

AMENDED IN SENATE MARCH 29, 2016

**SENATE BILL**

**No. 909**

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**Introduced by Senator Beall**  
*(Coauthors: Senators Anderson and Hancock)*

January 26, 2016

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An act to amend ~~Sections 16190 and 16191 of the Government Code, and to amend Sections 20505, 20583, 20627, 20639.11, 20640.2, 20640.3, 20640.5, and 20640.11~~ *Section 20583* of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 909, as amended, Beall. Property tax postponement: special needs trust claimants.

Existing law authorizes the Controller, upon approval of a claim for the postponement of ad valorem property taxes, to directly pay a county tax collector for the property taxes owed by the claimant, as provided. Existing law requires all sums paid for the postponement of property taxes pursuant to these provisions to be secured by a lien in favor of the state. Amounts owed by a claimant are due if the claimant, or his or her surviving spouse, ceases to occupy the premises as his or her residential dwelling, dies, disposes of the property, or allows specified taxes and special assessments to become delinquent, as provided. Existing law requires that a claimant, generally, be an individual who is a member of the household, is either an owner-occupant, tenant stockholder-occupant, or possessory interestholder-occupant of the residential dwelling as to which postponement is claimed, and is either 62 years of age or older, blind, or disabled. *Existing law requires that the residential dwelling be owned by the claimant, the claimant and spouse, or the claimant and specified another specified individual.*

Existing law requires a claimant to file a claim containing specified ~~information~~ *information, including a description of the residential dwelling*, under penalty of perjury.

This bill would provide that a claimant for property tax postponement also includes a special needs trust claimant, defined as a special needs trust of which the primary beneficiary is an individual who meets the above-described criteria. The bill would also make various technical and conforming changes. “owned” for these purposes includes the interest of a beneficiary of a special needs trust, in which title is held in trust, as specified.

By requiring a special needs trust claimant for property tax postponement to file certain information under penalty of perjury, thereby expanding the ~~expanding~~ the crime of perjury, 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 no reimbursement is required by this act for a specified reason.

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 16190 of the Government Code, as~~  
2     ~~amended by Section 4 of Chapter 391 of the Statutes of 2015, is~~  
3     ~~amended to read:~~  
4     ~~16190. All amounts owing pursuant to Article 1 (commencing~~  
5     ~~with Section 16180) of this chapter shall become due if any of the~~  
6     ~~following occurs:~~  
7     ~~(a) The claimant, who is either the sole owner or sole possessory~~  
8     ~~interestholder of the residential dwelling, as defined in Section~~  
9     ~~20583 or Section 20640 of the Revenue and Taxation Code, or a~~  
10    ~~coowner or copossessory interestholder with a person other than~~  
11    ~~a spouse or other individual eligible to postpone property taxes~~  
12    ~~pursuant to Chapter 2 (commencing with Section 20581), Chapter~~  
13    ~~3 (commencing with Section 20625), Chapter 3.3 (commencing~~  
14    ~~with Section 20639), or Chapter 3.5 (commencing with Section~~  
15    ~~20640) of Part 10.5 of Division 2 of that code, or, in the case of a~~  
16    ~~special needs trust claimant, the beneficiary, ceases to occupy the~~

1 premises as his or her residential dwelling, dies, or sells, conveys,  
2 or disposes of the property, or allows any tax or special assessment  
3 on the premises described in Section 20583 of such code to become  
4 delinquent. If the sole owner or possessory interestholder claimant  
5 dies and his or her surviving spouse inherits the premises and  
6 continues to own and occupy it as his or her principal place of  
7 residence, then the lien amount does not become due and payable  
8 unless taxes or special assessments described in the preceding  
9 sentence become delinquent, or such surviving spouse dies, or  
10 sells, conveys, or disposes of the interest in the property.

11 (b) The claimant, who is a coowner or copossessory  
12 interestholder of the residential dwelling, as defined in Section  
13 20583 or Section 20640.2 of the Revenue and Taxation Code, with  
14 a spouse or another individual eligible to postpone property taxes  
15 pursuant to Chapter 2 (commencing with Section 20581), Chapter  
16 3 (commencing with Section 20625), Chapter 3.3 (commencing  
17 with Section 20639), or Chapter 3.5 (commencing with Section  
18 20640) of Part 10.5 of Division 2 of that code, or, in the case of a  
19 special needs trust claimant, the beneficiary, dies, and the surviving  
20 spouse or other surviving eligible individual allows any tax or  
21 special assessment on the premises described in Section 20583 of  
22 such code to become delinquent or such surviving spouse or other  
23 individual ceases to occupy the premises as a residential dwelling,  
24 dies, or conveys, or disposes of the interest in the property.

25 (e) The claimant fails to perform those acts the claimant is  
26 required to perform where his or her performance is secured, or  
27 will be secured in the event of nonperformance, by a lien which  
28 is senior to that of the lien provided by Section 16182.

29 (d) Postponement was erroneously allowed because eligibility  
30 requirements were not met.

31 (e) The claimant is refinancing the residential dwelling.

32 (f) The claimant has elected to participate in a reverse mortgage  
33 program for the residential dwelling.

34 SEC. 2. Section 16191 of the Government Code, as amended  
35 by Section 5 of Chapter 391 of the Statutes of 2015, is amended  
36 to read:

37 16191. The amounts paid pursuant to Section 16180 shall  
38 continue to draw interest but amounts owing pursuant to Article  
39 1 (commencing with Section 16180) of this chapter shall not  
40 become due and payable if any of the following occurs:

1     ~~(a) The claimant, or, in the case of a special needs trust claimant,~~  
 2 ~~the beneficiary, continues to own and occupy or hold the~~  
 3 ~~possessory interest and occupy the premises as a residential~~  
 4 ~~dwelling, but ceases to postpone property taxes pursuant to Chapter~~  
 5 ~~2 (commencing with Section 20581), Chapter 3 (commencing with~~  
 6 ~~Section 20625), Chapter 3.3 (commencing with Section 20639),~~  
 7 ~~or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of~~  
 8 ~~Division 2 of the Revenue and Taxation Code, and does not allow~~  
 9 ~~any tax or assessment against the premises, as described in Section~~  
 10 ~~20583 of such code, to become delinquent.~~

11     ~~(b) The surviving spouse of a claimant, or, in the case of a~~  
 12 ~~special needs trust claimant, the beneficiary, continues to own and~~  
 13 ~~occupy or hold the possessory interest and occupy the premises~~  
 14 ~~as a residential dwelling, but is ineligible to postpone property~~  
 15 ~~taxes pursuant to Chapter 2 (commencing with Section 20581),~~  
 16 ~~Chapter 3 (commencing with Section 20625), Chapter 3.3~~  
 17 ~~(commencing with Section 20639), or Chapter 3.5 (commencing~~  
 18 ~~with Section 20640) of Part 10.5 of Division 2 of the Revenue and~~  
 19 ~~Taxation Code, or elects not to postpone such taxes, and does not~~  
 20 ~~allow any tax or assessment against the premises, as described in~~  
 21 ~~Section 20583 of such code, to become delinquent.~~

22     ~~(c) The surviving individual otherwise eligible to postpone~~  
 23 ~~property taxes pursuant to Chapter 2 (commencing with Section~~  
 24 ~~20581), Chapter 3 (commencing with Section 20625), Chapter 3.3~~  
 25 ~~(commencing with Section 20639), or Chapter 3.5 (commencing~~  
 26 ~~with Section 20640) of Part 10.5 of Division 2 of the Revenue and~~  
 27 ~~Taxation Code continues to own and occupy or hold the possessory~~  
 28 ~~interest and occupy the premises as a residential dwelling, but~~  
 29 ~~elects not to postpone the property taxes pursuant to such chapter,~~  
 30 ~~and does not allow any tax or assessment against the premises, as~~  
 31 ~~described in Section 20583 of such code, to become delinquent.~~

32     ~~SEC. 3.— Section 20505 of the Revenue and Taxation Code, as~~  
 33 ~~amended by Section 8 of Chapter 391 of the Statutes of 2015, is~~  
 34 ~~amended to read:~~

35     ~~20505. “Claimant” means an individual who—~~

36     ~~(a) For purposes of this chapter was either (1) 62 years of age~~  
 37 ~~or older on the last day of the calendar year or approved fiscal year~~  
 38 ~~designated in subdivision (b) or (c) of Section 20503, whichever~~  
 39 ~~is applicable, or (2) blind or disabled, as defined in Section 12050~~  
 40 ~~of the Welfare and Institutions Code on the last day of the calendar~~

1 year or approved fiscal year designated in subdivision (b) of  
 2 Section 20503, who was a member of the household, and who was  
 3 either: (1) the owner and occupier of a residential dwelling on the  
 4 last day of the year designated in subdivision (b) or (c) of Section  
 5 20503, or (2) the renter of a rented residence on or before the last  
 6 day of the year designated in subdivision (b) of Section 20503. An  
 7 individual who qualifies as an owner-claimant may not qualify as  
 8 a renter-claimant for the same year.

9 (b) (1) For purposes of Chapter 2 (commencing with Section  
 10 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3  
 11 (commencing with Section 20639), and Chapter 3.5 (commencing  
 12 with Section 20640), was a member of the household and either  
 13 an owner-occupant, or a tenant stockholder occupant, or a  
 14 possessory interestholder occupant, or a mobilehome  
 15 owner-occupant, as the case may be, of the residential dwelling  
 16 as to which postponement is claimed on the last day of the year  
 17 designated in subdivision (b) or (c) of Section 20503, and who  
 18 was (1) 62 years of age or older by December 31 of the fiscal year  
 19 for which postponement is claimed, or (2) blind or disabled, as  
 20 defined in Section 12050 of the Welfare and Institutions Code, at  
 21 the time of application or on December 10 of the fiscal year for  
 22 which postponement is claimed, whichever is earlier.

23 (2) For purposes of this subdivision, "claimant" shall include a  
 24 special needs trust claimant. "Special needs trust claimant" means  
 25 a special needs trust of which the primary beneficiary is an  
 26 individual who would qualify as a "claimant" pursuant to paragraph  
 27 (1).

28 **SEC. 4.**

29 *SECTION 1.* Section 20583 of the Revenue and Taxation Code  
 30 is amended to read:

31 20583. (a) "Residential dwelling" means a dwelling occupied  
 32 as the principal place of residence of the claimant, or, in the case  
 33 of a special needs trust claimant, the beneficiary, *claimant* and so  
 34 much of the land surrounding it as is reasonably necessary for use  
 35 of the dwelling as a home, owned by the claimant, the beneficiary  
 36 of a special needs trust claimant, the claimant and spouse, or by  
 37 the claimant and either another individual eligible for postponement  
 38 under this chapter or an individual described in subdivision (a),  
 39 (b), or (c) of Section 20511 and located in this state. It shall include  
 40 condominiums that are assessed as realty for local property tax

1 purposes. It also includes part of a multidwelling or multipurpose  
2 building and a part of the land upon which it is built.

3 (b) As used in this chapter in reference to ownership interests  
4 in residential dwellings, “owned” includes (1) the interest of a  
5 vendee in possession under a land sale contract provided that the  
6 contract or memorandum thereof is recorded and only from the  
7 date of recordation of the contract or memorandum thereof in the  
8 office of the county recorder where the residential dwelling is  
9 located, (2) the interest of the holder of a life estate provided that  
10 the instrument creating the life estate is recorded and only from  
11 the date of recordation of the instrument creating the life estate in  
12 the office of the county recorder where the residential dwelling is  
13 located, but “owned” does not include the interest of the holder of  
14 any remainder interest or the holder of a reversionary interest in  
15 the residential dwelling, (3) the interest of a joint tenant or a tenant  
16 in common in the residential dwelling or the interest of a tenant  
17 where title is held in tenancy by the entirety or a community  
18 property interest where title is held as community property, ~~and~~  
19 (4) the interest in the residential dwelling in which the title is held  
20 in trust, as described in subdivision (d) of Section 62, *and (5) the*  
21 *interest of a beneficiary of a special needs trust, in which title is*  
22 *held in trust, as described in subdivision (d) of Section 62*, provided  
23 that the Controller determines that the state’s interest is adequately  
24 protected.

25 (c) Except as provided in subdivision (c), and Chapter 3  
26 (commencing with Section 20625), ownership must be evidenced  
27 by an instrument duly recorded in the office of the county where  
28 the residential dwelling is located.

29 (d) “Residential dwelling” does not include any of the following:

30 (1) Any residential dwelling in which the owners do not have  
31 an equity of at least 40 percent of the full value of the property as  
32 determined for purposes of property taxation or at least 40 percent  
33 of the fair market value as determined by the Controller and where  
34 the Controller determines that the state’s interest is adequately  
35 protected. The 40-percent equity requirement shall be met each  
36 time the claimant or authorized agent files a postponement claim.

37 (2) Any residential dwelling in which the claimant’s interest is  
38 held pursuant to a contract of sale or under a life estate, unless the  
39 claimant obtains the written consent of the vendor under the  
40 contract of sale, or the holder of the reversionary interest upon

1 termination of the life estate, for the postponement of taxes and  
2 the creation of a lien on the real property in favor of the state for  
3 amounts postponed pursuant to this act.

4 (3) Any residential dwelling on which the claimant does not  
5 receive a secured tax bill.

6 (4) Any residential dwelling in which the claimant's interest is  
7 held as a possessory interest, except as provided in Chapter 3.5  
8 (commencing with Section 20640).

9 ~~SEC. 5. Section 20627 of the Revenue and Taxation Code, as~~  
10 ~~amended by Section 15 of Chapter 391 of the Statutes of 2015, is~~  
11 ~~amended to read:~~

12 ~~20627. (a) A tenant-stockholder claimant (hereinafter referred~~  
13 ~~to as "claimant") is an individual who, on the last day of the~~  
14 ~~calendar year ending immediately prior to the commencement of~~  
15 ~~the fiscal year for which postponement is claimed is: (a) a~~  
16 ~~tenant-stockholder in a cooperative housing corporation (as defined~~  
17 ~~in Section 216(b) of the Internal Revenue Code) and (b) occupies~~  
18 ~~as a principal place of residence a residential unit in the cooperative~~  
19 ~~housing corporation (notwithstanding Section 216(b) of the Internal~~  
20 ~~Revenue Code). For the purposes of this chapter, a claimant must~~  
21 ~~be (1) 62 years of age or older on or before December 31 of the~~  
22 ~~fiscal year for which postponement is claimed or (2) blind or~~  
23 ~~disabled, as defined in Section 12050 of the Welfare and~~  
24 ~~Institutions Code, at the time of application or on December 10 of~~  
25 ~~the fiscal year for which the postponement is claimed, whichever~~  
26 ~~is earlier.~~

27 ~~(b) For purposes of this chapter, "tenant-stockholder claimant"~~  
28 ~~and "claimant" shall include a special needs trust claimant. "Special~~  
29 ~~needs trust claimant" means a special needs trust of which the~~  
30 ~~primary beneficiary is an individual who would qualify as a~~  
31 ~~"tenant-stockholder claimant" or "claimant" pursuant to subdivision~~  
32 ~~(a):~~

33 ~~SEC. 6. Section 20639.11 of the Revenue and Taxation Code~~  
34 ~~is amended to read:~~

35 ~~20639.11. All amounts postponed pursuant to this chapter shall~~  
36 ~~be due if any of the following occurs:~~

37 ~~(a) The claimant, or, in the case of a special needs trust claimant,~~  
38 ~~the beneficiary, ceases to occupy the residential dwelling as the~~  
39 ~~principal place of residence, sells, or otherwise disposes of his or~~  
40 ~~her mobilehome.~~

1 (b) ~~The claimant, or, in the case of a special needs trust claimant,~~  
2 ~~the beneficiary, dies. However, if the surviving spouse was~~  
3 ~~previously approved pursuant to this chapter continues to occupy~~  
4 ~~the mobilehome, then the postponed amounts shall not be due~~  
5 ~~unless that person dies or ceases to occupy the residential dwelling.~~

6 (e) ~~The claimant fails to perform those acts required by the legal~~  
7 ~~owner or junior lienholder.~~

8 (d) ~~The claimant allows any subsequent taxes to remain unpaid~~  
9 ~~or to be transferred to the unsecured roll.~~

10 (e) ~~Postponement was erroneously allowed because eligibility~~  
11 ~~requirements were not met.~~

12 ~~SEC. 7. Section 20640.2 of the Revenue and Taxation Code,~~  
13 ~~as amended by Section 28 of Chapter 391 of the Statutes of 2015,~~  
14 ~~is amended to read:~~

15 ~~20640.2. For the purposes of this chapter, the following~~  
16 ~~definitions shall apply:~~

17 (a) ~~“Possessory interest” means (1) possession of, or right to~~  
18 ~~the possession of land located in this state whether or not coupled~~  
19 ~~with ownership of the residential dwelling on the same, or (2) a~~  
20 ~~possessory interest or right of occupancy on tax exempt land.~~

21 (b) ~~“Residential dwelling” means a dwelling occupied as the~~  
22 ~~principal place of residence of the claimant, or, in the case of a~~  
23 ~~special needs trust claimant, the beneficiary, and so much of the~~  
24 ~~land surrounding it as is reasonably necessary for use of the~~  
25 ~~dwelling as a home, located on possessory interest property. It~~  
26 ~~shall include condominiums upon which property taxes, as defined~~  
27 ~~in subdivision (c), are assessed. It also includes part of a~~  
28 ~~multidwelling or multipurpose building and a part of the land upon~~  
29 ~~which it is built.~~

30 (c) ~~“Property taxes” means the amount of property tax for which~~  
31 ~~the claimant is personally liable as assessee or is obligated to pay~~  
32 ~~directly to the tax collector pursuant to the terms of the agreement~~  
33 ~~establishing the possessory interest, including all ad valorem~~  
34 ~~property taxes, special assessments, capitalization of leasehold~~  
35 ~~interest, and other charges or user fees which are attributable to~~  
36 ~~the residential dwelling on the county tax bill and the ad valorem~~  
37 ~~property taxes, special assessments, capitalization of leasehold~~  
38 ~~interest, or other charges or user fees appearing on the tax bill of~~  
39 ~~any chartered city which levies and collects its own property taxes.~~

1     ~~SEC. 8.—Section 20640.3 of the Revenue and Taxation Code,~~  
2 ~~as amended by Section 29 of Chapter 391 of the Statutes of 2015,~~  
3 ~~is amended to read:~~

4     ~~20640.3.—(a) A claimant is an individual who:~~

5         ~~(1) Holds a right to a possessory interest pursuant to a validly~~  
6 ~~recorded instrument conveying such possessory interest for a term~~  
7 ~~of years no less than 45 years beyond the last day of the calendar~~  
8 ~~year ending immediately prior to the fiscal year for which taxes~~  
9 ~~are initially postponed;~~

10         ~~(2) Occupies as a principal place of residence the residential~~  
11 ~~dwelling affixed to such possessory interest real property on the~~  
12 ~~last day of the year designated in subdivision (c) of Section 20503~~  
13 ~~of this code;~~

14         ~~(3) Is (1) 62 years of age or older on or before December 31 of~~  
15 ~~the fiscal year for which postponement is claimed or (2) blind or~~  
16 ~~disabled, as defined in Section 12050 of the Welfare and~~  
17 ~~Institutions Code, at the time of application or on December 10 of~~  
18 ~~the fiscal year for which the postponement is claimed, whichever~~  
19 ~~is earlier.~~

20         ~~(b) For purposes of this chapter, “claimant” shall include a~~  
21 ~~special needs trust claimant. “Special needs trust claimant” means~~  
22 ~~a special needs trust of which the beneficiary is an individual who~~  
23 ~~would qualify as a “claimant” pursuant to subdivision (a).~~

24     ~~SEC. 9.—Section 20640.5 of the Revenue and Taxation Code~~  
25 ~~is amended to read:~~

26     ~~20640.5.—(a) The Controller may require as security for the~~  
27 ~~postponement of property taxes pursuant to this chapter any of the~~  
28 ~~following:~~

29         ~~(1) An assignment to the State of California of the remaining~~  
30 ~~term of the claimant’s or, in the case of a special needs trust~~  
31 ~~claimant, the beneficiary’s, possessory interest.~~

32         ~~(2) A security interest in any improvement owned or leased by~~  
33 ~~the claimant or, in the case of a special needs trust claimant, the~~  
34 ~~beneficiary, located on the land which is subject to the possessory~~  
35 ~~interest.~~

36         ~~(3) Any other additional security interest, created and perfected~~  
37 ~~with respect to the rights of third persons in the manner provided~~  
38 ~~by law for such type of security interest, which the Controller~~  
39 ~~deems necessary to protect the interest of the state with regard to~~

1 the repayment of postponed amounts by the claimant or a deceased  
2 claimant's estate.

3 ~~(b) On the form supplied by the Controller, the claimant shall~~  
4 ~~obtain the written consent of any coholder of the possessory interest~~  
5 ~~and of the grantor of the possessory interest to the assignment by~~  
6 ~~claimant of the remaining term of claimant's or, in the case of a~~  
7 ~~special needs trust claimant, the beneficiary's possessory interest.~~  
8 ~~The consent shall be in the form and contain those provisions as~~  
9 ~~prescribed by the Controller, and shall provide for written notice~~  
10 ~~by the grantor of the possessory interest to the Controller of the~~  
11 ~~occurrence of a default by the claimant under the terms of the~~  
12 ~~instrument creating the possessory interest, a coholder or a prior~~  
13 ~~recorded possessory interest holder which would result in the~~  
14 ~~termination or diminution of claimant's or the beneficiary's, as~~  
15 ~~applicable, interest.~~

16 The term "grantor of the possessory interest," as used in this  
17 section shall be deemed to include the fee owner of the real  
18 property subject to the possessory interest and the holders of all  
19 prior recorded unterminated possessory interests.

20 ~~SEC. 10. Section 20640.11 of the Revenue and Taxation Code~~  
21 ~~is amended to read:~~

22 ~~20640.11. All amounts postponed pursuant to this chapter shall~~  
23 ~~be due if any of the following occurs:~~

24 ~~(a) The claimant, or, in the case of a special needs trust claimant,~~  
25 ~~the beneficiary, ceases to occupy the residential dwelling as the~~  
26 ~~principal place of residence, sells or otherwise disposes of his~~  
27 ~~possessory interest, or the possessory interest agreement expires~~  
28 ~~by its terms.~~

29 ~~(b) The claimant, or, in the case of a special needs trust claimant,~~  
30 ~~the beneficiary, dies. However, if the surviving spouse or another~~  
31 ~~person eligible to postpone pursuant to this chapter continues to~~  
32 ~~occupy the residential dwelling, then the postponed amounts shall~~  
33 ~~not be due unless such person dies, or ceases to occupy the~~  
34 ~~residential dwelling.~~

35 ~~(c) The failure of the claimant, the fee title owner, or any owner~~  
36 ~~of a prior recorded possessory interest to perform those acts~~  
37 ~~required by a security interest holder which is senior to the state's~~  
38 ~~security interest for postponed amounts.~~

39 ~~(d) Postponement was erroneously allowed because eligibility~~  
40 ~~requirements were not met.~~

1     ~~SEC. 11.~~

2     *SEC. 2.* No reimbursement is required by this act pursuant to  
3 Section 6 of Article XIII B of the California Constitution because  
4 the only costs that may be incurred by a local agency or school  
5 district will be incurred because this act creates a new crime or  
6 infraction, eliminates a crime or infraction, or changes the penalty  
7 for a crime or infraction, within the meaning of Section 17556 of  
8 the Government Code, or changes the definition of a crime within  
9 the meaning of Section 6 of Article XIII B of the California  
10 Constitution.

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