

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2618

Introduced by Assembly Members ~~Achadjian~~ and Member Ma

February 24, 2012

~~An act to amend Section 80 of the Revenue and Taxation Code, relating to taxation. An act to amend Section 1812.607 of the Civil Code, relating to auctions.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2618, as amended, ~~Achadjian~~ *Ma*. ~~Property taxation: assessment: reduction in base-year value: application. Auctions: transaction records.~~

Existing law requires every auction company and auctioneer to keep and maintain complete and correct records and accounts pertaining to the auctioneer's or auction company's activity for a period of no less than 2 years.

This bill would require every auction company and auctioneer to provide transaction records to the State Board of Equalization when the transaction involves a salvage vehicle and a resale certificate, unless exempted.

~~Existing property tax law authorizes an application for reduction in the base-year value of an assessment on the current roll to be filed during the regular filing period for that year subject to certain limitations, as provided.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

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

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

1 *SECTION 1. Section 1812.607 of the Civil Code is amended*
2 *to read:*

3 1812.607. Every auction company and auctioneer shall do all
4 of the following:

5 (a) Disclose his or her name, trade or business name, telephone
6 number, and bond number in all advertising of auctions. A first
7 violation of this subdivision is an infraction subject to a fine of
8 fifty dollars (\$50); a second violation is subject to a fine of
9 seventy-five dollars (\$75); and a third or subsequent violation is
10 subject to a fine of one hundred dollars (\$100). This section shall
11 not apply to business cards, business stationery, or to any
12 advertisement that does not specify an auction date.

13 (b) Post a sign, the dimensions of which shall be at least 18
14 inches by 24 inches, at the main entrance to each auction, stating
15 that the auction is being conducted in compliance with Section
16 2328 of the Commercial Code, Section 535 of the Penal Code, and
17 the provisions of the California Civil Code. A first violation of
18 this subdivision is an infraction subject to a fine of fifty dollars
19 (\$50); a second violation is subject to a fine of seventy-five dollars
20 (\$75); and a third or subsequent violation is subject to a fine of
21 one hundred dollars (\$100).

22 (c) Post or distribute to the audience the terms, conditions,
23 restrictions, and procedures whereby goods will be sold at the
24 auction, and announce any changes to those terms, conditions,
25 restrictions, and procedures prior to the beginning of the auction
26 sale. A first violation of this subdivision is an infraction subject
27 to a fine of fifty dollars (\$50); a second violation is subject to a
28 fine of one hundred dollars (\$100); and a third or subsequent
29 violation is subject to a fine of two hundred fifty dollars (\$250).

30 (d) Notify the Secretary of State of any change in address of
31 record within 30 days of the change. A violation of this subdivision
32 is an infraction subject to a fine of fifty dollars (\$50).

33 (e) Notify the Secretary of State of any change in the officers
34 of a corporate license within 30 days of the change. A violation
35 of this subdivision is an infraction subject to a fine of fifty dollars
36 (\$50).

37 (f) Notify the Secretary of State of any change in the business
38 or trade name of the auctioneer or auction company within 30 days

1 of the change. A violation of this subdivision is an infraction
2 subject to a fine of fifty dollars (\$50).

3 (g) Keep and maintain, at the auctioneer's or auction company's
4 address of record, complete and correct records and accounts
5 pertaining to the auctioneer's or auction company's activity for a
6 period of not less than two years. The records shall include the
7 name and address of the owner or consignor and of any buyer of
8 goods at any auction sale engaged in or conducted by the auctioneer
9 or auction company, a description of the goods, the terms and
10 conditions of the acceptance and sale of the goods, all written
11 contracts with owners and consignors, and accounts of all moneys
12 received and paid out, whether on the auctioneer's or auction
13 company's own behalf or as agent, as a result of those activities.
14 A first violation of this subdivision is a misdemeanor subject to a
15 fine of five hundred dollars (\$500); and a second or subsequent
16 violation is subject to a fine of one thousand dollars (\$1,000).

17 (h) Within 30 working days after the sale transaction, provide,
18 or cause to be provided, an account to the owner or consignor of
19 all goods that are the subject of an auction engaged in or conducted
20 by the auctioneer or auction company. A first violation of this
21 subdivision is a misdemeanor subject to a fine of five hundred
22 dollars (\$500); and a second or subsequent violation is subject to
23 a fine of one thousand dollars (\$1,000).

24 (i) Within 30 working days after a sale transaction of goods,
25 pay or cause to be paid all moneys and proceeds due to the owner
26 or the consignor of all goods that were the subject of an auction
27 engaged in or conducted by the auctioneer or auction company,
28 unless delay is compelled by legal proceedings or the inability of
29 the auctioneer or auction company, through no fault of his or her
30 own, to transfer title to the goods or to comply with any provision
31 of this chapter, the Commercial Code, or the Code of Civil
32 Procedure, or with any other applicable provision of law. A first
33 violation of this subdivision is a misdemeanor subject to a fine of
34 one thousand dollars (\$1,000); a second violation is subject to a
35 fine of one thousand five hundred dollars (\$1,500); and a third or
36 subsequent violation is subject to a fine of two thousand dollars
37 (\$2,000).

38 (j) Maintain the funds of all owners, consignors, buyers, and
39 other clients and customers separate from his or her personal funds

1 and accounts. A violation of this subdivision is an infraction subject
2 to a fine of two hundred fifty dollars (\$250).

3 (k) Immediately prior to offering any item for sale, disclose to
4 the audience the existence and amount of any liens or other
5 encumbrances on the item, unless the item is sold as free and clear.
6 For the purposes of this subdivision, an item is “free and clear” if
7 all liens and encumbrances on the item are to be paid prior to the
8 transfer of title. A violation of this subdivision is an infraction
9 subject to a fine of two hundred fifty dollars (\$250) in addition to
10 the requirement that the buyer be refunded, upon demand, the
11 amount paid for any item that is the subject of the violation.

12 (l) Within two working days after an auction sale, return the
13 blank check or deposit of each buyer who purchased no goods at
14 the sale. A first violation of this subdivision is an infraction subject
15 to a fine of one hundred dollars (\$100); and a second or subsequent
16 violation is subject to a fine of two hundred fifty dollars (\$250).

17 (m) Within 30 working days of any auction sale, refund that
18 portion of the deposit of each buyer that exceeds the cost of the
19 goods purchased, unless delay is compelled by legal proceedings
20 or the inability of the auctioneer or auction company, through no
21 fault of his or her own, to transfer title to the goods or to comply
22 with any provision of this chapter, the Commercial Code, or the
23 Code of Civil Procedure, or with other applicable provisions of
24 law, or unless the buyer violated the terms of a written agreement
25 that he or she take possession of purchased goods within a specified
26 period of time. A first violation of this subdivision is an infraction
27 subject to a fine of one hundred dollars (\$100); and a second or
28 subsequent violation is subject to a fine of two hundred fifty dollars
29 (\$250).

30 (n) *When the auction sale involves a salvage certificate vehicle*
31 *as defined in Section 11515 of the Vehicle Code and a resale*
32 *certificate pursuant to Article 3 (commencing with Section 6091)*
33 *of Chapter 2 of the Revenue and Taxation Code, the auctioneer*
34 *or auction company shall provide the transaction records listed*
35 *under subdivision (g) to the State Board of Equalization, unless*
36 *the resale certificate is provided by any of the following:*

37 (1) *A person who certifies he or she is licensed, registered,*
38 *regulated, or certified under the Health and Safety Code or the*
39 *Vehicle Code as a dealer or dismantler.*

1 (2) A person who certifies he or she is licensed, registered,
2 regulated, or certified under the Business and Professions Code
3 as an automotive repair dealer, or is qualified as a scrap metal
4 processor as described in the Vehicle Code.

5 (3) A person who certifies he or she is licensed, registered,
6 regulated, or certified, or otherwise authorized by another state,
7 country, or jurisdiction to do business as a dealer, dismantler,
8 automotive repairer, or scrap metal processor.

9 SECTION 1. Section 80 of the Revenue and Taxation Code is
10 amended to read:

11 80. (a) An application for reduction in the base-year value of
12 an assessment on the current local roll may be filed during the
13 regular filing period for that year as set forth in Section 1603 or
14 Section 1840, subject to the following limitations:

15 (1) The base-year value determined by a local board of
16 equalization or by the State Board of Equalization, originally or
17 on remand by a court, or by a court shall be conclusively presumed
18 to be the base-year value for any 1975 assessment which was
19 appealed.

20 (2) The base-year value determined pursuant to paragraph (1)
21 of subdivision (a) of Section 110.1 shall be conclusively presumed
22 to be the base-year value unless an equalization application is filed
23 no later than the regular filing period following the 1980 lien date.
24 Once an application is filed, the base-year value determined
25 pursuant to that application shall be conclusively presumed to be
26 the base-year value for that assessment.

27 (3) The base-year value determined pursuant to paragraph (2)
28 of subdivision (a) of Section 110.1 shall be conclusively presumed
29 to be the base-year value, unless an application for equalization is
30 filed during the regular equalization period for the year in which
31 the assessment is placed on the assessment roll or in any of the
32 three succeeding years. Once an application is filed, the base-year
33 value determined pursuant to that application shall be conclusively
34 presumed to be the base-year value for that assessment.

35 (4) The base-year value determined pursuant to Section 51.5
36 shall be conclusively presumed to be the base-year value unless
37 an application for equalization is filed during the appropriate
38 equalization period for the year in which the error is corrected or
39 in any of the three succeeding years. Once an application is filed,
40 the base-year value determined pursuant to that application shall

1 ~~be conclusively presumed to be the base-year value for that~~
2 ~~assessment.~~

3 ~~(5) Any reduction in assessment made as the result of an appeal~~
4 ~~pursuant to this section shall apply for the assessment year in which~~
5 ~~the appeal is taken and prospectively thereafter.~~

6 ~~(b) This section does not prohibit the filing of an application~~
7 ~~for appeal where a new value was placed on the roll pursuant to~~
8 ~~Section 51.~~

9 ~~(c) An application for equalization made pursuant to Section~~
10 ~~620 or Section 1605 when determined, shall be conclusively~~
11 ~~presumed to be the base-year value in the same manner as provided~~
12 ~~herein.~~