

AMENDED IN SENATE JULY 8, 2013  
AMENDED IN SENATE JUNE 24, 2013  
AMENDED IN ASSEMBLY APRIL 10, 2013  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1024**

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**Introduced by Assembly Member Torres**

February 22, 2013

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An act to amend Sections 11003.4 and 11013.1 of, and to add Section 11013.6 to, the Business and Professions Code, and to amend Section 5100 of the Civil Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1024, as amended, Torres. Real property: divided lands.

(1) Existing law exempts a limited-equity housing cooperative or a workforce housing cooperative trust from provisions of existing law governing subdivided land transactions that are applicable to stock cooperatives if the limited-equity housing cooperative or workforce housing cooperative trust complies with specified conditions.

This bill would revise the conditions for the exemption to, among other things, require that every party that executes a regulatory agreement with the cooperative satisfy itself that the rights of the cooperative members are provided adequate protection, as specified. By expanding the applicability of a crime, this bill would impose a state-mandated local program.

(2) Existing law prohibits the sale or lease of lots or parcels within a subdivision that is subject to a blanket encumbrance unless the encumbrance includes a specified release clause or certain conditions are met.

This bill would authorize the sale or lease of an individual interest in a defined stock cooperative or limited housing cooperative that is subject to a blanket encumbrance if specified conditions are met.

(3) The Davis-Stirling Common Interest Development Act establishes procedures for elections.

This bill would exempt a stock cooperative with bylaws that provide that all members and shareholders automatically become directors of the homeowners’ association from the procedures applicable to the election of directors of the homeowners’ association.

(4) 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 11003.4 of the Business and Professions  
2 Code is amended to read:

3 11003.4. (a) A “limited-equity housing cooperative” or a  
4 “workforce housing cooperative trust” is a corporation that meets  
5 the criteria of Section 11003.2 and that also meets the criteria of  
6 Sections 817 and 817.1 of the Civil Code, as applicable. Except  
7 as provided in subdivision (b), a limited-equity housing or  
8 workforce housing cooperative trust shall be subject to all the  
9 requirements of this chapter pertaining to stock cooperatives.

10 (b) A limited-equity housing cooperative or a workforce housing  
11 cooperative trust shall be exempt from the requirements of this  
12 chapter if the limited-equity housing cooperative or workforce  
13 housing cooperative trust complies with all the following  
14 conditions:

15 (1) The United States Department of Housing and Urban  
16 Development, the United States Department of Agriculture, the  
17 National Consumers Cooperative Bank, the California Housing  
18 Finance Agency, the Public Employees’ Retirement System  
19 (PERS), the State Teachers’ Retirement System (STRS), the  
20 Department of Housing and Community Development, the Federal  
21 Home Loan Bank System or any of its member institutions, a state

1 or federally chartered credit union, a state or federally certified  
2 community development financial institution, or the city, county,  
3 school district, or redevelopment agency in which the cooperative  
4 is located, alone or in any combination with each other, directly  
5 finances or subsidizes at least 50 percent of the total construction  
6 or development cost or one hundred thousand dollars (\$100,000),  
7 whichever is less; or the real property to be occupied by the  
8 cooperative was sold or leased by the Department of  
9 Transportation, other state agency, a city, a county, or a school  
10 district for the development of the cooperative and has a regulatory  
11 agreement approved by the Department of Housing and Community  
12 Development for the term of the permanent financing,  
13 notwithstanding the source of the permanent subsidy or financing.

14 (2) No more than 20 percent of the total development cost of a  
15 limited-equity mobilehome park, and no more than 10 percent of  
16 the total development cost of other limited-equity housing  
17 cooperatives, is provided by purchasers of membership shares.

18 (3) A regulatory agreement that covers the cooperative for a  
19 term of at least as long as the duration of the permanent financing  
20 or subsidy, notwithstanding the source of the permanent subsidy  
21 or financing, has been duly executed between the recipient of the  
22 financing and either (A) one of the federal or state agencies  
23 specified in paragraph (1) or (B) a local public agency that is  
24 providing financing for the project under a regulatory agreement  
25 meeting standards of the Department of Housing and Community  
26 Development. The regulatory agreement shall make provision for  
27 at least all of the following:

28 (A) Assurances for completion of the common areas and  
29 facilities to be owned or leased by the limited-equity housing  
30 cooperative, unless a construction agreement between the same  
31 parties contains written assurances for completion.

32 (B) Governing instruments for the organization and operation  
33 of the housing cooperative by the members.

34 (C) The ongoing fiscal management of the project by the  
35 cooperative, including an adequate budget, reserves, and provisions  
36 for maintenance and management.

37 (D) Distribution of a membership information report to any  
38 prospective purchaser of a membership share, prior to purchase  
39 of that share. The membership information report shall contain  
40 full disclosure of the financial obligations and responsibilities of

1 cooperative membership, the resale of shares, the financing of the  
2 cooperative including any arrangements made with any partners,  
3 membership share accounts, occupancy restrictions, management  
4 arrangements, and any other information pertinent to the benefits,  
5 risks, and obligations of cooperative ownership.

6 (4) Every party that executes the regulatory agreement shall  
7 satisfy itself that the bylaws, articles of incorporation, occupancy  
8 agreement, subscription agreement, any lease of the regulated  
9 premises, any arrangement with partners, and arrangement for  
10 membership share accounts provide adequate protection of the  
11 rights of cooperative members.

12 (5) Every provider of financing or subsidies shall receive from  
13 the attorney for the recipient of the financing or subsidy a legal  
14 opinion that the cooperative meets the requirements of Section  
15 817 of the Civil Code and the exemption provided by this section.

16 (c) Any limited-equity cooperative, or workforce housing  
17 cooperative trust that meets the requirements for exemption  
18 pursuant to subdivision (b) may elect to be subject to all provisions  
19 of this chapter.

20 (d) The developer of the cooperative shall notify the Bureau of  
21 Real Estate, on a form provided by the bureau, that an exemption  
22 is claimed under this section. The Bureau of Real Estate shall retain  
23 this form for at least four years for statistical purposes.

24 SEC. 2. Section 11013.1 of the Business and Professions Code  
25 is amended to read:

26 11013.1. It shall be unlawful, except as provided in Section  
27 11013.2 or 11013.6, for the owner, subdivider, or agent to sell or  
28 lease lots or parcels within a subdivision that is subject to a blanket  
29 encumbrance unless there exists in the blanket encumbrance or  
30 other supplementary agreement a provision, hereinafter referred  
31 to as a release clause, which by its terms shall unconditionally  
32 provide that the purchaser or lessee of a lot or parcel can obtain  
33 legal title or other interest contracted for, free and clear of the  
34 blanket encumbrance, upon compliance with the terms and  
35 conditions of the purchase or lease.

36 SEC. 3. Section 11013.6 is added to the Business and  
37 Professions Code, to read:

38 11013.6. Notwithstanding Sections 11013.1 and 11013.2, an  
39 individual interest in a stock cooperative, as defined in Section  
40 4190 of the Civil Code, or a limited equity housing cooperative,

1 as defined in Section 817 of the Civil Code, may be sold or leased  
2 subject to a blanket encumbrance if all of the following conditions  
3 are met:

4 (a) The notice required pursuant to Section 1133 of the Civil  
5 Code is provided to every prospective purchaser *and lessee* of the  
6 interest and is included in every purchase *and lease* contract.

7 (b) The property subject to the sale *or lease* has obtained a public  
8 report from the Bureau of Real Estate that accounts for the blanket  
9 ~~encumbrance~~ *encumbrance*.

10 (c) The governing documents for the association require the  
11 association to create within one year of the sale of at least 50  
12 percent of the individual interests in the stock cooperative or  
13 limited-equity housing cooperative and maintain during the term  
14 of the blanket encumbrance a financing reserve amount equal to  
15 at least three months of the amount of the debt service payments  
16 due on the blanket encumbrance or a lesser amount acceptable to  
17 the commissioner.

18 SEC. 4. Section 5100 of the Civil Code is amended to read:

19 5100. (a) Notwithstanding any other law or provision of the  
20 governing documents, elections regarding assessments legally  
21 requiring a vote, election and removal of directors, amendments  
22 to the governing documents, or the grant of exclusive use of  
23 common area pursuant to Section 4600 shall be held by secret  
24 ballot in accordance with the procedures set forth in this article.

25 (b) This article also governs an election on any topic that is  
26 expressly identified in the operating rules as being governed by  
27 this article.

28 (c) The provisions of this article apply to both incorporated and  
29 unincorporated associations, notwithstanding any contrary  
30 provision of the governing documents.

31 (d) The procedures set forth in this article shall apply to votes  
32 cast directly by the membership, but do not apply to votes cast by  
33 delegates or other elected representatives.

34 (e) In the event of a conflict between this article and the  
35 provisions of the Nonprofit Mutual Benefit Corporation Law (Part  
36 3 (commencing with Section 7110) of Division 2 of Title 1 of the  
37 Corporations Code) relating to elections, the provisions of this  
38 article shall prevail.

1 ~~(f) A director shall not be required to be elected pursuant to this~~  
2 ~~article if the governing documents provide that all members are~~  
3 ~~directors.~~

4 *(f) Directors shall not be required to be elected pursuant to this*  
5 *article if the governing documents provide that one member from*  
6 *each separate interest is a director.*

7 SEC. 5. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution because  
9 the only costs that may be incurred by a local agency or school  
10 district will be incurred because this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.