

AMENDED IN SENATE APRIL 10, 2014

SENATE BILL

No. 1214

Introduced by Senator Anderson

February 20, 2014

An act to amend ~~Section 16213~~ *Sections 16211 and 16213* of, and to repeal and add Section 16180 of, the Government Code, and to *amend Sections 3375, 20584, 20645.5, and 20645.6 of*, to amend and repeal Section 20623 ~~of~~ *of*, and to add Section 3376 to, the Revenue and Taxation Code, relating to state government, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1214, as amended, Anderson. State Controller: property tax postponement.

The Senior Citizens and Disabled Citizens Property Tax Postponement Law, until February 20, 2009, authorized a claimant, as defined, to file a claim with the Controller to postpone the payment of ad valorem property taxes, where household income, as defined, did not exceed specified amounts. That law authorized the Controller, upon approval of the claim, to either make payment directly to specified entities, or to issue the claimant a certificate of eligibility that constituted a written promise of the state to pay the amount specified on the certificate, as provided. That law required these payments to be made out of specified funds appropriated to the Controller, as specified, and also required certain repaid property tax postponement payments to be paid into an impound account and transferred, as specified, to the General Fund.

Existing law, on and after February 20, 2009, prohibits a person from filing a claim for postponement, and prohibits the Controller from

accepting applications for postponement, under the Senior Citizens and Disabled Citizens Property Tax Postponement Law.

This bill would make inoperative the prohibition against a person filing a claim for postponement and the Controller from accepting applications for postponement under the program as of July 1, 2015, and would repeal these provisions on January 1, 2016.

~~This~~

The bill would create in the State Treasury a Senior Citizens and Disabled Citizens Property Tax Postponement Fund. The bill would require that repaid property tax postponement payments be transferred from the impound account to, or be directly deposited into, the newly created fund. The bill would continuously appropriate these funds to the Controller for purposes of administering the property tax postponement program, as specified.

Existing law requires that the owners equity interest in the residential dwelling be at least 20% of the full value of the property in order to be eligible to participate in the postponement program.

This bill would increase the equity requirement to at least 40%.

Existing law requires, if a postponement claim, as specified, is filed timely but before the delinquency date of the first or 2nd installment of property taxes, that any delinquent penalties and interest for the fiscal year be canceled unless the failure to perfect the claim was due to willful neglect on the part of the claimant or representative, in which case the certificates of eligibility for the fiscal year can be used to pay delinquent taxes only if accompanied by sufficient amounts to pay the delinquent interest and penalties.

This bill would instead require, if a postponement claim is filed timely before the delinquency date of the 2nd installment of property taxes on the secured roll, that any delinquent penalties, costs, fees, and interest accrued for the fiscal year be canceled. The bill would instead require, in the event of willful neglect to perfect the claim, that an electronic funds transfer for that current fiscal year be used to pay the delinquent taxes only if the amount is sufficient to pay delinquent penalties, costs, fees, and interest. The bill would authorize the tax collector, if the payment amount sufficient to pay all of the delinquent penalties, costs, fees, and interest is not received by the tax collector within 30 days from the date of the electronic funds transfer, to return the electronic funds transfer to the Controller to deny the postponement claim. The bill would require the Controller to provide a specified notification to the claimant and a copy of the notification to the tax collector.

The bill would also require the Controller, upon written request of the tax collector, to provide the tax collector with information that is required for the preparation and enforcement of the sale of tax-defaulted property, and would require the tax collector or his or her designee to certify, under penalty of perjury, that the information is requested for these purposes. The bill would also provide that any information provided to the tax collector is not a public record and is not open to public inspection. By requiring the tax collector to make a certification under penalty of perjury, the bill would expand the crime of perjury, thereby imposing a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 a specified reason.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: ~~no~~yes.

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

- 1 SECTION 1. Section 16180 of the Government Code is
- 2 repealed.
- 3 SEC. 2. Section 16180 is added to the Government Code, to
- 4 read:
- 5 16180. (a) There is hereby created in the State Treasury a
- 6 Senior Citizens and Disabled Citizens Property Tax Postponement
- 7 Fund. Subject to subdivision (b) and notwithstanding Section
- 8 13340, the fund is continuously appropriated to the Controller,
- 9 commencing January 1, 2015, for purposes of administering this
- 10 chapter, including, but not limited to, necessary administrative
- 11 costs and disbursements relating to the postponement of property
- 12 taxes pursuant to the Senior Citizens and Disabled Citizens
- 13 Property Tax Postponement Law (Chapter 2 (commencing with

1 Section 20581) of Part 10.5 of Division 2 of the Revenue and
2 Taxation Code).

3 (b) The Controller shall transfer any moneys in the fund in
4 excess of ten million dollars (\$10,000,000) to the General Fund.

5 (c) Any loan repayments relating to the Senior Citizens and
6 Disabled Citizens Property Tax Postponement Law that are not
7 deposited into an impound account, as described in Section 16210
8 or 16211.5, shall be deposited into the Senior Citizens and Disabled
9 Citizens Property Tax Postponement Fund.

10 *SEC. 3. Section 16211 of the Government Code is amended to*
11 *read:*

12 16211. (a) The claimant under Chapter 2 (commencing with
13 Section 20581), Chapter 3 (commencing with Section 20625),
14 Chapter 3.3 (commencing with Section 20639, or Chapter 3.5
15 (commencing with Section ~~20640~~ 20640)) of Part 10.5 of Division
16 2 of the Revenue and Taxation Code whose residential dwelling
17 was sold or condemned may draw upon the amount in the account
18 to purchase a new residential dwelling, and the amount so drawn
19 shall be secured by a new lien against the new residential dwelling
20 from the time the Controller records the new lien against the new
21 residential dwelling as provided for under Section 16182.

22 ~~In~~

23 (b) *In* the case of real property, the Controller shall subordinate
24 the new lien to the lien of the note and deed of trust of the purchase
25 money obligations used in the acquisition of the new residential
26 dwelling, provided the claimant has an equity of at least ~~20~~ 40
27 percent of the full value of the property, as required by paragraph
28 (1) of subdivision (b) of Section 20583 of the Revenue and
29 Taxation Code, prior to recordation of that subordination. The lien
30 shall have priority over all subsequent liens, except as provided
31 in Section 2192.1 of the Revenue and Taxation Code.

32 ~~SEC. 3.~~

33 *SEC. 4. Section 16213 of the Government Code is amended*
34 *to read:*

35 16213. At the end of the six-month period specified in Section
36 16210 or the six-month period specified in Section 16211.5, all
37 funds remaining in an impound account shall be transferred to the
38 Senior Citizens and Disabled Citizens Property Tax Postponement
39 Fund, established pursuant to Section 16180.

1 *SEC. 5. Section 3375 of the Revenue and Taxation Code is*
2 *amended to read:*

3 3375. The tax collector shall notify the Controller, in ~~such~~ *the*
4 manner as the Controller shall direct, of all property subject to a
5 “Notice of Lien for Postponed Property Taxes” recorded pursuant
6 to Section 16182 of the Government Code, ~~which:~~ *that becomes*
7 *tax defaulted subsequent to the date of entry on the secured roll*
8 *of the information required by subdivision (a) of Section 2514.*

9 ~~(a) Becomes tax defaulted subsequent to the date of entry on~~
10 ~~the secured roll of the information required by paragraph (1) of~~
11 ~~subdivision (a) of Section 2514; or~~

12 ~~(b) Becomes subject to those collection procedures that are~~
13 ~~available for collection of delinquent taxes or assessments on the~~
14 ~~unsecured roll.~~

15 *SEC. 6. Section 3376 is added to the Revenue and Taxation*
16 *Code, to read:*

17 3376. (a) *Upon request of the tax collector, the Controller*
18 *shall provide to the tax collector information that is required for*
19 *the preparation and enforcement of the sale of property under this*
20 *part. This information may include social security numbers.*

21 (b) *The tax collector or his or her designee shall certify, under*
22 *penalty of perjury, to the Controller, that the information requested*
23 *pursuant to subdivision (a) is required for the purposes specified*
24 *in subdivision (a).*

25 (c) *Any information provided to the tax collector pursuant to*
26 *this subdivision is not a public record and is not open to public*
27 *inspection.*

28 *SEC. 7. Section 20584 of the Revenue and Taxation Code is*
29 *amended to read:*

30 20584. (a) “Property taxes” means all ad valorem property
31 taxes, special assessments, and other charges or user fees ~~which~~
32 *that* are attributable to the residential dwelling on the county tax
33 bill and the ad valorem property taxes, special assessments, or
34 other charges or user fees appearing on the tax bill of any chartered
35 city ~~which~~ *that* levies and collects its own property taxes.

36 (b) Whenever a residential dwelling is an integral part of a larger
37 tax unit, such as a duplex, farm or a multipurpose building,
38 “property taxes” shall be the percentage of the total property taxes
39 as the value of the residential dwelling is of the value of the total
40 tax unit.

1 (c) “Property taxes” includes any property taxes ~~that become~~
 2 ~~delinquent after the claimant was 62 years of age or after the~~
 3 ~~claimant became blind or disabled as defined in Section 12050 of~~
 4 ~~the Welfare and Institutions Code.~~ *for current fiscal years for*
 5 *which the claim is made and excludes delinquent taxes for prior*
 6 *fiscal years.*

7 ~~SEC. 4.~~

8 *SEC. 8.* Section 20623 of the Revenue and Taxation Code is
 9 amended to read:

10 20623. (a) No person shall file a claim for postponement under
 11 this chapter on or after the effective date of the act adding this
 12 section, and the Controller shall not accept applications for
 13 postponement under this chapter on or after that date.

14 (b) This section shall become inoperative on July 1, 2015, and
 15 as of January 1, 2016, is repealed, unless a later enacted statute
 16 that is enacted before January 1, 2016, deletes or extends the dates
 17 on which it becomes inoperative and is repealed.

18 *SEC. 9.* *Section 20645.5 of the Revenue and Taxation Code is*
 19 *amended to read:*

20 20645.5. (a) If a postponement claim under Chapter 2
 21 (commencing with Section 20581), Chapter 3.3 (commencing with
 22 Section 20639), or Chapter 3.5 (commencing with Section 20640)
 23 is filed timely ~~but~~ before *the* delinquency date of the ~~first or~~ second
 24 installment of property ~~taxes,~~ *taxes on the secured roll,* then any
 25 delinquent ~~penalties~~ *penalties, costs, fees,* and interest *accrued* for
 26 ~~such~~ *that* fiscal year shall be canceled unless the failure to perfect
 27 the claim was due to willful neglect on the part of the claimant or
 28 representative. ~~In~~

29 (b) ~~In~~ the event of ~~such~~ willful neglect, ~~the certificates of~~
 30 ~~eligibility for such~~ *an electronic funds transfer for that current*
 31 *fiscal year can be used to pay delinquent taxes only if accompanied*
 32 *by sufficient amounts to pay all of the delinquent interest and*
 33 ~~penalties.~~ *penalties, costs, fees, and interest. If an amount sufficient*
 34 *to pay all of the delinquent penalties, costs, fees, and interest is*
 35 *not received by the tax collector within 30 days from the date of*
 36 *the electronic funds transfer, the tax collector may return the*
 37 *electronic funds transfer to the Controller to deny the postponement*
 38 *claim.*

39 (c) (1) *The Controller shall notify the claimant in writing when*
 40 *the electronic funds transfer has been submitted to the tax collector.*

1 (2) *In the event of willful neglect, in addition to the information*
2 *required pursuant to paragraph (1), the Controller shall also notify*
3 *the claimant in writing and provide a copy of the notification to*
4 *the tax collector, that a payment amount sufficient to pay all of*
5 *the delinquent penalties, costs, fees, and interest must be received*
6 *by the tax collector within 30 days from the date of the electronic*
7 *funds transfer, and that if this payment is not received by the tax*
8 *collector, the tax collector may return the electronic funds transfer*
9 *to the Controller to deny the postponement claim.*

10 *SEC. 10. Section 20645.6 of the Revenue and Taxation Code*
11 *is amended to read:*

12 20645.6. (a) *If the Controller denies a postponement claim*
13 *under Chapter 2 (commencing with Section 20581), Chapter 3*
14 *(commencing with Section 20625), Chapter 3.3 (commencing with*
15 *Section 20639), or Chapter 3.5 (commencing with Section 20640),*
16 *and such the denial is reversed after appeal pursuant to Section*
17 *20645.1, the Controller shall ~~issue a warrant to the claimant,~~*
18 *electronically transfer funds to the county, if the taxes for the fiscal*
19 *year have been paid, for the amount of such the taxes. If the taxes*
20 *for the fiscal year are delinquent, any resulting penalties or interest*
21 *shall be canceled.*

22 (b) *The Controller shall notify the claimant in writing when an*
23 *electronic funds transfer has been made pursuant to subdivision*
24 *(a).*

25 *SEC. 11. The Legislature finds and declares that Section 6 of*
26 *this act, which adds Section 3376 to the Revenue and Taxation*
27 *Code, imposes a limitation on the public's right of access to the*
28 *meetings of public bodies or the writings of public officials and*
29 *agencies within the meaning of Section 3 of Article I of the*
30 *California Constitution. Pursuant to that constitutional provision,*
31 *the Legislature makes the following findings to demonstrate the*
32 *interest protected by this limitation and the need for protecting*
33 *that interest:*

34 *In order to protect those persons subject to enforcement of Part*
35 *6 (commencing with Section 3351) of Division 1 of the Revenue*
36 *and Taxation Code against the risk of identity theft, it is in the*
37 *state's interest to limit public access to information.*

38 *SEC. 12. No reimbursement is required by this act pursuant*
39 *to Section 6 of Article XIII B of the California Constitution because*
40 *the only costs that may be incurred by a local agency or school*

1 *district will be incurred because this act creates a new crime or*
2 *infraction, eliminates a crime or infraction, or changes the penalty*
3 *for a crime or infraction, within the meaning of Section 17556 of*
4 *the Government Code, or changes the definition of a crime within*
5 *the meaning of Section 6 of Article XIII B of the California*
6 *Constitution.*

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