

AMENDED IN SENATE APRIL 11, 2012
 AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1472

**Introduced by Senators Pavley and DeSaulnier
 (Coauthors: Senators Hancock and Leno)**

February 24, 2012

An act to amend Section 2929.3 of the ~~Code of Civil Procedure and Civil Code~~, and to amend Sections 17980 and 17980.7 of the Health and Safety Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1472, as amended, Pavley. Real property: blight.

(1) 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 ~~change the civil fine to up to \$5,000 per day for a violation~~. This bill would delete the repeal clause for these provisions and thus extend the operation of these provisions indefinitely.

(2) The State Housing Law requires the housing or building department or, if there is no building department, the health department, of every city, county, or city and county, or a specified environmental

agency, to enforce within its jurisdiction all of the State Housing Law, the building standards published in the State Building Standards Code, and other specified rules and regulations. If there is a violation of these provisions or any order or notice that gives a reasonable time to correct that violation, or if a nuisance exists, an enforcement agency is required, after 30 days' notice to abate the nuisance, to institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance.

This bill would prohibit an enforcement agency from commencing any action or proceeding until at least 60 days after a person takes title to the property, unless a shorter period of time is deemed necessary by the enforcement agency, as specified, if the person has purchased and is in the process of abating any violation at a residential property that had been foreclosed on or after January 1, 2008. This bill would require any entity that releases a lien securing a deed of trust or mortgage on a property for which a notice of pendency of action, as defined, has been recorded against the property, as specified, to notify the enforcement agency that issued the order or notice within 30 days of releasing the lien.

(3) Existing law authorizes, among other things, the enforcement agency to seek and the court to order imposition of specified penalties or the enforcement agency, tenant, or tenant association or organization to seek, and the court to order, the appointment of a receiver for a substandard building, if the owner of the property fails to comply within a reasonable time with the terms of an order or notice.

This bill would authorize a court to require the owner of the property to pay all unrecovered costs associated with the receivership in addition to any other remedy authorized by law.

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:
3 2929.3. (a) (1) A legal owner shall maintain vacant residential
4 property purchased by that owner at a foreclosure sale, or acquired
5 by that owner through foreclosure under a mortgage or deed of
6 trust. A governmental entity may impose a civil fine of up to ~~five~~
7 *one thousand dollars* (~~\$5,000~~) (*\$1,000*) per day for a violation. If

1 the governmental entity chooses to impose a fine pursuant to this
2 section, it shall give notice of the alleged violation, including a
3 description of the conditions that gave rise to the allegation, and
4 notice of the entity’s intent to assess a civil fine if action to correct
5 the violation is not commenced within a period of not less than 14
6 days and completed within a period of not less than 30 days. The
7 notice shall be mailed to the address provided in the deed or other
8 instrument as specified in subdivision (a) of Section 27321.5 of
9 the Government Code, or, if none, to the return address provided
10 on the deed or other instrument.

11 (2) The governmental entity shall provide a period of not less
12 than 30 days for the legal owner to remedy the violation prior to
13 imposing a civil fine and shall allow for a hearing and opportunity
14 to contest any fine imposed. In determining the amount of the fine,
15 the governmental entity shall take into consideration any timely
16 and good faith efforts by the legal owner to remedy the violation.
17 The maximum civil fine authorized by this section is ~~five one~~
18 ~~thousand dollars~~ ~~(\$5,000)~~ *(\$1,000)* for each day that the owner
19 fails to maintain the property, commencing on the day following
20 the expiration of the period to remedy the violation established by
21 the governmental entity.

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

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

33 (c) Notwithstanding subdivisions (a) and (b), a governmental
34 entity may provide less than 30 days’ notice to remedy a condition
35 before imposing a civil fine if the entity determines that a specific
36 condition of the property threatens public health or safety and
37 provided that notice of that determination and time for compliance
38 is given.

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

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

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

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

5 (h) The rights and remedies provided in this section are
6 cumulative and in addition to any other rights and remedies
7 provided by law.

8 SEC. 2. Section 17980 of the Health and Safety Code is
9 amended to read:

10 17980. (a) If any building is constructed, altered, converted,
11 or maintained in violation of any provision of, or in violation of
12 any order or notice that gives a reasonable time to correct that
13 violation issued by an enforcement agency pursuant to this part,
14 the building standards published in the California Building
15 Standards Code, or other rules and regulations adopted pursuant
16 to this part, or if a nuisance exists in any building or upon the lot
17 on which it is situated, the enforcement agency shall, after 30 days'
18 notice to abate the nuisance or violation, or a notice to abate with
19 a shorter period of time if deemed necessary by the enforcement
20 agency to prevent or remedy an immediate threat to the health and
21 safety of the public or occupants of the structure, institute any
22 appropriate action or proceeding to prevent, restrain, correct, or
23 abate the violation or nuisance. Notwithstanding the above, if a
24 person has purchased and is in the process of abating any violation
25 at a residential property that had been foreclosed on or after January
26 1, 2008, an enforcement agency shall not commence any action
27 or proceeding until at least 60 days after the person takes title to
28 the property, unless a shorter period of time is deemed necessary
29 by the enforcement agency to prevent or remedy an immediate
30 threat to the health and safety of the public or occupants of the
31 structure.

32 (b) If any entity releases a lien securing a deed of trust or
33 mortgage on a property for which a notice of pendency of action,
34 as defined in Section 405.2 of the Code of Civil Procedure, has
35 been recorded against the property by an enforcement agency
36 pursuant to subdivision (a) of Section 17985 of the Health and
37 Safety Code or Section 405.7 or 405.20 of the Code of Civil
38 Procedure, it shall notify the enforcement agency that issued the
39 order or notice within 30 days of releasing the lien.

1 (c) (1) Whenever the enforcement agency has inspected or
2 caused to be inspected any building and has determined that the
3 building is a substandard building or a building described in Section
4 17920.10, the enforcement agency shall commence proceedings
5 to abate the violation by repair, rehabilitation, vacation, or
6 demolition of the building. The enforcement agency shall not
7 require the vacating of a residential building unless it concurrently
8 requires expeditious demolition or repair to comply with this part,
9 the building standards published in the California Building
10 Standards Code, or other rules and regulations adopted pursuant
11 to this part. The owner shall have the choice of repairing or
12 demolishing. However, if the owner chooses to repair, the
13 enforcement agency shall require that the building be brought into
14 compliance according to a reasonable and feasible schedule for
15 expeditious repair. The enforcement agency may require vacation
16 and demolition or may itself vacate the building, repair, demolish,
17 or institute any other appropriate action or proceeding, if any of
18 the following occur:

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

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

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

27 (2) In deciding whether to require vacation of the building or
28 to repair as necessary, the enforcement agency shall give preference
29 to the repair of the building whenever it is economically feasible
30 to do so without having to repair more than 75 percent of the
31 dwelling, as determined by the enforcement agency, and shall give
32 full consideration to the needs for housing as expressed in the local
33 jurisdiction's housing element.

34 (d) (1) Notwithstanding subdivision (b) and notwithstanding
35 local ordinances, tenants in a residential building shall be provided
36 copies of any of the following:

37 (A) The notice of any violation described in subdivision (a) that
38 affects the health and safety of the occupants and that causes the
39 building to be substandard pursuant to Section 17920.3 or in
40 violation of Section 17920.10.

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

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

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

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

11 (e) All notices issued by the enforcement agency to correct
12 violations or to abate nuisances shall contain a provision notifying
13 the owner that, in accordance with Sections 17274 and 24436.5
14 of the Revenue and Taxation Code, a tax deduction may not be
15 allowed for interest, taxes, depreciation, or amortization paid or
16 incurred in the taxable year. In addition, in Los Angeles County,
17 the notice shall contain a provision notifying the owner that within
18 10 days of recordation of a notice of substandard conditions or
19 similar document, the owner is required to comply with Section
20 17997.

21 (f) The enforcement agency may charge the owner of the
22 building for its postage or mileage cost for sending or posting the
23 notices required to be given by this section.

24 SEC. 3. Section 17980.7 of the Health and Safety Code is
25 amended to read:

26 17980.7. If the owner fails to comply within a reasonable time
27 with the terms of the order or notice issued pursuant to Section
28 17980.6, the following provisions shall apply:

29 (a) The enforcement agency may seek and the court may order
30 imposition of the penalties provided for under Chapter 6
31 (commencing with Section 17995).

32 (b) (1) The enforcement agency may seek and the court may
33 order the owner to not claim any deduction with respect to state
34 taxes for interest, taxes, expenses, depreciation, or amortization
35 paid or incurred with respect to the cited structure, in the taxable
36 year of the initial order or notice, in lieu of the enforcement agency
37 processing a violation in accordance with Sections 17274 and
38 24436.5 of the Revenue and Taxation Code.

39 (2) If the owner fails to comply with the terms of the order or
40 notice to correct the condition that caused the violation pursuant

1 to Section 17980.6, the court may order the owner to not claim
2 these tax benefits for the following year.

3 (c) The enforcement agency, tenant, or tenant association or
4 organization may seek and the court may order, the appointment
5 of a receiver for the substandard building pursuant to this
6 subdivision. In its petition to the court, the enforcement agency,
7 tenant, or tenant association or organization shall include proof
8 that notice of the petition was served not less than three days prior
9 to filing the petition, pursuant to Article 3 (commencing with
10 Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of
11 Civil Procedure, to all persons with a recorded interest in the real
12 property upon which the substandard building exists.

13 (1) In appointing a receiver, the court shall consider whether
14 the owner has been afforded a reasonable opportunity to correct
15 the conditions cited in the notice of violation.

16 (2) The court shall not appoint any person as a receiver unless
17 the person has demonstrated to the court his or her capacity and
18 expertise to develop and supervise a viable financial and
19 construction plan for the satisfactory rehabilitation of the building.
20 A court may appoint as a receiver a nonprofit organization or
21 community development corporation. In addition to the duties and
22 powers that may be granted pursuant to this section, the nonprofit
23 organization or community development corporation may also
24 apply for grants to assist in the rehabilitation of the building.

25 (3) If a receiver is appointed, the owner and his or her agent of
26 the substandard building shall be enjoined from collecting rents
27 from the tenants, interfering with the receiver in the operation of
28 the substandard building, and encumbering or transferring the
29 substandard building or real property upon which the building is
30 situated.

31 (4) Any receiver appointed pursuant to this section shall have
32 all of the following powers and duties in the order of priority listed
33 in this paragraph, unless the court otherwise permits:

34 (A) To take full and complete control of the substandard
35 property.

36 (B) To manage the substandard building and pay expenses of
37 the operation of the substandard building and real property upon
38 which the building is located, including taxes, insurance, utilities,
39 general maintenance, and debt secured by an interest in the real
40 property.

1 (C) To secure a cost estimate and construction plan from a
2 licensed contractor for the repairs necessary to correct the
3 conditions cited in the notice of violation.

4 (D) To enter into contracts and employ a licensed contractor as
5 necessary to correct the conditions cited in the notice of violation.

6 (E) To collect all rents and income from the substandard
7 building.

8 (F) To use all rents and income from the substandard building
9 to pay for the cost of rehabilitation and repairs determined by the
10 court as necessary to correct the conditions cited in the notice of
11 violation.

12 (G) To borrow funds to pay for repairs necessary to correct the
13 conditions cited in the notice of violation and to borrow funds to
14 pay for any relocation benefits authorized by paragraph (6) and,
15 with court approval, secure that debt and any moneys owed to the
16 receiver for services performed pursuant to this section with a lien
17 on the real property upon which the substandard building is located.
18 The lien shall be recorded in the county recorder's office in the
19 county within which the building is located.

20 (H) To exercise the powers granted to receivers under Section
21 568 of the Code of Civil Procedure.

22 (5) The receiver shall be entitled to the same fees, commissions,
23 and necessary expenses as receivers in actions to foreclose
24 mortgages.

25 (6) If the conditions of the premises or the repair or rehabilitation
26 thereof significantly affect the safe and sanitary use of the
27 substandard building by any tenant, to the extent that the tenant
28 cannot safely reside in his or her unit, then the receiver shall
29 provide relocation benefits in accordance with subparagraph (A)
30 of paragraph (3) of subdivision (d).

31 (7) The relocation compensation provided for in this section
32 shall not preempt any local ordinance that provides for greater
33 relocation assistance.

34 (8) In addition to any reporting required by the court, the
35 receiver shall prepare monthly reports to the state or local
36 enforcement agency which shall contain information on at least
37 the following items:

38 (A) The total amount of rent payments received.

39 (B) Nature and amount of contracts negotiated relative to the
40 operation or repair of the property.

1 (C) Payments made toward the repair of the premises.

2 (D) Progress of necessary repairs.

3 (E) Other payments made relative to the operation of the
4 building.

5 (F) Amount of tenant relocation benefits paid.

6 (9) The receiver shall be discharged when the conditions cited
7 in the notice of violation have been remedied in accordance with
8 the court order or judgment and a complete accounting of all costs
9 and repairs has been delivered to the court. Upon removal of the
10 condition, the owner, the mortgagee, or any lienor of record may
11 apply for the discharge of all moneys not used by the receiver for
12 removal of the condition and all other costs authorized by this
13 section.

14 (10) After discharging the receiver, the court may retain
15 jurisdiction for a time period not to exceed 18 consecutive months,
16 and require the owner and the enforcement agency responsible for
17 enforcing Section 17980 to report to the court in accordance with
18 a schedule determined by the court.

19 (11) The prevailing party in an action pursuant to this section
20 shall be entitled to reasonable attorney's fees and court costs as
21 may be fixed by the court.

22 (12) The county recorder may charge and collect fees for the
23 recording of all notices and other documents required by this
24 section pursuant to Article 5 (commencing with Section 27360)
25 of Chapter 6 of Division 2 of Title 3 of the Government Code.

26 (13) This section shall not be construed to limit those rights
27 available to tenants and owners under any other provision of the
28 law.

29 (14) This section shall not be construed to deprive an owner of
30 a substandard building of all procedural due process rights
31 guaranteed by the California Constitution and the United States
32 Constitution, including, but not limited to, receipt of notice of the
33 violation claimed and an adequate and reasonable period of time
34 to comply with any orders which are issued by the enforcement
35 agency or the court.

36 (15) Upon the request of a receiver, a court may require the
37 owner of the property to pay all unrecovered costs associated with
38 the receivership in addition to any other remedy authorized by
39 law.

1 (d) If the court finds that a building is in a condition which
2 substantially endangers the health and safety of residents pursuant
3 to Section 17980.6, upon the entry of any order or judgment, the
4 court shall do all of the following:

5 (1) Order the owner to pay all reasonable and actual costs of
6 the enforcement agency including, but not limited to, inspection
7 costs, investigation costs, enforcement costs, attorney fees or costs,
8 and all costs of prosecution.

9 (2) Order that the local enforcement agency shall provide the
10 tenant with notice of the court order or judgment.

11 (3) (A) Order that if the owner undertakes repairs or
12 rehabilitation as a result of being cited for a notice under this
13 chapter, and if the conditions of the premises or the repair or
14 rehabilitation thereof significantly affect the safe and sanitary use
15 of the premises by any lawful tenant, so that the tenant cannot
16 safely reside in the premises, then the owner shall provide or pay
17 relocation benefits to each lawful tenant. These benefits shall
18 consist of actual reasonable moving and storage costs and
19 relocation compensation. The actual moving and storage costs
20 shall consist of all of the following:

21 (i) Transportation of the tenant's personal property to the new
22 location. The new location shall be in close proximity to the
23 substandard premises, except where relocation to a new location
24 beyond a close proximity is determined by the court to be justified.

25 (ii) Packing, crating, unpacking, and uncrating the tenant's
26 personal property.

27 (iii) Insurance of the tenant's property while in transit.

28 (iv) The reasonable replacement value of property lost, stolen,
29 or damaged (not through the fault or negligence of the displaced
30 person, his or her agent or employee) in the process of moving,
31 where insurance covering the loss, theft, or damage is not
32 reasonably available.

33 (v) The cost of disconnecting, dismantling, removing,
34 reassembling, reconnecting, and reinstalling machinery, equipment,
35 or other personal property of the tenant, including connection
36 charges imposed by utility companies for starting utility service.

37 (B) (i) The relocation compensation shall be an amount equal
38 to the differential between the contract rent and the fair market
39 rental value determined by the federal Department of Housing and
40 Urban Development for a unit of comparable size within the area

1 for the period that the unit is being repaired, not to exceed 120
2 days.

3 (ii) If the court finds that a tenant has been substantially
4 responsible for causing or substantially contributing to the
5 substandard conditions, then the relocation benefits of this section
6 shall not be paid to this tenant. Each other tenant on the premises
7 who has been ordered to relocate due to the substandard conditions
8 and who is not substantially responsible for causing or contributing
9 to the conditions shall be paid these benefits and moving costs at
10 the time that he or she actually relocates.

11 (4) Determine the date when the tenant is to relocate, and order
12 the tenant to notify the enforcement agency and the owner of the
13 address of the premises to which he or she has relocated within
14 five days after the relocation.

15 (5) (A) Order that the owner shall offer the first right to
16 occupancy of the premises to each tenant who received benefits
17 pursuant to subparagraph (A) of paragraph (3), before letting the
18 unit for rent to a third party. The owner's offer on the first right
19 to occupancy to the tenant shall be in writing, and sent by first-class
20 certified mail to the address given by the tenant at the time of
21 relocation. If the owner has not been provided the tenant's address
22 by the tenant as prescribed by this section, the owner shall not be
23 required to provide notice under this section or offer the tenant the
24 right to return to occupancy.

25 (B) The tenant shall notify the owner in writing that he or she
26 will occupy the unit. The notice shall be sent by first-class certified
27 mail no later than 10 days after the notice has been mailed by the
28 owner.

29 (6) Order that failure to comply with any abatement order under
30 this chapter shall be punishable by civil contempt, penalties under
31 Chapter 6 (commencing with Section 17995), and any other
32 penalties and fines as are available.

33 (e) The initiation of a proceeding or entry of a judgment pursuant
34 to this section or Section 17980.6 shall be deemed to be a
35 "proceeding" or "judgment" as provided by paragraph (4) or (5)
36 of subdivision (a) of Section 1942.5 of the Civil Code.

37 (f) The term "owner," for the purposes of this section, shall
38 include the owner, including any public entity that owns residential
39 real property, at the time of the initial notice or order and any

1 successor in interest who had actual or constructive knowledge of
2 the notice, order, or prosecution.

3 (g) These remedies shall be in addition to those provided by
4 any other law.

5 (h) This section and Section 17980.6 shall not impair the rights
6 of an owner exercising his or her rights established pursuant to
7 Chapter 12.75 (commencing with Section 7060) of Division 7 of
8 Title 1 of the Government Code.

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