

**ASSEMBLY BILL**

**No. 261**

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**Introduced by Assembly Member Dickinson**

February 7, 2011

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An act to amend Sections 3712 and 3725 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 261, as introduced, Dickinson. Property tax: tax-defaulted property.

Existing property tax law generally authorizes a county tax collector to sell tax-defaulted property 5 years or more, or 3 years or more, as applicable, after that property has become tax defaulted. Under existing law, when tax-defaulted property is sold, the deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, with specified exceptions including an exception for specified easements.

This bill would provide that easements of any kind, including prescriptive easements, are included within those specified exceptions to the conveyance of title free of encumbrances.

Existing law provides that a proceeding based on alleged invalidity or irregularity of any proceedings instituted in a sale of tax-defaulted property can only be commenced within a specified period.

This bill would provide that such a proceeding can only be commenced by recorded interest holders and their successors in interest in the real property, as specified.

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

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

1 SECTION 1. Section 3712 of the Revenue and Taxation Code  
2 is amended to read:

3 3712. The deed conveys title to the purchaser free of all  
4 encumbrances of any kind existing before the sale, except:

5 (a) Any lien for installments of taxes and special assessments,  
6 that installments will become payable upon the secured roll after  
7 the time of the sale.

8 (b) The lien for taxes or assessments or other rights of any taxing  
9 agency that does not consent to the sale under this chapter.

10 (c) Liens for special assessments levied upon the property  
11 conveyed that were, at the time of the sale under this chapter, not  
12 included in the amount necessary to redeem the tax-defaulted  
13 property, and, where a taxing agency that collects its own taxes  
14 has consented to the sale under this chapter, not included in the  
15 amount required to redeem from sale to the taxing agency.

16 (d) Easements *of any kind, including prescriptive*, constituting  
17 servitudes upon or burdens to the property; water rights, the record  
18 title to which is held separately from the title to the property; and  
19 restrictions of record.

20 (e) Unaccepted, recorded, irrevocable offers of dedication of  
21 the property to the public or a public entity for a public purpose,  
22 and recorded options of any taxing agency to purchase the property  
23 or any interest therein for a public purpose.

24 (f) Unpaid assessments under the Improvement Bond Act of  
25 1915 (Division 10 (commencing with Section 8500) of the Streets  
26 and Highways Code) that are not satisfied as a result of the sale  
27 proceeds being applied pursuant to Chapter 1.3 (commencing with  
28 Section 4671) of Part 8, or that are being collected through a  
29 foreclosure action pursuant to Part 14 (commencing with Section  
30 8830) of Division 10 of the Streets and Highways Code. A sale  
31 pursuant to this chapter shall not nullify, eliminate, or reduce the  
32 amount of a foreclosure judgment pursuant to Part 14 (commencing  
33 with Section 8830) of Division 10 of the Streets and Highways  
34 Code.

35 (g) Any federal Internal Revenue Service liens that, pursuant  
36 to provisions of federal law, are not discharged by the sale, even  
37 though the tax collector has provided proper notice to the Internal  
38 Revenue Service before that date.

1 (h) Unpaid special taxes under the Mello-Roos Community  
2 Facilities Act of 1982 (Chapter 2.5 (commencing with Section  
3 53311) of Part 1 of Division 2 of Title 5 of the Government Code)  
4 that are not satisfied as a result of the sale proceeds being applied  
5 pursuant to Chapter 1.3 (commencing with Section 4671) of Part  
6 8, or that are being collected through a foreclosure action pursuant  
7 to Section 53356.1 of the Government Code. A sale pursuant to  
8 this chapter shall not nullify, eliminate, or reduce the amount of a  
9 foreclosure judgment pursuant to Section 53356.1 of the  
10 Government Code.

11 SEC. 2. Section 3725 of the Revenue and Taxation Code is  
12 amended to read:

13 3725. ~~A~~*Notwithstanding Part 2 (commencing with Section*  
14 *307) of the Code of Civil Procedure, a proceeding based on alleged*  
15 *invalidity or irregularity of any proceedings instituted under this*  
16 *chapter can only be commenced by recorded interest holders and*  
17 *their successors in interest in the real property sold at the*  
18 *challenged tax sale within one year after the date of execution of*  
19 *the tax collector's deed.*

20 Sections 351 to 358, inclusive, of the Code of Civil Procedure  
21 do not apply to the time within which a proceeding may be brought  
22 under this section.