
THIRD READING

Bill No: AB 1857
Author: Aguiar-Curry (D), et al.
Amended: 6/15/26 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 13-0, 6/23/26

AYES: Umberg, Niello, Allen, Ashby, Caballero, Durazo, Laird, Reyes, Stern, Valladares, Wahab, Weber Pierson, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/26

AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 72-0, 5/21/26 - See last page for vote

SUBJECT: Unlawfully restrictive covenants: grocery stores and supermarkets

SOURCE: California Food and Farming Network
Economic Security California Action

DIGEST: This bill makes void and unenforceable a restrictive covenant that effectively prohibits or restricts the use of property as a grocery store or supermarket, if a grocery store or supermarket previously operated on the property and has ceased operations, and an approved restrictive covenant modification document has been recorded, and provides a process by which an interested party can record a restrictive covenant modification document, as specified.

ANALYSIS:

Existing law:

- 1) Prohibits enforcement, against the owner of a housing development, of any covenants, conditions, restrictions, reciprocal easement agreements, or private limits on private or publicly owned land that restrict or prohibit the residential uses of the land, the number, size, or location of the residences that may be built

on the property, or the number of persons or families who may reside on the property, if an approved restrictive covenant housing modification document has been recorded in the public record, as specified. (Civil [Civ.] Code § 714.6(a).)

- 2) Authorizes the owner of a housing development to modify or remove a covenant restricting the number or size of the residences that may be built on a property or the number of persons who may reside on the property to the extent necessary to allow the housing development to proceed, by submitting a restrictive covenant modification document to the county recorder. (Civ. Code § 714.6(b)(1).)
- 3) Outlines the process for obtaining a modified covenant, in which the county counsel reviews for eligibility the covenant modification document submitted by the owner, and approves if eligible. Requires the county recorder to submit the modification document and accompanying documentation received with the application to the County Counsel within five business days of when the county recorder received them. Requires the County Counsel to determine within 15 days whether the restrictive covenant document restricts the property by residences or residents as specified in (1), whether the owner has shown that they qualify as a housing developer, whether any required notice has been provided, whether an exemption applies to the restrictive covenant, and whether the restrictive covenant may no longer be enforced against the owner applicant. (Civ. Code § 714.6(b)(2).)
- 4) Permits an owner who requested a restrictive covenant modification, upon notification that the county counsel has approved the modification document, to mail by certified mail the modification document, a copy of this section, and a written explanation of the modification and if it was approved to anyone whom the owner knows has an interest in the property or the restrictive covenant, or who may publish a notice of the approved modification. Specifies that notice shall be deemed to have been given if the notice is actually received by the interested party or is mailed to them as specified, or in the case of a published notice, to anyone whose interest does not appear of record or for whom no mailing address is available or reasonably ascertainable. (Civ. Code § 714.6(b)(2)(D).)
- 5) Provides that a restrictive covenant invalidated under this section will be enforceable if the property in question is utilized in a manner that violates the terms relating to housing, and provides a process through which a city or county may provide notice of a violation of the terms of this section relating to

affordable housing when an owner who obtained a covenant modification under this section fails to utilize the property for housing. (Civ. Code § 714.6(b)(4)-(5).)

- 6) Requires any party that is deemed to have been given notice that wishes to file a suit challenging the validity of a restrictive covenant modification document described upon to file the suit within 35 days of receiving notice, and provides that, in any suit to enforce the rights provided by this section or to defend against any suit filed against those rights, a prevailing owner will be entitled to recover litigation costs and reasonable attorney's fees. (Civ. Code § 714.6(d).)
- 7) Defines, for the purposes of the sections above, the term "restrictive covenant" to mean any recorded covenant, condition, restriction, or limit on the use of private or publicly owned land contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest that restricts the number, size, or location of residences that may be built on the property, or that restricts the number of persons or families who may reside on the property. (Civ. Code § 714.6(j).)
- 8) Authorizes the appointment of a county counsel by a county board of supervisors and vests the county counsel with the duties of a public prosecutor. (Gov. Code §§ 27640 et seq.)
- 9) Authorizes a county counsel to represent and advise the officers and employees of special districts organized within the county and to have exclusive charge and control of all civil actions and proceedings in which special districts or their officers or employees are concerned or are parties, as specified. (Government [Gov.] Code § 27645.)
- 10) Provides that specified notices must be published, as specified, in a newspaper of general circulation for the period prescribed, the number of times, and in the manner provided. (Gov. Code § 6060.)
- 11) Provides that any property owner of a property subject to an unlawfully restrictive covenant based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry may submit for recordation a document striking out the unlawfully restrictive covenant. (Gov. Code Section 12956.1.)

This bill:

- 1) Makes various findings and declarations regarding food insecurity, restrictive covenants that prohibit the use of commercial property for food retail purposes, and the systemic barriers to food access.
- 2) Makes any covenant, restriction, or condition contained in any deed, contract, security instrument, lease, or other recorded or unrecorded instrument affecting the transfer or sale of any interest in real property that effectively prohibits or restricts the use of that property as a grocery store or supermarket void and unenforceable against an interested party if:
 - a) a grocery store or supermarket previously operated on the property, and has ceased operations, or is no longer in actual operation within a commercial project or shopping center; and
 - b) an approved restrictive covenant modification document has been recorded in the public record.
- 3) Permits an interested party to establish that an existing restrictive covenant is unenforceable by submitting a restrictive covenant modification document pursuant to Government Code section 12956.2 that modifies or removes any existing restrictive covenant language to the extent necessary to allow the grocery store or supermarket development to proceed. For this application, requires the interested party to submit to the county recorder a copy of the original restrictive covenant and any documents the interested party believes necessary to establish that a grocery store or supermarket previously operated on the property, which may include business license records, health department permits, Alcoholic Beverage Control Act license records, or county assessor records.
- 4) Requires the county recorder to submit the documentation and modification document provided by the interested party to the county counsel within five business days, and requires the county counsel to determine whether the original restrictive covenant restricts the property in the prohibited manner, whether the interested party has submitted documents sufficient to establish that the property qualifies as a grocery store or supermarket development, whether any notice required has been provided, whether any exemption applies, and whether the restriction may no longer be enforced against the interested party.
- 5) Requires, pursuant to Government Code section 12956.2, the county counsel to return the documents and inform the county recorder of their determination within 15 days of submission to the county counsel, and requires the county counsel to specify the documentation that is needed in order to make a

determination if they are unable to do so. If the county counsel authorizes the county recorder to record the modification document, requires the authorization to be noted on the face of the modification or on a cover sheet, and requires the county recorder to notify the interested party or submitting party of the county counsel's determination without delay.

- 6) Permits an interested party, upon notification that the county counsel has authorized the modification document to be recorded, to mail by certified mail a copy of the modification document and a written explanation of the modification and its approval to anyone who the interested party knows has an interest in the property or the restrictive covenant. Deems the notice given if it is actually received and is mailed by certified mail to any address for notice on the restrictive covenant and the recipient's address, and also permits the interested party to publish the notice pursuant to Government Code section 6061, as specified.
- 7) Prohibits the county recorder from recording the modification document if the county counsel finds any reason why the modification document is not appropriate under the terms of these provisions.
- 8) Requires the modification document to be indexed in the same manner as the original restrictive covenant being modified, and to contain a recording reference to the original restrictive covenant, as specified.
- 9) Specifies that, if an interested party causes to be recorded a modification document that is not authorized by these provisions, the county shall not incur liability for recording the document, and that the liability that may result is the sole responsibility of the interested party who submitted the unauthorized modification document for recordation.
- 10) Specifies that a restrictive covenant that was invalidated pursuant to these provisions shall become enforceable while the property subject to the restrictive covenant modification document is utilized in a manner that violates these provisions, and permits the city or county, after notice and an opportunity to be heard, to record a notice of that violation. Permits the interested party to apply for a release from this notice if they comply with these provisions.
- 11) Permits the county recorder to charge a standard recording fee to an interested party who submits a modification document pursuant to these provisions.

- 12) Specifies that its provisions only apply to restrictive covenants that restrict or prohibit the use of the property as a grocery store or supermarket.
- 13) Provides that any suit filed by a party deemed to have been given notice that challenges the validity of the restrictive covenant modification document must be filed within 60 days of the notice. Specifies that, in any suit to enforce the rights provided by these provisions or filed against them, a prevailing interested party and any successors or assigns are entitled to recover litigation costs and reasonable attorney's fees, as specified.
- 14) Provides that for restrictions that are otherwise compliant with all applicable laws, this bill does not invalidate local building codes, fire codes, health and safety regulations, or other rules regulating commercial uses of property, including, but not limited to, any of the following:
 - a) the size, height, setback, or design of commercial structures;
 - b) parking, traffic circulation, loading, or access requirements;
 - c) signage, lighting, noise, or hours of operation; and
 - d) health department permitting, food safety, or sanitation requirements applicable to food retail establishments.
- 15) Clarifies that nothing in this bill is to be interpreted to authorize any use of property that is not otherwise consistent with the local general plan, zoning ordinances, and any applicable specific plan, conditional use permit, or other land use entitlement that applies to the property, and that nothing in this bill exempts a grocery store or supermarket from obtaining any permit, license, or approval otherwise required by state or local law.
- 16) Provides that the bill is not to be construed to invalidate or render unenforceable, any of the following:
 - a) an exclusive-use provision, radius restriction, or similar covenant contained in a lease or sublease between a landlord and a tenant, to the extent that the provision restricts the landlord from leasing other premises within the same commercial project or shopping center to a competing grocery store or supermarket, provided that at least one grocery store or supermarket is in actual operation within the commercial project or shopping center at the time enforcement of the provision is sought;

- b) a covenant or restriction that limits the number of grocery store or supermarket tenants within a single commercial project or shopping center, but does not prohibit all grocery store or supermarket use of the property, provided that at least one grocery store or supermarket is in actual operation within the commercial project or shopping center at the time enforcement of the provision is sought;
 - c) a covenant or restriction that limits the number of grocery store or supermarket tenants within a single commercial project or shopping center, but does not prohibit all grocery store or supermarket use of the property; or
 - d) a covenant, condition, or restriction that relates to purely aesthetic objective design standards, fees or assessments for the maintenance of common areas, or other obligations that do not have the purpose or effect of prohibiting or restricting the use of the property as a grocery store or supermarket.
- 17) Clarifies that any covenants invalidated by this bill are not to impact otherwise lawful covenants applying to the property.
- 18) Defines, for the purposes of its provisions, the following:
- a) “grocery store” or “supermarket” to mean a retail store in this state that sells a broad range of perishable and nonperishable household food products for offsite consumption, such as fresh meat, poultry, and seafood, fresh produce, dairy products, frozen foods, canned foods, dry foods, baked goods, and beverages;
 - b) “interested party” to mean any of the following:
 - i) the owner or current lessee of the property;
 - ii) a person or entity that holds a right to acquire the property under an option agreement, purchase and sale agreement, or similar agreement;
 - iii) a person or entity that has submitted a complete application for a business license, conditional use permit, or other land use entitlement to a city or county for the purpose of operating a grocery store or supermarket; or
 - iv) a party under contract to lease the property for the purpose of operating a grocery store or supermarket.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

Unknown, local costs for county recorders and county counsels. While county recorder costs are fee-supported and not likely to be subject to state reimbursement, county counsel costs could be reimbursable, subject to a determination by the Commission on State Mandates. (General Fund)

SUPPORT: (Verified 8/13/26)

California Food and Farming Network (co-source)
Economic Security California Action (co-source)
Acterra: Action for a Healthy Planet
Agricultural Institute of Marin
Alameda County Community Food Bank
Alchemist CDC
American Economic Liberties Project
Asian Pacific Islander Forward Movement
Californians for Disability Rights Inc.
Cameo Network
Casa Visco
Ceres Community Project
City of Escondido
Community Alliance With Family Farmers
End Child Poverty CA Powered by Grace
FAACTS (food and Agriculture Action Coalition Toward Sovereignty)
Farm2people
Food Access LA
Food Bank of Contra Costa and Solano
Food Empowerment Project
Food for People
Foodshed Cooperative
Fresh Approach
Fullwell
Glide Foundation
Health Right 360
Institute for Local Self-reliance
Los Angeles Community Action Network
Los Angeles Food Policy Council
National Right to Food Community of Practice
Native American Environmental Protection Coalition (NAEPC)
NextGen California

Nourish California
Nutrition and Fitness Collaborative of the Central Coast
Pesticide Action and Agroecology Network
Roots of Change
Sacramento Food Policy Council
San Diego Food System Alliance
San Diego Hunger Coalition
Second Harvest Food Bank of Orange County
Shalom Farms
Sierra Harvest
SoLA Food Co-op
TechEquity Action
The Office of Kat Taylor
Women Advancing Nutrition Dietetics and Agriculture (WANDA)
World Be Well Organization
Yolo Food Hub Network

OPPOSITION: (Verified 8/13/26)

None received

ARGUMENTS IN SUPPORT:

According to the California Food and Farming Network, which is the sponsor of AB 1857:

Restrictive covenants contained in deeds, leases, and other land-use documents prohibit the use of commercial property for food retail purposes, preventing food retailers from establishing at a site, and therefore operating as a private land-use barriers that reduce food access, limit consumer choice, suppress competition, create conditions for the high cost of food, and allow corporate entities to dictate the accessibility of food in a community. In some instances, these clauses leave communities without a grocery store for decades. For example, a Safeway in Vallejo closed and placed a restrictive covenant on the site, leaving the community without a grocery store for 15 years until the covenant expired and a Grocery Outlet was able to open, meaning some children in that neighborhood went their entire childhood without a grocery store nearby. Areas like these without immediate access to fresh foods are known as food deserts/food apartheid.

Corporate and consolidated grocers often use restrictive covenants to maximize their profits. As large grocery chains have merged and consolidated over the last fifty years, they have created profit incentives to close stores and place grocery restrictive covenants within property contracts that would restrict other food retailers from renting or leasing spaces associated with the property owners, often in the same plaza or vicinity. This way, consolidated grocers can force customers with cars to travel farther to their other store locations, bypass the operating costs of the now-closed store, and offer themselves a guarantee that competitor stores will fail to replace the presence of the store they have already closed. This and other anti-competitive tactics are used by consolidated grocers to maintain market control and charge consumers the highest prices possible.

AB 1857, which aims to ban and nullify the anti-competitive practice of grocery restrictive covenants, would begin to disrupt the creation of food deserts/food apartheid throughout California and ensure that a community's will to have a grocery store is not obstructed by private land use restrictions with no public benefit.

ASSEMBLY FLOOR: 72-0, 5/21/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Arambula, Chen, Gabriel, Garcia, Lackey, Ramos, Celeste Rodriguez, Tangipa

Prepared by: Ian Dougherty / JUD. / (916) 651-4113
8/15/26 13:09:29

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