

Introduced by Senator MigdenJanuary 22, 2008

An act to add Section 62.3 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1113, as introduced, Migden. Property taxation: change in ownership: exclusion.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests results in a change in ownership of the real property, and provides that certain transfers do not result in a change of ownership.

This bill would provide that a transfer of a cotenancy interest, as defined, in real property from one cotenant to the other that takes effect upon the death of the transferor cotenant does not constitute a change of ownership, as provided.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 62.3 is added to the Revenue and Taxation
2 Code, to read:

3 62.3. (a) Notwithstanding any other provision in this chapter,
4 a change in ownership shall not include a transfer of a cotenancy
5 interest in real property from one cotenant to the other that takes
6 effect upon the death of the transferor cotenant where all of the
7 following conditions apply:

8 (1) The transfer is solely by and between either of the following:

9 (A) Two joint tenants who together own 100 percent of the real
10 property in joint tenancy.

11 (B) Two individuals who together own 100 percent of the real
12 property as tenants in common.

13 (2) As a result of the death of the transferor cotenant, the
14 deceased cotenant’s tenancy in common or joint tenancy interest
15 in the real property is transferred to the surviving cotenant, which
16 results in the surviving cotenant holding a 100 percent ownership
17 interest in the real property immediately after the transfer, thereby
18 terminating the cotenancy.

19 (3) The real property constitutes a principal residence.

20 (b) With respect to real property that does not constitute a
21 principal residence under paragraph (3) of subdivision (a), the
22 change in ownership exclusion provided by subdivision (a) shall
23 still apply if paragraphs (1) and (2) of subdivision (a) are satisfied,
24 but shall be subject to an aggregate maximum exclusion limitation
25 of five hundred thousand dollars (\$500,000) of the full cash value
26 of the real property that otherwise qualifies for the exclusion under
27 subdivision (a).

28 (c) A transfer of cotenancy interest in real property from one
29 cotenant to the other shall take effect upon the death of the
30 transferor cotenant under any of the following circumstances:

31 (1) Pursuant to the transferor cotenant’s will or trust upon the
32 death of the transferor cotenant.

33 (2) Through intestate succession from the transferor cotenant.

1 (3) Through a declaration in lieu of probate upon the death of
2 the transferor cotenant.

3 (4) By operation of law upon the death of the transferor cotenant.

4 (d) The exclusion provided by this section shall not apply to
5 any transfer of real property interests for which a separate exclusion
6 in this chapter applies.

7 (e) For purposes of this section, both of the following apply:

8 (1) “Cotenancy interest” means an interest in real property held
9 only as tenants in common or joint tenants.

10 (2) “Principal residence” means a dwelling eligible for either
11 the homeowners’ exemption or the disabled veterans’ residence
12 exemption held by either of the following:

13 (A) The transferor cotenant immediately preceding his or her
14 death.

15 (B) The surviving cotenant immediately upon acquisition of
16 100 percent ownership of the dwelling.

17 (C) A transfer of a cotenancy interest in real property from one
18 cotenant to the other that takes effect upon the death of the
19 transferor cotenant.

20 SEC. 2. Notwithstanding Section 2229 of the Revenue and
21 Taxation Code, no appropriation is made by this act and the state
22 shall not reimburse any local agency for any property tax revenues
23 lost by it pursuant to this act.

24 SEC. 3. This act provides for a tax levy within the meaning of
25 Article IV of the Constitution and shall go into immediate effect.