
Introduced by _____

2010

An act to add section ____ to the Health and Safety Code, relating to inspection and repair of private sewer laterals.

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

SECTION 1. The Legislature finds and declares all of the following:

- (a) Sanitary sewer laterals may comprise as much as half of the total length of sewer pipe in a community wastewater collection system.
- (b) Privately-owned sewer laterals are a significant cause of sanitary sewer overflows in many communities.
- (c) As a result of tree roots growing into private sewer laterals through cracks, breaks, or joints in the lines, sewer line blockages occur on both private property and the public sewer, causing a backup into the residence or business, or resulting in spills on private property or in the public right of way.
- (d) Other contributors to sanitary sewer overflows include the overburdening of the sewer system during rainstorms, as a result of rainwater infiltration through cracks, breaks, or joints in private sewer lines, which can result in wastewater overflowing out of manholes, or overburdening wastewater treatment plants.
- (e) On May 3, 2006, the State Water Resources Control Board adopted Order WQ 2006-03, which requires all public agencies that own or operate sanitary sewer systems of one mile, or more, in length to comply with significant new requirements for sewer system operation and management and for reporting sanitary sewer overflows.
- (f) While publicly-owned sanitary sewer systems are now subject to the 2006 detailed statewide waste discharge requirements, no comparable requirements exists for addressing management of private sewer laterals.
- (g) Private sewer laterals are “out-of-sight, out-of-mind,” and therefore, most property owners only make repairs when there is a crisis.
- (h) The authority for local agencies to enact private sewer lateral ordinances is unclear for some types of agencies.
- (i) Few local public agencies with existing authority to enact ordinances over the management of private sewer laterals have exercised that authority.

SECTION 2. Section ___ is added to the Health and Safety Code, to read:

It is the intent of the Legislature that public entities exercise authority pursuant to this chapter to enact ordinances that require inspection/testing and repair/replacement of private sewer laterals at the time real property is sold or if the public entity determines the private sewer lateral poses a nuisance or threat to public health.

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(a) Any public entity responsible for the operation of collection systems that include connections of private sewer laterals are hereby granted, and shall exercise, the authority granted under this section to establish an ordinance requiring the inspection or testing of private sewer laterals at the time of transfer or sale of real estate, or if the public entity determines the private sewer lateral poses a nuisance or threat to public health.

(b) Such ordinances must require owners of any real property to obtain, at the property owner's expense, a certificate of inspection verifying that the privately-owned portion of the sewer lateral serving the property has been inspected/tested, as defined by the public entity. The certificate of inspection shall state whether the private sewer lateral meets specific criteria, such as for water tightness, as defined by the public entity by indicating a "pass" or "fail" of the inspection criteria. The cost of services required to obtain a certificate of inspection shall be borne by the individual property owner, unless otherwise provided by the public entity.

- (c) The ordinances shall require property owners to obtain a certificate of inspection
- (i) prior to the time of sale or transfer of the property, or
 - (ii) within 30 days of notification by the public entity that the lateral poses a nuisance or threat to public health

(d) The ordinances will require that private sewer laterals not meeting the criteria established by the public entity, i.e. those private sewer laterals that "fail" inspection/testing must be repaired or replaced, at the property owner's expense, within 180 days of the issuance of the initial certificate of inspection. Completion of repairs or replacement shall be deemed adequate by a subsequent certificate of inspection indicating that the private sewer lateral meets the criteria for water tightness, as defined by the public entity ("pass").

(e) A certificate of inspection indicating "pass" shall be deemed valid for not more than 10 years from the date of issuance, except in the instance that the public entity determines the private sewer lateral poses a nuisance or threat to public health, in which case a previously issued certificate will no longer be deemed valid.

(f) The requirement to enact ordinances pursuant to this chapter shall not apply to a public entity if that entity

- (i) serves a population of fewer than 2,500 residents, or
- (ii) adopts a resolution stating that private sewer laterals do not pose a significant detrimental impact on the successful operation of the collection system of the public entity, or any downstream collection system or publicly owned treatment works. Such a resolution shall be valid for no more than five years from date of adoption.

(g) For the purposes of this section, "sale or transfer" means the sale or transfer of an entire real property estate or the fee interest in that real property estate and does not include the sale or transfer of a partial interest, including a leasehold.

(h) This section shall not apply to any of the following:

- (i) Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.
- (ii) Transfers from one co-owner to one or more other co-owners, or from one or more co-owners into or from a revocable trust, if the trust is for the benefit of the grantor or grantors.
- (iii) Transfers made by a trustor to fund an inter vivos trust.

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(iv) Transfers made to a spouse, to a registered domestic partner as defined in Section 297 of the Family Code, or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

(v) Transfers between spouses or registered domestic partners resulting from a decree of dissolution of marriage or domestic partnership, or a decree of legal separation or from a property settlement agreement incidental to a decree.