

AMENDED IN ASSEMBLY APRIL 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2450**

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**Introduced by Assembly Member Achadjian**

February 19, 2016

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An act to amend ~~Section 402.1~~ Sections 480 and 5091 of the Revenue and Taxation Code Code, relating to property tax.

LEGISLATIVE COUNSEL'S DIGEST

AB 2450, as amended, Achadjian. Property tax.

*Existing property tax law, when there is a change in ownership of real property, a manufactured home, or a floating home that is subject to local property taxation, requires the transferee to file a change in ownership statement, under penalty of perjury, in the county where the real property, manufactured home, or floating home is located. Existing property tax law requires the change in ownership statement to include information relative to the real property, manufactured home, or floating home acquisition transaction, including, but not limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount of the consideration paid for the property, and the terms of the transaction.*

*This bill would additionally require the change in ownership statement to include information regarding any enforceable restrictions placed upon the property that the assessor is required to consider, as specified.*

*By requiring additional information to be filed under penalty of perjury, thereby expanding the crime of perjury, this bill would impose a state-mandated local program.*

*The California Constitution exempts from property taxation property that is owned by the state or, with certain exceptions, by local*

*governments. Existing property tax law establishes a procedure by which a public entity may cancel property taxes on property that it acquires. Under existing law, if a public entity proposes to acquire property for public use that will make the property exempt from taxation, the public entity is required to give notice to the county tax collector and to other public entities whose taxes are not collected by the county tax collector, as provided.*

*This bill would additionally require the public entity to give notice to the county assessor.*

*By adding to the duties of local government officials with regard to the cancellation of property taxes, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Existing property tax 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.~~

~~This bill would require government agencies to provide copies of the recorded contracts to the assessor as soon as possible after the date of recordation.~~

~~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 480 of the Revenue and Taxation Code*  
2 *is amended to read:*

3     480. (a) Whenever there occurs any change in ownership of  
4 real property, a manufactured home, or a floating home that is  
5 subject to local property taxation and is assessed by the county  
6 assessor, the transferee shall file a signed change in ownership  
7 statement in the county where the real property, manufactured  
8 home, or floating home is located, as provided for in subdivision  
9 (c). In the case of a change in ownership where the transferee is  
10 not locally assessed, no change in ownership statement is required.

11     (b) The personal representative shall file a change in ownership  
12 statement with the county recorder or assessor in each county in  
13 which the decedent owned real property at the time of death that  
14 is subject to probate proceedings. The statement shall be filed prior  
15 to or at the time the inventory and appraisal is filed with the court  
16 clerk. In all other cases in which an interest in real property is  
17 transferred by reason of death, including a transfer through the  
18 medium of a trust, the change in ownership statement or statements  
19 shall be filed by the trustee (if the property was held in trust) or  
20 the transferee with the county recorder or assessor in each county  
21 in which the decedent owned an interest in real property within  
22 150 days after the date of death.

23     (c) Except as provided in subdivision (d), the change in  
24 ownership statement as required pursuant to subdivision (a) shall  
25 be declared to be true under penalty of perjury and shall give that  
26 information relative to the real property, manufactured home, or  
27 floating home acquisition transaction as the board shall prescribe  
28 after consultation with the California Assessors' Association. The  
29 information shall include, but not be limited to, a description of  
30 the property, the parties to the transaction, the date of acquisition,  
31 the amount, if any, of the consideration paid for the property,  
32 whether paid in money or otherwise, *any enforceable restrictions*  
33 *placed upon the property that the assessor is required to consider*  
34 *pursuant to Section 402.1*, and the terms of the transaction. The  
35 change in ownership statement shall not include any question that  
36 is not germane to the assessment function. The statement shall  
37 contain a notice informing the transferee of the property tax relief  
38 available under Section 69.5. The statement shall contain a notice

1 that is printed, with the title in at least 12-point boldface type and  
2 the body in at least 8-point boldface type, in the following form:

3  
4 “Important Notice”  
5

6 “The law requires any transferee acquiring an interest in real  
7 property, manufactured home, or floating home subject to local  
8 property taxation, and that is assessed by the county assessor, to  
9 file a change in ownership statement with the county recorder or  
10 assessor. The change in ownership statement must be filed at the  
11 time of recording or, if the transfer is not recorded, within 90 days  
12 of the date of the change in ownership, except that where the  
13 change in ownership has occurred by reason of death the statement  
14 shall be filed within 150 days after the date of death or, if the estate  
15 is probated, shall be filed at the time the inventory and appraisal  
16 is filed. The failure to file a change in ownership statement within  
17 90 days from the date a written request is mailed by the assessor  
18 results in a penalty of either: (1) one hundred dollars (\$100), or  
19 (2) 10 percent of the taxes applicable to the new base year value  
20 reflecting the change in ownership of the real property,  
21 manufactured home, or floating home, whichever is greater, but  
22 not to exceed five thousand dollars (\$5,000) if the property is  
23 eligible for the homeowners’ exemption or twenty thousand dollars  
24 (\$20,000) if the property is not eligible for the homeowners’  
25 exemption if that failure to file was not willful. This penalty will  
26 be added to the assessment roll and shall be collected like any  
27 other delinquent property taxes, and be subject to the same  
28 penalties for nonpayment.”  
29

30 (d) The change in ownership statement may be attached to or  
31 accompany the deed or other document evidencing a change in  
32 ownership filed for recording, in which case the notice, declaration  
33 under penalty of perjury, and any information contained in the  
34 deed or other transfer document otherwise required by subdivision  
35 (c) may be omitted.

36 (e) If the document evidencing a change in ownership is  
37 recorded in the county recorder’s office, then the statement shall  
38 be filed with the recorder at the time of recordation. However, the  
39 recordation of the deed or other document evidencing a change in  
40 ownership shall not be denied or delayed because of the failure to

1 file a change of ownership statement, or filing of an incomplete  
2 statement, in accordance with this subdivision. If the document  
3 evidencing a change in ownership is not recorded or is recorded  
4 without the concurrent filing of a change in ownership statement,  
5 then the statement shall be filed with the assessor no later than 90  
6 days from the date the change in ownership occurs, except that  
7 where the change in ownership has occurred by reason of death  
8 the statement shall be filed within 150 days after the date of death  
9 or, if the estate is probated, shall be filed at the time the inventory  
10 and appraisal is filed.

11 (f) Whenever a change in ownership statement is filed with the  
12 county recorder's office, the recorder shall transmit, as soon as  
13 possible, the original statement or a true copy thereof to the  
14 assessor along with a copy of every recorded document as required  
15 by Section 255.7.

16 (g) (1) The change in ownership statement may be filed with  
17 the assessor through the United States mail, properly addressed  
18 with the postage prepaid.

19 (2) A change in ownership statement that is filed with the  
20 assessor, as authorized by paragraph (1), shall be deemed filed on  
21 either the date of the postmark affixed by the United States Postal  
22 Service containing the statement or on the date certified by a bona  
23 fide private courier service on the envelope containing the  
24 statement.

25 (h) In the case of a corporation, the change in ownership  
26 statement shall be signed either by an officer of the corporation or  
27 an employee or agent who has been designated in writing by the  
28 board of directors to sign those statements on behalf of the  
29 corporation. In the case of a partnership, limited liability company,  
30 or other legal entity, the statement shall be signed by an officer,  
31 partner, manager, or an employee or agent who has been designated  
32 in writing by the partnership, limited liability company, or legal  
33 entity.

34 (i) No person or entity acting for or on behalf of the parties to  
35 a transfer of real property shall incur liability for the consequences  
36 of assistance rendered to the transferee in preparation of any change  
37 in ownership statement, and no action may be brought or  
38 maintained against any person or entity as a result of that  
39 assistance.

1 Nothing in this section shall create a duty, either directly or by  
2 implication, that the assistance be rendered by any person or entity  
3 acting for or on behalf of parties to a transfer of real property.

4 *SEC. 2. Section 5091 of the Revenue and Taxation Code is*  
5 *amended to read:*

6 5091. (a) If a public entity proposes to acquire property for a  
7 public use that will make the property exempt from taxation, the  
8 public entity shall give notice to the *county assessor, the county*  
9 ~~tax-collector~~ *collector*, and to any public entities whose taxes are  
10 not collected by the county tax collector but who at the time  
11 exercise the right of assessment and taxation.

12 (b) The notice shall be given within a reasonable time following  
13 the initial budgeting of funds for the proposed acquisition, and  
14 shall state all of the following:

- 15 (1) The approximate extent of the proposed project.
- 16 (2) The estimated time of completion of all acquisitions  
17 necessary for the proposed project.

18 (c) This section creates no rights or liabilities and does not affect  
19 the validity of any property acquisitions by negotiated purchase  
20 or eminent domain.

21 *SEC. 3. No reimbursement is required by this act pursuant to*  
22 *Section 6 of Article XIII B of the California Constitution for certain*  
23 *costs that may be incurred by a local agency or school district*  
24 *because, in that regard, this act creates a new crime or infraction,*  
25 *eliminates a crime or infraction, or changes the penalty for a crime*  
26 *or infraction, within the meaning of Section 17556 of the*  
27 *Government Code, or changes the definition of a crime within the*  
28 *meaning of Section 6 of Article XIII B of the California*  
29 *Constitution.*

30 *However, if the Commission on State Mandates determines that*  
31 *this act contains other costs mandated by the state, reimbursement*  
32 *to local agencies and school districts for those costs shall be made*  
33 *pursuant to Part 7 (commencing with Section 17500) of Division*  
34 *4 of Title 2 of the Government Code.*

35 ~~SECTION 1. Section 402.1 of the Revenue and Taxation Code~~  
36 ~~is amended to read:~~

37 ~~402.1. (a) In the assessment of land, the assessor shall consider~~  
38 ~~the effect upon value of any enforceable restrictions to which the~~  
39 ~~use of the land may be subjected. These restrictions shall include,~~  
40 ~~but are not limited to, all of the following:~~

- 1     ~~(1) Zoning.~~
- 2     ~~(2) Recorded contracts with governmental agencies other than~~  
3 ~~those provided in Sections 422, 422.5, and 422.7. Governmental~~  
4 ~~agencies shall provide the recorded contracts to the assessor as~~  
5 ~~soon as possible after the date of recordation.~~
- 6     ~~(3) Permit authority of, and permits issued by, governmental~~  
7 ~~agencies exercising land use powers concurrently with local~~  
8 ~~governments, including the California Coastal Commission and~~  
9 ~~regional coastal commissions, the San Francisco Bay Conservation~~  
10 ~~and Development Commission, and the Tahoe Regional Planning~~  
11 ~~Agency.~~
- 12     ~~(4) Development controls of a local government in accordance~~  
13 ~~with any local coastal program certified pursuant to Division 20~~  
14 ~~(commencing with Section 30000) of the Public Resources Code.~~
- 15     ~~(5) Development controls of a local government in accordance~~  
16 ~~with a local protection program, or any component thereof, certified~~  
17 ~~pursuant to Division 19 (commencing with Section 29000) of the~~  
18 ~~Public Resources Code.~~
- 19     ~~(6) Environmental constraints applied to the use of land pursuant~~  
20 ~~to provisions of statutes.~~
- 21     ~~(7) Hazardous waste land use restriction pursuant to Section~~  
22 ~~25226 of the Health and Safety Code.~~
- 23     ~~(8) (A) A recorded conservation, trail, or scenic easement, as~~  
24 ~~described in Section 815.1 of the Civil Code, that is granted in~~  
25 ~~favor of a public agency, or in favor of a nonprofit corporation~~  
26 ~~organized pursuant to Section 501(e)(3) of the Internal Revenue~~  
27 ~~Code that has as its primary purpose the preservation, protection,~~  
28 ~~or enhancement of land in its natural, scenic, historical, agricultural,~~  
29 ~~forested, or open-space condition or use.~~
- 30     ~~(B) A recorded greenway easement, as described in Section~~  
31 ~~816.52 of the Civil Code, that is granted in favor of a public~~  
32 ~~agency, or in favor of a nonprofit corporation organized pursuant~~  
33 ~~to Section 501(e)(3) of the Internal Revenue Code that has as its~~  
34 ~~primary purpose the developing and preserving of greenways.~~
- 35     ~~(9) A solar-use easement pursuant to Chapter 6.9 (commencing~~  
36 ~~with Section 51190) of Part 1 of Division 1 of Title 5 of the~~  
37 ~~Government Code.~~
- 38     ~~(10) A contract where the following apply:~~
- 39         ~~(A) The contract is with a nonprofit corporation organized~~  
40 ~~pursuant to Section 501(e)(3) of the Internal Revenue Code that~~

1 has received a welfare exemption under Section 214.15 for  
2 properties intended to be sold to low-income families who  
3 participate in a special no-interest loan program.

4 (B) The contract restricts the use of the land for at least 30 years  
5 to owner-occupied housing available at affordable housing cost in  
6 accordance with Section 50052.5 of the Health and Safety Code.

7 (C) The contract includes a deed of trust on the property in favor  
8 of the nonprofit corporation to ensure compliance with the terms  
9 of the program, which has no value unless the owner fails to  
10 comply with the covenants and restrictions of the terms of the  
11 home sale.

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

16 (E) The contract is recorded and provided to the assessor.

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

21 (c) Grounds for rebutting the presumption may include, but are  
22 not necessarily limited to, the past history of like use restrictions  
23 in the jurisdiction in question and the similarity of sales prices for  
24 restricted and unrestricted land. The possible expiration of a  
25 restriction at a time certain shall not be conclusive evidence of the  
26 future removal or modification of the restriction unless there is no  
27 opportunity or likelihood of the continuation or renewal of the  
28 restriction, or unless a necessary party to the restriction has  
29 indicated an intent to permit its expiration at that time.

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

35 (e) In assessing land under an enforceable use restriction wherein  
36 the presumption of no predictable removal or substantial  
37 modification of the restriction has been rebutted, but where the  
38 restriction nevertheless retains some future life and has some effect  
39 on present value, the assessor may consider, in addition to all other  
40 legally permissible information, representative sales of comparable

1 ~~lands that are not under restriction but upon which natural~~  
2 ~~limitations have substantially the same effect as restrictions.~~

3 ~~(f) For the purposes of this section the following definitions~~  
4 ~~apply:~~

5 ~~(1) “Comparable lands” are lands that are similar to the land~~  
6 ~~being valued in respect to legally permissible uses and physical~~  
7 ~~attributes.~~

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

11 ~~(g) It is hereby declared that the purpose and intent of the~~  
12 ~~Legislature in enacting this section is to provide for a method of~~  
13 ~~determining whether a sufficient amount of representative sales~~  
14 ~~information is available for land under use restriction to ensure~~  
15 ~~the accurate assessment of that land. It is also hereby declared that~~  
16 ~~the further purpose and intent of the Legislature in enacting this~~  
17 ~~section and Section 1630 is to avoid an assessment policy which,~~  
18 ~~in the absence of special circumstances, considers uses for land~~  
19 ~~that legally are not available to the owner and not contemplated~~  
20 ~~by government, and that these sections are necessary to implement~~  
21 ~~the public policy of encouraging and maintaining effective land~~  
22 ~~use planning. This statute shall not be construed as requiring the~~  
23 ~~assessment of any land at a value less than as required by Section~~  
24 ~~401 or as prohibiting the use of representative comparable sales~~  
25 ~~information on land under similar restrictions when this information~~  
26 ~~is available.~~

27 ~~SEC. 2. If the Commission on State Mandates determines that~~  
28 ~~this act contains costs mandated by the state, reimbursement to~~  
29 ~~local agencies and school districts for those costs shall be made~~  
30 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
31 ~~4 of Title 2 of the Government Code.~~

O