

AMENDED IN ASSEMBLY MARCH 30, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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, *under penalty of perjury*, 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, extend the sunset date for these provisions: provisions until January 1, 2020.~~ The bill would also make its provisions applicable to ~~all cities and counties that adopt the County of San Bernardino and its cities, if the county or city adopts an ordinance or resolution indicating the intent of the city or county to participate, as specified.~~

By extending the sunset date, this bill would impose a state-mandated local program by extending the time in which cities currently subject to the program must continue to comply and by expanding the scope of the crime of perjury.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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.

1 (b) The owner or the owner’s agent shall register the vacant
2 property no later than three days after the owner or owner’s agent
3 learns that the property is vacant.

4 (c) The owner or owner’s agent, immediately after authorizing
5 a person to occupy the vacant property, shall do both of the
6 following:

7 (1) Issue a written authorization to the person authorized to
8 occupy the property.

9 (2) Notify the law enforcement agency where the property is
10 registered and terminate the registration.

11 (d) The owner or the owner’s agent, immediately upon the sale
12 of the vacant property, shall notify the law enforcement agency
13 where the property is registered that the property has been sold,
14 and to terminate the registration.

15 (e) The licensed private security services company or law
16 enforcement agency selected by the owner or owner’s agent
17 pursuant to this section shall do both of the following:

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

20 (2) Immediately notify the law enforcement agency with which
21 the property is registered if any unauthorized person is found on
22 the property.

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

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

31 (2) Ascertain the identity of any person who is found on the
32 property.

33 (3) Require a person who is found on the property to produce
34 written authorization to be on the property or other evidence
35 demonstrating the person’s right to possession.

36 (4) Notify any person who does not produce written
37 authorization or other evidence pursuant to paragraph (3) that the
38 owner or owner’s agent may seek to obtain a court order pursuant
39 to subdivision (g) and that the person will be subject to arrest for

1 trespass if the person is subsequently found on the property in
2 violation of that order.

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

5 (g) (1) The owner or owner's agent of vacant real property may
6 file an action for a temporary restraining order and injunctive relief
7 against any person who is found on the vacant property not less
8 than 48 hours after that person has been notified pursuant to
9 paragraph (4) of subdivision (f). A person subject to a temporary
10 restraining order or an injunction obtained pursuant to this
11 subdivision is subject to arrest and imprisonment for trespass
12 pursuant to Section 602.5 of the Penal Code for failing to vacate
13 the property pursuant to the temporary restraining order or
14 injunction and for civil contempt for violating a court order.

15 (2) The summons and complaint in an action brought pursuant
16 to this subdivision may be served personally or by posting a copy
17 of the summons and complaint at a prominent location on the
18 property and mailing a copy of the summons and complaint to the
19 property's address. Posting and mailing a copy of the summons
20 and complaint shall be sufficient service even if the mailed copy
21 is returned as undeliverable if the owner or owner's agent has proof
22 of the mailing.

23 (3) The court may order a hearing on a temporary restraining
24 order within three days following service of the summons and
25 complaint. The date, time, and location of the hearing may be
26 included with the summons and complaint or may be separately
27 served on any person occupying the property in the manner set out
28 in paragraph (2).

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

34 (5) The disposition of any personal property of a person subject
35 to a temporary restraining order or an injunction pursuant to this
36 subdivision shall be governed by the procedures set forth in Chapter
37 5 (commencing with Section 1980) of Title 5 of Part 4 of Division
38 3 of the Civil Code. The person subject to the temporary restraining
39 order or injunction shall be deemed to be a former tenant of the
40 property for purposes of the disposition of personal property only.

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

4 (i) A temporary restraining order or injunction ordering a person
5 to vacate and remove personal property pursuant to this section
6 shall not constitute a forcible entry under the provisions of Section
7 1159 of the Code of Civil Procedure.

8 (j) The local city council or board of supervisors shall establish
9 fees for registering a vacant property with the local law
10 enforcement agency and for the conduct of inspections by the law
11 enforcement agency pursuant to this section, including all activities
12 conducted by the law enforcement agency pursuant to subdivision
13 (f).

14 (k) *This section applies only to one- to four-unit residences in
15 the following cities and counties:*

16 (1) *In the Cities of Palmdale and Lancaster in the County of
17 Los Angeles.*

18 (2) *In the City of Ukiah in the County of Mendocino.*

19 (3) (A) *Subject to subparagraph (B), in the County of San
20 Bernardino and any city within the County of San Bernardino.*

21 ~~(k) A city or county~~

22 (B) *Neither the County of San Bernardino nor any city within
23 the county is not subject to the requirements of this section until
24 the legislative body of the city or county adopts an ordinance or
25 resolution indicating its intent to participate and to comply with
26 the requirements of this section. A participating city or county may
27 withdraw its participation at any time by adopting a subsequent
28 ordinance or resolution of the legislative body indicating the intent
29 of the city or county to withdraw its participation.*

30 ~~(l) For purposes of this section, "vacant real property" is limited
31 to one- to four-unit residences.~~

32 (l) *This section shall remain in effect only until January 1, 2020,
33 and as of that date is repealed, unless a later enacted statute, that
34 is enacted before January 1, 2020, deletes or extends that date.*

35 SEC. 2. Section 527.12 of the Code of Civil Procedure is
36 amended to read:

37 527.12. (a) A property owner, or an agent of the property
38 owner, may execute a "Declaration of Ownership" that includes
39 language substantially similar to the language below and file it
40 with the local law enforcement agency of the jurisdiction in which

1 the property is located. If the property owner, or the agent of the
2 property owner, files the declaration with the local law enforcement
3 agency, he or she shall also post the declaration on the unoccupied
4 residential property listed in the declaration.

5

6 “DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL
7 PROPERTY

8

9 I, _____, declare and state: I make this
10 declaration based upon my own personal knowledge.

11 1. I am the owner____, or the agent of the owner____(check one),
12 of the residential property located at _____,
13 California (“Property”).

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

17 3. Since obtaining ownership of the Property, no ownership
18 interest in the Property has been conveyed or transferred to any
19 other person or entity.

20 4. At the time of obtaining ownership of the Property, no person
21 was occupying the Property and no ownership interest or right of
22 possession in the Property has been conveyed or transferred to any
23 other person or entity.

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

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

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

34 8. I declare under penalty of perjury that the foregoing is true
35 and correct.

36

37 EXECUTED on _____, at
38 _____, California”

39

1 (b) Notwithstanding Section 47 of the Civil Code, a property
 2 owner, or agent thereof, who files a declaration pursuant to this
 3 section that includes false information regarding the right to possess
 4 the property is liable to any person who, as a result of the
 5 declaration, is caused to vacate the property, for reasonable
 6 attorney’s fees, special damages not to exceed ~~\$2,000~~, *two*
 7 *thousand dollars* (\$2,000), and all damages resulting from the
 8 person having to vacate the property.

9 ~~(e) This section applies only to a city or county that has adopted~~
 10 ~~an ordinance or resolution indicating the intent of the city or county~~
 11 ~~to participate and to comply with the requirements of Section~~
 12 ~~527.11, as described in subdivision (k) of Section 527.11.~~

13 ~~(d) This section only applies to real property that is a one- to~~
 14 ~~four-unit residence.~~

15 (c) *This section applies only to one- to four-unit residences in*
 16 *the following cities and counties:*

17 (1) *In the Cities of Palmdale and Lancaster in the County of*
 18 *Los Angeles.*

19 (2) *In the City of Ukiah in the County of Mendocino.*

20 (3) *In the County of San Bernardino and any city within the*
 21 *County of San Bernardino, provided that the city or county has*
 22 *adopted an ordinance or resolution indicating the intent of the*
 23 *city or county to participate and to comply with the requirements*
 24 *of Section 527.11, as described in subparagraph (B) of paragraph*
 25 *(3) of subdivision (k) of Section 527.11.*

26 (d) *This section shall remain in effect only until January 1, 2020,*
 27 *and as of that date is repealed, unless a later enacted statute, that*
 28 *is enacted before January 1, 2020, deletes or extends that date.*

29 SEC. 3. *The Legislature finds and declares that a special law*
 30 *is necessary and that a general law cannot be made applicable*
 31 *within the meaning of Section 16 of Article IV of the California*
 32 *Constitution because the unique circumstances in the County of*
 33 *San Bernardino and its cities make it necessary to first establish*
 34 *this program in a limited setting to analyze its effectiveness before*
 35 *considering an extension to other local jurisdictions.*

36 SEC. 4. *No reimbursement is required by this act pursuant to*
 37 *Section 6 of Article XIII B of the California Constitution for certain*
 38 *costs that may be incurred by a local agency or school district*
 39 *because, in that regard, this act creates a new crime or infraction,*
 40 *eliminates a crime or infraction, or changes the penalty for a crime*

1 *or infraction, within the meaning of Section 17556 of the*
2 *Government Code, or changes the definition of a crime within the*
3 *meaning of Section 6 of Article XIII B of the California*
4 *Constitution.*

5 *However, if the Commission on State Mandates determines that*
6 *this act contains other costs mandated by the state, reimbursement*
7 *to local agencies and school districts for those costs shall be made*
8 *pursuant to Part 7 (commencing with Section 17500) of Division*
9 *4 of Title 2 of the Government Code.*

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