

**Assembly Bill No. 2171**

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Passed the Assembly August 30, 2006

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*Chief Clerk of the Assembly*

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Passed the Senate August 10, 2006

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2006, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

CHAPTER \_\_\_\_\_

An act to amend Sections 2504, 2781, 2782, and 4675 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL’S DIGEST

AB 2171, Berg. Property taxation: tax administration.

Existing property law defines the term negotiable paper, which includes bank checks, drafts, and express and post office money orders, for purposes of payment of any tax, or assessment, or on a redemption.

This bill would instead limit the term negotiable paper to include checks, drafts, and money orders.

Existing law requires the county treasurer to keep an accounting of all moneys, including property tax payments, that he or she pays or receives. Existing property tax law also requires a county treasurer or tax collector, as applicable, to return a replicated tax payment to the tendering party within 60 days following the receipt of the replicated payment. If that replicated payment is not returned to the tendering party within 60 days following the receipt of the replicated payment, the county treasurer or tax collector is required to pay interest at a specified rate, for the period beginning 60 days after the county receives the replicated payment to the date the replicated payment is returned to the tendering party.

This bill would instead require a county treasurer or tax collector to return a replicated payment to the tendering party within 60 days of the date the payment becomes final. This bill would also require the interest to be computed for the period beginning 60 days after the replicated payment becomes final to the date the replicated payment is returned to the tendering party.

Existing property law generally authorizes a county tax collector to sell tax-defaulted property 5 years or more after that property has become tax defaulted. Any party of interest in the property may file with the county a claim for the excess proceeds from the sale, at any time prior to the expiration of one year following the recordation of the tax collector’s deed to the purchaser.

The bill would provide that any agreement to locate, deliver, recover, or assist in the recovery of excess proceeds shall not be valid unless specified conditions are met.

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

SECTION 1. Section 2504 of the Revenue and Taxation Code is amended to read:

2504. As used in this division, “negotiable paper” means checks, drafts, and money orders.

SEC. 2. Section 2781 of the Revenue and Taxation Code is amended to read:

2781. If a taxpayer or agent for the taxpayer submits a payment indicated for application to a specific tax or tax installment and that tax or tax installment already has been paid, the county shall return the replicated payment to the tendering party within 60 days of the date the payment becomes final if the original payment is not subject to chargeback, dishonor, or reversal. However, when a replicated payment is made of any tax or tax installment paid by a certificate of eligibility pursuant to Section 2514, the amount of the replicated payment shall be paid to the person shown on the certificate.

SEC. 3. Section 2782 of the Revenue and Taxation Code is amended to read:

2782. If a replicated tax payment is not returned to the tendering party within 60 days of becoming final, as provided in this chapter, the county shall, in addition to returning the replicated payment as soon as practicable, pay the tendering party interest, if that interest is ten dollars (\$10) or more, on the amount of replicated payment at the rate provided in Section 5151. The interest shall be computed for the period beginning 60 days after the replicated payment becomes final to the date the replicated payment is returned to the tendering party.

SEC. 4. Section 4675 of the Revenue and Taxation Code is amended to read:

4675. (a) Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year

following the recordation of the tax collector's deed to the purchaser.

(b) After the property has been sold, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements shall have no effect. This subdivision shall apply only with respect to assignments on or after the effective date of this subdivision.

(c) Any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of excess proceeds has been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf.

(d) The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

(e) Any agreement to locate, deliver, recover, or assist in the recovery of excess proceeds shall not be valid unless all of the following conditions are met:

(1) The fee or compensation agreed upon shall not exceed 10 percent of the value of the recoverable property.

(2) The agreement shall be in writing.

(3) The agreement shall disclose the nature and value of the property and the name and address of the person or entity in possession of the property.

(4) The agreement shall be signed by the owner of the property.

(f) No sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in paragraphs (1) and

(2). For the purposes of this article, parties of interest and their order of priority are:

(1) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.

(2) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

(g) In the event that a person with title of record is deceased at the time of the distribution of the excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code, to support their claim for excess proceeds.

(h) Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.





Approved \_\_\_\_\_, 2006

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*Governor*