

ASSEMBLY BILL

No. 1745

Introduced by Assembly Member Torres

February 17, 2012

An act to amend Section 2929.3 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1745, as introduced, Torres. Real property: maintenance of foreclosed property.

Existing law, until January 1, 2013, requires a legal owner to maintain vacant residential property purchased at a foreclosure sale, or acquired by that owner through foreclosure under a mortgage or deed of trust. Existing law, until January 1, 2013, authorizes a governmental entity to impose civil fines and penalties for failure to maintain that property of up to \$1,000 per day for a violation. Existing law, until January 1, 2013, requires a governmental entity that seeks to impose those fines and penalties to give notice of the claimed violation and an opportunity to correct the violation at least 14 days prior to imposing the fines and penalties, and to allow a hearing for contesting those fines and penalties.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2929.3 of the Civil Code is amended to
2 read:

1 2929.3. (a) (1) A legal owner shall maintain vacant residential
2 property purchased by that owner at a foreclosure sale, or acquired
3 by that owner through foreclosure under a mortgage or deed of
4 trust. A governmental entity may impose a civil fine of up to one
5 thousand dollars (\$1,000) per day for a violation. If the
6 governmental entity chooses to impose a fine pursuant to this
7 section, it shall give notice of the alleged violation, including a
8 description of the conditions that gave rise to the allegation, and
9 notice of the entity's intent to assess a civil fine if action to correct
10 the violation is not commenced within a period of not less than 14
11 days and completed within a period of not less than 30 days. The
12 notice shall be mailed to the address provided in the deed or other
13 instrument as specified in subdivision (a) of Section 27321.5 of
14 the Government Code, or, if none, to the return address provided
15 on the deed or other instrument.

16 (2) The governmental entity shall provide a period of not less
17 than 30 days for the legal owner to remedy the violation prior to
18 imposing a civil fine and shall allow for a hearing and opportunity
19 to contest any fine imposed. In determining the amount of the fine,
20 the governmental entity shall take into consideration any timely
21 and good faith efforts by the legal owner to remedy the violation.
22 The maximum civil fine authorized by this section is one thousand
23 dollars (\$1,000) ~~for each~~ *per* day that the owner fails to maintain
24 the property, commencing on the day following the expiration of
25 the period to remedy the violation established by the governmental
26 entity.

27 (3) Subject to the provisions of this section, a governmental
28 entity may establish different compliance periods for different
29 conditions on the same property in the notice of alleged violation
30 mailed to the legal owner.

31 (b) For purposes of this section, "failure to maintain" means
32 failure to care for the exterior of the property, including, but not
33 limited to, permitting excessive foliage growth that diminishes the
34 value of surrounding properties, failing to take action to prevent
35 trespassers or squatters from remaining on the property, or failing
36 to take action to prevent mosquito larvae from growing in standing
37 water or other conditions that create a public nuisance.

38 (c) Notwithstanding subdivisions (a) and (b), a governmental
39 entity may provide less than 30 days' notice to remedy a condition
40 before imposing a civil fine if the entity determines that a specific

1 condition of the property threatens public health or safety and
2 provided that notice of that determination and time for compliance
3 is given.

4 (d) Fines and penalties collected pursuant to this section shall
5 be directed to local nuisance abatement programs.

6 (e) A governmental entity may not impose fines on a legal owner
7 under both this section and a local ordinance.

8 (f) These provisions shall not preempt any local ordinance.

9 (g) This section shall only apply to residential real property.

10 (h) The rights and remedies provided in this section are
11 cumulative and in addition to any other rights and remedies
12 provided by law.

13 (i) This section shall remain in effect only until January 1, 2013,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2013, deletes or extends that date.