

CHAPTER 310

An act relating to lands granted in trust to the City and County of San Francisco, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1987 Filed with
Secretary of State July 30, 1987.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) Pursuant to the Burton Act (Chapter 1333 of the Statutes of 1968) the state conveyed by transfer agreement certain tide and submerged lands to the City and County of San Francisco, in trust for purposes of commerce, navigation, and fisheries, and subject to the terms and conditions specified in that act.

(b) Certain portions of the tide and submerged lands, being Seawall Lots 331, 332, and 333, including Fremont Street between the southeasterly line of Brannan Street and the westerly line of the Embarcadero, as shown on the map of the lands transferred in trust to the City and County of San Francisco, which was recorded May 14, 1976, in Book W of official records at pages 66 to 72, inclusive, in the Office of the Recorder of the City and County of San Francisco, have been filled and reclaimed as a result of a plan of improvement for harbor development. The lots are irregular in shape, are cut off from access to waters of San Francisco Bay, constitute a relatively small portion of the granted tide and submerged lands, and, except for the production of revenue to support the statutory trust purposes in furtherance of which the tide and submerged lands are held by the city and county, are no longer needed or required for the promotion of the public trust for commerce, navigation, and fisheries or the statutory trusts.

(c) The city and county has approved the Rincon Point-South Beach Redevelopment Project, which is to be undertaken by the San Francisco Redevelopment Agency. Certain of the lands included within the project area are tide and submerged lands, both filled and unfilled, held by the city and county under its grant from the state. These granted lands will be leased to the redevelopment agency for purposes of undertaking and completing the project. Upon completion of the Rincon Point-South Beach Redevelopment Project improvements, it is contemplated that the leasehold interest of the redevelopment agency will be terminated, and that the San Francisco Port Commission, which administers the granted lands on behalf of the city and county, will either reassume the direct administration of the granted lands, or succeed to the sublessor status of the redevelopment agency with regard to certain subleases executed in furtherance of the project. Among the project

improvements to the granted lands are a 683-berth marina and harbor complex, two major shoreline parks, and transportation improvements to the Embarcadero and other streets serving the granted lands. In addition, housing and commercial development is to take place within the project area as a whole, and portions of this development will be constructed on Seawall Lots 331, 332, and 333, including Fremont Street between the southeasterly line of Brannan Street and the westerly line of the Embarcadero. By reason of its superior financing methods, the redevelopment agency can immediately undertake and complete the marina and harbor complex, the shoreline parks, and the transportation improvements on the granted lands. It is unlikely that the port itself would be able to construct the improvements within a similar time period, given certain financial constraints and competing priorities regarding development of maritime port facilities. Upon completion of the project, the purposes of the Burton Act and the public trust will have been furthered to an extent beyond what could have been achieved absent implementation of the redevelopment project.

(d) Seawall Lots 331, 332, and 333, including Fremont Street between the southeasterly line of Brannan Street and the westerly line of the Embarcadero, should be freed of the public trust for commerce, navigation, and fisheries, but should continue to be held by the City and County of San Francisco in trust subject to the terms and conditions specified in the Burton Act, as amended, and subject to the terms and conditions of the transfer agreement executed pursuant to that act, except that there should be no restrictions on use, other than the use restrictions of the Rincon Point-South Beach Redevelopment Plan as long as applicable, and the requirement that the revenue derived from the leasing or administration of those seawall lots, including Fremont Street between the southeasterly line of Brannan Street and the westerly line of the Embarcadero, be deposited in a trust fund or funds created pursuant to Section 4 of the Burton Act, to be used solely for the furtherance of the purposes specifically authorized in that act.

(e) The release of the seawall lots, including Fremont Street between the southeasterly line of Brannan Street and the westerly line of the Embarcadero, from the public trust for commerce, navigation, and fisheries to the extent set forth in subdivision (d) is in the best interests of the people of this state.

SEC. 2. Seawall Lots 331, 332, and 333, including Fremont Street between the southeasterly line of Brannan Street and the westerly line of the Embarcadero, as shown on the map of the lands transferred in trust to the City and County of San Francisco, which was recorded May 14, 1976, in Book W of official records at pages 66 to 72, inclusive, in the Office of the Recorder of the City and County of San Francisco, being a portion of land conveyed in trust to the City and County of San Francisco pursuant to the Burton Act (Chapter 1333 of the Statutes of 1968), are hereby declared to be free from the public trust for commerce, navigation, and fisheries, but shall

continue to be held in trust by the city and county subject to the terms and conditions specified in the Burton Act, as amended, and subject to the terms and conditions of the transfer agreement executed pursuant to that act, except that there shall be no restrictions on use, other than the use restrictions of the Rincon Point-South Beach Redevelopment Plan as long as applicable, and other than the following:

(a) The revenues derived from leasing or administration of the described property shall be deposited in a trust fund or funds created pursuant to Section 4 of the Burton Act, and shall be used solely for the furtherance of the purposes specifically authorized in that act.

(b) Leases of the described property shall terminate not later than September 26, 2050, in accordance with the limitations of the Burton Act. The San Francisco Port Commission may release the property for additional periods, but is not required to do so.

(c) All leases, contracts, or other instruments entered into after May 1, 1987, between the San Francisco Port Commission and the redevelopment agency, the redevelopment agency and any other person or entity, or the San Francisco Port Commission and any other person or entity, conferring the right to use all or some portion of the described property shall be subject to the approval of the State Lands Commission in order to assure that the consideration received is consistent with prudent land management practices. For as long as the Rincon Point-South Beach Redevelopment Plan is applicable, this review shall take into consideration the use restrictions of the redevelopment plan. In reviewing those instruments, the State Lands Commission shall not substitute its judgment for that of the redevelopment agency, but shall approve the instrument unless it determines within 45 days after receipt of the instrument, that the instrument does not fall within the range of reasonable business judgments that conform to the standard set forth in this subdivision.

SEC. 3. Not later than the date of completion of the last of the improvements that are proposed by the Rincon Point-South Beach Redevelopment Project, the San Francisco Redevelopment Agency shall offer to terminate its master lease with the San Francisco Port Commission. The San Francisco Port Commission shall accept that offer to terminate the master lease unless to do so would not be in the best interests of the trust in furtherance of which the lands were granted to the city and county. If it desires to reject the offer to terminate, the San Francisco Port Commission shall first obtain the concurrence of the State Lands Commission that the acceptance would not be in the best interest of the trust. Nothing in this section shall prohibit the earlier termination of the master lease as to all or some portion of the property that is subject to the master lease, except that the San Francisco Port Commission shall not agree to an earlier termination of the master lease without first obtaining the concurrence of the State Lands Commission that the termination is in the best interest of the trust in furtherance of which the lands were granted to the city and county.

SEC. 4. Notwithstanding Sections 6701 and 6702 of the Public Resources Code, no amendment, modification, or revocation, in whole or in part, of the grant made to the City and County of San Francisco pursuant to the Burton Act shall impair or affect the rights or obligations of third parties, including lessees and lenders for value, under leases, contracts, or other instruments previously approved by the State Lands Commission pursuant to subdivision (c) of Section 2.

SEC. 5. (a) Subject to the requirements for state approval specified in subdivision (b), whenever it is determined by the City and County of San Francisco that there are other portions of the granted lands that have been filled and reclaimed, that are cut off from access to the waters of San Francisco Bay, that constitute a relatively small portion of the granted tide and submerged lands, and that are no longer needed or required for the promotion of the public trust for commerce, navigation, and fisheries or the statutory trust, and when it is further determined that no substantial interference with the trust uses and purposes will ensue, the city and county may exchange those lands with any state agency, political subdivision, person, entity, or corporation, or the United States, or any agency thereof, for lands of equal or greater value that are useful for the particular trust purposes specifically authorized in the Burton Act.

(b) No such exchange shall be effective unless and until the State Lands Commission does both of the following:

(1) Finds that the lands to be acquired by the City and County of San Francisco have a value equal to or greater than the value of the lands for which they are to be exchanged.

(2) Adopts a resolution of approval which finds and declares that the granted lands have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay, constitute a relatively small portion of the lands granted to the city and county, and are no longer needed or required for the promotion of the public trust for commerce, navigation, and fisheries or the statutory trust, and further, that no substantial interference with the trust uses and purposes will ensue by virtue of the exchange. Upon adoption of the resolution, the granted land shall thereupon be free from the public trust for commerce, navigation, and fisheries, and the lands received in exchange shall be held subject to the public trust and to the terms of the Burton Act.

(c) Exchanges made pursuant to this section are hereby found to be of statewide significance and importance, and, therefore, any ordinance, charter provision, or other provision of local law inconsistent with this section shall not be applicable to the exchange.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Certain of the lands granted by the state pursuant to the Burton Act are proposed to be more fully used by the City and County of

San Francisco as part of a redevelopment project that will maximize benefit to the trust purposes in furtherance of which the granted lands are held. The project will substantially and immediately further those trust purposes to an extent that would not be possible in the absence of the project. Procedures leading to the execution of the leases are rapidly approaching completion, thus necessitating an immediate clarification of the uses to be made of the land under the Burton Act in order to avoid prolonged delays in realizing the fullest use of those lands for the maximum benefit of the statutory trust purposes. It is necessary, therefore, that this act take effect immediately.
