (2) The enforcement agency shall not disclose to a member of
 30 the public the information furnished under subparagraph (D) of
 31 paragraph (1) of, or paragraph (2) of, subdivision (b), unless so
 32 ordered by a court of competent jurisdiction.

33 (f) If the property has 16 units or more, and any portion of the
 34 property is occupied, the person who acquires an ownership interest
 35 shall post the information required under subparagraphs (A) to
 36 (F), inclusive, of paragraph (1) of subdivision (b), within 15 days
 37 after the date of sale or other transfer of the property, on a notice
 38 that is typed in not less than a 20-point font, and is placed in a
 39 locked bulletin board that is located on the property, affixed in a

1 visible and conspicuous location, and is not more than five feet
2 above the ground.

3 (g) Nothing in this section shall prevent local government from
4 adopting and enforcing laws consistent with this section. When
5 local laws duplicate or supplement this section, this section shall
6 be construed as providing alternative remedies and not as
7 preempting the field of the subject matter.

8 (h) Notwithstanding Chapter 6 (commencing with Section
9 17995), a person or entity that fails to comply with this section or
10 provides false information to an enforcement agency is guilty of
11 a misdemeanor and shall be punished by a term of imprisonment
12 in the county jail for a period of not more than one year, or by a
13 fine of not more than ten thousand dollars (\$10,000), or by both
14 the term of imprisonment and the fine.

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

19 (j) This section does not apply to real property owned by a
20 ~~governmental entity, or to a bank, bank holding company, savings
21 and loan association, or credit union, or to a residential mortgage
22 lender licensed under Division 20 (commencing with Section
23 50000) of the Financial Code; either of the following:~~

24 (1) *A governmental entity.*

25 (2) *A financial institution that has a recorded deed of trust on
26 the real property that secures a loan and acquires possession of
27 the real property pursuant to the terms and conditions of the loan.
28 For the purposes of this section, "financial institution" is a bank,
29 trust company, savings association, savings and loan association,
30 industrial bank, finance lender in this state, residential mortgage
31 lender, or credit union that is authorized to transact business under
32 federal law or the laws of this state.*

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

1 meaning of Section 6 of Article XIII B of the California
2 Constitution.

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

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