

Senate Bill No. 1122

CHAPTER 673

An act to amend Section 1102.6b of the Civil Code, and to amend Section 53340.2 of, and to add Section 53754 to, the Government Code, relating to real estate disclosure.

[Approved by Governor October 9, 2001. Filed with Secretary of State October 10, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1122, Poochigian. Real estate: disclosures of transfer.

Existing law requires certain disclosures to be made upon the transfer of real estate and prescribes the manner and form of the disclosures. In the case of the transfer of real property subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos Community Facilities Act, the seller is required to make a good faith effort to notify the prospective purchaser of the lien in the manner and time provided in a prescribed disclosure form. Existing law, the Proposition 218 Omnibus Implementation Act, imposes prior notice, protest, and hearing requirements when a local government levies a new or increased assessment upon real property.

This bill would require the legislative body of a local government collecting assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915, to designate an office to perform certain duties relating to the assessment, including furnishing to any requester or the owner of any property subject to the assessment a notice of assessment containing specified information in a prescribed form. The bill would require the seller to make a good faith effort to obtain and deliver to the prospective purchaser a disclosure notice concerning the assessment installment. The bill would require this notice to be combined with notices relating to the collection of those special taxes, to the extent feasible.

The people of the State of California do enact as follows:

SECTION 1. Section 1102.6b of the Civil Code is amended to read:
1102.6b. (a) This section applies to all transfers of real property for which all of the following apply:

- (1) The transfer is subject to this article.
- (2) The property being transferred is subject to a continuing lien securing the levy of special taxes pursuant to the Mello-Roos



Community Facilities Act (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) or to a fixed lien assessment collected in installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(3) A notice is not required pursuant to Section 53341.5 of the Government Code.

(b) In addition to any other disclosure required pursuant to this article, the seller of any real property subject to this section shall make a good faith effort to obtain a disclosure notice concerning the special tax as provided for in Section 53340.2 of the Government Code, or a disclosure notice concerning an assessment installment as provided in Section 53754 of the Government Code, from each local agency that levies a special tax pursuant to the Mello-Roos Community Facilities Act, or that collects assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), on the property being transferred, and shall deliver that notice or those notices to the prospective purchaser, as long as the notices are made available by the local agency.

(c) If a disclosure received pursuant to subdivision (b) has been delivered to the transferee, a seller or his or her agent is not required to provide additional information concerning, and information in the disclosure shall be deemed to satisfy the responsibility of the seller or his or her agent to inform the transferee regarding the special tax or assessment installments and the district. Notwithstanding subdivision (b), nothing in this section imposes a duty to discover a special tax or assessment installments or the existence of any levying district not actually known to the agents.

SEC. 2. Section 53340.2 of the Government Code is amended to read:

53340.2. (a) The legislative body levying the special tax shall designate an office, department, or bureau of the local agency which shall be responsible for annually preparing the current roll of special tax levy obligations by assessor's parcel number on nonexempt property within the district and which will be responsible for estimating future special tax levies. The designated office, department, or bureau shall be the same office, department, or bureau that prepares the "NOTICE OF ASSESSMENT" required by Section 53754. If notice is required under both this section and Section 53754, the notices shall, to the extent feasible, be combined into a single notice document. The designated office, department, or bureau shall establish procedures to promptly respond to inquiries concerning current and future estimated tax liability.



Neither the designated office, department, or bureau, nor the legislative body, shall be liable if any estimate of future tax liability is inaccurate, nor for any failure of any seller to request a Notice of Special Tax or to provide the notice to a buyer.

(b) For purposes of enabling sellers of real property subject to the levy of special taxes to satisfy the notice requirements of subdivision (b) of Section 1102.6 of the Civil Code, the designated office, department, or bureau shall furnish a Notice of Special Tax to any individual requesting the notice or any owner of property subject to a special tax levied by the local agency within five working days of receiving a request for such notice. The local agency may charge a reasonable fee for this service not to exceed ten dollars (\$10.00).

(c) The notice shall contain the heading “NOTICE OF SPECIAL TAX” in type no smaller than 8-point type, and shall be in substantially the following form. The form may be modified as needed to clearly and accurately describe the tax structure and other characteristics of districts created before January 1, 1993, or to clearly and accurately consolidate information about the tax structure and other characteristics of two or more districts that levy or are authorized to levy special taxes with respect to the lot, parcel, or unit. The notice shall be completed by the designated office, department, or bureau except for the signatures and date of signing:

NOTICE OF SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. ____
COUNTY OF _____, CALIFORNIA
TO: THE PROSPECTIVE PURCHASER OF THE REAL
PROPERTY KNOWN AS:

THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR
PURCHASING THIS PROPERTY.

This property is subject to a special tax, which is in addition to the regular property taxes and any other charges and benefit assessments on the parcel. This special tax may not be imposed on all parcels within the city or county where the property is located. If you fail to pay this tax when due each year, the property may be foreclosed upon and sold. The tax is used to provide public facilities or services that are likely to particularly benefit the property. YOU SHOULD TAKE THIS TAX AND THE BENEFITS FROM THE PUBLIC FACILITIES AND



SERVICES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

(2) The maximum special tax which may be levied against this parcel to pay for public facilities is \$_____ during the ____-__ tax year. This amount will increase by __ percent per year after that (if applicable). The special tax will be levied each year until all of the authorized facilities are built and all special tax bonds are repaid, but in any case not after the ____-__ tax year.

An additional special tax will be used to pay for ongoing services, if applicable. The maximum amount of this tax is _____ dollars (\$_____) during the ____-__ tax year. This amount may increase by _____, if applicable, and may be levied until the ____-__ tax year (or forever, as applicable).

(3) The authorized facilities which are being paid for by the special taxes, and by the money received from the sale of bonds which are being repaid by the special taxes, are:

These facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.

In addition, the special taxes may be used to pay for costs of the following services:

YOU MAY OBTAIN A COPY OF THE RESOLUTION OF FORMATION WHICH AUTHORIZED CREATION OF THE COMMUNITY FACILITIES DISTRICT, AND WHICH SPECIFIES MORE PRECISELY HOW THE SPECIAL TAX IS APPORTIONED AND HOW THE PROCEEDS OF THE TAX WILL BE USED, FROM THE _____ (name of jurisdiction) BY CALLING _____ (telephone number). THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE ESTIMATED REASONABLE COST OF PROVIDING THE DOCUMENT.

I (WE) ACKNOWLEDGE THAT I (WE) HAVE RECEIVED A COPY OF THIS NOTICE. I (WE) UNDERSTAND THAT I (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT RECEIPT AFTER RECEIVING THIS NOTICE FROM THE OWNER OR AGENT SELLING THE PROPERTY. THE CONTRACT MAY BE TERMINATED WITHIN THREE DAYS IF THE NOTICE WAS RECEIVED IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO THE OWNER OR AGENT SELLING THE PROPERTY.



DATE: _____

SEC. 3. Section 53754 is added to the Government Code, to read:
53754. (a) The legislative body collecting assessment installments to secure bonds issued pursuant to the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) shall designate an office, department, or bureau of the local agency that shall be responsible for annually preparing the current tax roll of assessment installment obligations by assessor’s parcel number on property within the assessment district. The designated office, department, or bureau shall be the same office, department, or bureau that prepares the “NOTICE OF SPECIAL TAX” required by Section 53340.2. If notice is required under both this section and Section 53340.2, the notices shall, to the extent feasible, be combined into a single notice document. The designated office, department, or bureau shall establish procedures to promptly respond to inquiries concerning installments on the current tax roll. Neither the designated office, department, or bureau, nor the legislative body, shall be liable if any estimate of assessment installments on the current tax roll is inaccurate, nor for any failure of any seller to request a Notice of Special Assessment or to provide the notice to a buyer.

(b) For purposes of enabling sellers of real property subject to the levy of assessments to satisfy the notice requirements of subdivision (b) of Section 1102.6 of the Civil Code, the designated office, department, or bureau shall furnish a Notice of Assessment to any individual requesting the notice or any owner of property subject to an assessment levied by the local agency within five working days of receiving a request for such notice. The local agency may charge a reasonable fee for this service not to exceed ten dollars (\$10).

(c) The notice shall contain the heading “NOTICE OF SPECIAL ASSESSMENT” in type no smaller than 8-point type, and shall be in substantially the following form. The form may be modified as needed to clearly and accurately present the required information or to consolidate information about two or more assessment districts that collect installments of assessments with respect to the lot, parcel, or unit. The notice shall be completed by the designated office, department, or bureau except for the signatures and date of signing:



NOTICE OF SPECIAL ASSESSMENT

ASSESSMENT DISTRICT NO.____ OF

(CITY) (COUNTY) (SPECIAL DISTRICT), CALIFORNIA

TO: THE PROSPECTIVE PURCHASER OF THE REAL PROPERTY
KNOWN AS:

Assessor's Parcel Number:____
Street Address:_____

THIS IS A NOTIFICATION TO YOU PRIOR TO YOUR
PURCHASING THIS PROPERTY.

This property is within the above-named assessment district. The assessment district has issued bonds to finance the acquisition or construction of certain public improvements that are of direct and special benefit to property within the assessment district. The bonds will be repaid from annual assessment installments on property within the assessment district.

This property is subject to annual assessment installments of the assessment district that will appear on your property tax bills, but which are in addition to the regular property taxes and any other charges and levies that will be listed on the property tax bill. If you fail to pay assessment installments when due each year, the property may be foreclosed upon and sold.

The annual assessment installment against this property as shown on the most recent tax bill for the ____-____ tax year is ____ dollars (\$____). Assessment installments will be collected each year until the assessment bonds are repaid.

The public facilities that are being paid for by the money received from the sale of bonds that are being repaid by the assessments, are:

(LIST)

These facilities may not yet have all been constructed or acquired and it is possible that some may never be constructed or acquired.



YOU SHOULD TAKE THIS ASSESSMENT AND THE BENEFITS FROM THE PUBLIC FACILITIES FOR WHICH IT PAYS INTO ACCOUNT IN DECIDING WHETHER TO BUY THIS PROPERTY.

YOU MAY OBTAIN A COPY OF THE RESOLUTION CONFIRMING ASSESSMENTS THAT SPECIFIES MORE PRECISELY HOW THE ASSESSMENTS ARE APPORTIONED AMONG PROPERTIES IN THE ASSESSMENT DISTRICT FROM THE ____ (name of jurisdiction) BY CALLING ____ (telephone number). THERE MAY BE A CHARGE FOR THIS DOCUMENT NOT TO EXCEED THE ESTIMATED REASONABLE COST OF PROVIDING THE DOCUMENT.

I (WE) ACKNOWLEDGE THAT I (WE) HAVE RECEIVED A COPY OF THIS NOTICE. I (WE) UNDERSTAND THAT I (WE) MAY TERMINATE THE CONTRACT TO PURCHASE OR DEPOSIT RECEIPT AFTER RECEIVING THIS NOTICE FROM THE OWNER OR AGENT SELLING THE PROPERTY. THE CONTRACT MAY BE TERMINATED WITHIN THREE DAYS IF THE NOTICE WAS RECEIVED IN PERSON OR WITHIN FIVE DAYS AFTER IT WAS DEPOSITED IN THE MAIL BY GIVING WRITTEN NOTICE OF THAT TERMINATION TO THE OWNER OR AGENT SELLING THE PROPERTY.

DATE: _____

Buyer

Buyer

