

AMENDED IN SENATE APRIL 23, 2014

AMENDED IN SENATE APRIL 10, 2014

SENATE BILL

No. 1214

Introduced by Senator Anderson

February 20, 2014

An act to amend Sections *16181 and 16211* and ~~16213~~ of, to repeal *Section 16213 of*, and to repeal and add Section 16180 of, the Government Code, and to amend Sections 3375, 20584, 20622, 20645.5, and 20645.6 of, to amend and repeal Section 20623 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~~, 2016, and would repeal these provisions on January 1, ~~2016~~ 2017.

The bill would create in the State Treasury a Senior Citizens and Disabled Citizens Property Tax Postponement Fund *and would require the fund to be an interest bearing 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 also require any remaining impound account funds as of January 1, 2015, to be transferred 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 the Controller to maintain a record of all properties against which a notice of lien for postponed property taxes has been recorded, and upon written request of any person or entity, as specified, issue a written statement of lien status, as provided. Existing law authorizes the Controller to establish a reasonable fee, not to exceed \$10, for the provision of the statement of lien status.

This bill would increase the limitation on the amount of the fee the Controller is authorized to establish for providing the statement of lien status from \$10 to \$30.

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 a claim for postponement to be filed after May 15 of the calendar year in which the postponement is claimed, and on or before December 10 of that fiscal year.

This bill would instead require a claim for postponement to be filed after September 1 of the fiscal year in which postponement is claimed, and on or before April 10 of that fiscal year.

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: 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, *which shall be an interest bearing fund*. Subject to
8 subdivision (b) and notwithstanding Section 13340, the fund is
9 continuously appropriated to the Controller, commencing January
10 1, 2015, for purposes of administering this chapter, including, but
11 not limited to, necessary administrative costs and disbursements
12 relating to the postponement of property taxes pursuant to the
13 Senior Citizens and Disabled Citizens Property Tax Postponement
14 Law (Chapter 2 (commencing with Section 20581) of Part 10.5 of
15 Division 2 of the Revenue and Taxation Code).

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

18 (c) Any loan repayments relating to the Senior Citizens and
19 Disabled Citizens Property Tax Postponement Law that are not
20 deposited into an impound account, as described in Section 16210
21 or 16211.5, shall be deposited into the Senior Citizens and Disabled
22 Citizens Property Tax Postponement Fund.

23 (d) *Any impound account funds remaining as of January 1,*
24 *2015, shall be transferred into the Senior Citizens and Disabled*
25 *Citizens Property Tax Postponement Fund.*

26 SEC. 3. Section 16181 of the Government Code is amended to
27 read:

28 16181. (a) The Controller shall maintain a record of all
29 properties against which a notice of lien for postponed property
30 taxes has been recorded. The record shall include, but not be
31 limited to, the names of each claimant, a description of the real
32 property against which the lien is recorded, the identification
33 number of the notice of lien assigned by the Controller, and the
34 amount of the lien.

35 (b) The Controller shall maintain a record of all properties
36 against which the Department of Housing and Community
37 Development has been notified to withhold the transfer of title.
38 The record shall include, but not be limited to, the names of each

1 claimant, a description of the mobilehome against which a lien is
2 charged, and the amount of the lien.

3 (c) Upon written request of any person or entity, or the agent
4 of either, having a legal or equitable interest in real property or a
5 mobilehome which is subject to a lien for postponed taxes, the
6 Controller shall within 10 working days following receipt of the
7 request issue a written statement showing the amount of the
8 obligation secured by the lien as of the date of such statement and
9 such other information as will reasonably enable the person or
10 entity, or the agent of either, to determine the amount to be paid
11 the Controller in order to obtain a certificate of release or discharge
12 of the lien for postponed taxes.

13 (d) The Controller shall adopt regulations necessary to
14 implement the provisions of this chapter and may establish a
15 reasonable fee, not to exceed ~~ten dollars (\$10)~~ *thirty dollars (\$30)*,
16 for the provision of the statement of lien status provided for herein.

17 ~~SEC. 3.~~

18 *SEC. 4.* Section 16211 of the Government Code is amended
19 to read:

20 16211. (a) The claimant under Chapter 2 (commencing with
21 Section 20581), Chapter 3 (commencing with Section 20625),
22 Chapter 3.3 (commencing with Section 20639, or Chapter 3.5
23 (commencing with Section 20640)) of Part 10.5 of Division 2 of
24 the Revenue and Taxation Code whose residential dwelling was
25 sold or condemned may draw upon the amount in the account to
26 purchase a new residential dwelling, and the amount so drawn
27 shall be secured by a new lien against the new residential dwelling
28 from the time the Controller records the new lien against the new
29 residential dwelling as provided for under Section 16182.

30 (b) In the case of real property, the Controller shall subordinate
31 the new lien to the lien of the note and deed of trust of the purchase
32 money obligations used in the acquisition of the new residential
33 dwelling, provided the claimant has an equity of at least 40 percent
34 of the full value of the property, as required by paragraph (1) of
35 subdivision (b) of Section 20583 of the Revenue and Taxation
36 Code, prior to recordation of that subordination. The lien shall
37 have priority over all subsequent liens, except as provided in
38 Section 2192.1 of the Revenue and Taxation Code.

39 ~~SEC. 4.~~ Section 16213 of the Government Code is amended
40 to read:

1 ~~16213. At the end of the six-month period specified in Section~~
 2 ~~16210 or the six-month period specified in Section 16211.5, all~~
 3 ~~funds remaining in an impound account shall be transferred to the~~
 4 ~~Senior Citizens and Disabled Citizens Property Tax Postponement~~
 5 ~~Fund, established pursuant to Section 16180.~~

6 ~~SEC. 5. Section 16213 of the Government Code is repealed.~~

7 ~~16213. At the end of the six-month period specified in Section~~
 8 ~~16210 or the six-month period specified in Section 16211.5, all~~
 9 ~~funds remaining in an impound account shall be transferred to the~~
 10 ~~General Fund.~~

11 ~~SEC. 5.~~

12 ~~SEC. 6. Section 3375 of the Revenue and Taxation Code is~~
 13 ~~amended to read:~~

14 ~~3375. The tax collector shall notify the Controller, in the~~
 15 ~~manner as the Controller shall direct, of all property subject to a~~
 16 ~~“Notice of Lien for Postponed Property Taxes” recorded pursuant~~
 17 ~~to Section 16182 of the Government Code that becomes tax~~
 18 ~~defaulted subsequent to the date of entry on the secured roll of the~~
 19 ~~information required by subdivision (a) of Section 2514.~~

20 ~~SEC. 6.~~

21 ~~SEC. 7. Section 3376 is added to the Revenue and Taxation~~
 22 ~~Code, to read:~~

23 ~~3376. (a) Upon request of the tax collector, the Controller shall~~
 24 ~~provide to the tax collector information that is required for the~~
 25 ~~preparation and enforcement of the sale of property under this part.~~
 26 ~~This information may include social security numbers.~~

27 ~~(b) The tax collector or his or her designee shall certify, under~~
 28 ~~penalty of perjury, to the Controller, that the information requested~~
 29 ~~pursuant to subdivision (a) is required for the purposes specified~~
 30 ~~in subdivision (a).~~

31 ~~(c) Any information provided to the tax collector pursuant to~~
 32 ~~this subdivision is not a public record and is not open to public~~
 33 ~~inspection.~~

34 ~~SEC. 7.~~

35 ~~SEC. 8. Section 20584 of the Revenue and Taxation Code is~~
 36 ~~amended to read:~~

37 ~~20584. (a) “Property taxes” means all ad valorem property~~
 38 ~~taxes, special assessments, and other charges or user fees that are~~
 39 ~~attributable to the residential dwelling on the county tax bill and~~
 40 ~~the ad valorem property taxes, special assessments, or other charges~~

1 or user fees appearing on the tax bill of any chartered city that
2 levies and collects its own property taxes.

3 (b) Whenever a residential dwelling is an integral part of a larger
4 tax unit, such as a duplex, farm or a multipurpose building,
5 “property taxes” shall be the percentage of the total property taxes
6 as the value of the residential dwelling is of the value of the total
7 tax unit.

8 (c) “Property taxes” includes any property taxes for current
9 fiscal years for which the claim is made and excludes delinquent
10 taxes for prior fiscal years.

11 *SEC. 9. Section 20622 of the Revenue and Taxation Code is*
12 *amended to read:*

13 20622. The claim for postponement shall be filed after ~~May~~
14 ~~15 of the calendar~~ *September 1 of the fiscal year* in which the fiscal
15 ~~year for which postponement is claimed begins,~~ and on or before
16 ~~December~~ *April 10* of that fiscal year; if ~~December 10th~~ *April 10*
17 falls on Saturday, Sunday, or a legal holiday, the date is extended
18 to the next business day.

19 ~~SEC. 8.~~

20 *SEC. 10.* Section 20623 of the Revenue and Taxation Code is
21 amended to read:

22 20623. (a) No person shall file a claim for postponement under
23 this chapter on or after the effective date of the act adding this
24 section, and the Controller shall not accept applications for
25 postponement under this chapter on or after that date.

26 (b) This section shall become inoperative on July 1, ~~2015~~, *2016*,
27 and as of January 1, ~~2016~~, *2017*, is repealed, unless a later enacted
28 statute that is enacted before January 1, ~~2016~~, *2017*, deletes or
29 extends the dates on which it becomes inoperative and is repealed.

30 ~~SEC. 9.~~

31 *SEC. 11.* Section 20645.5 of the Revenue and Taxation Code
32 is amended to read:

33 20645.5. (a) If a postponement claim under Chapter 2
34 (commencing with Section 20581), Chapter 3.3 (commencing with
35 Section 20639), or Chapter 3.5 (commencing with Section 20640)
36 is filed timely before the delinquency date of the second installment
37 of property taxes on the secured roll, then any delinquent penalties,
38 costs, fees, and interest accrued for that fiscal year shall be canceled
39 unless the failure to perfect the claim was due to willful neglect
40 on the part of the claimant or representative.

1 (b) In the event of willful neglect, an electronic funds transfer
 2 for that current fiscal year can be used to pay delinquent taxes only
 3 if accompanied by sufficient amounts to pay all of the delinquent
 4 penalties, costs, fees, and interest. If an amount sufficient to pay
 5 all of the delinquent penalties, costs, fees, and interest is not
 6 received by the tax collector within 30 days from the date of the
 7 electronic funds transfer, the tax collector may return the electronic
 8 funds transfer to the Controller to deny the postponement claim.

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

11 (2) In the event of willful neglect, in addition to the information
 12 required pursuant to paragraph (1), the Controller shall also notify
 13 the claimant in writing and provide a copy of the notification to
 14 the tax collector, that a payment amount sufficient to pay all of
 15 the delinquent penalties, costs, fees, and interest must be received
 16 by the tax collector within 30 days from the date of the electronic
 17 funds transfer, and that if this payment is not received by the tax
 18 collector, the tax collector may return the electronic funds transfer
 19 to the Controller to deny the postponement claim.

20 ~~SEC. 10.~~

21 *SEC. 12.* Section 20645.6 of the Revenue and Taxation Code
 22 is amended to read:

23 20645.6. (a) If the Controller denies a postponement claim
 24 under Chapter 2 (commencing with Section 20581), Chapter 3
 25 (commencing with Section 20625), Chapter 3.3 (commencing with
 26 Section 20639), or Chapter 3.5 (commencing with Section 20640),
 27 and the denial is reversed after appeal pursuant to Section 20645.1,
 28 the Controller shall electronically transfer funds to the county, if
 29 the taxes for the fiscal year have been paid, for the amount of the
 30 taxes. If the taxes for the fiscal year are delinquent, any resulting
 31 penalties or interest shall be canceled.

32 (b) The Controller shall notify the claimant in writing when an
 33 electronic funds transfer has been made pursuant to subdivision
 34 (a).

35 ~~SEC. 11.~~

36 *SEC. 13.* The Legislature finds and declares that Section 6 of
 37 this act, which adds Section 3376 to the Revenue and Taxation
 38 Code, imposes a limitation on the public’s right of access to the
 39 meetings of public bodies or the writings of public officials and
 40 agencies within the meaning of Section 3 of Article I of the

1 California Constitution. Pursuant to that constitutional provision,
2 the Legislature makes the following findings to demonstrate the
3 interest protected by this limitation and the need for protecting
4 that interest:

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

9 ~~SEC. 12.~~

10 *SEC. 14.* No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.