

AMENDED IN ASSEMBLY MAY 5, 2015  
AMENDED IN ASSEMBLY MARCH 26, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 668**

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**Introduced by Assembly Member Gomez**

February 25, 2015

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An act to amend Section 402.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 668, as amended, Gomez. Property taxation: assessment: affordable housing.

Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected. Under existing law these restrictions include, but are not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

*Existing property tax law establishes a welfare exemption under which property is exempt from taxation if, among other things, that property is used exclusively for religious, hospital, scientific, or charitable purposes and is owned and operated by an entity, as provided, that is itself organized and operated for those purposes. Under existing property tax law, the welfare exemption applies to property that is owned and operated by a nonprofit corporation, otherwise qualifying for the welfare exemption, that is organized and operated for the purpose of building and rehabilitating single-family or multifamily residences for sale, as provided, at cost to low-income families.*

This bill would require the county assessor to consider, when valuing real property for property taxation purposes, a recorded contract with a nonprofit corporation ~~for the advancement of affordable housing that provides funding or land for affordable housing where the recorded contract restricts the use of the land for at least 30 years to housing available at affordable housing cost or affordable rent. that meets prescribed requirements, including requirements that the nonprofit corporation has received a welfare exemption for properties intended to be sold to low-income families who participate in a special no-interest loan program, and that the contract includes a restriction on the use of the land for at least 30 years to owner-occupied housing available at affordable housing cost.~~ By changing the manner in which county assessors assess property for property taxation purposes, 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.

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

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

- 1 SECTION 1. Section 402.1 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 402.1. (a) In the assessment of land, the assessor shall consider
- 4 the effect upon value of any enforceable restrictions to which the
- 5 use of the land may be subjected. These restrictions shall include,
- 6 but are not limited to, all of the following:
- 7 (1) Zoning.
- 8 (2) Recorded contracts with governmental agencies other than
- 9 those provided in Sections 422, 422.5, and 422.7.
- 10 (3) Permit authority of, and permits issued by, governmental
- 11 agencies exercising land use powers concurrently with local
- 12 governments, including the California Coastal Commission and
- 13 regional coastal commissions, the San Francisco Bay Conservation

1 and Development Commission, and the Tahoe Regional Planning  
2 Agency.

3 (4) Development controls of a local government in accordance  
4 with any local coastal program certified pursuant to Division 20  
5 (commencing with Section 30000) of the Public Resources Code.

6 (5) Development controls of a local government in accordance  
7 with a local protection program, or any component thereof, certified  
8 pursuant to Division 19 (commencing with Section 29000) of the  
9 Public Resources Code.

10 (6) Environmental constraints applied to the use of land pursuant  
11 to provisions of statutes.

12 (7) Hazardous waste land use restriction pursuant to Section  
13 25240 of the Health and Safety Code.

14 (8) A recorded conservation, trail, or scenic easement, as  
15 described in Section 815.1 of the Civil Code, that is granted in  
16 favor of a public agency, or in favor of a nonprofit corporation  
17 organized pursuant to Section 501(c)(3) of the Internal Revenue  
18 Code that has as its primary purpose the preservation, protection,  
19 or enhancement of land in its natural, scenic, historical, agricultural,  
20 forested, or open-space condition or use.

21 (9) A solar-use easement pursuant to Chapter 6.9 (commencing  
22 with Section 51190) of Part 1 of Division 1 of Title 5 of the  
23 Government Code.

24 (10) A ~~recorded~~ contract ~~with~~ where the following apply:

25 (A) *The contract is with a nonprofit corporation organized*  
26 *pursuant to Section 501(c)(3) of the Internal Revenue Code that*  
27 *has as its primary purpose the advancement of affordable housing*  
28 *and that provides funding or land for affordable housing where*  
29 *the recorded received a welfare exemption under Section 214.15*  
30 *for properties intended to be sold to low-income families who*  
31 *participate in a special no-interest loan program.*

32 (B) *The contract restricts the use of the land for at least 30 years*  
33 *to owner-occupied housing available at affordable housing cost*  
34 *or affordable rent in accordance with Sections Section 50052.5*  
35 *and 50053 of the Health and Safety Code.-*

36 (C) *The contract includes a deed of trust on the property in*  
37 *favor of the nonprofit corporation to ensure compliance with the*  
38 *terms of the program, which has no value unless the owner fails*  
39 *to comply with the covenants and restrictions of the terms of the*  
40 *home sale.*

1 (D) *The local housing authority or an equivalent agency, or, if*  
2 *none exists, the city attorney or county counsel, has made a finding*  
3 *that the long-term deed restrictions in the contract serve a public*  
4 *purpose.*

5 (E) *The contract is recorded.*

6 (b) There is a rebuttable presumption that restrictions will not  
7 be removed or substantially modified in the predictable future and  
8 that they will substantially equate the value of the land to the value  
9 attributable to the legally permissible use or uses.

10 (c) Grounds for rebutting the presumption may include, but are  
11 not necessarily limited to, the past history of like use restrictions  
12 in the jurisdiction in question and the similarity of sales prices for  
13 restricted and unrestricted land. The possible expiration of a  
14 restriction at a time certain shall not be conclusive evidence of the  
15 future removal or modification of the restriction unless there is no  
16 opportunity or likelihood of the continuation or renewal of the  
17 restriction, or unless a necessary party to the restriction has  
18 indicated an intent to permit its expiration at that time.

19 (d) In assessing land with respect to which the presumption is  
20 un rebutted, the assessor shall not consider sales of otherwise  
21 comparable land not similarly restricted as to use as indicative of  
22 value of land under restriction, unless the restrictions have a  
23 demonstrably minimal effect upon value.

24 (e) In assessing land under an enforceable use restriction wherein  
25 the presumption of no predictable removal or substantial  
26 modification of the restriction has been rebutted, but where the  
27 restriction nevertheless retains some future life and has some effect  
28 on present value, the assessor may consider, in addition to all other  
29 legally permissible information, representative sales of comparable  
30 lands that are not under restriction but upon which natural  
31 limitations have substantially the same effect as restrictions.

32 (f) For the purposes of this section the following definitions  
33 apply:

34 (1) “Comparable lands” are lands that are similar to the land  
35 being valued in respect to legally permissible uses and physical  
36 attributes.

37 (2) “Representative sales information” is information from sales  
38 of a sufficient number of comparable lands to give an accurate  
39 indication of the full cash value of the land being valued.

1 (g) It is hereby declared that the purpose and intent of the  
2 Legislature in enacting this section is to provide for a method of  
3 determining whether a sufficient amount of representative sales  
4 information is available for land under use restriction in order to  
5 ensure the accurate assessment of that land. It is also hereby  
6 declared that the further purpose and intent of the Legislature in  
7 enacting this section and Section 1630 is to avoid an assessment  
8 policy which, in the absence of special circumstances, considers  
9 uses for land that legally are not available to the owner and not  
10 contemplated by government, and that these sections are necessary  
11 to implement the public policy of encouraging and maintaining  
12 effective land use planning. This statute shall not be construed as  
13 requiring the assessment of any land at a value less than as required  
14 by Section 401 or as prohibiting the use of representative  
15 comparable sales information on land under similar restrictions  
16 when this information is available.

17 SEC. 2. If the Commission on State Mandates determines that  
18 this act contains costs mandated by the state, reimbursement to  
19 local agencies and school districts for those costs shall be made  
20 pursuant to Part 7 (commencing with Section 17500) of Division  
21 4 of Title 2 of the Government Code.