

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2450 (Achadjian) – As Amended April 12, 2016

SUBJECT: Property tax.

SUMMARY: Requires additional information to be included in a Change of Ownership Statement in the case of real property transfers that must be reported to the local county assessor, and requires a public entity proposing to acquire tax exempt property to provide specified notice to the county assessor. Specifically, **this bill:**

- 1) Requires a Change in Ownership Statement (COS) to include any enforceable restrictions placed upon the property that the assessor is required to consider when determining a property's value, pursuant to existing law.
- 2) Requires a public entity, if the public entity proposes to acquire property for a public use that will make the property exempt from taxation, to give notice to the county assessor, in the same manner as the notice provided to the county tax collector.
- 3) Provides that no reimbursement is required because of the creation of a new crime or infraction, unless the Commission on State Mandates determines that this bill contains costs mandated by the state.

EXISTING LAW:

- 1) Requires the new owner, whenever a change in ownership of real property occurs, to file a signed COS in the county where the real property, manufactured home, or floating home subject to property tax is located.
- 2) Requires the COS to provide information as prescribed by the State Board of Equalization (BOE) in consultation with the California Assessors' Association.
- 3) Requires the information in a COS to include, but not be limited to, the following:
 - a) A description of the property;
 - b) The parties to the transaction;
 - c) The date of acquisition;
 - d) The amount, if any, of the consideration paid for the property, as specified; and,
 - e) The terms of the transaction.
- 4) Requires county assessors, when determining assessed valuation, to consider the effect on property of the value of any enforceable restrictions against the use of the land, such as recorded contracts with government agencies, zoning, and environmental constraints.

- 5) Requires a public entity, the state, county, city, school, district, or other public entity, to provide the local assessor and auditor a copy of the instrument evidencing the acquisition of property by the entity.
- 6) Requires a public entity, if a public entity proposes to acquire property for a public use that will make the property exempt from taxation, to give notice to the county tax collector and to any public entities whose taxes are not collected by the county tax collector, but who at the time exercise the right of assessment and taxation. Requires the notice to be given within a reasonable time following the initial budgeting of funds for the proposed acquisition, and requires the notice to state the following:
 - a) The approximate extent of the proposed project; and,
 - b) The estimated time of completion of all acquisitions necessary for the proposed project.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Property Tax and County Assessors.** Section One of Article XIII of the California Constitution provides that all property is taxable, unless explicitly exempted by the Constitution or federal law. The Constitution limits the maximum amount of any ad valorem tax on real property at one percent of full cash value, and growth in the value of the property to two percent per year. Pursuant to existing law, assessors must consider enforceable restrictions, such as zoning, environmental restrictions, and recorded contracts with government entities when valuing property. Assessors subsequently estimate the value of the property based on its legal uses allowed by the enforceable restriction.

Assessors reappraise property whenever there is new construction, or when ownership changes. Whenever ownership changes, the new owner must file a COS. Alternatively, the new owner may file a Preliminary Change in Ownership Report (PCOR), which is nearly identical to the COS, at the time the deed for change in ownership is recorded, thereby generally satisfying the requirement for filing the COS. Existing law prescribes the details of the report, and tasks the BOE, after consultation with the California Assessors Association, with determining the exact form for COS.

Currently, both the PCOR and the COS include a check box to identify a transfer that is subject to subsidized low-income housing requirements with governmentally imposed restrictions.

- 2) **Bill Summary.** This bill adds to the list of required information in a COS to include any enforceable restrictions placed upon the property that the assessor is required to consider when valuing property, pursuant to existing law. Additionally, this bill requires a public entity proposing to acquire tax exempt property to provide specified notice to the county assessor, in the same manner that existing law requires that notice be provided to the county tax collector. This bill is sponsored by the California Assessors Association.
- 3) **Author's Statement.** According to the author, "Assessors are required to consider the effect of any enforceable restrictions on a property's value. For low income housing, also known as below market rate (BMR) properties, governmental agencies execute contracts to restrict

the use of the land for owner occupied housing, which are sold at affordable or below market prices. These contracts come with governmentally imposed restrictions to ensure compliance with the terms of the affordable housing program.

"During the past several years, it has been increasingly difficult for assessors to properly assess BMR properties because property owners, and governmental agencies do not always disclose the existence of BMR contracts at the time of transfer. Currently, only the homeowner is required to disclose, and local housing agencies are not legally mandated to inform the assessors of the existence of these BMR contracts even though they maintain records for the purpose of enforcing the restrictions. The result is low-income homeowners are incorrectly over taxed. Correcting an overpayment is expensive, time consuming and may not result in a complete refund. This change will help the governmental agency achieve their objective of assisting low-income families by ensuring BMR families do not pay more property taxes than required."

- 4) **Policy Considerations.** The Committee may wish to consider if Section 1 of this bill is necessary given the PCOR and COS already include a check box to identify a property transfer subject to subsidized low-income housing requirements with governmentally imposed restrictions. If there are enforceable restrictions in existing law that the proponents feel need to be added to the forms, current law requires BOE to consult with the California Assessors Association in determining the exact form for a COS. Given this consideration, the Committee may wish to consider asking the author to remove Section 1 from the bill.
- 5) **Arguments in Support.** The California Assessors Association argues that this bill "will help assessors provide accurate and timely property tax relief to low-income homeowners. Moreover, it will assist cities and counties in assisting low-income families by ensuring these families do not pay more property taxes than required. In Santa Clara County, for example, the Assessor discovered that more than 200 property owners had been paying more property taxes than they owed – some, for as long as eighteen years. When discovered in August 2015, the Assessor manually processed over 2,000 roll corrections, and worked with [the] County Board of Supervisors and the County Finance Agency to refund more than \$3 million to taxpayers. All of this could have been avoided, had the Assessor been properly notified when the transactions occurred."
- 6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Assessors Association [SPONSOR]

Opposition

None on file

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