

ASSEMBLY BILL

No. 2391

Introduced by Assembly Member Steinorth

February 18, 2016

An act to amend Sections 527.11 and 527.12 of the Code of Civil Procedure, relating to residential property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2391, as introduced, Steinorth. Residential property: possession by declaration.

Until January 1, 2018, existing law permits an owner of specified residential property in the Cities of Palmdale and Lancaster in the County of Los Angeles or the City of Ukiah in the County of Mendocino to register vacant real property with the local law enforcement agency and to execute a Declaration of Ownership of Residential Real Property that may be filed with the local law enforcement agency of the jurisdiction in which the property is located. Existing law requires the local law enforcement agency with which the property is registered to respond as soon as practicable after being notified that an unauthorized person has been found on the property and take specified action, including requiring a person who is found on the property to produce written authorization to be on the property or other evidence demonstrating the person's right to possession, and notifying any person who does not produce that authorization or other evidence that the owner or owner's agency may seek to obtain a court order and that the person will be subject to arrest for trespass if he or she is subsequently found on the property in violation of that order.

This bill would repeal the January 1, 2018, sunset date for these provisions. The bill would also make its provisions applicable to all

cities and counties that adopt an ordinance or resolution indicating the intent of the city or county to participate, as specified.

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 527.11 of the Code of Civil Procedure
- 2 is amended to read:
- 3 527.11. (a) The owner or owner’s agent of vacant real property
- 4 may register the property with the local law enforcement agency
- 5 using the form contained in subdivision (a) of Section 527.12.
- 6 (1) The registration shall be signed under penalty of perjury and
- 7 state that the property is vacant and is not authorized to be occupied
- 8 by any person.
- 9 (2) The registration shall be accompanied with a statement
- 10 providing the name, address, and telephone number at which the
- 11 owner can be contacted within a 24-hour period and a statement
- 12 that either the law enforcement agency or a licensed private security
- 13 services company has been retained to comply with the inspection
- 14 and reporting provisions of this section, together with a copy of
- 15 any agreement or contract to perform those services.
- 16 (b) The owner or the owner’s agent shall register the vacant
- 17 property no later than three days after the owner or owner’s agent
- 18 learns that the property is vacant.
- 19 (c) The owner or owner’s agent, immediately after authorizing
- 20 a person to occupy the vacant property, shall do both of the
- 21 following:
- 22 (1) Issue a written authorization to the person authorized to
- 23 occupy the property.
- 24 (2) Notify the law enforcement agency where the property is
- 25 registered and terminate the registration.
- 26 (d) The owner or the owner’s agent, immediately upon the sale
- 27 of the vacant property, shall notify the law enforcement agency
- 28 where the property is registered that the property has been sold,
- 29 and to terminate the registration.
- 30 (e) The licensed private security services company or law
- 31 enforcement agency selected by the owner or owner’s agent
- 32 pursuant to this section shall do both of the following:

1 (1) Inspect the vacant property not less than once every three
2 days.

3 (2) Immediately notify the law enforcement agency with which
4 the property is registered if any unauthorized person is found on
5 the property.

6 (f) The law enforcement agency where the property is registered
7 shall respond as soon as practicable after being notified pursuant
8 to paragraph (2) of subdivision (e) that an unauthorized person is
9 found on the property. The responding officer shall do all of the
10 following:

11 (1) Verify that the property was inspected within the last three
12 days pursuant to paragraph (2) of subdivision (e) and found to be
13 vacant.

14 (2) Ascertain the identity of any person who is found on the
15 property.

16 (3) Require a person who is found on the property to produce
17 written authorization to be on the property or other evidence
18 demonstrating the person's right to possession.

19 (4) Notify any person who does not produce written
20 authorization or other evidence pursuant to paragraph (3) that the
21 owner or owner's agent may seek to obtain a court order pursuant
22 to subdivision (g) and that the person will be subject to arrest for
23 trespass if the person is subsequently found on the property in
24 violation of that order.

25 (5) Verify with the owner or the owner's agent that the property
26 is vacant.

27 (g) (1) The owner or owner's agent of vacant real property
28 may file an action for a temporary restraining order and injunctive
29 relief against any person who is found on the vacant property not
30 less than 48 hours after that person has been notified pursuant to
31 paragraph (4) of subdivision (f). A person subject to a temporary
32 restraining order or an injunction obtained pursuant to this
33 subdivision is subject to arrest and imprisonment for trespass
34 pursuant to Section 602.5 of the Penal Code for failing to vacate
35 the property pursuant to the temporary restraining order or
36 injunction and for civil contempt for violating a court order.

37 (2) The summons and complaint in an action brought pursuant
38 to this subdivision may be served personally or by posting a copy
39 of the summons and complaint at a prominent location on the
40 property and mailing a copy of the summons and complaint to the

1 property's address. Posting and mailing a copy of the summons
2 and complaint shall be sufficient service even if the mailed copy
3 is returned as undeliverable if the owner or owner's agent has proof
4 of the mailing.

5 (3) The court may order a hearing on a temporary restraining
6 order within three days following service of the summons and
7 complaint. The date, time, and location of the hearing may be
8 included with the summons and complaint or may be separately
9 served on any person occupying the property in the manner set out
10 in paragraph (2).

11 (4) The court may include in any temporary restraining order
12 granted pursuant to this subdivision an order directing that the
13 property be vacated in not less than 48 hours. The order may be
14 enforced by the local law enforcement agency where the property
15 is registered or the county sheriff.

16 (5) The disposition of any personal property of a person subject
17 to a temporary restraining order or an injunction pursuant to this
18 subdivision shall be governed by the procedures set forth in Chapter
19 5 (commencing with Section 1980) of Title 5 of Part 4 of Division
20 3 of the Civil Code. The person subject to the temporary restraining
21 order or injunction shall be deemed to be a former tenant of the
22 property for purposes of the disposition of personal property only.

23 (h) This section shall not be construed to limit an owner from
24 seeking other legal remedies to have a person removed from the
25 vacant property pursuant to any other law.

26 (i) A temporary restraining order or injunction ordering a person
27 to vacate and remove personal property pursuant to this section
28 shall not constitute a forcible entry under the provisions of Section
29 1159 of the Code of Civil Procedure.

30 (j) The local city council or board of supervisors shall establish
31 fees for registering a vacant property with the local law
32 enforcement agency and for the conduct of inspections by the law
33 enforcement agency pursuant to this section, including all activities
34 conducted by the law enforcement agency pursuant to subdivision
35 (f).

36 ~~(k) This section applies only to one- to four-unit residences in~~
37 ~~the Cities of Palmdale and Lancaster in the County of Los Angeles~~
38 ~~and the City of Ukiah in the County of Mendocino.~~

1 ~~(j) This section shall remain in effect only until January 1, 2018,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2018, deletes or extends that date.~~

4 (k) A city or county is not subject to the requirements of this
5 section until the legislative body of the city or county adopts an
6 ordinance or resolution indicating its intent to participate and to
7 comply with the requirements of this section. A participating city
8 or county may withdraw its participation at any time by adopting
9 a subsequent ordinance or resolution of the legislative body
10 indicating the intent of the city or county to withdraw its
11 participation.

12 (l) For purposes of this section, “vacant real property” is limited
13 to one- to four-unit residences.

14 SEC. 2. Section 527.12 of the Code of Civil Procedure is
15 amended to read:

16 527.12. (a) A property owner, or an agent of the property
17 owner, may execute a “Declaration of Ownership” that includes
18 language substantially similar to the language below and file it
19 with the local law enforcement agency of the jurisdiction in which
20 the property is located. If the property owner, or the agent of the
21 property owner, files the declaration with the local law enforcement
22 agency, he or she shall also post the declaration on the unoccupied
23 residential property listed in the declaration.

24
25 “DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL
26 PROPERTY

27
28 I, _____, declare and state: I make this
29 declaration based upon my own personal knowledge.

30 1. I am the owner____, or the agent of the owner____(check one),
31 of the residential property located at _____,
32 California (“Property”).

33 2. Submitted with this declaration, and incorporated herein by
34 reference, is a true and correct copy of the deed by which I obtained
35 ownership of the Property.

36 3. Since obtaining ownership of the Property, no ownership
37 interest in the Property has been conveyed or transferred to any
38 other person or entity.

39 4. At the time of obtaining ownership of the Property, no person
40 was occupying the Property and no ownership interest or right of

1 possession in the Property has been conveyed or transferred to any
2 other person or entity.

3 5. As of the present date, there are no persons authorized by me
4 or my agent to reside within the Property. Any persons residing
5 on this Property are doing so without any express or implied
6 authorization from me or my agent.

7 6. I have not entered into any form of lease arrangement, rental
8 agreement, or given any consent whatsoever to any persons to
9 reside within the Property.

10 7. I will advise the local law enforcement agency if there is any
11 change in the status of the Property and an occupancy is authorized
12 by me or my agent.

13 8. I declare under penalty of perjury that the foregoing is true
14 and correct.

15
16 EXECUTED on _____, at
17 _____, California”

18
19 (b) Notwithstanding Section 47 of the Civil Code, a property
20 owner, or agent thereof, who files a declaration pursuant to this
21 section that includes false information regarding the right to possess
22 the property is liable to any person who, as a result of the
23 declaration, is caused to vacate the property, for reasonable
24 attorney’s fees, special damages not to exceed \$2,000, and all
25 damages resulting from the person having to vacate the property.

26 ~~(e) This section applies only to one- to four-unit residences in
27 the Cities of Palmdale and Lancaster in the County of Los Angeles
28 and the City of Ukiah in the County of Mendocino.~~

29 ~~(d) This section shall remain in effect only until January 1, 2018,
30 and as of that date is repealed, unless a later enacted statute, that
31 is enacted before January 1, 2018, deletes or extends that date.~~

32 (c) *This section applies only to a city or county that has adopted
33 an ordinance or resolution indicating the intent of the city or
34 county to participate and to comply with the requirements of
35 Section 527.11, as described in subdivision (k) of Section 527.11.*

36 (d) *This section only applies to real property that is a one- to
37 four-unit residence.*

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