

AMENDED IN ASSEMBLY MAY 31, 2017
AMENDED IN ASSEMBLY APRIL 25, 2017
AMENDED IN ASSEMBLY MARCH 23, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 646

Introduced by Assembly Member Kalra

February 14, 2017

An act to ~~amend Sections 8589.3 and 8589.4 of~~ *add Section 8589.45* to the Government Code, relating to rental property disclosures.

LEGISLATIVE COUNSEL'S DIGEST

AB 646, as amended, Kalra. Rental property: disclosures: flood hazard areas: areas of potential flooding.

Existing law requires a person who is acting as an agent for a transferor of real property that is located within either a special flood hazard or an area of potential flooding, determined as provided, or the transferor if he or she is acting without an agent, to disclose to any prospective transferee the fact that the property located in a special flood hazard or an area of potential flooding if certain criteria are met.

~~This bill would additionally require a person who offers for rental a residential dwelling unit that is located within either a special flood hazard or an area of potential flooding to provide written notice of that fact. The bill would make findings and declarations in this regard.~~

This bill would require, for every lease or rental agreement for residential property entered into on or after July 1, 2018, the owner or person offering the property for rent to disclose to the tenant specified information pertaining to the risk of flooding. The bill would make findings and declarations in this regard.

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. The Legislature finds and declares the following:

2 (a) In February 2017, several neighborhoods within the City of
3 San Jose experienced severe flooding that forced the evacuation
4 of thousands of residents and businesses and caused significant
5 damage to public and private property throughout the city. A
6 number of communities and mobilehome parks along Coyote Creek
7 were submerged when Anderson Reservoir reached its capacity
8 and began spilling into the creek.

9 (b) The flood had significant impact on the communities along
10 Coyote Creek in the City of San Jose, and people living within the
11 neighborhoods impacted were not notified that their property was
12 located within a special flood hazard area or an area of potential
13 flooding.

14 (c) Sections 8589.3 and 8589.4 of the Government Code require
15 a person acting as an agent for a transferor of real property, or the
16 transferor if he or she is acting without an agent, who has actual
17 knowledge that the property is located within a special flood hazard
18 area or an area of potential flooding to disclose that fact to a
19 prospective transferee.

20 (d) The disclosures required by this act are warranted solely by
21 (1) the fact that residential rental properties located within an
22 inundation area or an area of potential flooding is known by
23 landlords and (2) the ability of a landlord to disclose this
24 information for the safety of tenants.

25 ~~SEC. 2. Section 8589.3 of the Government Code is amended~~
26 ~~to read:~~

27 ~~8589.3. (a) (1) A person who is acting as an agent for a~~
28 ~~transferor of real property that is located within a special flood~~
29 ~~hazard area (any type Zone "A" or "V") designated by the Federal~~
30 ~~Emergency Management Agency, or the transferor if he or she is~~
31 ~~acting without an agent, shall disclose to any prospective transferee~~
32 ~~the fact that the property is located within a special flood hazard~~
33 ~~area.~~

34 ~~(2) A person who offers for rental a residential dwelling unit~~
35 ~~that is located within a special flood hazard area (any type Zone~~

1 “A” or “V”) designated by the Federal Emergency Management
2 Agency shall provide written notice to a prospective tenant of the
3 fact that the property is located within a special flood hazard area
4 prior to execution of a rental agreement.

5 (b) ~~Disclosure is required pursuant to this section only when~~
6 ~~one of the following conditions is met:~~

7 (1) ~~The transferor, or the transferor’s agent, or the person~~
8 ~~offering for rental a residential dwelling unit, has actual knowledge~~
9 ~~that the property is within a special flood hazard area.~~

10 (2) ~~The local jurisdiction has compiled a list, by parcel, of~~
11 ~~properties that are within the special flood hazard area and a notice~~
12 ~~has been posted at the offices of the county recorder, county~~
13 ~~assessor, and county planning agency that identifies the location~~
14 ~~of the parcel list.~~

15 (c) ~~In all transactions that are subject to Section 1103 of the~~
16 ~~Civil Code, the disclosure required by subdivision (a) of this~~
17 ~~section shall be provided by either of the following means:~~

18 (1) ~~The Local Option Real Estate Disclosure Statement as~~
19 ~~provided in Section 1102.6a of the Civil Code.~~

20 (2) ~~The Natural Hazard Disclosure Statement as provided in~~
21 ~~Section 1103.2 of the Civil Code.~~

22 (d) ~~For purposes of the disclosure required by this section, the~~
23 ~~following persons shall not be deemed agents of the transferor:~~

24 (1) ~~Persons specified in Section 1103.11 of the Civil Code.~~

25 (2) ~~Persons acting under a power of sale regulated by Section~~
26 ~~2924 of the Civil Code.~~

27 (e) ~~Section 1103.13 of the Civil Code shall apply to this section.~~

28 (f) ~~The specification of items for disclosure in this section does~~
29 ~~not limit or abridge any obligation for disclosure created by any~~
30 ~~other provision of law or that may exist in order to avoid fraud,~~
31 ~~misrepresentation, or deceit in the transfer transaction or the rental~~
32 ~~agreement.~~

33 (g) ~~A notice shall be posted at the offices of the county recorder,~~
34 ~~county assessor, and county planning agency that identifies the~~
35 ~~location of the special flood hazard area map, any relevant Letters~~
36 ~~of Map Revision from the Federal Emergency Management~~
37 ~~Agency, and any parcel list compiled by the local jurisdiction.~~

38 SEC. 3. ~~Section 8589.4 of the Government Code is amended~~
39 ~~to read:~~

1 ~~8589.4. (a) (1) A person who is acting as an agent for a~~
2 ~~transferor of real property that is located within an area of potential~~
3 ~~flooding shown on an inundation map designated pursuant to~~
4 ~~Section 8589.5, or the transferor if he or she is acting without an~~
5 ~~agent, shall disclose to any prospective transferee the fact that the~~
6 ~~property is located within an area of potential flooding.~~

7 ~~(2) A person who offers for rental a residential dwelling unit~~
8 ~~that is located within an area of potential flooding shown on an~~
9 ~~inundation map designated pursuant to Section 8589.5 shall provide~~
10 ~~written notice to a prospective tenant of the fact that the property~~
11 ~~is located within an area of potential flooding prior to execution~~
12 ~~of a rental agreement.~~

13 ~~(b) Disclosure is required pursuant to this section only when~~
14 ~~one of the following conditions is met:~~

15 ~~(1) The transferor, or the transferor's agent, or the person~~
16 ~~offering for rental a residential dwelling unit, has actual knowledge~~
17 ~~that the property is within an inundation area.~~

18 ~~(2) The local jurisdiction has compiled a list, by parcel, of~~
19 ~~properties that are within the inundation area and a notice has been~~
20 ~~posted at the offices of the county recorder, county assessor, and~~
21 ~~county planning agency that identifies the location of the parcel~~
22 ~~list.~~

23 ~~(c) In all transactions that are subject to Section 1103 of the~~
24 ~~Civil Code, the disclosure required by subdivision (a) of this~~
25 ~~section shall be provided by either of the following means:~~

26 ~~(1) The Local Option Real Estate Disclosure Statement as~~
27 ~~provided in Section 1102.6a of the Civil Code.~~

28 ~~(2) The Natural Hazard Disclosure Statement as provided in~~
29 ~~Section 1103.2 of the Civil Code.~~

30 ~~(d) For purposes of the disclosure required by this section, the~~
31 ~~following persons shall not be deemed agents of the transferor:~~

32 ~~(1) Persons specified in Section 1103.11 of the Civil Code.~~

33 ~~(2) Persons acting under a power of sale regulated by Section~~
34 ~~2924 of the Civil Code.~~

35 ~~(e) Section 1103.13 of the Civil Code shall apply to this section.~~

36 ~~(f) The specification of items for disclosure in this section does~~
37 ~~not limit or abridge any obligation for disclosure created by any~~
38 ~~other provision of law or that may exist in order to avoid fraud,~~
39 ~~misrepresentation, or deceit in the transfer transaction or rental~~
40 ~~agreement.~~

1 *SEC. 2. Section 8589.45 is added to the Government Code,*
2 *immediately following Section 8589.4, to read:*

3 8589.45. (a) *In every lease or rental agreement for residential*
4 *property entered into on or after July 1, 2018, the owner or person*
5 *offering the property for rent shall disclose to a tenant, in no*
6 *smaller than eight-point type, the following:*

7 (1) *That the property is located in a special flood hazard area*
8 *or an area of potential flooding, if the owner has actual knowledge*
9 *of that fact. For purposes of this section, “actual knowledge”*
10 *includes the following:*

11 (A) *The owner has received written notice from any public*
12 *agency stating that the property is located in a special flood hazard*
13 *area or an area of potential flooding.*

14 (B) *The property is located in an area in which the owner’s*
15 *mortgage holder requires the owner to carry flood insurance.*

16 (C) *The owner currently carries flood insurance.*

17 (2) *That the tenant may obtain information about hazards,*
18 *including flood hazards, that may affect the property from the*
19 *Internet Web site of the Office of Emergency Services. The*
20 *disclosure shall include the Internet Web site address for the*
21 *MyHazards tool maintained by the office.*

22 (3) *That the owner’s insurance does not cover the loss of the*
23 *tenant’s personal possessions and it is recommended that the tenant*
24 *consider purchasing renter’s insurance and flood insurance to*
25 *insure his or her possessions from loss due to fire, flood, or other*
26 *risk of loss.*

27 (4) *That the owner is not required to provide additional*
28 *information concerning the flood hazards to the property and that*
29 *the information provided pursuant to this section is deemed*
30 *adequate to inform the tenant.*

31 (b) *The disclosures required by this section are subject to the*
32 *requirements of Section 1632 of the Civil Code.*

33 (c) *Section 1103.13 of the Civil Code shall apply to this section.*

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