

2014 Legislative Update of California Real Estate Laws

01.17.2014

Governor Jerry Brown signed more than 800 bills into law during the 2013 legislative session. Below we summarize some of the new legislation that impacts real estate ownership, development, finance and related matters. To read the full text of a bill, simply click on the link provided in the applicable heading.

LAND DEVELOPMENT, ENVIRONMENTAL AND ENTITLEMENT PROCESSING

Municipalities Can Compel Environmental Clean Up to Address Blight (AB 440; Health & Safety 25403, et seq.; Operative January 1, 2014) - [Read bill](#)

Cities and counties now have the authority to compel a property owner to clean up environmental contamination that is creating blight in the community. Municipalities can require a property owner to provide environmental reports, to commission environmental reports, clean up environmental contamination, and recover the full costs of cleaning up contamination at a blighted property. The legislation also provides immunity to the municipality which extends to any developer, lender or future owner of the property relating to releases addressed in the cleanup plan. This bill gives to municipalities a useful tool to facilitate economic investment in urban areas that was lost with the dissolution of redevelopment agencies in 2012.

Municipalities Can Create Economic Opportunities by Selling Property Below Fair Market Value (SB 470; Government Code 52200; Operative January 1, 2014) - [Read bill](#)

SB 470 permits cities and counties to sell or lease former redevelopment property sites for less than fair market value if the sale or lease will create economic opportunity and the total consideration is not less than fair market value. The municipality can also offer financial assistance for the acquisition, planning and financing of land assembly and development to create economic opportunity. "Economic opportunity" means entering into development agreements that will create or retain permanent jobs or increase property tax revenues by 15%, create affordable housing, implement a sustainable communities strategy or promote transit priority projects. One objective of this bill is to restore to cities some of the economic development tools that were lost when redevelopment agencies were dissolved under prior legislation.

CEQA Amendments Adopted to Benefit Infill Development (SB 743; Various sections of the Government Code and Public Resources Code; Operative January 1, 2014) - [Read bill](#)

The comprehensive CEQA reform bill many hoped for in 2013 was not adopted, but limited CEQA amendments were adopted that benefit certain infill development projects. The bill also requires the creation of new CEQA guidelines for evaluating traffic impacts. [Click here](#) to see our prior client advisory for additional details about SB 743.

Extension of Tentative Maps (AB 116; Government Code 65961, 66452.24; Operative July 11, 2013) - Read bill

An urgency statute was enacted in July of 2013 that extended the life of certain tentative maps by two years, as further described in our prior client advisory on this subject which is available [here](#).

Expanded Use of Park Fees (AB 1359; Welfare & Institutions Code 18914; Operative January 1, 2014) - Read bill

Approval of tentative maps or parcel maps is often subject to a requirement that the developer pay Quimby fees to support development of park and recreational facilities that will serve the proposed development. AB 1359 would permit Quimby fees to be used to develop or rehabilitate park and recreational facilities outside of the proposed subdivision if it is reasonably foreseeable that subdivision residents will use those facilities and certain other conditions and procedural requirements are satisfied. This will allow local agencies to provide new and upgraded park amenities to the broader community and may also help smaller, infill developments satisfy park requirements.

Charter Cities Must Pay Prevailing Wage on Construction Contracts (SB 7; Labor Code Section 1782; Operative on January 1, 2015) - Read bill

Beginning January 1, 2015, a charter city may no longer use or receive state funding or financial assistance for construction projects if the city's charter exempts contractors from paying prevailing wage. This does not affect state funding received prior to the January 1, 2015 cutoff date.

Wildfire Protection Planning (SB 1241; Government Code Sections 65302, 65302.5, 65040.20 and 66474.02; Public Resources Code Section 21083.01; Operative January 1, 2013)

Starting January 1, 2014, cities and counties are required to address fire safety risks for lands in state responsibility areas and very high fire hazard severity zones when they update the housing element of the general plan. Please see our 2013 California Real Estate Legislative Update for additional information.

REAL PROPERTY SALES, TRANSFERS AND FINANCING

Sale of Surplus State Property (AB 1421; Government Code Sections 11011.5, 14664; Operative on January 1, 2014) - Read bill

As of January 1, 2014, state agencies may only pay broker commissions to local real estate brokers in the sale of surplus state-owned real property. Prior law did not require the broker to be local with respect to the property. This bill also amends Government Code Section 14664 to authorize the Director of the Department of General Services to sell or exchange certain state real property (50 acres or less) to the owner of adjoining property if the state property does not have access to a public road.

New Reporting Requirements for Like-Kind Exchanges Involving Out-of-State Property (AB 92; Revenue & Taxation Code Section 24953; Affects Tax Years On or After January 1, 2014) - Read bill

For tax years beginning on or after January 1, 2014, taxpayers must file an information return with the Franchise Tax Board ("FTB") if the property acquired in an IRC Section 1031 like-kind exchange is located out of state. Taxpayers must continue to file an information return for each subsequent tax year in which the gain or loss for the exchange has not been recognized. If a taxpayer fails to file this information return, the FTB may estimate net income and assess taxes for the taxpayer based on any information available.

Sellers Must Disclose Lawsuits and Claims Affecting Sale of Real Property (SB 652; Civil Code Section 1102.6; Operative on July 1, 2014) - Read bill

Starting July 1, 2014, sellers of residential property must disclose known construction defect and breach of warranty claims affecting, or threatening to affect, the property. This disclosure will be made through the statutory Real Estate Transfer Disclosure Statement (TDS) that sellers must give to buyers, which has been revised to provide for these new disclosure matters. This disclosure requirement does not apply to new construction sales.

California Adopts 2010 Revision to UCC Article 9 (AB 502; Commercial Code Sections 9101 et seq.; Operative on July 1, 2014) - Read bill

In 2013, California enacted its version of the 2010 revision to Article 9 of the Uniform Commercial Code (UCC), which deals with security interests in personal property. The changes take effect in California on July 1, 2014, a year later than in most other states. The most prominent topic dealt with in the 2010 UCC revision was the often vexing question of how an individual debtor's name should be shown on the Financing Statement filed by a lender to perfect its security interest in the borrower's property. The 2010 UCC revision offered two alternatives for enacting states to consider: a requirement that a Financing Statement show an individual's name the same as it is shown on a driver's license, or, alternatively, a permissive safe harbor for showing the name in that fashion. Most states enacted the first of those alternatives. But the issue proved controversial in California, and neither alternative was enacted. Other aspects of the 2010 UCC revision were adopted, however, including other debtor-name rules and new Financing Statement forms. California lending transactions frequently require filings in another state, so it is important for lenders to know how to determine which state's laws govern and what those laws require. As a result of varying enactments of the 2010 UCC revision, different states have different rules.

Title Company Exemption for Recording Foreclosure Notices (SB 310; Civil Code 2924.25, 2924.26; Operative January 1, 2014) - Read bill

This bill exempts a licensed title company or underwritten title company, except when it is acting as a trustee, from liability for certain violations (contacting a borrower prior to filing a notice of default, recording a notice of default if a foreclosure prevention alternative is approved, recording a notice of sale while a foreclosure prevention alternative application is pending) if it records or causes to record a notice of default or notice of sale at the request of a trustee, substitute trustee, or beneficiary, in good faith and in the normal course of its business activities.

COMMON INTEREST DEVELOPMENTS

Commercial And Industrial Common Interest Developments (SB 752; various Business and Professions, Government, Civil and other Codes) - Read bill

This legislation creates the new Commercial and Industrial Common Interest Development Act which provides statutory requirements for the creation and regulation of commercial and industrial common interest developments. Click here for additional information about SB 752.

Pilot Program to Provide Enforce Vehicle Code Regulations on Association Property (SB 298; Government Code 53069.81; Operative January 1, 2014) - Read bill

As part of a pilot project, the Board of Supervisors of Orange County or any local city council within the county is authorized until January 1, 2017, to contract with a homeowners associations to provide supplemental law enforcement services to the association on an occasional or ongoing basis for the purposes of enforcing the Vehicle Code on the association's privately owned and maintained roads.

Clarification Regarding the Exemption for Standard Subdivisions (SB 184: Business and Professions 11010.4; Operative January 1, 2014) - Read bill

Existing law provides an exemption from filing an application for a public report with the California Bureau of Real Estate where each lot, parcel, or unit of the subdivision will be sold or offered for sale improved with a "completed residential structure" and all other improvements completed that are necessary for occupancy or with financial arrangements determined to be adequate by the city to ensure completion of the improvements. This bill clarifies that any lot, parcel, or unit satisfies the requirement that it be improved with a completed residential structure if it is improved with a completed residential structure at the time it is conveyed by the subdivider, rather than at the time the sales contract is executed.

SB 800 –Right to Repair Law Updates (AB 1317; Civil Code 895-945.5) - Read bill

Updates were made to California Civil Code Sections 895 through 945.5. The updated Civil Code provisions need to be included when providing Civil Code Sections 895 through 945.5 to home purchasers.

Reorganization and recodification of the Davis-Stirling Common Interest Development Act (AB 805 and AB 806; Civil Code Sections 4000, et seq.; Operative January 1, 2014)

Note also that the reorganization and recodification of the Davis-Stirling Common Interest Development Act to appear as Civil Code sections 4000, et seq. also becomes effective on January 1, 2014. Please see our 2013 California Real Estate Legislative Update for additional information about these changes.

REAL PROPERTY USE, OWNERSHIP AND MANAGEMENT

Urban Agriculture Incentive Zones Act (AB 551; Government Code 402.1, Revenue & Taxation Code 422.7; Operative January 1, 2014) - Read bill

This bill encourages urban farming by allowing landowners to obtain a reduced property tax rate in exchange for an agreement to use unimproved, vacant or otherwise blighted property for agricultural purposes for a minimum of 5 years. The urban farm can be as small as 0.10 acres, but no larger than 3 acres in size. This tax benefit will only be available in areas that have been designated by ordinance as Urban Agriculture Incentive Zones. Properties with residential dwellings are ineligible, so backyard farmers will not be able to take advantage of this incentive.

Neighbors are Presumed to be Equally Responsible for Fence Maintenance (AB 1404; Civil Code 841; Operative January 1, 2014) - Read bill

The Good Neighbor Fence Act of 2013 establishes a rebuttable presumption that adjoining landowners are equally responsible for the reasonable costs of constructing, maintaining or replacing a shared fence, unless there is a written agreement to the contrary. Procedures for pursuing maintenance and cost sharing of a shared fence, or rebutting the presumption about equal responsibility are also set forth in the legislation.

Master-Meter Landlords May Post Link to Online Utility Rates (SB 196; Civil Code Section 798.40; Operative on January 1, 2014) - Read bill

Landlords of apartment buildings and mobile homes using master meters are now required to post the specific current residential utility rate (as opposed to the prevailing residential utilities rate) published by the serving utility. Alternatively, these landlords may post the website address where the specific rate is listed if the landlord states within the post that it will provide a copy of the rate schedule at no cost upon request.

Victims of Human Trafficking May Terminate Leases Without Penalty (SB 612; Civil Code Section 1946.7; Operative on January 1, 2014) - Read bill

As of January 1, 2014, victims of human trafficking will be added to the list of protected individuals that may terminate a residential lease without penalty. A tenant wishing to terminate a lease under this statute must, within 180 days of a court order or other documentation, provide 30 days' written notice of termination and include sufficient documentation. Until January 1, 2016, this documentation may be in the form of specified statements from the tenant and from a health practitioner, domestic violence counselor, sexual assault counselor, or human trafficking caseworker. Still protected are victims of domestic violence, sexual assault, stalking, and elder abuse, and dependent adult abuse. Note that the definition of domestic violence has also been updated to include fiancés and those in dating relationships.

Issuance of a Building Permit Triggers a Requirement to Update Smoke Alarms (SB 1394 [2012] and SB 745) - Read bill

Starting January 1, 2014, remodeling a home will trigger the requirement to install updated smoke alarms if a building permit is issued for alterations, repairs or additions exceeding \$1,000. The smoke alarms installed must be approved and listed by the State Fire Marshal, and, commencing on July 1, 2014, such smoke alarms must have a nonreplaceable, nonremovable battery capable of powering the smoke alarm for 10 years (though a one-year exception is available permitting an owner to exhaust its supply of noncompliant smoke alarms that are in an owner's inventory as of July 1, 2014). Effective January 1, 2015, in addition to having a 10-year battery, the State Fire Marshal will also require smoke alarms to display the manufacture date, provide a place to write the date of installation of the smoke alarm, and incorporate a hush feature for the smoke alarm. On or before January 1, 2016, single family homes that are leased out will also be required to install additional smoke alarms, as needed, to ensure that smoke alarms are located in compliance with current building standards.

Remodeling Triggers a Requirement for Water Conserving Plumbing Fixtures (SB 745; Civil Code 1101.1 et seq., Health & Safety Code 17921.3) - Read bill

Health & Safety Code section 17921.3 requires that all toilets sold or installed in California after January 1, 2014 meet high-efficiency standards (maximum of 1.28 gallons per flush). With regard to single family homes, issuance of a building permit on or after January 1, 2014 will trigger a requirement to ensure that water-conserving plumbing fixtures are installed throughout that home. The law requires all of the following fixtures to be replaced such that they comply with current building standards applicable to newly constructed residences: (i) toilets manufactured to use more than 1.6 gallons of water per flush, (ii) showerheads manufactured to have a flow of more than 2.5 gallons of water per minute, or (iii) interior faucets that emit more than 2.2 gallons of water per minute. Although the statute is ambiguous, it appears that issuance of a building permit after January 1, 2014 for a multifamily home also requires installation of water-conserving fixtures, but only in the room for which the building permit authorizes work unless substantial alterations are proposed. Effective January 1,

2017, all plumbing fixtures within a single family residence must be water-conserving. Effective January 1, 2019, all plumbing fixtures within a multifamily residence must be water-conserving. Also starting on January 1, 2019, landlords of both single family and multifamily homes will be required to ensure that plumbing fixtures operate at the manufacturer's rated water consumption at the start of a tenancy.

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Practice Areas

Real Estate and Land Use