

**ASSEMBLY BILL**

**No. 2818**

---

---

**Introduced by Assembly Member Chiu**

February 19, 2016

---

---

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2818, as introduced, Chiu. Property taxation: assessment.

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, including, but not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill would make a nonsubstantive change to that provision.

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

*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.

1 (2) Recorded contracts with governmental agencies other than  
2 those provided in Sections 422, 422.5, and 422.7.

3 (3) Permit authority of, and permits issued by, governmental  
4 agencies exercising land use powers concurrently with local  
5 governments, including the California Coastal Commission and  
6 regional coastal commissions, the San Francisco Bay Conservation  
7 and Development Commission, and the Tahoe Regional Planning  
8 Agency.

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

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

16 (6) Environmental constraints applied to the use of land pursuant  
17 to provisions of statutes.

18 (7) Hazardous waste land use restriction pursuant to Section  
19 25226 of the Health and Safety Code.

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

27 (B) A recorded greenway easement, as described in Section  
28 816.52 of the Civil Code, that is granted in favor of a public  
29 agency, or in favor of a nonprofit corporation organized pursuant  
30 to Section 501(c)(3) of the Internal Revenue Code that has as its  
31 primary purpose the developing and preserving of greenways.

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

35 (10) A contract where the following apply:

36 (A) The contract is with a nonprofit corporation organized  
37 pursuant to Section 501(c)(3) of the Internal Revenue Code that  
38 has received a welfare exemption under Section 214.15 for  
39 properties intended to be sold to low-income families who  
40 participate in a special no-interest loan program.

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

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

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

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

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

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

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

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

1 (f) For the purposes of this section the following definitions  
2 apply:

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

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

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