Assembly Bill No. 2257

Passed the Assembly May 23, 2014

____
Chief Clerk of the Assembly

Passed the Senate August 21, 2014

____
Secretary of the Senate

This bill was received by the Governor this ____ day of ____________, 2014, at ____ o'clock ___M.

____
Private Secretary of the Governor

CHAPTER ________

An act to amend Sections 4674 and 4675 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2257, Cooley. Property tax: tax-defaulted property: excess proceeds from sale.

Existing 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. Existing law requires the proceeds from the sale of tax-defaulted property to be deposited in the delinquent tax sale trust fund, and requires the proceeds in the fund to be distributed to the state, to the county for reimbursement of specified costs relating to the sale of the tax-defaulted property, and among taxing agencies, as provided. Existing law requires any proceeds remaining in the delinquent tax sale trust fund after distribution of the proceeds to be retained in the fund subject to being claimed by parties of interest, as provided. Existing law requires, at the expiration of one year following the recordation of the tax deed to the purchaser, that any excess proceeds not claimed be distributed among taxing agencies, as provided.

This bill would eliminate the requirement that any excess proceeds not claimed be distributed among taxing agencies, and would instead authorize any excess proceeds to be transferred to the county general fund at the expiration of a specified time period.

Existing law authorizes any party of interest to file with the county a claim for the excess proceeds from the sale of tax-defaulted property, as specified, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser. Existing law prohibits the excess proceeds from being distributed to the parties of interest, as specified, sooner than one year following the recordation of the tax collector's deed to the purchaser.

This bill would prohibit the distribution of any excess proceeds to the parties of interest as described above if the board of supervisors has been petitioned to rescind the tax sale, as specified, and would instead require the excess proceeds to be distributed no sooner than one year following the date the board of supervisors determines the tax sale should not be rescinded, and only if the person who petitioned the board of supervisors has not commenced a proceeding in court, as specified. If a proceeding has been commenced in a court, this bill would prohibit any excess proceeds from being distributed until final court order has been issued.

By changing the manner in which excess proceeds from the sale of tax-defaulted are distributed by local county officials to parties of interest, this bill would impose a state-mandated local program

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 4674 of the Revenue and Taxation Code is amended to read:

4674. Any excess in the proceeds deposited in the delinquent tax sale trust fund remaining after satisfaction of the amounts distributed under Sections 4672, 4672.1, 4672.2, 4673, and 4673.1 shall be retained in the fund on account of, and may be claimed by parties of interest in the property as provided in, Section 4675. At the expiration of the period specified in subdivision (e) of Section 4675, any excess proceeds not claimed under Section 4675 may be transferred to the county general fund.

SEC. 2. Section 4675 of the Revenue and Taxation Code is amended to read:

4675. (a) Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

(b) After the property has been sold, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph.

(c) Any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount and source of excess proceeds have been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf directly with the county at no cost.

(d) The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

(e) (1) Except as provided in paragraph (2), no sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:

(A) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.

(B) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

(2) (A) Notwithstanding paragraph (1), if the board of supervisors has been petitioned to rescind the tax sale pursuant to Section 3731, any excess proceeds shall not be distributed to the parties of interest as provided by paragraph (1) sooner than one year following the date the board of supervisors determines the tax sale should not be rescinded, and only if the person who

petitioned the board of supervisors pursuant to Section 3731 has not commenced a proceeding in court pursuant to Section 3725.

(B) If a proceeding has been commenced in a court pursuant to Section 3725, any excess proceeds shall not be distributed to the parties of interest as provided by paragraph (1) until a final court order is issued.

(f) In the event that a person with title of record is deceased at the time of the distribution of the excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code, to support their claim for excess proceeds.

(g) Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved ______________________________, 2014

____
Governor