

Introduced by Committee on Governance and Finance (Senators Hertzberg (Chair), Bates, Beall, Hernandez, Lara, Nguyen, and Pavley)

March 24, 2015

An act to amend Sections 16182 and 16183 of the Government Code, and to amend Sections 2515 and 20645.6 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 801, as introduced, Committee on Governance and Finance. Property tax postponement.

Existing law, on and after February 20, 2009, prohibited a person from filing a claim for postponement, and prohibited the Controller from accepting applications for postponement of ad valorem tax, under the Senior Citizens and Disabled Citizens Property Tax Postponement Law. Existing law, as of July 1, 2016, makes inoperative the prohibition against a qualifying person, as specified, filing a claim for postponement and the Controller from accepting applications for postponement under the program and repeals this prohibition on January 1, 2017.

This bill would eliminate outdated references to “certificates of eligibility” that were previously used under the postponement law. The bill would eliminate references to certain duties on the part of local tax officials, with respect to lien notices, to conform to the superseding duties of the Controller in preparing and filing the notice of lien for postponed taxes with the county recorder at the time payment is made, and would specify payments by the Controller to the county and the refund by the county of taxes paid when a taxpayer successfully appeals his or her denial of postponement under the law. The bill would also clarify that the interest rate on existing loans made prior to the

postponement law’s suspension will continue to accrue at the rate specified prior to the suspension of the program.

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 16182 of the Government Code is
- 2 amended to read:
- 3 16182. (a) All sums paid by the Controller under the provisions
- 4 of this chapter, together with interest thereon, shall be secured by
- 5 a lien in favor of the State of California when funds are transferred
- 6 to the county by the Controller upon the real property for which
- 7 property taxes have been postponed. In the case of a residential
- 8 dwelling which is part of a larger parcel taxed as a unit, such as a
- 9 duplex, farm, or multipurpose or multidwelling building, the lien
- 10 shall be against the entire tax parcel.
- 11 (b) In the case of real property:
- 12 (1) The lien shall be evidenced by a notice of lien for postponed
- 13 property taxes executed by the Controller, or the authorized
- 14 delegate of the Controller, and shall secure all sums paid or owing
- 15 pursuant to this chapter, including amounts paid subsequent to the
- 16 initial payment of postponed taxes on the real property described
- 17 in the notice of lien.
- 18 (2) The notice of lien may bear the facsimile signature of the
- 19 Controller. Each signature shall be that of the person who shall be
- 20 in the office at the time of execution of the notice of lien; provided,
- 21 however, that such notice of lien shall be valid and binding
- 22 notwithstanding any such person having ceased to hold the office
- 23 of Controller before the date of recordation.
- 24 (3) The form and contents of the notice of lien for postponed
- 25 property taxes shall be prescribed by the Controller and shall
- 26 include, but not be limited to, the following:
- 27 (A) The names of all record owners of the real property for
- 28 which the Controller has advanced funds for the payment of real
- 29 property taxes.
- 30 (B) A description of the real property for which real property
- 31 taxes have been paid.
- 32 (C) The identification number of the notice of lien which has
- 33 been assigned the lien by the Controller.

1 (4) Within 14 business days of the transfer of funds and the
2 notice of lien to the county by the Controller, the notice of lien
3 shall be recorded in the office of the county recorder for the county
4 in which the real property subject to the lien is located.

5 (5) The recorded notice of lien shall be indexed in the Grantor
6 Index to the names of all record owners of the real property and
7 in the Grantee Index to the Controller of the State of California.

8 (6) After the notice of lien has been duly recorded and indexed,
9 it shall be returned by the county recorder to the office of the
10 Controller. The recorder shall provide the county tax collector with
11 a copy of the notice of lien which has been ~~recorded~~ *executed* by
12 the Controller.

13 (7) From the time of recordation of a notice of lien for postponed
14 property taxes, a lien shall attach to the real property described
15 therein and shall have the priority of a judgment lien for all
16 amounts secured thereby, except that the lien shall remain in effect
17 until it is released by the Controller in the manner prescribed by
18 Section 16186.

19 (c) In the case of mobilehome loans established prior to February
20 20, 2009, all of the following shall apply:

21 (1) The lien shall be evidenced by a notice of lien for postponed
22 property taxes ~~executed~~ *executed* by the Controller, or the authorized
23 delegate of the Controller, and shall secure all sums paid owing
24 pursuant to this chapter.

25 (2) From the time that the Department of Housing and
26 Community Development receives the notice of lien from the
27 Controller, the department shall impose a moratorium on any other
28 amendments to the permanent title record of the mobilehome unit
29 until released by the Controller in the manner prescribed by Section
30 16186, or an authorization for the amendments is given by the
31 Controller in writing.

32 (3) From the time of filing a notice of lien, a lien shall attach to
33 the mobilehome for which eligibility for the postponement of
34 property taxes has been granted.

35 SEC. 2. Section 16183 of the Government Code is amended
36 to read:

37 16183. (a) ~~(1)~~ From the time a payment is made pursuant to
38 Section 16180, the amount of that payment shall bear interest at a
39 rate (not compounded), determined as follows:

1 (1) Beginning July 1, 2016, the rate of interest shall be 7 percent
2 per annum.

3 (2) The Controller shall establish an adjusted rate of interest for
4 the purpose of this subdivision not later than July 15th of any year
5 if the effective annual yield of the Pooled Money Investment
6 Account for the prior fiscal year is at least a full percentage point
7 more or less than the interest rate which is then in effect. The
8 adjusted rate of interest shall be equal per annum to the effective
9 annual yield earned in the prior fiscal year by the Pooled Money
10 Investment Account rounded to the nearest full percent, and shall
11 become effective for new deferrals, beginning on July 1, 1984,
12 and on July 1 of each immediately succeeding year, until June 30,
13 2016.

14 (3) ~~The~~ *For loans made prior to June 30, 2016, the* rate of
15 interest provided pursuant to this subdivision for the first fiscal
16 year commencing after payment is made pursuant to Section 16180
17 shall apply for that fiscal year and each fiscal year thereafter until
18 these postponed property taxes are repaid.

19 (b) The interest provided for in subdivision (a) shall be applied
20 beginning the first day of the month following the month in which
21 that payment is made and continuing on the first day of each month
22 thereafter until that amount is paid. In the event that any payments
23 are applied, in any month, to reduce the amount paid pursuant to
24 Section 16180, the interest provided for herein shall be applied to
25 the balance of that amount beginning on the first day of the
26 following month.

27 (c) In computing interest in accordance with this section,
28 fractions of a cent shall be disregarded.

29 (d) For the purpose of this section, the time a payment is made
30 shall be deemed to be the time ~~a certificate of eligibility is~~
31 ~~countersigned by an electronic funds transfer is made by the~~
32 *Controller to the tax collector or the delinquency date of the*
33 *respective tax installment, whichever is later.*

34 (e) The Controller shall include on forms supplied to claimants
35 pursuant to Sections 20621, 20630.5, 20639.9, 20640.9, and 20641
36 of the Revenue and Taxation Code, a statement of the interest rate
37 which shall apply to amounts postponed for the fiscal year to which
38 the form applies.

39 SEC. 3. Section 2515 of the Revenue and Taxation Code is
40 amended to read:

1 2515. (a) Upon ~~expeditiously processing~~ *receiving* a “notice
2 of lien for postponed property taxes” from the ~~tax collector,~~
3 *Controller*, the tax collector or the assessor, whichever is
4 applicable, shall immediately:

5 (1) ~~Enter, on the notice of lien, a description of the real property~~
6 ~~for which the taxes have been paid by use of a certificate of~~
7 ~~eligibility pursuant to Section 2514. Such description shall be a~~
8 ~~“metes and bounds,” “lot-block-tract,” or such other description~~
9 ~~as is determined by the Controller to sufficiently describe the real~~
10 ~~property for the purpose of securing the state’s lien.~~

11 (2) ~~Enter on the notice of lien, the names of all record owners~~
12 ~~of the property described under subdivision (a) of this section, as~~
13 ~~disclosed by the assessor’s records.~~

14 (3) ~~Upon entry of the information required by subdivisions (a)~~
15 ~~and (b) of this section on the notice of lien, the assessor shall~~
16 ~~immediately forward the notice of lien to the county recorder.~~

17 (4) ~~Enter immediately enter~~ on the assessment records applicable
18 to the property, the fact that the taxes on the property have been
19 postponed and the Controller’s identification number, and shall,
20 if such record reveals a change in the ownership status of the
21 property subsequent to the date of entry of the postponement
22 information thereon, notify the Controller within 60 days of
23 processing the change in the ownership status in the manner
24 prescribed by the Controller.

25 (b) From the time of recordation of the notice of lien pursuant
26 to Section 16182 of the Government Code, the lien for postponed
27 property taxes shall be deemed to impart constructive notice of
28 the contents thereof to subsequent purchasers, mortgagees, lessees,
29 and other lienors.

30 SEC. 4. Section 20645.6 of the Revenue and Taxation Code
31 is amended to read:

32 20645.6. (a) If the Controller denies a postponement claim
33 under Chapter 2 (commencing with Section 20581), Chapter 3
34 (commencing with Section 20625), Chapter 3.3 (commencing with
35 Section 20639), or Chapter 3.5 (commencing with Section 20640),
36 and the denial is reversed after appeal pursuant to Section 20645.1,
37 the Controller shall electronically transfer funds to the ~~county, if~~
38 ~~the taxes for the fiscal year have been paid,~~ *county* for the amount
39 of the taxes. *If the taxes for the fiscal year were previously paid,*
40 *the county shall refund the overpayment to the taxpayer.* If the

- 1 taxes for the fiscal year are delinquent, any resulting penalties or
- 2 interest shall be canceled.
- 3 (b) The Controller shall notify the claimant in writing when an
- 4 electronic funds transfer has been made pursuant to subdivision
- 5 (a).