

Assembly Bill No. 3000

CHAPTER 699

An act to amend Sections 3691, 3694, 3776, 4505, 4523, 4524, 4525, 4527, 4528, 4531, and 4920 of, and to repeal Section 5103 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 21, 1996. Filed
with Secretary of State September 23, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3000, Granlund. Property taxation: tax certificates.

Existing property tax law authorizes a county, by resolution of the county board of supervisors, to issue tax certificates with respect to delinquent or defaulted taxes or assessments levied on separate parcels of real property. Existing law requires the county tax collector to publish rules and procedures for the making of offers on any tax certificate.

This bill would additionally require that tax collector to determine the size of the offering of tax certificates, the parcel to be included in the sale, the fees necessary to conduct the sale and maintain adequate records, to establish rules and procedures for making offers, and to publish and make available those determinations, fees, rules, and procedures.

Existing law requires the tax collector to pay the holder of a tax certificate the purchase price, plus interest, of a tax certificate and cancel the tax certificate if any of several conditions occur, including upon the request of the holder of the tax certificate if either the taxes are permitted to be paid in installments or the taxpayer files an appeal or other claim that disputes the amount owed, as specified.

This bill would delete those 2 circumstances under which the holder of a tax certificate is required to be paid and a tax certificate is required to be canceled.

Existing law also requires a county tax collector, when required by a specified statute to issue a tax certificate for defaulted taxes or assessments levied with respect to a parcel for which a tax certificate is already outstanding, to offer to sell the new certificate to the holder of the outstanding certificate for a period of 6 months, on the same terms as the outstanding tax certificate.

This bill would modify this requirement to instead require a county tax collector to offer to sell the new certificate to the holder of the outstanding certificate for a period of one month after the tax collector provides notice by certified mail to that certificate holder that a new certificate is to be issued for an additional defaulted amount levied with respect to the same parcel.

Existing law provides that the holder of a tax certificate who receives all or part of any amount of taxes that is subject to refund is not obligated to make any refund.

This bill would delete that provision.

Existing law grants the power to sell tax-defaulted property to the county tax collector, upon approval of the board of supervisors, but requires the tax collector to sell the property upon the request of a holder of a tax certificate, without the approval of the board of supervisors.

This bill would delete that requirement that the tax collector sell the property upon the request of a holder of a tax certificate, and would delete the provision that creates the exception for those sales from the requirement of approval of sales of tax-defaulted property by the board of supervisors.

Existing law permits the sale of a tax-defaulted property to any governmental entity for a public use if the entity pays the amount owed to the holder of a tax certificate at the time of sale.

This bill would delete that provision.

This bill would also make technical, clarifying changes to the provisions which authorize the issuance of tax certificates.

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

SECTION 1. Section 3691 of the Revenue and Taxation Code is amended to read:

3691. (a) (1) Five years or more after the property has become tax-defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.

(2) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(b) (1) (A) Three years or more after the property has become tax-defaulted and subject to a nuisance abatement lien after the effective date of the act that adds this subdivision in the case of vacant residential developed property, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property



that has not been redeemed, without regard to the boundaries of parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale.

(B) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(2) Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(3) Before the tax collector sells vacant residential developed property pursuant to this subdivision, notice of the sale shall be given in the manner specified by Section 3704.7.

SEC. 2. Section 3694 of the Revenue and Taxation Code is amended to read:

3694. A sale under this chapter shall take place only if approved by the board of supervisors and authorized in writing by the Controller.

SEC. 3. Section 3776 of the Revenue and Taxation Code is amended to read:

3776. Notwithstanding anything to the contrary, no parcel for which a tax certificate has been sold and not canceled shall be sold or deeded to any taxing agency unless the taxing agency deposits into the applicable tax certificate redemption fund, held by the tax collector, the total amount required to be paid to the holder of the tax certificate pursuant to Section 4527.

SEC. 4. Section 4505 of the Revenue and Taxation Code is amended to read:

4505. "Tax certificate" means the intangible property right created upon a sale by the tax collector pursuant to Chapter 3 (commencing with Section 4521) of the right to receive all amounts in respect of a delinquency in connection with secured roll property or property on the supplemental roll.

(a) A tax certificate shall be issued for a separately assessed parcel, or for multiple parcels with separate assessments, that are delinquent or defaulted at the time of the offer of the sale of the tax certificate and not for any subsequent year taxes or assessments. A tax certificate shall identify the parcel or parcels securing the certificate, bear the date of the purchase of the tax certificate, the name of the purchaser (or any successor) of the tax certificate, the total amount due, including taxes and assessments, being assigned to the purchaser of



the tax certificate (as they may be reduced pursuant to subdivision (b) of Section 4525), and the purchase price of the tax certificate.

(b) Tax certificates may be in the form of physical certificates or may be in book-entry form, including an electronic medium, in the discretion of the county.

SEC. 5. Section 4523 of the Revenue and Taxation Code is amended to read:

4523. The proceeds from the sale of a tax certificate shall be applied as follows:

(a) (1) To the Tax Certificate Redemption Fund, in an amount equal to a minimum of 3 percent of the proceeds from that sale. However, if the amount of the Tax Certificate Redemption Fund is equal to or greater than 3 percent of the then current amount of taxes and assessments assigned under all outstanding tax certificates, those proceeds shall be applied as provided in subdivision (b). The amount deposited under this paragraph shall be in lieu of any amount otherwise required pursuant to Chapter 3 (commencing with Section 4701) of Part 8.

(2) Any amount on deposit in the Tax Certificate Redemption Fund shall be invested at the direction of the county treasurer as required by law. All interest earned on the Tax Certificate Redemption Fund shall be paid to the county.

(b) The balance of the proceeds shall be applied as follows:

(1) Except as provided in paragraph (2), the balance shall be distributed in the same manner as amounts received from the collection of taxes and assessments and costs, fees, penalties, and other amounts related thereto.

(2) In the case of a county that has elected the alternative procedure for the distribution of property tax levies pursuant to Chapter 3 (commencing with Section 4701) of Part 8 of Division 1, the balance shall be distributed to the county general fund.

SEC. 6. Section 4524 of the Revenue and Taxation Code is amended to read:

4524. (a) Upon the receipt by the tax collector of the entire amount of the taxes, assessments, and assigned penalties assigned by a tax certificate, the tax collector shall pay that amount to the holder of the tax certificate, cancel the tax certificate, and enter the fact of the cancellation in the tax certificate record opposite the entry of the sale of the tax certificate. The tax collector shall make the payments from amounts it receives of those taxes, assessments, and assigned penalties, whether those amounts are received by the tax collector by payment of those amounts, by redemption pursuant to Part 7 (commencing with Section 4101), by sale of the parcel pursuant to Chapter 2 (commencing with Section 3436) of Part 6, or otherwise.

(b) If, pursuant to Section 2636, 2708, 2772, or 4143 or otherwise, the tax collector receives only an installment or portion of the amounts in respect of the taxes, assessments, and assigned penalties



(or interest in the case of an installment plan of redemption) assigned by a tax certificate, the tax collector shall pay that amount to the holder of the tax certificate and make a corresponding adjustment to the amounts set forth in the tax certificate and the tax certificate record.

(c) If, pursuant to Chapter 3 (commencing with Section 2801) of Part 5 or Chapter 2 (commencing with Section 4131) of Part 7, part of an assessment of tax on a parcel specified in a tax certificate is paid or redeemed, the tax collector shall pay to the holder of the tax certificate that portion of the payments relating to the amounts assigned under the tax certificate and shall adjust the information in the tax certificate and the tax certificate record accordingly.

(d) Any amount collected shall be first applied to the oldest outstanding certificate. The taxpayer shall still be considered delinquent with respect to any unredeemed certificate on that property.

(e) Notwithstanding any other provision of law, any partial payment with respect to a tax certificate, including annual payments from installment plan of redemption, shall be applied to the monthly penalty (or interest in the case of an installment plan of redemption) amount first.

(f) This section shall apply notwithstanding any other provision of Chapter 1C (commencing with Section 4656) or Chapter 1.3 (commencing with Section 4671) of Part 8 or any other provision of this code to the contrary.

SEC. 7. Section 4525 of the Revenue and Taxation Code is amended to read:

4525. The tax collector may stop the collection of amounts in respect of a delinquency by the holder of a tax certificate at any time by canceling that tax certificate and paying to the holder of that tax certificate from amounts on deposit in the Tax Certificate Redemption Fund the amount owed in respect of that delinquency. This action may be taken at the sole discretion of the tax collector.

SEC. 8. Section 4527 of the Revenue and Taxation Code is amended to read:

4527. (a) The tax collector shall pay to the holder of a tax certificate, from amounts on deposit in the Tax Certificate Redemption Fund, an amount equal to the purchase price of the tax certificate, together with interest thereon at a rate equal to the rate the county would have to pay on any refund to a taxpayer for the same fiscal year, that rate to be applied to all amounts paid with respect to the certificate from the date of the sale of the tax certificate, and shall cancel the tax certificate if any of the following occur:

(1) The taxes and assessments assigned by the tax certificate had been paid prior to the sale of the tax certificate.



(2) After the sale of the tax certificate, the taxes and assessments assigned by the tax certificate are canceled for any reason other than the payment of the taxes and assessments.

(3) The lien on the parcel specified in the tax certificate is removed, other than pursuant to Section 2195 or 4105.2, or by order of the federal bankruptcy court, prior to the time the holder of the tax certificate has received all amounts due under the tax certificate.

(4) The parcel specified in the tax certificate is deeded to a taxing agency pursuant to Chapter 8 (commencing with Section 3771) of Part 6.

(5) Upon the request of the holder of the tax certificate, when there has been a violation of Section 3441 with respect to the parcel specified in the tax certificate.

(b) Promptly after obtaining knowledge of any occurrence described in subdivision (a), the tax collector shall notify, in writing, the holder of the applicable tax certificate.

(c) If the delinquency penalty assigned by a tax certificate is canceled pursuant to Section 2610.5 or Section 4985.2, or for any other reason other than the payment in full of the penalty, then, at the option of the holder of the tax certificate, the tax collector shall, from amounts on deposit in the tax certificate redemption fund, do either of the following:

(1) Pay to the holder of the tax certificate an amount equal to the purchase price of the tax certificate, together with interest thereon at a rate equal to the rate the county would have to pay on any refund to a taxpayer for the same fiscal year, that rate to be applied to all amounts paid in respect of the certificate from the date of the sale of the tax certificate, and cancel the tax certificate.

(2) Pay to the holder of the tax certificate an amount equal to the difference between the purchase price of the tax certificate and the total amount of taxes and assessments assigned by the tax certificate, together with interest on that amount at a rate equal to the rate the county would have to pay on any refund to a taxpayer for the same fiscal year, that rate to be applied to all amounts paid in respect of the certificate from the date of the sale of the tax certificate, and adjust the information contained in the tax certificate and the tax certificate record accordingly.

(d) If a redemption certificate is issued pursuant to Section 4105.2 with respect to a parcel specified in a tax certificate, and all amounts assigned under the tax certificate, including, without limitation, amounts due under Section 4103, are not paid to the holder of the tax certificate, the tax collector shall immediately pay to the holder of the tax certificate, from amounts on deposit in the Tax Certificate Redemption Fund, any amount so assigned but not paid.

(e) The tax collector may use amounts on deposit in the Tax Certificate Redemption Fund to make the payments permitted under Sections 3729, 3731, 4920, and 5103.



SEC. 9. Section 4528 of the Revenue and Taxation Code is amended to read:

4528. (a) (1) The tax collector may sell tax certificates by any form of public or private sale, including, but not limited to, an auction, a negotiated sale, or a bulk sale. Except as provided in subdivision (c), the price received for a tax certificate shall not be less than the amount of taxes and assessments being assigned thereby. Prior to any sale of any tax certificates, the tax collector shall do all of the following:

(A) Determine the size of the offering and the parcels to be included in the sale.

(B) Determine the fees necessary to conduct the sale and maintain adequate tax certificate records.

(C) Establish rules and procedures for the making of offers on any tax certificate.

(D) Publish the determinations, fees, rules, and procedures described in this paragraph.

(E) Make these determinations, fees, rules, and procedures available to any person upon request.

(2) The tax collector shall have the right to accept or reject any or all bids in his or her sole discretion, subject to the determinations, fees, rules, and procedures described in paragraph (1).

(b) Except as provided in subdivision (c), the tax collector shall not sell a tax certificate if any of the following apply:

(1) The parcel is not on the secured roll or supplemental roll.

(2) The parcel is owned by a governmental agency.

(3) The total amount of taxes and assessments to be assigned thereby is less than one hundred dollars (\$100), unless the parcel is included in a bulk sale.

(4) The parcel has a recorded public notice concerning pollution or contaminated to the degree that the parcel poses a public health concern or environmental hazard.

(5) The parcel was subject to a proceeding in federal bankruptcy court prior to the sale of the tax certificate.

(6) The parcel was subject to any condemnation proceedings prior to the sale of the tax certificate.

(c) Notwithstanding subdivisions (a) and (b), the tax collector may sell or resell tax certificates for parcels described in paragraphs (3), (4), (5), and (6) of subdivision (b), any certificate subject to the Sailors and Soldiers Relief Act, and for parcels described in paragraph (5) of subdivision (a) of Section 4527, at a discount, in accordance with the determinations, fees, rules, and procedures published by the tax collector.

(d) If, pursuant to Section 4521, the tax collector is required to offer for sale a tax certificate for which there exists an outstanding tax certificate for the assignment of taxes and assessments for a previous year, until the date occurring six months after the date specified in



Section 4521, the tax collector shall offer to sell the tax certificate to the holder of the outstanding tax certificate. The tax collector shall notify the holder of the outstanding tax certificate by certified mail of the default requiring the issuance of an additional tax certificate with respect to the same parcel, and of the tax certificate holder's right until the date one month after the receipt of this notice, to purchase the additional certificate on the same terms as the outstanding certificate. In addition, the holder of the outstanding tax certificate shall have the right of first refusal to purchase the tax certificate with respect to the same parcel at the highest bid amount until all tax certificates with respect to that parcel are redeemed or canceled. During the six-month period, at the option of the holder of the most recently issued outstanding tax certificate, the tax collector shall sell the tax certificate to the holder of the outstanding tax certificate on the same terms as that outstanding tax certificate.

SEC. 10. Section 4531 of the Revenue and Taxation Code is amended to read:

4531. (a) A holder of a tax certificate may apply to the tax collector for a duplicate certificate if the original certificate has been lost or destroyed. The tax certificate holder shall give an affidavit to the tax collector stating that the affiant is the owner of the tax certificate and that the tax certificate was lost or destroyed. The tax certificate holder shall pay a fee for the issuance of the duplicated tax certificate in an amount as determined by the tax collector.

(b) The tax collector shall issue a duplicate tax certificate, and shall plainly mark or stamp that tax certificate as a duplicate, and enter the fact of the duplicate in the tax certificate record opposite the entry of the sale for which the lost or destroyed tax certificate was issued. He or she shall enter in the same place a notation of the alleged loss or destruction, whether or not the duplicate certificate is issued.

SEC. 11. Section 4920 of the Revenue and Taxation Code is amended to read:

4920. (a) This article shall be applicable only if all of the requirements of either of the following are met:

(1) (A) By substantial evidence, a redemptioner convinces the tax collector that money paid by him or her in redemption of any property or for the use of any property pursuant to Chapter 3 (commencing with Section 4186) of Part 7 was intended by him or her to be paid in connection with any other property or that the payment was, without his or her fault, credited to unintended property.

(B) The right of redemption has not terminated on the property in connection with which the payment was intended.

(C) Two years have not elapsed since the date of the payment.

(D) Since the date of payment, the property has not been transferred or conveyed to a bona fide purchaser for value or become subject to a bona fide encumbrancer for value.



(2) (A) By substantial evidence, a redemptioner convinces the tax collector that money paid by him or her in redemption of any property or for the use of any property pursuant to Chapter 3 (commencing with Section 4186) of Part 7 was, without his or her fault, credited to unintended property.

(B) The right of redemption has not terminated on the property in connection with which the payment was intended.

(C) Two years have not elapsed since the date of the payment.

(D) Since the date of payment, the property has been transferred or conveyed to a bona fide purchaser for value or become subject to a bona fide encumbrancer for value.

(b) (1) When the requirements of paragraph (1) of subdivision (a) are met, the tax collector shall transfer the payment to the property in connection with which the payment was intended, and in case the payment caused the redemption of the property in connection with which the payment was not intended, cancel the redemption of that property.

(2) When the requirements of paragraph (2) of subdivision (a) are met, the tax collector shall transfer the payment to the property in connection with which the payment was intended to be made, and shall cancel the credit on the unintended property immediately before issuance of the guaranty or certificate shall be personally liable for the amount so transferred which shall be collected in the manner specified for the collection of taxes on the unsecured roll.

SEC. 12. Section 5103 of the Revenue and Taxation Code is repealed.

