

AMENDED IN SENATE MAY 23, 2008  
AMENDED IN SENATE MAY 13, 2008  
AMENDED IN SENATE APRIL 15, 2008  
AMENDED IN SENATE APRIL 1, 2008

**SENATE BILL**

**No. 1710**

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**Introduced by Senator Oropeza**  
**(Coauthor: Senator Runner)**  
(Coauthor: Assembly Member Lieu)

February 22, 2008

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An act to amend Section 2194 of, and to add Section 2610.65 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1710, as amended, Oropeza. Tax liens.

Existing law specifies that every tax on real property is a lien against the property assessed. Existing law provides that a judgment is satisfied and the lien is removed when the tax is legally paid or canceled, except by virtue of a sale of a tax certificate for that tax, as specified, or the property is sold to satisfy the tax lien.

This bill would provide that a tax is not paid or legally canceled for purposes of satisfying a judgment and removing a lien if the lien is transferred, as specified.

Existing law authorizes a person to pay the property taxes of another person pursuant to a written or oral authorization. Existing law provides that a tax lien has priority over all other liens on the property, regardless of when the other liens were created.

This bill would instead require a person, whom this bill would classify as an assessee, ~~that~~ *who* seeks to authorize another person, whom this

bill would classify as a payer, to pay ~~his or her~~ *the assessee's* real property taxes, to file a document, signed by the assessee as true, correct, and complete to the best of his or her knowledge, with the tax collector containing the authorization, a statement by the assessee acknowledging that the assessee chooses to borrow funds from the payer, as provided, a description of the property on which the payer will pay the taxes, and the payer's name, as specified. This bill would also specify that these taxes become a lien in favor of the payer against the property of the assessee upon the recordation of the tax lien transfer document, as provided, and that this lien would have the same priority as the tax lien that was transferred to the payer. *This bill would require the payer to extinguish the tax lien within 45 days of the final payment made by the assessee to the payer.*

This bill would require the tax collector to issue a receipt to the payer, to authorize a transfer of the tax lien to the payer, and to certify that the payment has been made, as specified. This bill would also authorize the tax collector to charge a fee for the cost of implementing the lien transfers. This bill would authorize the holder of the lien to commence an action for foreclosure, as provided, and would authorize the assessee, who owned the property at foreclosure, to redeem the property, as provided.

This bill would create a state-mandated local program by requiring tax collectors to issue receipts and certifications to payers.

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 specified reasons.

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 2194 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 2194. (a) Except as otherwise provided in this chapter, the
- 4 judgment is satisfied and the lien removed when, but not before,
- 5 either of the following occur:
- 6 (1) The tax is paid or legally canceled.
- 7 (2) The property is sold to satisfy the tax lien.

1 (b) For purposes of this section, the tax is not deemed paid or  
2 legally canceled by virtue of a sale of a tax certificate for that tax  
3 pursuant to Section 4521 or a transfer of the tax lien pursuant to  
4 Section 2610.65.

5 SEC. 2. Section 2610.65 is added to the Revenue and Taxation  
6 Code, to read:

7 2610.65. (a) If the payer of property taxes files a sworn  
8 statement from an assessee authorizing the payer to pay the  
9 property tax of the assessee, the tax collector shall transfer the lien  
10 for property taxes, interest, and penalties to the payer upon payment  
11 by the payer of the outstanding or delinquent tax obligation, or  
12 both, as applicable. The authorization statement shall be a  
13 document, signed by the assessee as true, correct, and complete  
14 to the best of his or her knowledge, that contains all of the  
15 following:

16 (1) A statement by the assessee acknowledging that the assessee  
17 chooses to do both of the following:

18 (A) Borrow funds, at an interest rate not to exceed 1.33 percent  
19 per month, from the payer necessary to pay the property taxes  
20 owed.

21 (B) Follow the procedures set forth in this section to facilitate  
22 that loan.

23 (2) *A statement by the assessee acknowledging that the assessee*  
24 *has received notice of all of the items specified in the disclosure*  
25 *document pursuant to subdivision (i).*

26 ~~(2)~~

27 (3) A description of the real property of the assessee, the taxes  
28 upon which will be paid by the payer.

29 ~~(3)~~

30 (4) The name of the payer.

31 (b) Notwithstanding any other provision of law, if a payer pays  
32 real property taxes, ~~penalties, or interest~~ *and penalties* of an  
33 assessee under this section, all of the following apply:

34 (1) (A) The taxes on the real property of the assessee that ~~will~~  
35 ~~be~~ *are* paid by the payer become a lien against that property in  
36 favor of the payer, upon the recordation of the tax lien transfer  
37 document by the county recorder.

38 (B) This lien shall have the same priority as a tax lien described  
39 in Section 2192.1 and shall secure the payment of taxes, penalties,  
40 ~~interest~~ *the interest charged by the payer*, court costs, recording

1 fees, and the reasonable and actual costs of collection incurred by  
2 the payer.

3 (C) The lien priority created by the recordation of the tax lien  
4 transfer document, while superior to other recorded liens, shall  
5 have the same priority of ~~other~~ *any existing or future* liens relating  
6 to property taxes or special assessments authorized by law.

7 (2) The tax collector of the taxing jurisdiction, or his or her  
8 authorized representative, shall issue a tax lien transfer to the payer  
9 describing the payment and shall attach to that tax lien transfer  
10 document a receipt certifying, either by stamping the document  
11 with the tax collector's seal of office or by signing the document  
12 before a notary public, both of the following:

13 (A) That the payment so described has been made by the payer.

14 (B) That a lien exists against the real property of the assessee  
15 as a result of the payment and recordation of the tax lien transfer  
16 document and that the collection rights of that lien are being  
17 transferred to the payer.

18 (3) The tax lien transfer document described in paragraph (2)  
19 shall include all of the following information:

20 (A) A prominent heading, in no less than 12-point font, that  
21 reads "Tax Lien Transfer Document."

22 (B) A disclosure that a loan has been made by the payer to the  
23 assessee pursuant to this section to pay the underlying tax  
24 obligation.

25 (C) A statement that the lien priority date of the document is  
26 established pursuant to this section and not by the actual  
27 recordation date of the tax lien transfer document.

28 (D) The name, address, and telephone number of the payer.

29 (E) The parcel number of the real property.

30 (4) The payer shall have the same obligations as a beneficiary  
31 as provided in Section 2943 of the Civil Code.

32 (c) ~~Within five~~ *10* working days of the payment of taxes;  
33 ~~penalties, and interest and penalties~~ the tax collector shall provide  
34 the payer with the tax lien transfer document and ~~shall authorize~~  
35 ~~the payer~~ *the payer shall be authorized* to record the tax lien  
36 transfer document against the real property of the assessee in the  
37 name of the payer in the deed records of each county in which the  
38 property encumbered by the lien is located. A lien authorized by  
39 this subdivision is not perfected or enforceable unless it is recorded

1 by the payer within five working days of the payer's receipt of the  
2 tax lien transfer document from the tax collector.

3 (d) The tax collector may charge a reasonable fee for the cost  
4 of implementing this section, not to exceed the actual cost of  
5 implementing this section or two hundred fifty dollars (\$250),  
6 whichever is less.

7 (e) (1) The holder of the lien transferred pursuant to this section  
8 and perfected by the recordation of the tax lien transfer document  
9 shall have the same right of sale and shall be subject to the same  
10 notice of intended sale requirements as described in Section 3691  
11 and may, upon the passing of the interval described in subparagraph  
12 (A) of paragraph (1) of subdivision (a) of Section 3691, commence  
13 an action for foreclosure as described in Section 726 of the Code  
14 of Civil Procedure, and shall provide notice of a sale or foreclosure  
15 to all interested parties, including those described in Section 4676,  
16 and to the assessee in the same manner as provided in Sections  
17 3691.1 and 3691.2.

18 (2) *The payer shall commence an action for foreclosure within*  
19 *three years of the earliest possible foreclosure date.*

20 (f) (1) An assessee who owned property sold at a foreclosure  
21 sale in accordance with subdivision (e) may redeem the property  
22 by paying the purchaser the foreclosure sale price plus *any*  
23 *reasonable and actual* costs, fees, and interest on the amount of  
24 the foreclosure sale price from the date of the foreclosure sale to  
25 the date of redemption at a rate of 16 percent per annum in the  
26 year following the sale.

27 (2) If an assessee redeems sold property in accordance with  
28 paragraph (1), both of the following shall apply:

29 (A) The purchaser at foreclosure, or any subsequent owner,  
30 shall deliver a deed to the assessee redeeming the property.

31 (B) All liens existing on the property at the time of the  
32 foreclosure sale shall remain in effect and with the same priority,  
33 to the extent the liens were not paid from the foreclosure sale  
34 proceeds.

35 (g) Nothing in this section shall limit the rights of any lienholder  
36 to make advances for property taxes in accordance with the  
37 lienholder's lien or security agreement, or to recover advances  
38 made by the lienholder to pay property taxes or other sums as may  
39 be undertaken in accordance with the lienholder's lien or security  
40 agreement.

1 (h) (1) Nothing in this section shall give any payer an exemption  
2 from the usury, licensing, and interest rate ceiling laws of this  
3 state. The maximum interest rate shall not exceed 1.33 percent per  
4 month, unless it is limited further by law.

5 (2) *Payers shall be subject to the California Finance Lenders*  
6 *Law (Division 9 (commencing with Section 22000) of the Financial*  
7 *Code).*

8 (3) *The maximum charges, fees, or costs that may be charged*  
9 *by a payer in connection with the loan or contract authorized*  
10 *pursuant to this section shall not exceed any of the following:*

11 (A) *One thousand two hundred fifty dollars (\$1,250) for loans*  
12 *or contracts of two thousand five hundred dollars (\$2,500) or less.*

13 (B) *One thousand five hundred dollars (\$1,500) for loans or*  
14 *contracts of two thousand five hundred one dollars (\$2,501) to five*  
15 *thousand dollars (\$5,000), inclusive.*

16 (C) *One thousand seven hundred fifty dollars (\$1,750) for loans*  
17 *or contracts of five thousand one dollars (\$5,001) to seven*  
18 *thousand five hundred dollars (\$7,500), inclusive.*

19 (D) *Two thousand dollars (\$2,000) for loans or contracts of*  
20 *seven thousand five hundred one dollars (\$7,501) to ten thousand*  
21 *dollars (\$10,000), inclusive.*

22 (E) *Two thousand two hundred fifty dollars (\$2,250) for loans*  
23 *or contracts that exceed ten thousand dollars (\$10,000).*

24 (i) Before accepting an application fee from the assessee, the  
25 payer shall disclose in writing to the assessee ~~both~~ *all* of the  
26 following:

27 (1) Each type and amount of possible charges, fees, or costs  
28 that may be incurred by the assessee in connection with the loan  
29 or contract under this section, and other moneys that the payer will  
30 charge the assessee to pay off the loan or to redeem the property.

31 (2) The rate at which all sums specified in paragraph (1) shall  
32 bear interest.

33 (3) *That the payer shall not accept an application to borrow*  
34 *funds from, nor advance any property tax loan to, a property tax*  
35 *owner who qualifies for property tax assistance as specified in*  
36 *subdivision (k).*

37 (4) *That the payer shall not make a loan to the assessee as*  
38 *specified in subdivision (j).*

39 (j) *A payer shall not make a loan to an assessee that does either*  
40 *of the following:*

1     *(1) Requires the assessee to make a balloon payment, which is*  
2 *a payment that is more than double the amount of regular*  
3 *payments.*

4     *(2) That contains any prepayment penalties.*

5     ~~(j)~~

6     *(k) A payer shall not accept an application to borrow funds from,*  
7 *nor advance a property tax loan to, a property owner who qualifies*  
8 *for property tax assistance pursuant to either Chapter 1*  
9 *(commencing with Section 20501) or Chapter 2 (commencing with*  
10 *Section 20581) of Part 10.5 of Division 2.*

11     ~~(k)~~

12     *(l) A payer shall not pay the property taxes of a residential*  
13 *property owner who is less than 12 months delinquent in paying*  
14 *his or her property tax obligation.*

15     *(m) Notwithstanding any other law, the tax collector shall only*  
16 *accept a cashier's check or money order from the payer to pay the*  
17 *property taxes of the assessee.*

18     *(n) Any loan made in violation of paragraph (2) of subdivision*  
19 *(a), subdivision (j), or subdivision (k) shall be unenforceable and*  
20 *the tax lien authorized pursuant to this section shall be removed.*

21     *(o) Within 45 days of the final payment by the assessee to the*  
22 *payer, the payer shall remove the tax lien authorized pursuant to*  
23 *this section.*

24     ~~(t)~~

25     *(p) If the interest limitation set forth in subdivision (a) is*  
26 *determined not to apply to any particular lender by a state or federal*  
27 *court, and it is a final nonappealable judgment, any tax lien against*  
28 *the property by that lender shall not be transferable under this*  
29 *section as of the date of that judgment.*

30     SEC. 3. The Legislature finds and declares that this act serves  
31 a compelling state interest by accelerating the collection of property  
32 tax revenues for local governments, reducing the cost of collecting  
33 those tax revenues, and by providing property owners with a lower  
34 cost option for paying delinquent property taxes to avoid the  
35 substantial penalties that attach to property tax delinquencies.

36     SEC. 4. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 a local agency or school district has the authority to levy service  
39 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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