

BILL ANALYSIS

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|SENATE RULES COMMITTEE           |                               | SB 1472 |
|Office of Senate Floor Analyses  |                               |         |
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 THIRD READING

Bill No: SB 1472
 Author: Pavley (D), et al.
 Amended: 4/11/12
 Vote: 21

SENATE TRANSPORTATION & HOUSING COMMITTEE : 9-0, 4/17/12
 AYES: DeSaulnier, Gaines, Harman, Kehoe, Lowenthal,
 Pavley, Rubio, Simitian, Wyland

SENATE JUDICIARY COMMITTEE : 5-0, 4/24/12
 AYES: Evans, Harman, Blakeslee, Corbett, Leno

SUBJECT : Maintenance of foreclosed properties

SOURCE : Attorney General Kamala Harris

DIGEST : This bill provides certain purchasers of foreclosed residential properties 60 days to remedy code violations before being subject to enforcement actions and eliminates the sunset on existing provisions requiring an owner of a foreclosed, vacant, residential property to maintain the property.

ANALYSIS : Under Section 17980 of the Health and Safety Code, a local government enforcement agency may issue a notice of violation to the owner of a residential property for the failure to comply with building codes or for the existence of a nuisance on the property. After giving the owner 30 day notice to abate the violation or nuisance, or a shorter period of time if deemed necessary to prevent or

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public or occupants of the structure, the enforcement agency may institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance.

These actions or proceedings may include civil fines, prosecution of the owner for a misdemeanor, and in the case of a property that meets the definition of a substandard building, court appointment of a receiver. If a court appoints a receiver, the receiver takes full and complete control of the property, collects rents, and pays all operating expenses. The receiver also hires contractors to remedy the code violations. For his/her services, the receiver is entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. If the rents and other income from the property are insufficient to cover the costs of repair, the receiver may borrow funds and, with court approval, secure that debt and any unrecovered costs and fees of the receiver with a lien against the property.

A different section of law in the Civil Code, until January 1, 2013, requires the owner of a foreclosed, vacant, residential property to maintain the property. In this context, maintaining the property means caring for the exterior of the property, including, but not limited to, preventing excessive foliage growth that diminishes the value of surrounding properties, preventing trespassers or squatters from remaining on the property, preventing mosquito larvae from growing in standing water, and preventing other conditions that create a public nuisance. After giving the owner at least 30 days to remedy the violations, or less if conditions on the property threatens public health or safety, a governmental entity may impose a fine of up to \$1000 per day for a violation of these requirements. The governmental agency must allow for a hearing and the opportunity to contest any fine imposed. Current law directs these fine revenues to local nuisance abatement programs.

This bill:

1. With respect to code enforcement actions under Section

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17980 of the Health and Safety Code and except in the case of an immediate threat to the health and safety of the public or occupants, requires an enforcement agency to give a property owner 60 days, as opposed to the normal 30 days, to remedy a violation before commencing any action or proceeding if the property was foreclosed upon after January 1, 2008, the owner has purchased the property, and the owner is in the process of abating the violation.

2. Requires any entity releasing a lien securing a deed of

trust or mortgage on a property for which a code enforcement agency has recorded a notice of pending action to notify the enforcement agency within 30 days of releasing the lien.

3. Allows a receiver for substandard residential property to seek a court order ordering the property owner to pay all unrecovered costs associated with a receivership.
4. Deletes the sunset on the Civil Code provisions requiring an owner of a foreclosed, vacant, residential property to maintain the property.

Background

California leads the nation with one of the highest rates of foreclosures. According to RealtyTrac, in California, one in every 303 housing units received a foreclosure filing in March 2012, and 48,422 houses received a foreclosure notice in February alone. The San Diego CityBeat newspaper recently described the impact of blighted foreclosed properties on neighborhoods, noting:

. . . foreclosed, abandoned and neglected properties—largely clustered in San Diego's low-income neighborhoods—continue to be magnets for squatters, drug dealers, prostitutes and stray animals, reducing property values and potentially becoming public-health hazards. . . . [CityBeat's Kelly Davis'] piece led with the tale of Gabriela Castellanos, who had to close her home daycare business in Mountain View because parents were too concerned about the conditions and unseemly characters around nearby abandoned homes.

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Davis reported that a study by CPI [Center for Policy Initiatives] and ACCE [Alliance of Californians for Community Empowerment] found that an estimated 57,000 foreclosures in San Diego between 2008 and 2012 would cost the city upwards of \$134 million in police, fire and code-enforcement services and result in more than \$19 billion in lost property value. (San Diego CityBeat, "Fixing San Diego's foreclosure blight," April 11, 2012.)

Over the past few years, the California Legislature has passed legislation in an effort to respond to the ongoing foreclosure crisis. In 2008, the Legislature passed and the Governor signed SB 1137 (Perata, Corbett, Machado), Chapter 69, Statutes of 2008, an urgency measure intended to, among other things, encourage loan modifications in order to prevent avoidable foreclosures. SB 1137 also included provisions to empower local governments to protect residents from blight caused by foreclosed properties. Those provisions, which sunset January 1, 2013, require a legal owner to maintain vacant residential property, as

specified, and allow for the imposition of fines for the failure to maintain that property.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No
Local: No

SUPPORT : (Verified 4/24/12)

Attorney General Kamala Harris (source)
California Bankers Association
California Chamber of Commerce
California Credit Union League
California Financial Services Association
California Independent Bankers
California Mortgage Association
California Mortgage Bankers Association
California Nurses Association
California Professional Firefighters
Public Counsel
United Trustees Association

ARGUMENTS IN SUPPORT : According to the author's office, blight remains a significant problem in communities

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throughout California as a result of the foreclosure crisis. A number of foreclosed properties are left vacant with stagnant swimming pools that spawn mosquitoes. Empty rooms lure squatters. Vandals, brown lawns, and overgrown vegetation are creating eyesores and fire hazards.

Neglected, foreclosed properties subject the neighborhood and municipality to drug crimes, prostitution, and vagrants living in the foreclosed properties, vandalism, and a host of other social ills. As foreclosed properties fall deeper into disrepair, the values of the surrounding homes and businesses also deteriorate alarmingly, further adding to the "foreclosure blight" and destruction of whole neighborhoods.

This bill seeks to address blight associated with foreclosures by providing an incentive to potential homebuyers, investors, or developers to purchase blighted properties by preventing code enforcement actions against the new purchaser for 60 days, provided repairs are being made to the property, and by making permanent the Civil Code tools that allow local agencies to combat blight with fines of up to \$1,000 per violation per day.

JJA:do 4/25/12 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

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