

AMENDED IN SENATE JULY 10, 2007
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~~ *Sections 17980 and 17991* 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~~ *impose specified civil penalties for failure to comply with the these 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. This bill would authorize a public prosecutor to bring a civil action seeking a civil penalty, and provide that the civil penalty shall be a lien on the property and enforceable as a civil judgment.*

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. *This bill would further provide a 60-day exemption for a lender, as defined, to comply with these provisions.*

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.~~

(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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

1 Standards Code, or other rules and regulations adopted pursuant
2 to this part. The owner shall have the choice of repairing or
3 demolishing. However, if the owner chooses to repair, the
4 enforcement agency shall require that the building be brought into
5 compliance according to a reasonable and feasible schedule for
6 expeditious repair. The enforcement agency may require vacation
7 and demolition or may itself vacate the building, repair, demolish,
8 or institute any other appropriate action or proceeding, if any of
9 the following occurs:

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

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

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

18 (2) In deciding whether to require vacation of the building or
19 to repair as necessary, the enforcement agency shall give preference
20 to the repair of the building whenever it is economically feasible
21 to do so without having to repair more than 75 percent of the
22 dwelling, as determined by the enforcement agency, and shall give
23 full consideration to the needs for housing as expressed in the local
24 jurisdiction's housing element.

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

28 (A) The notice of any violation described in subdivision (a) that
29 affects the health and safety of the occupants and that causes the
30 building to be substandard pursuant to Section 17920.3 or in
31 violation of Section 17920.10.

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

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

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

38 (2) Each document provided pursuant to paragraph (1) shall be
39 provided to each affected residential unit by the enforcement

1 agency that issued the order or notice, in the manner prescribed
2 by subdivision (a) of Section 17980.6.

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

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

12 *SEC. 2. Section 17991 of the Health and Safety Code is*
13 *amended to read:*

14 17991. (a) The sale or other transfer of property to a third party
15 shall not render moot an administrative or judicial action or
16 proceeding pursuant to this article, including an action under
17 Section 17982, instituted by an enforcement agency, or a receiver
18 on behalf of an enforcement agency, against the owner of record
19 on the date a citation for, or other notice of, a violation of this part
20 was issued.

21 (b) In the event of any sale or other transfer of property to a
22 third party during the period between the issuance of the notice of
23 violation and the abatement of the violation, or any administrative
24 or judicial actions related thereto, within five days after the sale
25 or transfer occurs, the transferor shall record a Notice of
26 Conveyance of Substandard Property with the county recorder
27 where the property is located, identifying the name and address of
28 the buyer or transferee and executed with a signature that the
29 information is true and correct, under penalty of perjury.

30 ~~(c) In the event of any sale or other transfer of property to a~~
31 ~~third party during the period between the issuance of the notice of~~
32 ~~violation and the abatement of the violation, or any administrative~~
33 ~~or judicial actions related thereto, the transferor shall provide all~~
34 ~~of the following information to the enforcement agency within~~
35 ~~five days after the sale or transfer occurs:~~

36 ~~(1) If the seller or transferor is not an individual person, the~~
37 ~~name, address, and driver's license number or identification card~~
38 ~~number of each individual who has an interest in excess of 5~~
39 ~~percent in the entity which is selling or transferring the property.~~

1 ~~(2) If the buyer or transferee is an individual person, the name,~~
2 ~~address, and driver's license number or identification number of~~
3 ~~that individual.~~

4 ~~(3) If the buyer or transferee is not an individual person, the~~
5 ~~name, address, and driver's license number or identification card~~
6 ~~number of each individual who has an interest in excess of 5~~
7 ~~percent in the entity that is the buyer or transferee of the property.~~

8 SEC. 2.

9 SEC. 3. Section 17994 is added to the Health and Safety Code,
10 to read:

11 17994. (a) This section applies to a property for which an
12 enforcement agency has recorded with the county recorder any of
13 the following documents:

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

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

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

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

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

23 (A) The person's name.

24 (B) The names of any coowners.

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

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

31 (E) The address of the subject property.

32 (F) The date of the transfer.

33 ~~(G) A plan of correction for the substandard conditions that~~
34 ~~includes estimates of a timeline, costs of repair, and available~~
35 ~~financial resources, or a demolition plan that is in compliance with~~
36 ~~local law, and includes estimates of a timeline and, if applicable,~~
37 ~~relocation of tenants. Proof of liability insurance, if any, shall also~~
38 ~~be provided.~~

39 (2) An identification document, and the expiration date of that
40 document. The identification document shall contain the name,

1 date of birth, description, and picture of the person, and shall be
2 issued by the federal government, the State of California, another
3 state, a county, a municipal government, or another country as
4 provided in this paragraph. The identification document may be,
5 but is not limited to, a driver's license, an identification card, or
6 an identification card issued to a member of the United States
7 Armed Forces. The identification document may also be a consulate
8 identification card issued by another country to its citizens and
9 nationals, if that identification card has been approved as valid
10 identification by the city or county where the property is located,
11 or a passport issued by a foreign government.

12 ~~(3) Verification under penalty of perjury that the information~~
13 ~~provided in the documents submitted under this subdivision is true~~
14 ~~and correct.~~

15 *(c) Within 30 days of the completion of sale, exchange of*
16 *property, or closure of escrow, a plan of correction shall be*
17 *submitted to the enforcement agency for the substandard conditions*
18 *that includes estimates of a timeline, costs of repair, and available*
19 *financial resources, or a demolition plan that is in compliance*
20 *with local law, and includes estimates of a timeline and, if*
21 *applicable, relocation of tenants. Proof of liability insurance, if*
22 *any, shall also be provided.*

23 ~~(e)~~

24 *(d) If the entity that acquires an ownership interest in the*
25 *property is a corporation, limited liability company, partnership,*
26 *limited partnership, trust, or real estate investment trust, the*
27 *information required under subdivision (b) shall be supplied for*
28 *the following persons:*

29 *(1) For a corporation, a corporate officer.*

30 *(2) For a limited liability company, the managing or*
31 *administrative member.*

32 *(3) For a partnership or a limited partnership, limited and general*
33 *partners.*

34 *(4) For a trust, a trustee.*

35 *(5) For a real estate investment trust, a general partner or an*
36 *officer.*

37 ~~(f)~~

38 *(e) If the person or entity that acquires an ownership interest in*
39 *the property resides or is domiciled outside this state, the person*
40 *or entity shall designate for the purposes of this section a natural*

1 person who resides in this state and who manages the property.
2 This designation shall be accompanied by a notarized statement
3 by the designated person that he or she accepts the designation.

4 (e)

5 (f) (1) The enforcement agency, upon request, may disclose to
6 the subject property's tenants, or any tenant's association or
7 organization, the name and address of the person or entity that
8 acquires an ownership interest in the property.

9 (2) The enforcement agency shall not disclose to a member of
10 the public the information furnished under subparagraph (D) of
11 paragraph (1) of, or paragraph (2) of, subdivision (b), *or*
12 *subdivision (c)*, unless so ordered by a court of competent
13 jurisdiction.

14 (f)

15 (g) If the property has 16 units or more, and any portion of the
16 property is occupied, the person who acquires an ownership interest
17 shall post the information required under subparagraphs (A) to
18 (F), inclusive, of paragraph (1) of subdivision (b), within 15 days
19 after the date of sale or other transfer of the property, on a notice
20 that is typed in not less than a 20-point font, and is placed in a
21 locked bulletin board that is located on the property, affixed in a
22 visible and conspicuous location, and is not more than five feet
23 above the ground.

24 (g)

25 (h) Nothing in this section shall prevent local government from
26 adopting and enforcing laws ~~consistent with this section. When~~
27 ~~local laws that duplicate or supplement this section, this section.~~
28 *This section shall be construed as providing alternative remedies*
29 *and not as preempting the field of the subject matter.*

30 (h)

31 (i) Notwithstanding Chapter 6 (commencing with Section
32 17995), a person or entity that fails to comply with this section or
33 *knowingly* provides false information to an enforcement agency
34 ~~is guilty of a misdemeanor and shall be punished by a term of~~
35 ~~imprisonment in the county jail for a period of not more than one~~
36 ~~year, or by a fine of not more than ten thousand dollars (\$10,000),~~
37 ~~or by both the term of imprisonment and the fine. shall be subject~~
38 *to a civil penalty for each violation in the minimum amount of two*
39 *thousand five hundred dollars (\$2,500) and the maximum amount*
40 *of twenty-five thousand dollars (\$25,000). An action for a civil*

1 *penalty under this provision may be brought by any public*
2 *prosecutor in the name of the people of the State of California and*
3 *the penalty imposed shall be a lien on the property and enforceable*
4 *as a civil judgment.*

5 (i)

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

10 (j)

11 (k) This section does not apply to real property owned by either
12 of the following:

13 (1) A governmental entity.

14 (2) A financial institution that has a recorded deed of trust on
15 the real property that secures a loan and acquires possession of the
16 real property pursuant to the terms and conditions of the loan. For
17 the purposes of this section, “financial institution” is a bank, trust
18 company, savings association, savings and loan association,
19 industrial bank, finance lender in this state, residential mortgage
20 lender, or credit union that is authorized to transact business under
21 federal law or the laws of this state.

22 (l) *A lender other than a financial institution that has a recorded*
23 *deed of trust on the real property securing a loan and that acquires*
24 *possession of the real property through judicial or nonjudicial*
25 *foreclosure pursuant to the terms and conditions of the loan shall*
26 *be exempt from this section for 60 days after acquiring possession*
27 *of the real property. For purposes of this subdivision, “lender” is*
28 *a beneficiary under a deed of trust made or arranged by a financial*
29 *institution or real estate broker.*

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.

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