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AMENDED IN SENATE JULY 10, 2007

AMENDED IN ASSEMBLY JUNE 5, 2007

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CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 864

Introduced by Assembly Member Davis

February 22, 2007

An act to amend 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, concurrently with the completion 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 impose specified civil penalties for failure to comply with these reporting requirements. ~~This~~ *The* 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~~ *The* 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, 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
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 17991 of the Health and Safety Code is
39 amended to read:

1 17991. (a) The sale or other transfer of property to a third party
 2 shall not render moot an administrative or judicial action or
 3 proceeding pursuant to this article, including an action under
 4 Section 17982, instituted by an enforcement agency, or a receiver
 5 on behalf of an enforcement agency, against the owner of record
 6 on the date a citation for, or other notice of, a violation of this part
 7 was issued.

8 (b) In the event of any sale or other transfer of property to a
 9 third party during the period between the issuance of the notice of
 10 violation and the abatement of the violation, or any administrative
 11 or judicial actions related thereto, within five days after the sale
 12 or transfer occurs, the transferor shall record a Notice of
 13 Conveyance of Substandard Property with the county recorder
 14 where the property is located, identifying the name and address of
 15 the buyer or transferee and executed with a signature that the
 16 information is true and correct, under penalty of perjury.

17 (c) *In the event of any sale or other transfer of property, other*
 18 *than a property subject to Section 17994, to a third party during*
 19 *the period between the issuance of the notice of violation and the*
 20 *abatement of the violation, or any administrative or judicial actions*
 21 *related thereto, the transferor shall provide all of the following*
 22 *information to the enforcement agency within five days after the*
 23 *sale or transfer occurs:*

24 (1) *If the seller or transferor is not an individual person, the*
 25 *name, address, and driver’s license number or identification card*
 26 *number of each individual who has an interest in excess of 5*
 27 *percent in the entity that is selling or transferring the property.*

28 (2) *If the buyer or transferee is an individual person, the name,*
 29 *address, and driver’s license number or identification number of*
 30 *that individual.*

31 (3) *If the buyer or transferee is not an individual person, the*
 32 *name, address, and driver’s license number or identification card*
 33 *number of each individual who has an interest in excess of 5*
 34 *percent in the entity that is the buyer or transferee of the property.*

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

37 17994. (a) This section applies to a property ~~for which an~~ *that*
 38 *meets both of the following criteria:*

39 (1) An enforcement agency has recorded with the county
 40 recorder any of the following documents:

1 ~~(1)~~
2 (A) A notice of pending action pursuant to Section 17985.
3 ~~(2)~~
4 (B) A notice of substandard conditions or a notice of substandard
5 building pursuant to a local ordinance.
6 ~~(3)~~
7 (C) A document stating that a building is uninhabitable.
8 (2) *Any document referred to in paragraph (1) that is recorded*
9 *on or after July 1, 2008, contains the following statements: “State*
10 *law requires disclosures to be made to the local enforcement*
11 *agency upon transfer of a substandard property. Local enforcement*
12 *agencies may impose additional obligations.”*
13 (b) Concurrent with the completion of sale, exchange of
14 property, or closure of escrow, a person who acquires an ownership
15 interest in a property that is subject to this section shall provide
16 the enforcement agency with all of the following:
17 (1) A notarized document containing the following information:
18 (A) The person’s name.
19 (B) The names of any coowners.
20 (C) The address of any person identified under subparagraph
21 (A) or (B). The address shall not be a post office box or other
22 mailbox number. If the property is vacant, the address provided
23 under this paragraph shall not be the address of the property.
24 (D) The telephone number, fax number, and e-mail address of
25 any person identified under subparagraph (A) or (B).
26 (E) The address of the subject property.
27 (F) The date of the transfer.
28 (2) An identification document, and the expiration date of that
29 document. The identification document shall contain the name,
30 date of birth, description, and picture of the person, and shall be
31 issued by the federal government, the State of California, another
32 state, a county, a municipal government, or another country as
33 provided in this paragraph. The identification document may be,
34 but is not limited to, a driver’s license, an identification card, or
35 an identification card issued to a member of the United States
36 Armed Forces. The identification document may also be a consulate
37 identification card issued by another country to its citizens and
38 nationals, if that identification card has been approved as valid
39 identification by the city or county where the property is located,
40 or a passport issued by a foreign government.

1 (c) Within 30 *calendar* days ~~of~~ *after* the completion of sale,
2 exchange of property, or closure of escrow, a plan of correction
3 shall be submitted to the enforcement agency for the substandard
4 conditions that includes estimates of a timeline, costs of repair,
5 and available financial resources, or a demolition plan that is in
6 compliance with local law, and includes estimates of a timeline
7 and, if applicable, relocation of tenants. Proof of liability insurance,
8 if any, shall also be provided. *The information required under this*
9 *subdivision may be submitted by personal service, facsimile,*
10 *electronic mail, or United States mail. If the United States mail is*
11 *utilized, the information shall be placed in the mail five days or*
12 *more prior to the due date.*

13 (d) If the entity that acquires an ownership interest in the
14 property is a corporation, limited liability company, partnership,
15 limited partnership, trust, or real estate investment trust, the
16 information required under subdivision (b) shall be supplied for
17 the following persons:

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

19 (2) For a limited liability company, the managing or
20 administrative member.

21 (3) For a partnership or a limited partnership, limited and general
22 partners.

23 (4) For a trust, a trustee.

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

26 (e) If the person or entity that acquires an ownership interest in
27 the property resides or is domiciled outside this state, the person
28 or entity shall designate for the purposes of this section a natural
29 person who resides in this state and who manages the property.
30 This designation shall be accompanied by a notarized statement
31 by the designated person that he or she accepts the designation.

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

36 (2) The enforcement agency shall not disclose to a member of
37 the public the information furnished under subparagraph (D) of
38 paragraph (1) of, or paragraph (2) of, subdivision (b), or
39 subdivision (c), unless so ordered by a court of competent
40 jurisdiction.

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

10 (h) Nothing in this section shall prevent local government from
11 adopting and enforcing laws that duplicate or supplement this
12 section. This section shall be construed as providing alternative
13 remedies and not as preempting the field of the subject matter.

14 (i) Notwithstanding Chapter 6 (commencing with Section
15 17995), a person or entity that fails to comply with this section or
16 knowingly provides false information to an enforcement agency
17 shall be subject to a civil penalty for each violation in the minimum
18 amount of two thousand five hundred dollars (\$2,500) and the
19 maximum amount of twenty-five thousand dollars (\$25,000). An
20 action for a civil penalty under this provision may be brought by
21 any public prosecutor in the name of the people of the State of
22 California and the penalty imposed shall be a lien on the property
23 and enforceable as a civil judgment.

24 (j) A person or entity that is not in compliance with this section
25 shall not demand rent, collect rent, issue a notice of rent increase,
26 or issue a three-day notice to pay rent or quit pursuant to
27 subdivision (2) of Section 1161 of the Code of Civil Procedure *for*
28 *a unit that has been deemed substandard or a unit that is part of*
29 *a building that has been deemed substandard.*

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

32 (1) A governmental entity.

33 (2) A financial institution that has a recorded deed of trust on
34 the real property that secures a loan and acquires possession of the
35 real property pursuant to the terms and conditions of the loan. For
36 the purposes of this section, “financial institution” is a bank, trust
37 company, savings association, savings and loan association,
38 industrial bank, finance lender in this state, residential mortgage
39 lender, or credit union that is authorized to transact business under
40 federal law or the laws of this state.

1 (l) A lender other than a financial institution that has a recorded
 2 deed of trust on the real property securing a loan and that acquires
 3 possession of the real property through judicial or nonjudicial
 4 foreclosure pursuant to the terms and conditions of the loan shall
 5 be exempt from this section for 60 *calendar* days after acquiring
 6 possession of the real property. For purposes of this subdivision,
 7 “lender” is a beneficiary under a deed of trust made or arranged
 8 by a financial institution or real estate broker.

9 (m) *Nothing in this section affects the obligation of a person*
 10 *subject to this section to comply with any other provision of law*
 11 *or to comply with an order issued by an enforcement agency.*

12 SEC. 4. If the Commission on State Mandates determines that
 13 this act contains costs mandated by the state, reimbursement to
 14 local agencies and school districts for those costs shall be made
 15 pursuant to Part 7 (commencing with Section 17500) of Division
 16 4 of Title 2 of the Government Code.

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 18 _____
 19 **CORRECTIONS:**
 20 **Text—Page 8.**
 21 _____