

AMENDED IN ASSEMBLY APRIL 10, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2069

Introduced by Assembly Member Solorio

February 23, 2012

An act to amend Sections 5473.8, 5473.11, and 5474.6 of the Health and Safety Code, and to amend Section 37212 of the Water Code, relating to property-related service charges.

LEGISLATIVE COUNSEL'S DIGEST

AB 2069, as amended, Solorio. Sanitation, sewerage, and water charges: collection.

Existing law authorizes various local public entities to prescribe fees or other charges for services and facilities furnished by them in connection with their water, sanitation, storm drainage, or sewerage system, as well as for the privilege of connecting to these sanitation or sewerage facilities. These charges, under specified circumstances, may be collected on the tax roll in the same manner as property taxes and the amount of the charges constitutes a lien against the lot or parcel against which the charge has been imposed, unless the real property has been transferred or conveyed to a bona fide purchaser for value, or a lien of a bona fide encumbrancer for value has been created and attached prior to the date upon which the first installment of the property taxes would become delinquent.

This bill would instead require the transfer, conveyance, or attachment to occur during the year ~~preceding~~ *prior to* the date on which the first installment of property taxes that evidence the charges appears on the tax roll, in order to preclude the local public entity's lien from attaching

to the real property of the bona fide purchaser or encumbrancer for value.

Existing law requires the charges for the above described services and facilities to remain delinquent for 60 days and the imposing entity to provide the assessee with notice of the delinquency, in order for the charges to constitute a lien against the lot or parcel of land for which the service was provided.

This bill would delete the 60 day delinquency and notice requirements and, instead, authorize the amount of unpaid charges to be secured at any time by filing a specified certificate in the office of the county recorder. This bill would provide that the amount required to be paid, with interest and a penalty, constitutes a lien on all real property owned by the person or afterwards acquired by him or her before the lien expires.

Existing law provides procedures for the collection of unpaid charges by a water district for water or other services. These unpaid charges become a lien on the parcel of land upon which the water and other services were used, unless the real property has been transferred or conveyed to a bona fide purchaser for value, or a lien of a bona fide encumbrancer for value has been created and attached prior to the date of which the first installment of taxes would become delinquent.

This bill would require the transfer, conveyance, or attachment to occur during the year ~~preceding~~ *prior to* the date on which the first installment of real property taxes that evidence the charges appears on the tax roll, in order for the water district’s lien to not attach to the real property of the bona fide purchaser or encumbrancer for value.

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 5473.8 of the Health and Safety Code is
- 2 amended to read:
- 3 5473.8. All laws applicable to the levy, ~~collection~~ *collection*,
- 4 and enforcement of general taxes of the entity, including, but not
- 5 limited to, those pertaining to the matters of delinquency,
- 6 correction, cancellation, refund and redemption, are applicable to
- 7 the charges authorized pursuant to this article, except ~~that~~ *that*, if
- 8 any real property to which these charges relate has been transferred
- 9 or conveyed to a bona fide purchaser for ~~value~~, *value* or if a lien

1 of a bona fide ~~encumbrancer~~ *encumbrancer* for value has been
2 created and attaches ~~thereon~~, *thereon* during the year prior to the
3 date on which the first installment of the general taxes that include
4 the charges ~~that appear~~ *appears* on the assessment roll, then the
5 lien which would otherwise be imposed by Section 5473.5 shall
6 not attach to the real property and the charges relating to this
7 property shall be transferred to the unsecured roll of collection.

8 SEC. 2. Section 5473.11 of the Health and Safety Code is
9 amended to read:

10 5473.11. (a) An entity shall notify the assessee shown on the
11 latest equalized assessment roll whenever delinquent and unpaid
12 charges for services which would become a lien on the property
13 pursuant to subdivision (b) remain delinquent and unpaid for 60
14 days.

15 (b) The amount of the unpaid charges may, in the discretion of
16 the ~~district~~ *entity*, be secured at any time by filing for record in the
17 office of the county recorder of any county, a certificate specifying
18 the amount of the unpaid charges and the name and address of the
19 person liable ~~therefore~~ *therefor*. From the time of recordation of
20 the certificate, the amount required to be paid together with interest
21 and a penalty constitutes a lien upon all real property in the county
22 owned by the person or afterwards, and before the lien expires,
23 acquired by him or her. The lien shall have the force, priority, and
24 effect of a judgment lien and shall continue for 10 years from the
25 date of the filing of the certificate unless sooner released or
26 otherwise discharged. The lien may, within 10 years from the filing
27 of the certificate or within 10 years from the date of the last
28 extension of the lien in the manner herein provided, be extended
29 by filing for record a new certificate in the office of the county
30 recorder of any county and from the time of this filing the lien
31 shall be extended to the real property in this county for 10 years
32 unless sooner released or otherwise discharged.

33 SEC. 3. Section 5474.6 of the Health and Safety Code is
34 amended to read:

35 5474.6. (a) The tax collector shall include the amounts of the
36 installments of fees or charges and the interest on bills for taxes
37 levied against the respective lots and parcels of land. Thereafter,
38 all laws applicable to the levy, collection and enforcement of taxes
39 of the entity, including penalties and interest thereon and
40 cancellation or refund thereof, shall be applicable to those

1 installments of fees or charges and interest, except that if, during
 2 the year preceding the date on which the first installment of real
 3 property taxes which evidence the fees or charges appears on the
 4 roll, if any real property to which the fees or charges relate has
 5 been transferred or conveyed to a bona fide purchaser for value,
 6 value or if a lien of a bona fide encumbrancer for value has been
 7 created and attaches ~~thereon~~, *thereon during the year* prior to the
 8 date on which the first installment of ~~those the general taxes would~~
 9 ~~become delinquent~~ *that include the fees or charges appears on the*
 10 *assessment roll*, then the lien which would otherwise be imposed
 11 by Section 5474.5 shall not attach to ~~such~~ *the* real property and
 12 the fees or charges and interest shall be transferred to the unsecured
 13 roll for collection.

14 (b) The amount of the unpaid installments of fees or charges
 15 and interest may, in the discretion of the entity, be secured at any
 16 time by filing for record in the office of the county recorder of any
 17 county, a certificate specifying the amount of the fees or charges
 18 and interest and the name and address of the person liable ~~therefore~~
 19 *therefor*. From the time of recordation of the certificate, the amount
 20 required to be paid together with interest and penalty constitutes
 21 a lien upon all real property in the county owned by the person or
 22 afterwards, and before the lien expires, acquired by him or her.
 23 The lien ~~has~~ *shall have* the force, priority, and effect of a judgment
 24 lien and shall continue for 10 years from the date of the filing of
 25 the certificate unless sooner released or otherwise discharged. The
 26 lien may, within 10 years from the filing of the certificate or within
 27 10 years from the date of the last extension of the lien in the manner
 28 herein provided, be extended by filing for record a new certificate
 29 in the office of the county recorder of any county and from the
 30 time of this filing the lien shall be extended to the real property in
 31 this county for 10 years unless sooner released or otherwise
 32 discharged.

33 SEC. 4. Section 37212 of the Water Code is amended to read:
 34 37212. In case any charges for water or other services, or either,
 35 remain unpaid:

- 36 (a) If unpaid for 60 days or more on July 1st, the district board
 37 may, by resolution, order the secretary to do each of the following:
 38 (1) Prepare a list of the parcels of land upon which water and
 39 other services, or either, requested in writing by the owner of the
 40 property, was used, and for which the charges remain unpaid.

1 (2) Certify that the list is true and correct.

2 (3) Submit the list of unpaid charges and parcels to the county
3 auditor no later than five days after the estimate of the district
4 board was furnished pursuant to Section 37206.

5 Upon receipt by the county auditor of the list and a certified
6 copy of the resolution, the amount of the unpaid charges attributed
7 to each parcel mentioned in the list shall constitute a special
8 assessment against the parcel, and shall be a lien on that property
9 for that amount. The lien attaches upon recordation in the office
10 of the county recorder of the county in which the property is
11 situated of a certified copy of the resolution of the district board
12 accompanied by a certified copy of the list specifically describing
13 the real property by a legal description or reference to an assessor's
14 parcel number and specifying the amount applicable to each parcel.
15 The assessment shall be collected at the same time and in the same
16 manner as ordinary municipal ad valorem taxes are collected, and
17 shall be subject to the same penalties, and the same procedure and
18 sale in case of delinquency as provided for the taxes. All laws
19 applicable to the levy, ~~collection~~ *collection*, and enforcement of
20 municipal ad valorem taxes shall be applicable to the assessment,
21 except that if, ~~during the year preceding the date on which the first~~
22 ~~installment of real property taxes which evidence the charges~~
23 ~~appears on the roll, if~~ any real property to which the lien would
24 attach has been transferred or conveyed to a bona fide purchaser
25 for ~~value, value~~ or if a lien of a bona fide encumbrancer for value
26 has been created and attached ~~thereon, thereon~~ *during the year*
27 *prior to the date on which the first installment of the taxes would*
28 ~~become delinquent that include the assessment appears on the~~
29 *assessment roll*, then the lien which would otherwise be imposed
30 by this section shall not attach to ~~such~~ *the* real property and the
31 delinquent and unpaid charges, as certified, relating to the property
32 shall be transferred to the unsecured roll for collection.

33 The county shall deduct from the charges collected an amount
34 sufficient to compensate the county for costs incurred in collecting
35 the delinquent and unpaid charges. The amount of this
36 compensation shall be fixed by agreement between the board of
37 supervisors and the district's board of directors.

38 (b) The amount of the unpaid charges may, in the discretion of
39 the district, be secured at any time by filing for record in the office
40 of the county recorder of any county, a certificate specifying the

1 amount of the charges and the name and address of the person
2 liable therefor.

3 From the time of recordation of the certificate, the amount
4 required to be paid together with interest and penalty constitutes
5 a lien upon all real property in the county owned by the person or
6 afterwards, and before the lien expires, acquired by him or her.
7 The lien has the force, priority, and effect of a judgment lien and
8 shall continue for 10 years from the date of the filing of the
9 certificate unless sooner released or otherwise discharged. The
10 lien may, within 10 years from the filing of the certificate or within
11 10 years from the date of the last extension of the lien in the manner
12 herein provided, be extended by filing for record a new certificate
13 in the office of the county recorder of any county and from the
14 time of the filing the lien shall be extended to the real property in
15 this county for 10 years unless sooner released or otherwise
16 discharged.