ASSEMBLY BILL No. 843

Introduced by Assembly Member Eng

February 22, 2007

An act to amend Section 480, 480.4, and 482 of, and to add Section 2188.25 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 843, as introduced, Eng. Property taxation.

The California Constitution provides that all property in the state is taxable unless exempted under the authority of the California Constitution or the United States Constitution.

This bill would state the intent of the Legislature to make the necessary statutory changes to improve the efficiency and timeliness of property tax assessments made for leasehold improvements.

Existing property tax law requires a transferee of real property or a manufactured home that is locally assessed to file a change in ownership statement with the county in which the property or manufactured home is located. Existing law requires this statement to be filed within specified time periods or within 45 days of a written request therefor from the county assessor. If a county assessor makes a written request to a transferee to file a change in ownership statement and the transferee fails to do so within 45 days of that request, existing law imposes a penalty on the transferee equal to the greater of either $100 or 10% of the property taxes due on the property, but not to exceed $2,500 if the failure was not willful.

This bill would remove the $2,500 cap on the penalty for nonwillful failures to file a change in ownership statement. This bill would instead provide a $2,500 cap on the penalty for failure to file a change in

ownership statement on property that is eligible for the homeowners' property tax exemption or $10,000 if the property is not eligible for the homeowners' exemption. This bill would also make conforming changes to a related provision.

Existing property tax law requires each county assessor and county recorder to make available a form known as a preliminary change in ownership report. Existing law specifies the contents of this form, but authorizes the State Board of Equalization to revise the form.

This bill would delete the specified contents of this form and would instead require the State Board of Equalization, after consultation with the California Assessors' Association, to prescribe the contents of the form. This bill would require that this form contain information that includes, but is not limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. This bill would also require that this form be declared true under penalty of perjury.

By expanding the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 480 of the Revenue and Taxation Code
2 is amended to read:
3 480. (a) Whenever there occurs any change in ownership of
4 real property or of a manufactured home that is subject to local
5 property taxation and is assessed by the county assessor, the
6 transferee shall file a signed change in ownership statement in the
7 county where the real property or manufactured home is located,
8 as provided for in subdivision (c). In the case of a change in
9 ownership where the transferee is not locally assessed, no change
10 in ownership statement is required.

(b) The personal representative shall file a change in ownership statement with the county recorder or assessor in each county in which the decedent owned real property at the time of death that is subject to probate proceedings. The statement shall be filed prior to or at the time the inventory and appraisal is filed with the court clerk. In all other cases in which an interest in real property is transferred by reason of death, including a transfer through the medium of a trust, the change in ownership statement or statements shall be filed by the trustee (if the property was held in trust) or the transferee with the county recorder or assessor in each county in which the decedent owned an interest in real property within 150 days after the date of death.

(c) Except as provided in subdivision (d), the change in ownership statement as required pursuant to subdivision (a) shall be declared to be true under penalty of perjury and shall give that information relative to the real property or manufactured home acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question that is not germane to the assessment function. The statement shall contain a notice informing the transferee of the property tax relief available under Section 69.5. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"The law requires any transferee acquiring an interest in real property or manufactured home subject to local property taxation, and that is assessed by the county assessor, to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death or, if the estate is probated, shall be filed at the time the inventory and appraisal is

filed. The failure to file a change in ownership statement within 45 days from the date of a written request by the assessor results in a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed two thousand five hundred dollars ($2,500) i~~f that failure to file was not willful~~ *the property is eligible for the homeowners' exemption or ten thousand dollars ($10,000) if the property is not eligible for the homeowners' exemption*. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

(d) The change in ownership statement may be attached to or accompany the deed or other document evidencing a change in ownership filed for recording, in which case the notice, declaration under penalty of perjury, and any information contained in the deed or other transfer document otherwise required by subdivision (c) may be omitted.

(e) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed with the recorder at the time of recordation. However, the recordation of the deed or other document evidencing a change in ownership shall not be denied or delayed because of the failure to file a change of ownership statement, or filing of an incomplete statement, in accordance with this subdivision. If the document evidencing a change in ownership is not recorded or is recorded without the concurrent filing of a change in ownership statement, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death or, if the estate is probated, shall be filed at the time the inventory and appraisal is filed.

(f) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(g) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(h) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign those statements on behalf of the corporation. In the case of a partnership, limited liability company, or other legal entity, the statement shall be signed by an officer, partner, manager, or an employee or agent who has been designated in writing by the partnership, limited liability company, or legal entity.

(i) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change in ownership statement, and no action may be brought or maintained against any person or entity as a result of that assistance.

Nothing in this section shall create a duty, either directly or by implication, that the assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

SEC. 2. Section 480.4 of the Revenue and Taxation Code is amended to read:

480.4. (a) The preliminary change of ownership report referred to in Section 480.3 shall be ~~in substantially the following form:~~ *declared to be true under penalty of perjury and shall give information relative to the transfer. The information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The preliminary change in ownership report shall not include any question that is not germane to the assessment function.*

(b) The State Board of Equalization, after consultation with the California Assessors' Association, shall prescribe the preliminary change of ownership report for the purpose of maintaining statewide uniformity in the contents of the report.

~~PRELIMINARY CHANGE OF OWNERSHIP REPORT~~

~~(To be completed by transferee (buyer) prior to transfer of subject property in accordance with Section 480.3 of the Revenue and Taxation Code.)~~

~~FOR RECORDER: Recorded Book , Page , Date Document No.~~

~~SELLER:~~
~~BUYER:~~
~~A.P. #(s):~~
~~LEGAL DESCRIPTION:~~
~~ADDRESS (if improved):~~
~~MAIL TAX INFORMATION TO: Name:~~ _____
~~Address:~~ _____

~~FOR ASSESSOR'S USE ONLY:~~

~~NOTICE: A lien for property taxes applies to your property on January 1 of each year for the taxes owing in the following fiscal year, July 1 through June 30. One-half of these taxes is due November 1, and one-half is due February 1. The first installment becomes delinquent on December 10, and the second installment becomes delinquent on April 10. One tax bill is mailed before November 1 to the owner of record. If this transfer occurs after January 1 and on or before December 31, you may be responsible for the second installment of taxes due February 1.~~

~~The property which you acquired may be subject to a supplemental tax assessment in an amount to be determined by the (name of county) County Assessor. For further information on your supplemental roll tax obligation, please call the (name of county) County Assessor at (phone number).~~

~~1. Transfer Information:~~

~~A. Was this transfer solely between husband & wife, addition of a spouse, death of a spouse, divorce settlement, etc.?~~ ~~a. ( ) YES b. ( ) NO~~

~~B. Was this transaction only a correction of the name(s) of the person(s) holding title to the property?~~ ~~a. ( ) YES b. ( ) NO~~

~~C. Was this document recorded to create, terminate, or reconvey a lender's interest in the property?~~ ~~a. ( ) YES b. ( ) NO~~

~~D. Was this document recorded to substitute a trustee under a deed of trust, mortgage, or other similar document?~~ ~~a. ( ) YES b. ( ) NO~~

~~E. Did this transfer result in the creation of a joint tenancy in which the seller (transferor) remains as one of the joint tenants?~~ ~~a. ( ) YES b. ( ) NO~~

~~F. Return of property to person who created the joint tenancy?~~ ~~a. ( ) YES b. ( ) NO~~

~~G. Is this transfer of property:~~

~~a. to a trust for the benefit of the grantor?~~ ~~a. ( ) YES b. ( ) NO~~

~~b. to a revocable trust?~~ ~~a. ( ) YES b. ( ) NO~~

~~c. to a trust from which the property reverts to the grantor within 12 years?~~ ~~a. ( ) YES b. ( ) NO~~

~~H. If this property is the subject of a lease, is the lease for a term of less than 35 years including written options?~~ ~~a. ( ) YES b. ( ) NO~~

~~I. If the conveying document constitutes an exclusion from a change in ownership as defined in Section 62 of the Revenue & Taxation Code for any reason other than those listed above, set forth the specific exclusion claimed:~~ _____

~~* IF YOU HAVE ANSWERED "NO" TO QUESTIONS A THROUGH H, INCLUSIVE, AND HAVE NOT CLAIMED ANY OTHER EXCLUSIONS UNDER I, PLEASE COMPLETE BALANCE OF FORM. OTHERWISE SIGN AND DATE.~~

~~Preliminary Change of Ownership Report~~ ~~Page Two~~

~~2. Type of property transferred:~~

~~a. ( ) Single-family residence~~

~~b. ( ) Multiple-family residence (no. of units: _____)~~

~~c. ( ) Co-op~~

~~d. ( ) Condo~~

~~e. ( ) Manufactured home~~

~~f. ( ) Unimproved lot~~

~~g. ( ) Commercial/Industrial~~

~~h. ( ) Other (description: _____)~~

~~3. Intended as principal residence?~~ ~~a. ( ) YES b. ( ) NO~~

~~4. Transfer is by:~~

~~a. ( ) Deed; b. ( ) Contract of sale;~~

~~c. ( ) Other—explain: _____~~

~~5. Is less than 100% of property being transferred?~~ ~~a. ( ) YES b. ( ) NO~~

~~6. a. ( ) Date of transfer or; b. ( ) If an inheritance,~~

~~date of death _____~~

~~7. Is or will, the property produce(ing) income?~~ ~~a. ( ) YES b. ( ) NO~~

~~8. If answer to Question 4 is yes, is income pursuant to:~~

~~a. ( ) Lease; b. ( ) Contract; c. ( ) Mineral rights;~~

~~d. ( ) Other—explain: _____~~

~~9. Did the transfer of this property involve the trade or exchange of other real property?~~ ~~a. ( ) YES b. ( ) NO~~

~~10. a. Total Purchase Price or Acquisition Price, If Exchanged:~~ ~~$ _____~~

~~b. Cash Downpayment or Value of Trade (excluding closing costs):~~ ~~$ _____~~

~~c. 1st Deed of Trust~~ ~~$ _____~~

~~at _____ % interest for _____ years.~~

~~New Loan ( ); Assumed Existing Loan Balance ( );~~

~~FHA ( ); Cal-Vet ( ); VA ( ); Bank ( ); Finance Co. ( );~~

~~Savings & Loan ( ); Loan Carried By Seller ( );~~

~~All Inclusive ( ); Balloon Payment:~~

~~Yes ( ) No ( ).~~

~~d. 2nd Deed of Trust~~ ~~$ _____~~

~~at _____ % interest for _____ years.~~

~~New Loan ( ); Assumed Existing Loan Balance ( );~~

~~Loan Carried By Seller ( ); Balloon Payment:~~

~~Yes ( ) No ( ).~~

~~e. Was other type of financing involved not covered in (c) or (d), above?~~ ~~a. ( ) YES b. ( ) NO~~

~~f. Improvement Bond: Yes ( ) No ( ); Outstanding Balance~~ ~~$ _____~~

~~11. Was any personal property involved in purchase other than a mobilehome on real property?~~ ~~a. ( ) YES b. ( ) NO~~ ~~c. AMOUNT _____~~

~~Preliminary Change of Ownership Report~~ ~~Page Three~~

~~I certify that the foregoing is true, correct, and complete to the best of my knowledge and belief.~~

~~Signed~~ _____ ~~Date:~~ _____
~~(New Owner/Corporate Officer)~~

~~Address if other than above~~ _____

~~Phone No. Where You Are Available From 8:00 am–5:00 pm: ( )~~ _____
~~(NOTE: The Assessor may contact you for further information.)~~

~~(b) The State Board of Equalization may revise the preliminary change of ownership report, as necessary, for the purpose of maintaining statewide uniformity in the contents of the report.~~

~~(c) This section shall become operative on July 1, 1991.~~

SEC. 3. Section 482 of the Revenue and Taxation Code is amended to read:

482. (a) If a person or legal entity required to file a statement described in Section 480 fails to do so within 45 days from the date of a written request by the assessor, a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed two thousand five hundred dollars ($2,500) if ~~the failure to file was not willful~~ *the property is eligible for the homeowners' exemption or ten thousand dollars ($10,000) if the property is not eligible for the homeowners' exemption*, shall, except as otherwise provided in this section, be added to the assessment made on the roll. The penalty shall apply for failure to file a complete change in ownership statement notwithstanding the fact that the assessor determines that no change in ownership has occurred as defined in Chapter 2 (commencing with Section 60) of Part 0.5. The penalty may also be applied if after a request the transferee files an incomplete statement and does not supply the missing information upon a second request.

(b) If a person or legal entity required to file a statement described in Section 480.1 or 480.2 fails to do so within 45 days from the date of a written request by the State Board of Equalization, a penalty of 10 percent of the taxes applicable to the new base year value reflecting the change in control or change in ownership of the real property owned by the corporation, partnership, or legal entity, or 10 percent of the current year's taxes on that property if no change in control or change in ownership occurred, shall be added to the assessment made on the roll. The penalty shall apply for failure to file a complete statement notwithstanding the fact that the board determines that no change in control or change in ownership has occurred as defined in subdivision (c) or (d) of Section 64. The penalty may also be applied if after a request the person or legal entity files an incomplete statement and does not supply the missing information upon a second request. That penalty shall be in lieu of the penalty

provisions of subdivision (a). However, the penalty added by this subdivision shall be automatically extinguished if the person or legal entity files a complete statement described in Section 480.1 or 480.2 no later than 60 days after the date on which the person or legal entity is notified of the penalty.

(c) The penalty for failure to file a timely statement pursuant to Sections 480, 480.1, and 480.2 for any one transfer may be imposed only one time, even though the assessor may initiate a request as often as he or she deems necessary.

(d) The penalty shall be added to the roll in the same manner as a special assessment and treated, collected, and subject to the same penalties for the delinquency as all other taxes on the roll in which it is entered.

(1) When the transfer to be reported under this section is of a portion of a property or parcel appearing on the roll during the fiscal year in which the 45-day period expires, the current year's taxes shall be prorated so the penalty will be computed on the proportion of property which has transferred.

(2) Any penalty added to the roll pursuant to this section between January 1 and June 30 may be entered either on the unsecured roll or the roll being prepared. After January 1, the penalty may be added to the current roll only with the approval of the tax collector.

(3) If the property is transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value after the transfer of ownership resulting in the imposition of the penalty and before the enrollment of the penalty, the penalty shall be entered on the unsecured roll in the name of the transferee whose failure to file the change in ownership statement resulted in the imposition of the penalty.

(e) When a penalty imposed pursuant to this section is entered on the unsecured roll, the tax collector may immediately file a certificate authorized by Section 2191.3.

(f) Notice of any penalty added to either the secured or unsecured roll pursuant to this section shall be mailed by the assessor to the transferee at his or her address contained in any recorded instrument or document evidencing a transfer of an interest in real property or manufactured home or at any address reasonably known to the assessor.

SEC. 4. Section 2188.25 is added to the Revenue and Taxation Code, to read:

2188.25. It is the intent of the Legislature to make the necessary statutory changes to improve the efficiency and timeliness of property tax assessments made for leasehold improvements.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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