

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1356

Introduced by Assembly Member Houston

February 23, 2007

An act to amend Section 1695.17 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1356, as amended, Houston. Real property: equity purchasers.

(1) Under existing law, an equity purchaser is liable for all damages resulting from any statement made or act committed by the representative of the equity purchaser, as defined, in any manner connected with the equity purchaser's acquisition of a residence in foreclosure, receipt of any consideration or property from or on behalf of the equity seller, or the performance of certain prohibited acts. Existing law requires the representative of the equity purchaser to provide a statement in writing to all parties to the contract, under penalty of perjury, and written proof of licensure and bonding to the equity seller, as specified.

This bill would instead require the representative of an equity purchaser to provide to the parties to a contract written proof of licensure, as specified. The bill would also require the representative to provide a statement under penalty of perjury and written proof that he or she has *either (1) satisfied a certain ~~minimal~~ minimum professional liability coverage requirement or (2) met a certain minimum bonding requirements or that he or she requirement and* has an unrestricted real estate license in good standing *and, as described by the regulations of the Real Estate Commissioner, that ~~his or her~~ license is not restricted*

pursuant to the Real Estate Recovery Program, as specified. *Because the bill would expand the scope of the existing crime of perjury, it would impose a state-mandated local program.*

(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 no reimbursement is required by this act for a specified reason.

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 1695.17 of the Civil Code is amended
2 to read:

3 1695.17. (a) A representative, as defined in subdivision (b)
4 of Section 1695.15, deemed to be the agent or employee, or both
5 the agent and the employee of the equity purchaser is required to
6 provide written proof to the parties to the contract that the
7 representative has a valid current California Real Estate Sales
8 License and that the representative meets the financial
9 responsibility requirement described in subdivision (c).

10 (b) The failure to comply with subdivision (a) shall at the option
11 of the equity seller render the equity purchase contract void and
12 the equity purchaser shall be liable to the equity seller for all
13 damages proximately caused by the failure to comply.

14 (c) For purposes of this section, a representative shall
15 demonstrate financial responsibility by providing written proof of
16 and a statement under penalty of perjury that he or she has ~~any~~
17 *either* of the following:

18 (1) Professional liability coverage in an amount equal to at least
19 twice the value of the property that is subject to the contract, *or*
20 *one million dollars (\$1,000,000), whichever is less; and an*
21 *unrestricted real estate license in good standing as described by*
22 *the regulations of the Real Estate Commissioner pursuant to*
23 *Chapter 6 (commencing with Section 2705) of Title 10 of the*
24 *California Code of Regulations, that is not restricted under the*
25 *Real Estate Recovery Program pursuant to Chapter 6.5*
26 *(commencing with Section 10470) of Part 1 of Division 4 of the*
27 *Business and Professions Code.*

1 (2) A surety bond in an amount equal to at least twice the value
2 of the property that is subject to the contract.

3 ~~(3) An unrestricted real estate license in good standing as~~
4 ~~described by the regulations of the Real Estate Commissioner~~
5 ~~pursuant to Chapter 6 (commencing with Section 2705) of Title~~
6 ~~10 of the California Code of Regulations, and that his or her license~~
7 ~~is not restricted under the Real Estate Recovery Program pursuant~~
8 ~~to Chapter 6.5 (commencing with Section 10470) of Part 1 of~~
9 ~~Division 4 of the Business and Professions Code.~~

10 SEC. 2. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.