
APPENDIX A: LEGISLATIVE HISTORY OF THE SUBDIVIDED LANDS ACT

California first enacted legislation regulating the sale and leasing of subdivided land in 1921 (Stats. 1921, Ch. 751, Sec. 3-4). This legislation gave the Real Estate Commissioner authority to investigate and issue public reports on the subdivision and sale of agricultural land for residential purposes. The Commissioner's authority was expanded to include regulation of business and residential subdivisions (Stats. 1933, Ch. 691, Sec. 10).

In 1943 Division 4, Part 2, Chapter 1 (Subdivided Lands) was added to the BPC, adopting the structure that is in place today (Stats. 1943, Ch. 127). The focus of the regulation of subdivisions was to protect the public from fraud by requiring full disclosure by the developer to the DRE; the information gathered when the DRE processed subdivision applications was communicated to prospective buyers or lessees through the publication and circulation of the public report. This approach was satisfactory as long as the subdivider did not promise to make substantial improvements to the property in the offering. However, by the early 1960s subdivisions were taking on aspects of self-governing housing communities; thus, efficient organization and operation of the HOA to manage and maintain commonly owned or controlled property became an important factor that had to be addressed by the DRE when processing subdivisions applications. Consequently, over the years, as shown in Appendix A, numerous additions, amendments, and deletions have been made to Chapter 1, also known as the Subdivided Lands Act (SLA). This section focuses on the legislative history of the sections present in the SLA today.

Section 11014, added in 1943, was amended in 1955 (Stats. 1955, Ch. 646) and in 1957 (Stats. 1957, Ch. 1782). This section gives the Real Estate Commissioner authority to investigate any subdivision being offered for sale or lease in California. Section 11014 states "For the purposes of such investigations the Commissioner may use and rely upon any relevant information or data concerning a subdivision obtained by him from the Federal Housing Administration, the United States Veterans Administration, or any other federal agency having comparable duties and functions in relation to subdivisions or property therein." In 1955 the legislature also amended Section 11021, accrual of cause of action, adopting the current language (Stats. 1955, Ch. 1739).

In 1957 Section 11001, Power of Commissioner, was amended, adopting the current language (Stats. 1957, Ch. 1750): "The Real Estate Commissioner (hereafter referred to in this chapter as the Commissioner) may adopt, amend, or repeal such rules and regulations as are reasonably necessary for the enforcement of this chapter. He may issue any order, permit, decision, demand, or requirement to this effect. Such rules, regulations, and orders shall be adopted pursuant to the provisions of the Administrative Procedure Act."

In 1961, Section 11010.1, notice of intention to issue promissory notes secured by individual lots in unrecorded subdivision, was added to the SLA (Stats. 1961, Ch. 886).

In 1963 the legislature added the following language to the SLA (Section 11007, Stats. 1963, Ch. 927): "Every nonresident subdivider shall file with the questionnaire an irrevocable consent that if, in any action commenced against him in this state, personal service of process upon him cannot be made in this state after the exercise of due diligence, a valid service may thereupon be made upon him by delivering the process to the Secretary of State." The same year, legislation was enacted that authorized the denial of the public report (Stats. 1963, Ch. 927)⁹:

- a) If the subdivider was unable to demonstrate that adequate financial arrangements had been made to assure completion of offsite improvements and common facilities (Section 11018)
- b) If the subdivided lands were not suitable for the intended purpose (Section 11018)
- c) For false and misleading advertising pertaining to subdivision offering; in addition, the legislation imposed criminal sanctions (Section 11022, 11023)¹⁰

In 1969, existing legislation prohibiting material change of the setup of the offering without written notice to the DRE after the project had been submitted to DRE was amended (Section 11012; Stats. 1969, Ch. 138). That

⁹ Legislation was also regulated in the creation and use of condominiums (Civil Code 1350 - 1370; Stats. 1963, Ch. 863).

¹⁰ This legislation also segregated out-of-state subdivision sales from sales of California land and established different standards for each.

same year, the SLA was amended and commercial and industrial subdivisions were exempted from the SLA (Section 11018.2; Stats. 1969, Ch. 373). The exemption applies to a subdivision that is “limited to commercial or industrial uses” by zoning or by a Declaration of Covenants, Conditions, and Restrictions that is recorded in each county in which the subdivision is located (Section 11010.3).

Section 11018, added in 1943, dealing with the examination of a subdivision, the report, and grounds for denial, was amended in 1963 (Stats. 1963, Ch. 927), 1965 (Stats. 1965, Ch. 178), 1967 (Stats. 1967, Ch. 1136), and in 1971 (Stats. 1971, Ch. 1686) leading to its current language “The Real Estate Commissioner shall make an examination of any subdivision, and shall, unless there are grounds for denial, issue to the subdivider a public report authorizing the sale or lease in this state of the lots or parcels within the subdivision. The report shall contain the data obtained in accordance with Section 11010 and which the Commissioner determines are necessary to implement the purposes of this article. The Commissioner may publish the report. The grounds for denial are:

- a) Failure to comply with any of the provisions in this chapter or the regulations of the Commissioner pertaining thereto
- b) The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees
- c) Inability to deliver title or other interest contracted for
- d) Inability to demonstrate that adequate financial arrangements have been made for all offsite improvements included in the offering
- e) Inability to demonstrate that adequate financial arrangements have been made for any community, recreational, or other facilities included in the offering
- f) Failure to make a showing that the parcels can be used for the purpose for which they are offered; and in the case of a subdivision being offered for residential purposes, failure to make a showing that vehicular access and a source of potable domestic water either is available or will be available
- g) Failure to provide, in the contract or other writing, the use or uses for which the parcels are offered, together with any covenants or conditions relative thereto
- h) Agreements or bylaws to provide for management or other services pertaining to common facilities in the offering, which fail to comply with the regulations of the Commissioner
- i) Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering”

Section 11018.2, added by Stats. 1963, Ch. 927 and amended in 1969 (Stats. 1969, Ch. 373), 1974 (Stats. 1974, Ch. 606), and 1980 (Stats. 1980, Chs. 1105, 1152, and 1336) forbid the sale or lease, or offer for sale or lease of any lots or parcels in a subdivision without first obtaining a public report from the Real Estate Commissioner.

Section 11013, blanket encumbrance, added by Stats. 1943, Ch. 127, was amended in 1955 (Stats. 1955, Ch. 1863), 1963 (Stats. 1963, Ch. 805) and 1980 (Stats. 1980, Ch. 1335) resulting in its current language: “For the purposes of this part, a blanket encumbrance shall be considered to mean a trust, deed, or mortgage or any other lien or encumbrance, mechanics’ lien or otherwise, securing or evidencing the payment of money and affecting land to be subdivided or affecting more than one lot or parcel of subdivided land, or an agreement affecting more than one such lot or parcel by which the owner or subdivider holds said subdivision under an option, contract to sell, or trust agreement.” The 1955 statute (Stats. 1955, Ch. 1863) added Section 11013.1: requiring a release clause to sell or lease lots or parcels within a subdivision subject to a blanket encumbrance (amended by Stats. 1963, Ch. 805 and Stats. 1980, Ch. 1335); Section 11013.2: establishing the conditions under which a sale or lease without release clause is permitted (amended by Stats. 1980, Ch. 1335); Section 11013.3 stating: “Taxes and assessments levied by public authority shall not be considered a blanket encumbrance within the meaning of Section 11013;” Section 11013.4: establishing the conditions under which lots or parcels within a subdivision not subject to a blanket encumbrance could be sold or leased (amended by Stats. 1963, Ch. 805; Stats. 1980, Ch. 1335; and Stats. 1982, Ch. 517); and Section 11013.5 stating: “The public report of the Commissioner, when issued, shall indicate the method or procedure selected by the owner or subdivider to comply with the provisions of Sections 11013.1, 11013.2, or 11013.4.”

In 1981, Section 11010.7 “dealing with the applicability of notice of intention” was added to the SLA by Stats. 1981, Ch. 519, Sec. 1: “The notice of intention specified in Section 11010 shall not apply to nonbinding expressions of intent to purchase or lease, which an owner, agent, or subdivider is required to obtain from the tenants of units that are proposed to be converted to a condominium, community apartment project, or stock cooperative project, by ordinance, or as a condition to the approval of a tentative or parcel map pursuant to Division 2 (commencing with Section 66410) of Title 7 of the Government Code.”

The commercial and industrial subdivisions exemption was amended (Section 11018.2) in 1974 adopting language based on commercial zoning (Stats. 1974, Ch. 606) and in 1980 the exemption was moved to Section 11010.3 (Stats. 1980, Ch. 1335) and Section 11018.2 was amended (Stats. 1980, Ch. 1336). In combination, both sections exempted from the public report process subdivisions zoned commercial and industrial. In 1982, Section 11010.3 was amended and a simple general exemption was adopted (Stats. 1982, Ch. 148).

Section 11010.06 was added by Stats. 1980, Ch. 1336 and amended by Stats. 1982, Ch. 148, which established that the provisions of the SLA “shall not be applicable to subdivided land that is offered or proposed to be offered for sale, lease, or financing by a state agency, including the University of California, a local agency, or other public agency.”

Section 11019, originally added to the SLA by Stats. 1973, Ch. 202, was amended in 1985 (Stats. 1985, Ch. 128, Sec. 1). This section establishes the circumstances under which the Real Estate Commissioner may order a person “to desist and refrain from those acts and omissions or from the further sale or lease of interests in the subdivision until the condition has been corrected.”

The same year planned development (Section 11003), stock cooperative (Section 11003.2), and community apartment projects (Section 11004) were given the same meaning as the those specified in Section 1351 of the Civil Code by Stats. 1985, Ch. 874. In addition, it was made clear that a stock cooperative does not include a limited-equity housing cooperative. In 1985, Section 11008, applicability of criminal law to violations was added to the SLA.

The right to rescind the purchase of interest in an undivided interest subdivision was added as section 11000.2 by Stats. 1988, Ch. 434, Sec. 2.

Section 11018.6, dealing with documentation to be provided to prospective buyers or lessees, was added to the SLA by Stats. 1985, Ch. 1596, and amended by Stats. 1990, Ch. 144, Sec. 2. This section states: “Any person offering to sell or lease any interest subject to the requirements of subdivision (a) of Section 11018.1 in a subdivision described in Section 11004.5 shall make a copy of each of the following documents available for examination by a prospective purchaser or lessee before the execution of an offer to purchase or lease and shall give a copy thereof to each purchaser or lessee as soon as practicable before transfer of the interest being acquired by the purchaser or lessee:

- a) The Declaration of Covenants, Conditions, and Restrictions for the subdivision
- b) Articles of incorporation or association for the subdivision owners association
- c) Bylaws for the subdivision owners association
- d) Any other instrument that establishes or defines the common, mutual, and reciprocal rights and responsibilities of the owners or lessees of interests in the subdivision as shareholders or members of the subdivision owners association or otherwise
- e) To the extent available, the current financial information and related statements as specified in Sections 5300 and 5565 of the Civil Code, for subdivisions subject to those provisions
- f) A statement prepared by the governing body of the association setting forth the outstanding delinquent assessments and related charges levied by the association against the subdivision interests in question under authority of the governing instruments for the subdivision and association.”

In 1992, Section 11018.13, dealing with abandonment of application for subdivision public report, was added to the SLA (Stats. 1992, Ch. 881, Sec. 3). Specifically this section states:

- a) After written notice to the subdivider, or the subdivider’s representative, the Commissioner may abandon any

application for a subdivision public report if the data required by Section 11010 has not been furnished within three years from the date a notice of intention is filed for a subdivision public report.

b) The Commissioner shall adopt regulations establishing time periods for notifying the subdivider, or the subdivider's representative, of the intention to abandon a file, and establishing hardship or justifiable extenuating circumstances the Commissioner deems acceptable.

The same year, Section 11010.5 was amended by Stats. 1992, Ch. 864, Sec. 1. This section, added to the SLA by Stats. 1961, Ch. 1175, establishes the conditions under which a second notice of intention to sell and a second report of the Commissioner shall not be required. The conditions are: "a) Where there has been a previous subdivision report and the lots are subsequently acquired through any foreclosure action, or by a deed in lieu of foreclosure, by a bank, life insurance company, industrial loan company, credit union, or savings and loan association licensed or operating under the provisions of a state or federal law if the acquired lots, either improved or unimproved, will be sold in conformance with the previously issued subdivision public report; b) The original public report is given to the first purchasers of the lots in the foreclosed subdivision; and c) The Commissioner is notified of the change of ownership within 30 days of the acquisition of the title to such property."

In 1994, legislation was enacted that deleted numerous requirements relating to certain out-of-state developments and made it easier to issue conditional public reports. Sections 11018.12 and 11022 were amended and Section 11029 was repealed (Stats. 1994, Ch. 279). This legislation:

a) Defined "improved out-of-state residential subdivision" and "improved out-of-state time-share project" (i.e., residential uses to be offered for sale or lease with all improvements completed that are necessary or with financial arrangements for those improvements determined to be adequate), whereby numerous current requirements for out-of-state developments will no longer apply. The DRE Commissioner must apply certain provisions to these subdivisions. This bill also deletes the "accessible urban subdivision" provisions.

b) Deleted provisions allowing the DRE Commissioner to issue a preliminary report for an accessible urban subdivision, but allows issuance of the report and a conditional permit for the "improved out-of-state residential subdivision" and "improved out-of-state time-share project" added to the law by this bill (#3 above).

c) Revised the conditions for issuing a conditional public report (e.g., deletes requirement for a final subdivision map to be approved; deletes requirement for the application to be qualitatively complete; requires documents to be substantially complete).

d) Deleted the requirement for submitting land project reports.

In 1995, the legislation was enacted relating to mobile home parks; Section 11010.8 was amended and Section 11010.9 was added (Stats. 1995, Ch. 256). This legislation:

a) Provides that the subdivider of a mobile home park that is proposed to be converted to resident ownership, prior to filing a notice of intent to apply for a public report, shall make a written disclosure to homeowners and residents of the park. The disclosure shall state the tentative price of the subdivided interest proposed to be sold or leased, and:

b) Specifies that the subdivider desiring to convert a park to resident ownership shall be subject to a hearing by a legislative body, or an advisory agency that is authorized by local ordinance to approve, conditionally approve, or disapprove the map.

In 1996, legislation relating to the consent required to amend the controlling instruments of a subdivision and the basis for denial of a proposed change enacted (Section 11018.7) was amended by Stats. 1996, Ch. 587. In addition, sections 11000.5, 11000.6, 11025, 11027, 11028, 11029.1, and 11030 were repealed (Stats. 1996, Ch. 587). This legislation:

a) Repealed numerous provisions of existing law that recognize, define, and regulate certain types of subdivisions or subdivided lands known as "land projects."

b) Repealed a section of existing law that provides that no amendment or modification of provisions in a declaration of restrictions, bylaws, or other instruments affecting rights to ownership, possession, or use of interests

in a subdivision and/or land project is valid without the prior written consent of the Commissioner, as specified.

In 2000, legislation relating to subdivided lands was enacted; Sections 11010.2, 11010.3, and 11011 were amended and Sections 11010.10 and 11010.35 were added (Stats. 2000, Ch. 279). This legislation exempted from the public report requirements of the SLA certain sales of subdivision lots between developers, provided the purchaser agrees to comply with the reporting requirements on subsequent sales of the property. Additionally, this law clarified the exemption that applies to industrial and commercial subdivisions, and authorized a new voluntary report for exempt developers. Section 11010.3 was broadened to include any subdivision that is limited to commercial or industrial use by a recorded declaration (in addition to any subdivision that is restricted to such uses by zoning) (Stats. 2000, Ch. 279).^{11, 12} The same year, legislation relating to senior housing laws was enacted; Section 11010.05 was amended (Stats. 2000, Ch. 1004). Specifically this legislation:

- a) Required all developments applying for senior development status to issue a public report specifying the limitations on occupancy applicable to the development.
- b) Deleted the January 1, 2001 expiration date on the exemption from senior housing design requirements for housing constructed before February 8, 1982.
- c) Provided that senior housing developments built on or after January 1, 2001 shall be presumed to be in compliance with meeting the needs of seniors if certain specified elements are present.
- d) Added to the definition of “qualified permanent resident,” a disabled person who is a child or grandchild of the resident, and established provisions for when a disabling condition ends.
- e) Provided that the owner(s) or board of a senior housing development may evict a qualified permanent resident if it is found that based on credible evidence, the person is likely to pose a significant threat to the health or safety of others and that such eviction requires first notice and hearing.
- f) Replaced the existing housing and population density formula with a single minimum standard of 35 units.

In 2001, legislation relating to subdivision laws was enacted; Section 11010.11 was added to the SLA (Stats. 2001, Ch. 307). This legislation specified that if a subdivision is to be used for residential purposes, the Real Estate Commissioner’s subdivision examination report shall disclose that a prospective buyer has the right to negotiate additional inspections of the property by the buyer, or buyer’s designee, under terms mutually agreed upon by the prospective buyer and seller.

In 2003, Sections 11000.1 and 11018.12 were added to the SLA (Stats. 2003, Ch. 434).¹³ This legislation made it easier for developers to finance condominium projects by allowing them to: 1) pre-sell individual condominium units earlier in the development process, and 2) retain enough of the buyer’s deposit to cover actual damages suffered when a buyer of a pre-sold unit defaults on the contract. To accomplish the second of these goals, the bill establishes an exception to the existing “liquidated damages” statute for contracts for the sale of residential property.

In 2004, legislation relating to time-share developments was enacted; Sections 11000, 11000.1, 11004.5, 11018.1, and 11018.5 were amended and Chapter 2 (commencing with Section 11210) was added to Part 2 of Division 4 of the BPC. Sections 11003.5, 11004.6, 11018.8, 11018.9, 11018.10, 11018.11, and 11024 were repealed (Stats. 2004, Ch. 697). This legislation consolidated and revised the entire body of time-share vacation property law, streamlined the regulatory approval process, and added new consumer protections to create the Vacation Ownership and Time-Share Act of 2004.¹⁴

¹¹ After the amendment the section reads: “The provisions of this chapter shall not apply to the proposed sale or lease of lots or other interests in a subdivision in which lots or other interests are: a) Limited to industrial or commercial uses by zoning; or b) Limited to industrial or commercial uses by a Declaration of Covenants, Conditions, and Restrictions, which declaration has been recorded in the official records of the county or counties in which the subdivision is located.”

¹² California Law Revision Commission, Memorandum 2011-29, “Common Interest Development Law: Commercial and Industrial Subdivisions,” July 13, 2011.

¹³ Section 1675 of the Civil Code and Sections 66427 and 66452.4 of the Government Code relating to subdivided lands were also amended.

¹⁴ This legislation also repealed Article 8.5 (commencing with Section 10250) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code and amended Sections 1365.1 and 1367.1 of the Civil Code, Section 25021 of the Corporations Code, Section 30610 of the Public Resources Code and Sections 998, 2188.8, 2188.9, and 7280 of the Revenue and Taxation Code.

In 2008, legislation relating to the regulation of residential transfer disclosures regarding agricultural activity was enacted; Section 11010 was amended (Stats. 2008, Ch. 686).¹⁵

Specifically this legislation required that any person who intends to offer subdivided lands within California for sale or lease file an application for a public report with the DRE consisting of, among other things, a statement regarding the property's location near designated farm or ranch land.

In 2009, legislation relating to housing was enacted; Section 11003.4 of the SLA was amended (Stats. 2009, Ch. 520).¹⁶ This legislation provided for a new type of limited-equity housing cooperative known as a "workforce housing cooperative trust" and established new procedures and standards for the dissolution of both limited-equity housing cooperatives and workforce housing cooperatives.

In 2011, the Public Safety Realignment bill containing necessary statutory and technical changes to implement changes to the Budget Act of 2011 was enacted. This legislation affected several codes including Sections 11020 and 11023 of the SLA (Stats. 2011, Chs. 15 and 39). Section 11020 of the SLA was amended to read:

a) It shall be unlawful for any person to make, issue, publish, deliver, or transfer as true and genuine any public report which is forged, altered, false, or counterfeit, knowing it to be forged, altered, false, or counterfeit or to cause to be made or participate in the making, issuance, delivery, transfer, or publication of a public report with knowledge that it is forged, altered, false, or counterfeit.

b) Any person who violates subdivision (a) is guilty of a public offense punishable by a fine not exceeding ten thousand dollars (\$10,000) or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by both that fine and imprisonment.

c) The penalty provided by this section is not an exclusive penalty, and does not affect any other penalty, relief, or remedy provided by law.

Section 11023 of the SLA was amended to read: "Any person who violates Section 11010, 11010.1, 11010.8, 11013.1, 11013.2, 11013.4, 11018.2, 11018.7, 11018.9, 11018.10, 11018.11, 11019, or 11022 is guilty of a public offense punishable by a fine not exceeding ten thousand dollars (\$10,000) or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by both that fine and imprisonment."

In 2012, legislation relating to common interest developments was enacted. Sections 10131.01, 10153.2, 10177, 11003, 11003.2, 11004, 11004.5, 11010.10, 11018.1, 11018.12, 11018.6, 11211.7, 11500, 11502, 11504, 11505, 23426.5, and 23428.20 of the Business and Professions Code were amended (Stats. 2012, Ch. 181).¹⁷ This legislation, operative January 1, 2014, made technical and conforming changes to reflect the reorganization and recodification of the DSA.¹⁸

¹⁵ This legislation also amended Section 1103.4 and the heading of Article 1.7 (commencing with Section 1103) of Chapter 2 of Title 4 of Part 4 of Division 2 of, the Civil Code.

¹⁶ This legislation also amended Section 1351 of, and added Chapter 5 (commencing with Section 817) to Title 2 of Part 2 of Division 2 of, the Civil Code. In addition, amended Sections 33413.7 and 50073 of, and repealed Section 33007.5 of, the Health and Safety Code, relating to housing.

¹⁷ This legislation also amended the following Codes:

- a) Civil Code: Sections 51.11, 714, 714.1, 782, 782.5, 783, 783.1, 798.20, 799.10, 800.25, 895, 935, 945, 1098, 1102.6a, 1102.6d, 1133, 1633.3, 1864, 2079.3, 2924b, 2929.5, and 2955.1;
- b) Government Code: Sections 86, 116.540, 564, 726.5, 729.035, and 736 of the Code of Civil Procedure, to amend Sections 12191, 12956.1, 12956.2, 53341.5, 65008, 65915, 65995.5, 66411, 66412, 66424, 66427, 6645 2.10, 66475.2, and 66477;
- c) Health and Safety Code: Sections 1597.531, 13132.7, 19850, 25400.22, 25915.2, 25915.5, 33050, 33435, 33436, 33769, 35811, 37630, 37923, 50955, 51602, and 116048;
- d) Insurance Code: Section 790.031;
- e) Revenue and Taxation Code: Section 2188.6;
- f) Sections 21107.7, 22651, 22651.05, and 22658 of the Vehicle Code;
- g) Water Code: Section 13553.

¹⁸ The Davis-Stirling Common Interest Development Act establishes the rules and regulations governing the operation of a common interest development (CID) and the respective rights and duties of a homeowners association and its members. (Civil Code Section 1350 et seq.)

APPENDIX B:

BUSINESS AND PROFESSIONS CODE – TIMELINE

