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**SENATE COMMITTEE ON  
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**  
Senator Angelique Ashby, Chair  
2025 - 2026 Regular

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<b>Bill No:</b>	AB 782	<b>Hearing Date:</b>	July 14, 2025
<b>Author:</b>	Quirk-Silva		
<b>Version:</b>	July 3, 2025		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Yeaphana La Marr		

**Subject:** Subdivisions: security

**SUMMARY:** Prohibits the Real Estate Commissioner (Commissioner) of the Department of Real Estate (DRE) from requiring a security in connection with a subdivision improvement if the Commissioner finds that a sufficient security has been furnished to a local agency for the same improvement.

**NOTE:** This bill was heard in the Senate Committee on Local Government on July 2, 2025. The bill passed with a 7-0 vote.

**Existing law:**

- 1) Establishes the DRE to administer the Real Estate Law. (Business and Professions Code (BPC) § 10000 et seq.)
- 2) Establishes the Real Estate Commissioner (Commissioner) as the chief officer of the DRE, whose principal responsibility is enforce the Real Estate Law in a manner that achieves the maximum protection for the buyers of real property and those persons dealing with real estate licensees. (BPC § 10050)
- 3) Requires protection of the public to be the highest priority for the DRE in exercising its licensing, regulatory, and disciplinary functions. Requires protection of the public shall be paramount whenever the protection of the public is inconsistent with other interests sought to be promoted. (BPC § 10050.1)
- 4) Establishes the Subdivided Lands Act (Act) to be administered by DRE and requires subdividers of planned developments, community apartment projects, condominiums, and stock cooperatives to file extensive financial and other disclosures with the Commissioner before the sale or lease of subdivided lands. (BPC §§ 11000-11200)
- 5) States that “subdivided lands” and “subdivisions” include improved or unimproved land or lands, a lot or lots, or a parcel or parcels, of any size, in which, for the purpose of sale or lease or financing, whether immediate or future, five or more undivided interests are created or are proposed to be created, except under specified conditions. (BPC § 11000.1)
- 6) Requires, except as otherwise provided, any person who intends to offer subdivided lands in California for sale or lease shall file with the DRE an application for a public

report consisting of a notice of intention and a completed questionnaire on a form prepared by DRE. (BPC § 11010)

- 7) Prohibits an owner, subdivider, or agent from selling or leasing lots or parcels within a subdivision that is subject to a blanket encumbrance without a blanket encumbrance or other supplementary agreement a provision that unconditionally provides that the purchaser or lessee of a lot or parcel can obtain legal title or other interest contracted for, free and clear of the blanket encumbrance, upon compliance with the terms and conditions of the purchase or lease, except as provided in BPC §§ 11013.2 for lots or parcels within each subdivision. (BPC § 11013.1)
- 8) Prohibits the owner, subdivider, or agent from selling or leasing lots or parcels within a subdivision for which there is not a blanket encumbrance or supplementary agreement release clause unless one of the following conditions is complied with:
  - a) The entire sum of money paid or advanced by the purchaser or lessee of any such lot or parcel, or such portion thereof as the Commissioner shall determine is sufficient to protect the interest of the purchaser or lessee, shall be deposited into an escrow depository acceptable to the Commissioner until either:
    - i) A proper release is obtained from such blanket encumbrance;
    - ii) Either the owner, subdivider, or agent or the purchaser or lessee may default under their contract of sale or lease and there is a determination as to the disposition of such moneys; or
    - iii) The owner, subdivider, or agent orders the return of such moneys to such purchaser or lessee.
  - b) The title to the subdivision is to be held in trust under an agreement of trust acceptable to the Commissioner until a proper release from such blanket encumbrance is obtained.
  - c) A bond to the State of California is furnished to the Commissioner for the benefit and protection of purchasers or lessees of such lots or parcels, in such amount and subject to such terms as may be approved by the Commissioner, which shall provide for the return of the moneys paid or advanced by any purchaser or lessee, for or on account of the purchase or lease of any such lot or parcel.
  - d) There is conformance to such other alternative requirement or method which the Commissioner may deem acceptable to carry into effect the intent and provisions of this part. (BPC § 11013.2)
- 9) Requires the Commissioner to issue a public report if the Commissioner finds the following with respect to any subdivision or interest:
  - a) Reasonable arrangements have been made to assure completion of the subdivision and all offsite improvements included in the offering.

- b) If the condominium or community apartment project, stock cooperative or planned development, or premises or facilities within the common area are not completed prior to the issuance of a final subdivision public report on the project, the subdivider shall specify a reasonable date for completion and shall comply with one of the following:
  - (i) Arrange for lien and completion bond or bonds in an amount and subject to such terms, conditions and coverage as the Commissioner may approve to assure completion of the improvements lien free.
  - (ii) Impound all funds from the sale of lots or parcels or such portions thereof as the Commissioner determines sufficient to assure construction of the improvement or improvements in a neutral escrow depository acceptable to the Commissioner until the improvements have been completed and all applicable lien periods have expired; provided, however, the Commissioner determines the time for the completion is reasonable.
  - (iii) Deposit an amount sufficient to cover the costs of construction in a neutral escrow depository acceptable to the Commissioner under a written agreement providing for disbursements from that escrow as work is completed.
  - (iv) Arrange for 1) a lien and completion bond or bonds in an amount sufficient to assure lien-free completion of all common area improvements not located in a residential structure and 2) placement of all funds, or such portions as the Commissioner determines are sufficient, from the sales of condominium interests in a neutral escrow depository acceptable to the Commissioner if the project is a condominium situated on a single parcel as shown on an approved final subdivision map. The funds for purchase or lease of the condominium interest are to remain in the escrow account until the residential structure in which the purchaser's separate unit is located has been completed, and all lien periods applicable to the purchaser's separate and undivided interests in the entire project arising out of the work of improvement performed by either the subdivider or any successor in interest to the subdivider have expired or have been insured against in a manner satisfactory to the Commissioner.
  - (v) Complete an alternative plan as approved by the Commissioner.
- 10) Establishes the Subdivision Map Act (Map Act), which governs how local officials regulate and control of the design and improvement of subdivisions and divide real property into smaller parcels for sale, lease, or financing. (Government Code (GOV) §§ 66410-66499.41)
- 11) Provides that whenever the Map Act or a local ordinance authorizes or requires the furnishing of security in connection with the performance of any act or agreement related to an improvement and the developer is not a nonprofit corporation, the security is required to be one of the following at the option of and subject to the approval of the local agency and if the developer is a nonprofit corporation, the

security shall be one of the following, subject to the approval of the local agency:

- a) Bond or bonds by one or more duly authorized corporate sureties.
  - b) A deposit, either with the local agency or a responsible escrow agent or trust company, at the option of the local agency, of money or negotiable bonds of the kind approved for securing deposits of public moneys.
  - c) An instrument of credit from an agency of the state, federal, or local government when any agency of the state, federal, or local government provides at least 20% of the financing for the portion of the act or agreement requiring security, or from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment, or a letter of credit issued by such a financial institution.
  - d) A lien upon the property to be divided, created by contract between the owner and the local agency, if the local agency finds that it would not be in the public interest to require the installation of the required improvement sooner than two years after the recordation of the map.
  - e) Any form of security, including security interests in real property, which is acceptable to the local agency and specified by ordinance. (GC § 66499(a))
- 12) Specifies that any contract or security interest in real property entered into as security for performance as described in d) and e) of 9), above, shall be recorded with the county recorder of the county in which the subject real property is located. (GC § 66499(b))
- 13) Provides that the local agency may at any time release all or any portion of the property subject to any lien or security interest or subordinate the lien or security interest to other liens or encumbrances, if it determines that security for performance is sufficiently secured by a lien on other property or that the release or subordination of the lien will not jeopardize the completion of agreed upon improvements. (GC § 66499 (b))
- 14) Specifies that security to guarantee the performance of any act or agreement shall be in the following amounts:
- a) An amount determined by the legislative body, not less than 50 percent nor more than 100 percent of the total estimated cost of the improvement or of the act to be performed, conditioned upon the faithful performance of the act or agreement.
  - b) An additional amount determined by the legislative body, not less than 50 percent nor more than 100 percent of the total estimated cost of the improvement or the performance of the required act, securing payment to the contractor, to the subcontractors, and to persons furnishing labor, materials, or equipment to them for the improvement or the performance of the required act.

(GC § 66499.3)

- 15) Provides that, if the required subdivision improvements are financed and installed pursuant to special assessment proceedings, the local agency at its option may provide by local ordinance that, upon the furnishing by the contractor of the faithful performance and labor and material bonds required by the special assessment act being used, the improvement security of the subdivider may be reduced by an amount corresponding to the amount of such bonds so furnished by the contractor (GC § 66499.5).
- 16) Specifies the process and timeline in which the security furnished by the subdivider shall be released (GC § 66499.7).
- 17) Provides that in all cases where the performance of the obligation for which the security is required is subject to the approval of another agency, the local agency shall not release the security until the obligation is performed to the satisfaction of such other agency, unless otherwise specified (GC § 66499.8).
- 18) Provides that any liability upon the security given for the faithful performance of any act or agreement shall be limited to:
  - a) The performance of the work covered by the agreement between the subdivider and the legislative body or the performance of the required act.
  - b) The performance of any changes or alterations in such work; provided, that all such changes or alterations do not exceed 10% of the original estimated cost of the improvement.
  - c) The guarantee and warranty of the work, for a period of one year following completion and acceptance thereof, against any defective work or labor done or defective materials furnished, in the performance of the agreement with the legislative body or the performance of the act.
  - d) Costs and reasonable expenses and fees, including reasonable attorneys' fees. (GC § 66499.9)

**This bill:** Prohibits the Commissioner from requiring a security in connection with the performance of any act or agreement related to an improvement of subdivided lands if the Commissioner determines a sufficient security has been submitted to a local agency for the improvement under the Map Act.

**FISCAL EFFECT:** This bill is keyed fiscal by Legislative Counsel. According to the Assembly Committee on Appropriations, if half of the total annual projects no longer have a local bond and require a state security, but continue to have a local inspection of private improvements, DRE estimates General Fund (GF) costs of \$3.95 million in fiscal year (FY) 2026-27 and \$3.76 million in FY 2027-28 annually ongoing for 24 positions; or b) If only 20% of the total annual projects no longer have a local bond and require a state security, but continue to have a local inspection of private improvements, DRE estimates GF costs of \$1.87 million in FY 2026-27 and \$1.79 in FY 2027-28 ongoing for 11 positions.

**COMMENTS:**

1. **Purpose.** This bill is sponsored by the California Building Industry Association. The Author states, “AB 782 eliminates unnecessary double-bonding requirements that drive up housing costs and delay projects. Local governments should not be imposing redundant financial burdens on developers for private improvements they don’t control. This bill ensures that housing construction moves forward efficiently, reducing costs for homeowners and cutting through bureaucratic red tape.”
2. **Background.**

*Subdivided Lands Act and DRE Securities.* The Act outlines the process that a developer must go through for subdivision of five or more units. If a developer wants to sell or lease subdivided lands, they must file an application with DRE for a public report consisting of a notice of intention and a completed questionnaire. This statement must include various pieces of information regarding the developer’s plans, including information on how they intend to provide utilities to the subdivision, what uses the subdivision will offer, who will occupy the subdivided parcels, and the indebtedness incurred to pay for improvements.

Upon receipt of the materials, DRE must review the notice and application and notify the applicant if the information is complete within specified timeframes. Once DRE determines the application is complete, they must issue a public report that includes the developer’s submittal of recorded or filed instruments and evidence of financial arrangements as required by DRE. For example, the developer cannot sell or lease parcels until DRE issues a public report that the developer has sufficient financial security to protect the purchaser or lessee (consumer) from fraud, misrepresentation, or deceit. This includes a determination that the developer has made reasonable arrangements to assure completion of the subdivision and all necessary improvements.

The Act provides multiple ways for a developer to demonstrate they have sufficient financial security. In cases when there is not a release from blanket encumbrances in the contract, the developer can: 1) deposit the entire sum of money paid or advanced by the consumer, or a portion the Commissioner determines is sufficient to protect the interest of the purchaser or lessee, into an escrow depository acceptable to the Commissioner; 2) have the title to the subdivision held in trust under an agreement of trust acceptable to the Commissioner until a proper release from such blanket encumbrance is obtained; 3) furnish a bond to the Commissioner for the benefit and protection of purchasers or lessees in an amount and under terms approved by the Commissioner; or 4) demonstrate conformance to such other alternative requirement or method which the Commissioner may deem acceptable to carry into effect the intent and provisions of the security requirements.

*Subdivision Map Act and Securities.* The Map Act governs how local officials regulate the division of real property into smaller parcels for sale, lease, or financing. Cities and counties adopt local subdivision ordinances to carry out the Map Act and local requirements. City councils and county boards of supervisors use the Map Act to control a subdivision’s design and improvements and local

subdivision approvals must be consistent with city and county general plans.

The Map Act allows local officials to require, as a condition of approving a proposed subdivision, the subdivider to dedicate property within a subdivision for streets, alleys, drainage, utility easements, and other public easements and improvements. Once subdividers comply with those conditions, local officials must issue final maps. For smaller subdivisions that create four or fewer parcels, local officials usually use parcel maps, but they can also require tentative parcel maps followed by final parcel maps. The Map Act also constrains the dedications and improvements that local cities and counties can require as a condition of a subdivision of four or fewer lots to only the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created.

To ensure completion of improvements, the Map Act allows a city or county, at their discretion, to require a private developer to furnish a security (GOV § 66499). The security ensures the developer constructs the improvements as agreed upon and pays for labor, materials, and improvements. These securities can be in the form of a bonds, cash deposit, credit instrument, property lien, or other forms of security the city or county accepts to secure completion of improvements.

Sponsors contend delays, some under the developer's control and some as a result of changing local requirements, can make compliance with a tentative map's conditions challenging to accomplish before the tentative map expires and add, "...some local governments force developers to post excessive bonds for private improvements, significantly increasing costs and delaying projects."

3. **Arguments in Support.** The California Building Industry Association (sponsor), the Building Industry Association of San Diego, California Apartment Association, California Chamber of Commerce, Home Builders Association of the Central Coast, Orange County Taxpayers Association, and Southern California Leadership Council state, "Under current law, both local governments and the California Department of Real Estate (DRE) can require developers to provide financial security—such as bonds, letters of credit, or escrow deposits—for improvements in connection with an approval of a subdivision map. While this requirement makes sense for public improvements that a local agency will own and maintain, some local governments are extending these requirements to private improvements. As a result, developers are required to provide security twice—once to the DRE and again to the local agency—for the exact same private improvements such as sidewalks, lighting, landscaping, clubhouses, swimming pools, and other amenities maintained by a Homeowners Association. AB 782 offers a practical solution by clarifying that developers are not required to provide duplicative performance security to both local governments and the Department of Real Estate (DRE) for the same improvement. Importantly, the bill maintains the DRE's existing authority to require financial assurances for private improvements."

The Inner City Law Center writes, "At the core of the undersupply of housing are outdated processes that add cost and time to housing developments, making housing unaffordable to most Californians. A recent Rand study entitled "The High Cost of Producing Multifamily Housing in California" (April 2, 2025) found that building multifamily housing in California was exponentially more expensive than

other states. California remains, based on this Rand study, the single most expensive state to build multifamily housing in every cost category considered. By eliminating the double bonding of private improvements in housing developments, we move boldly to reduce housing project costs and the ultimate cost paid by the consumer.”

#### 4. Policy Considerations and Suggested Amendments.

Recent amendments to this bill impact consumer protection. Prior language in the measure would have prohibited a local agency from requiring a developer from furnishing a security in connection with the performance or act related to an improvement that is privately owned and maintained. As written at the time, the bill expressly stated that it does not limit or otherwise affect the authority of the Commissioner to require a security related to the offer for sale or lease of a subdivision. That version of the bill would have achieved the sponsor’s goal of non-duplicative securities without the negative from eliminating the DRE security that is specifically intended to benefit consumers who purchase or lease parcels in a subdivision.

The May 5, 2025 amendments instead prohibit the Commissioner from requiring a developer to furnish a security in relation to a residential development that will be publicly owned and maintained if a sufficient security has been furnished to a local agency. This version of the bill also prohibits a local agency from requiring a security in connection with the performance of an improvement that will be privately owned and maintained if a security has already been furnished to the DRE with respect to the Commissioner’s issuing a public report.

On July 9, 2025, amendments removed the prohibitions on local governments and put 100 percent of the duty to ensure two securities were not provided on the DRE. Now this bill defers a security that is in place “for the benefit and protection of purchasers or lessees of such lots or parcels,” for a security that is not mandatory, does not benefit purchasers or lessees who are harmed by a developer’s failure to complete a project, does not benefit the city or county, and only serves to demonstrate to the city or county that the developer has the financial means to finish the project.

While Author’s intent of eliminating double-bonding requirements to reduce costs of improvements is well-intended, the ability of DRE to meet its public protection mandate as the highest priority for the DRE in exercising its licensing, regulatory, and disciplinary functions and requiring protection of the public shall be paramount whenever the protection of the public is inconsistent with other interests sought to be promoted. Consideration should be given to this mandate by amending this bill to ensure that consumer protection is not negatively impacted, according to the following:

Amend BPC § 11018 as follows:

11018. 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 that the Commissioner determines are necessary to implement the purposes of this article. The Commissioner may publish the report.

(a) The grounds for denial are:

- (1) Failure to comply with any of the provisions in this chapter or the regulations of the Commissioner pertaining thereto.
- (2) The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.
- (3) Inability to deliver title or other interest contracted for.
- (4) Inability to demonstrate that adequate financial arrangements have been made for all offsite improvements included in the offering.
- (5) Inability to demonstrate that adequate financial arrangements have been made for any community, recreational, or other facilities included in the offering.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering.

(b) Notwithstanding subdivision (a), the Real Estate Commissioner shall not, with respect to issuing a public report for a residential development or project pursuant to this section, require the furnishing of a security in connection with the performance of any act or agreement related to an improvement if the Real Estate Commissioner determines that ~~sufficient~~ security sufficient to protect the interests of the owners and lessees, as necessary, has been furnished to a local agency for the same improvement pursuant to Chapter 5 (commencing with Section 66499) of Division 2 of Title 7 of the Government Code.

## **SUPPORT AND OPPOSITION:**

### Support:

California Building Industry Association (sponsor)  
Building Industry Association of San Diego  
California Apartment Association  
California Chamber of Commerce  
Home Builders Association of the Central Coast  
Inner City Law Center  
Orange County Taxpayers Association  
Southern California Leadership Council

Opposition:

None received

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