

CONCURRENCE IN SENATE AMENDMENTS

AB 851 (McKinnor)

As Amended September 5, 2025

2/3 vote. Urgency

SUMMARY

Prohibits buyers from making unsolicited offers on residential property in fire-affected zip codes until January 1, 2027.

Major Provisions

- 1) Prohibits a *person* from making an unsolicited offer to purchase residential real property in fire-affected zip codes.
- 2) Establishes that prior to the transfer of title, *in the purchase of residential real property in fire-affected zip codes*, the buyer and seller must execute a written attestation affirming that the real property sales contract was not entered into as a result of an unsolicited offer.
- 3) Establishes that the signed attestation in 2) creates a presumption that the accepted offer was solicited by the seller of the property unless there is a clear and convincing evidence to the contrary.
- 4) Requires *the buyer to record the signed attestation as an attachment* to the deed or other conveyance of title *when* recording the transfer of title.
- 5) *Provides that the failure to record the signed attestation does not affect any constructive notice imparted by the deed and does not affect the rights of any subsequent bona fide purchaser or encumbrancer.*
- 6) Provides that a person licensed by the Department of Real Estate who makes a written offer on behalf of a buyer in violation of this bill is deemed to have violated that person's licensing law.
- 7) Establishes that the Attorney General, a county counsel, city attorney, or a district attorney may bring a civil action to enforce the prohibition on unsolicited offers in 1).
- 8) Provides a seller the right to cancel a *purchase agreement* that was entered into based on an unsolicited offer, for up to four months after the contract is signed.
- 9) Establishes that any person who makes an unsolicited offer pursuant to 1) may be assessed a civil penalty of up to \$25,000 and is guilty of a misdemeanor, which upon conviction is punishable by a fine of up to \$1,000 or by imprisonment of up to six months.
- 10) *Defines "unsolicited offer to purchase" as an offer to purchase a property made by any person by text message, email, telephone call, mail, or other means of communication, unless either of the following conditions are met:*
 - a) *At or before the time that the offer is made, there is public indication that the owner is willing to sell the property, such as the property being listed for sale.*

b) The offer was made prior to the enactment of this bill.

11) Provides that the remedies and penalties are noncumulative and can be added to other remedies or penalties available by law.

12) Provides that the provisions of the bill are severable.

13) Establishes that the article is operative 30 days after the effective date of the act that added this section.

14) Establishes that this bill will remain in effect until January 1, 2027.

15) Contains an urgency clause. States that this act must take effect immediately because of the immediate need to protect those impacted by the wildfires that began on January 7, 2025, in the County of Los Angeles from exploitative practices.

16) Adds chaptering amendments to resolve potential conflict with pending legislation.

Senate Amendments

Add definitions, clarify the effect of failure to record the signed attestation, include severability clause, and add chaptering amendments.

COMMENTS

The January 2025 wildfires in Los Angeles County were among the most devastating in California's history, scorching tens of thousands of acres, destroying entire neighborhoods, and displacing thousands of residents. In the wake of this devastation, there is significant concern that real estate speculators and predatory investors will exploit the crisis by making unsolicited offers to purchase homes at below-market prices, targeting vulnerable homeowners grappling with the trauma of displacement and financial uncertainty. This kind of pressure to sell, often before insurance claims are settled or homeowners have had time to assess their options, can strip survivors of their assets at a time when they most need stability.

This bill is designed to combat these exploitative practices by prohibiting unsolicited offers for residential real estate in the hardest-hit ZIP codes. By blocking opportunistic buyers from preying on fire victims, the bill ensures that homeowners have the time and space to make informed decisions about their property without undue pressure or manipulation. Through enforceable penalties, mandatory attestations, and county recording requirements, the bill aims to protect fire-affected communities from predatory real estate tactics and preserve homeownership in the wake of disaster.

Recognizing the severity of the situation, California Governor Gavin Newsom issued an executive order aimed at safeguarding fire victims from such exploitative real estate practices. (Executive Order N-7-25.) This order prohibits unsolicited and undervalued offers on properties in specific Los Angeles County zip codes, including Altadena, for a period of three months.

Governor Newsom explained the impetus for the executive order:

As families mourn, the last thing they need is greedy speculators taking advantage of their pain. I have heard first-hand from community members and victims who have received

unsolicited and predatory offers from speculators offering cash far below market value — some while their homes were burning. We will not allow greedy developers to rip off these working-class communities at a time when they need more support than ever before.

(<https://www.gov.ca.gov/2025/01/14/governor-newsom-issues-order-to-protect-fire-victims-from-predatory-real-estate-speculators/>.)

This bill would prohibit any unsolicited offers on residential real property within the zip codes most affected by the Los Angeles fires until January 1, 2027. These zip codes cover areas in the Greater Los Angeles Area especially hard hit by the recent fires, such as parts of Altadena, Pacific Palisades, Pasadena, Mid-Wilshire, Eagle Rock, Barrington, Mar Vista, Malibu, Topanga, Santa Monica, Sunland, Lancaster, Culver City, and Mar Vista. Unlike the Executive Order, this bill prohibits all unsolicited offers, regardless of price.

To ensure compliance with the prohibition on unsolicited offers, the bill requires that, prior to the transfer of title, both the buyer and seller execute a written attestation affirming that the transaction was not the result of an unsolicited offer. This attestation, which must be *recorded as an attachment* to the deed or other conveyance of title, serves as a safeguard against circumvention of the law. It also provides certainty to title insurers, and the market generally, that a sales transaction did not unlawfully result from an unsolicited offer. In the absence of such documentation, it would be a case of "he said-he said" if the seller later tried to cancel the contract for violating the prohibition on unsolicited offers. *Senate amendments clarify that the failure to record the signed attestation as an attachment to the deed does not affect the rights of any subsequent bona fide purchaser or encumbrancer.* The bill creates a legal presumption that any accepted offer was solicited by the seller unless rebutted by clear and convincing evidence to the contrary. This heightened evidentiary standard strengthens the enforceability of the prohibition while placing the burden on those challenging a transaction to demonstrate that an unsolicited offer led to the sale.

What about people who want to sell their property? For homeowners who lost their houses in the wildfires, much of their property's remaining value lies in the land itself. However, rebuilding is a daunting and costly endeavor that could take years to complete. Many affected homeowners may be underinsured or completely uninsured, especially as several major insurers have pulled back from the California market, making it even more difficult to finance reconstruction. Even for those with full insurance coverage, the process of navigating claims, hiring contractors, and obtaining local permits can be overwhelming and time-consuming. Rather than enduring the uncertainty and hassle of rebuilding, some homeowners may prefer to sell their land as-is and move on. This not only spares them from a prolonged and complex recovery process but also provides an opportunity for a buyer to step in and begin construction immediately. Under this bill, a homeowner who seeks to sell their property, can do just that—but the seller must be the one to initiate the transaction. The bill in no way prohibits or inhibits property owners from actively seeking a buyer or listing their home for sale.

If a property owner (whether their home is still standing, damaged, or just the land remains) decides to sell their property, they can list it for sale on the MLS using a real estate agent, or list it as "For Sale By Owner" through online platforms like Zillow or Redfin. The listing would include pertinent details about the property, including the listing price. This allows the owner to set the price and make the decision to sell on their own terms. *Senate amendments clarify that an unsolicited offer to purchase does not include scenarios where the property is listed for sale.*

According to the Author

Many homeowners in Los Angeles County who were affected by the January 2025 fires have reported being targeted by unscrupulous businesses, scam artists and predatory buyers. Some of these bad actors engaged in illegal price gouging in the rental market and made unsolicited offers to property owners who lost their homes.

In response, Governor Newsom issued Executive Order No. N-7-25, which prohibits buyers from making unsolicited below market offers on residential properties in specified Los Angeles County zip codes for less than their fair market value as of January 6, 2025. The Governor later expanded this restriction through Executive Order No. N-17-25, adding more zip codes to the list. Executive Order No. N-7-25 enforces this prohibition for only three months.

AB 851 would codify Governor Newsom's Executive Order and extend impacted homeowner protections from unsolicited offers on residential properties and allow a seller in the affected zip codes to rescind the sale of their residential property for up to four months after the close of escrow, in the case of an unsolicited offer. These additional protections would expire in January 2027.

Fire survivors in LA County have experienced unimaginable trauma and need additional time to make an informed decision whether to rebuild their home or sell their property. These protections will prevent predatory real estate practices and give owners a reasonable amount of time to rescind the sale of their residential property.

Arguments in Support

The California Community Land Trust, the sponsor of this measure, explains its importance:

Many homeowners in Los Angeles County who were affected by the January 2025 fires have reported being targeted by unscrupulous businesses, scam artists and predatory buyers. Some of these bad actors engaged in illegal price gouging in the rental market and made unsolicited offers to property owners who lost their homes. In response, Governor Newsom issued Executive Order No. N-7-25, which prohibits buyers from making unsolicited below market offers on residential properties in specified Los Angeles County zip codes for less than their fair market value as of January 6, 2025. The Governor later expanded this restriction through Executive Order No. N-17-25, adding more zip codes to the list. Executive Order No. N-7-25 enforces this prohibition for only three months.

As recovery efforts continue, affected homeowners will need to make informed decisions about rebuilding their home or selling their property. These survivors should be protected from predatory practices as the recovery process is taking place. AB 851 would codify Governor Newsom's Executive Order and extend impacted homeowner protections from unsolicited offers on residential properties. Should a seller receive an unsolicited offer and sell their home to a predatory actor, a seller in the affected zip codes could rescind the sale of their residential property for up to four months after the close of escrow. These additional protections would expire in January 2027. Fire survivors in LA County have experienced unimaginable trauma and need to make an informed decision whether to rebuild their home or sell their property. These protections will prevent predatory unsolicited offers. If the home owner does fall victim to an unsolicited offer, AB 851 would give owners a reasonable amount of time to rescind the sale of their residential property.

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Senate Appropriations Committee:

Unknown, potentially significant costs (local funds, General Fund) to the counties to incarcerate people for the crime created by this bill. The average annual cost to incarcerate one person in county jail varies by county, but likely ranges from \$70,000 to \$90,000 per year. For example, in 2021, Los Angeles County budgeted \$1.3 billion for jail spending, including \$89,580 per incarcerated person. Actual incarceration costs to counties will depend on the number of convictions and the length of each sentence. Generally, county incarceration costs are not reimbursable state mandates pursuant to Proposition 30 (2012).

Workload cost pressures (General Fund) to the Department of Justice (DOJ) of an unknown but potentially significant amount. If state prosecutors file civil enforcement actions as authorized by this bill it will result in a significant workload increase.

Unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate the criminal and civil penalties in this bill. Defendants are constitutionally guaranteed certain rights during criminal proceedings, including the right to a jury trial and the right to counsel (at public expense if the defendants are unable to afford the costs of representation). Increasing penalties leads to lengthier and more complex court proceedings with attendant workload and resource costs to the court. The fiscal impact of this bill to the courts will depend on many unknowns, including the numbers of people charged with an offense and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff in workload. This is a conservative estimate, based on the hourly rate of court personnel including at minimum the judge, clerk, bailiff, court reporter, jury administrator, administrative staff, and jury per-diems. If court days exceed 10, costs to the trial courts could reach hundreds of thousands of dollars. While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources and to increase the amount appropriated to backfill for trial court operations.

VOTES:**ASM JUDICIARY: 12-0-0**

YES: Kalra, Dixon, Bauer-Kahan, Bryan, Connolly, Essayli, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 12-0-3

YES: Wicks, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

ABS, ABST OR NV: Sanchez, Ta, Tangipa

ASSEMBLY FLOOR: 67-6-6

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Davies, Dixon, Elhawary, Flora, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Haney,

Harabedian, Hart, Hoover, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO: Chen, DeMaio, Gallagher, Patterson, Sanchez, Tangipa

ABS, ABST OR NV: Castillo, Ellis, Hadwick, Lackey, Macedo, Ta

UPDATED

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CONSULTANT: Shiran Zohar / JUD. / (916) 319-2334

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