

AMENDED IN ASSEMBLY JUNE 3, 1997
AMENDED IN ASSEMBLY APRIL 15, 1997

CALIFORNIA LEGISLATURE—1997-98 REGULAR SESSION

ASSEMBLY BILL

No. 80

Introduced by Assembly Member Ducheny

December 18, 1996

An act to amend Sections 17274 and 24436.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 80, as amended, Ducheny. Local government: substandard housing.

The Personal Income Tax Law and the Bank and Corporation Tax Law generally prohibit, in computing the income that is subject to the taxes imposed by those laws, the deduction by any taxpayer who derives rental income from substandard housing, as defined, of any interest, taxes, depreciation, or amortization paid during a taxable or income year with respect to the substandard housing.

This bill would extend this prohibition, with a specified exception for certain lenders, by expanding the definition of substandard housing to include *dwelling*s that are unoccupied or abandoned ~~dwelling~~s for at least 90 days that contain a condition that has been found to be a serious violation of certain state laws or local codes and that is a threat to public health and safety.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution by further limiting a deduction, and thus would require a 2/3 vote for passage.

This bill would take effect immediately as a tax levy.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 17274 of the Revenue and
2 Taxation Code is amended to read:

3 17274. (a) Notwithstanding any other provisions in
4 this part to the contrary, no deduction shall be allowed for
5 interest, taxes, depreciation, or amortization paid or
6 incurred in the taxable year with respect to substandard
7 housing located in this state, except as provided in
8 subdivision (e).

9 (b) "Substandard housing" means occupied dwellings
10 from which the taxpayer derives rental income or
11 unoccupied or abandoned dwellings for which both of the
12 following apply:

13 (1) ~~The housing has been determined by~~
14 (A) *For occupied dwellings from which the taxpayer*
15 *derives rental income, a state or local government*
16 *regulatory agency to violate has determined that the*
17 *housing violates state law or local codes dealing with*
18 *health, safety, or building.*

19 (B) *For dwellings that are unoccupied or abandoned*
20 *for at least 90 days, a state or local government regulatory*
21 *agency has determined that the housing contains one or*
22 *more conditions that constitute a serious violation of state*
23 *law or local codes dealing with health, safety, or building,*
24 *and that constitute a threat to public health and safety.*

25 (2) Either of the following occur:
26 (A) After written notice of violation by the regulatory
27 agency, specifying the applicability of this section, the
28 housing has not been brought to a condition of
29 compliance within six months after the date of the notice



1 or the time prescribed in the notice, whichever period is
2 later.

3 (B) Good faith efforts for compliance have not been
4 commenced, as determined by the regulatory agency.

5 “Substandard housing” ~~shall also mean~~ *also means*
6 employee housing that has not, within 30 days of the date
7 of the written notice of violation or the date for
8 compliance prescribed in the written notice of violation,
9 been brought into compliance with the conditions stated
10 in the written notice of violation of the Employee
11 Housing Act (Part 1 (commencing with Section 17000) of
12 Division 13 of the Health and Safety Code) issued by the
13 enforcement agency that specifies the application of this
14 section. The regulatory agency may, for good cause
15 shown, extend the compliance date prescribed in a
16 violation notice.

17 (c) (1) When the period specified in *paragraph (2) of*
18 subdivision (b) has expired without compliance, the
19 regulatory agency shall mail to the taxpayer a notice of
20 noncompliance. The notice of noncompliance shall be in
21 a form and shall include information prescribed by the
22 Franchise Tax Board, shall be mailed by certified mail to
23 the taxpayer at the taxpayer’s last known address, and
24 shall advise the taxpayer—~~(A) of~~ *of (A)* an intent to notify
25 the Franchise Tax Board of the noncompliance within 10
26 days unless an appeal is filed, (B) where an appeal may
27 be filed, and (C) ~~of~~ a general description of the tax
28 consequences of the filing with the Franchise Tax Board.
29 Appeals shall be made to the same body and in the same
30 manner as appeals from other actions of the regulatory
31 agency. If no appeal is made within 10 days or *if* after
32 disposition of the appeal—~~if~~ the regulatory agency is
33 sustained, the regulatory agency shall notify, in writing,
34 the Franchise Tax Board of the noncompliance.

35 (2) The notice of noncompliance shall contain the
36 legal description or the lot and block numbers of the real
37 property, the assessor’s parcel number, and the name of
38 the owner of record as shown on the latest equalized
39 assessment roll. In addition, the regulatory agency shall,
40 at the same time as notification of the notice of



1 noncompliance is sent to the Franchise Tax Board, record
2 a copy of the notice of noncompliance in the office of the
3 recorder for the county in which the substandard housing
4 is located that includes a statement of tax consequences
5 that may be determined by the Franchise Tax Board.
6 However, the failure to record a notice with the county
7 recorder—~~shall~~ *does* not relieve the liability of any taxpayer
8 nor—~~shall~~ *does* it create any liability on the part of the
9 regulatory agency.

10 (3) The regulatory agency may charge the taxpayer a
11 fee in an amount not to exceed the regulatory agency's
12 costs incurred in recording any notice of noncompliance
13 or issuing any release of that notice. The notice of
14 compliance shall be recorded and shall serve to expunge
15 the notice of noncompliance. The notice of compliance
16 shall contain the same recording information required for
17 the notice of noncompliance. No deduction by the
18 taxpayer, or any other taxpayer who obtains title to the
19 property subsequent to the recordation of the notice of
20 noncompliance, shall be allowed for the items provided
21 in subdivision (a) from the date of the notice of
22 noncompliance until the date the regulatory agency
23 determines that the substandard housing has been
24 brought to a condition of compliance. The regulatory
25 agency shall mail to the Franchise Tax Board and the
26 taxpayer a notice of compliance, which notice shall be in
27 the form and include the information prescribed by the
28 Franchise Tax Board. In the event the period of
29 noncompliance does not cover an entire taxable year, the
30 deductions shall be denied at the rate of $\frac{1}{12}$ for each full
31 month during the period of noncompliance.

32 (4) If the property is owned by more than one owner
33 or if *the* recorded title is in the name of a fictitious owner,
34 the notice requirements provided in subdivision (b) and
35 this subdivision shall be satisfied for each owner if the
36 notices are mailed to one owner or to the fictitious name
37 owner at the address appearing on the latest available
38 property tax bill. However, notices made pursuant to this
39 subdivision—~~shall~~ *do* not relieve the regulatory agency
40 from furnishing taxpayer identification information



1 required to implement this section to the Franchise Tax
2 Board.

3 (d) For the purposes of this section, a notice of
4 noncompliance shall not be mailed by the regulatory
5 agency to the Franchise Tax Board if any of the following
6 occur:

7 (1) The housing was rendered substandard solely by
8 reason of earthquake, flood, or other natural disaster
9 except where the condition remains for more than three
10 years after the disaster.

11 (2) The owner of the substandard housing has secured
12 financing to bring the housing into compliance with those
13 laws or codes ~~which~~ *that* have been violated, causing the
14 housing to be classified as substandard, and has
15 commenced repairs or other work necessary to bring the
16 housing into compliance.

17 (3) The owner of substandard housing that is not
18 within the meaning of housing accommodation as
19 defined by subdivision (d) of Section 35805 of the Health
20 and Safety Code has done both of the following:

21 (A) Attempted to secure financing to bring the
22 housing into compliance with those laws or codes that
23 have been violated, causing the housing to be classified as
24 substandard.

25 (B) Been denied that financing solely because the
26 housing is located in a neighborhood or geographical area
27 in which financial institutions do not provide financing
28 for rehabilitation of any of that type of housing.

29 (e) This section does not apply to deductions from
30 income derived from property rendered substandard
31 solely by reason of a change in applicable state or local
32 housing standards unless the violations cause substantial
33 danger to the occupants of the property, as determined
34 by the regulatory agency which has served notice of
35 violation pursuant to subdivision (b).

36 (f) The owner of substandard housing found to be in
37 noncompliance shall, upon total or partial divestiture of
38 interest in the property, immediately notify the
39 regulatory agency of the name and address of the person
40 or persons to whom the property has been sold or



1 otherwise transferred and the date of the sale or
2 transference.

3 (g) By July 1 of each year, the regulatory agency shall
4 report to the appropriate legislative body of its
5 jurisdiction all of the following information, for the
6 preceding calendar year, regarding its activities to secure
7 code enforcement, which shall be public information:

8 (1) The number of written notices of violation issued
9 for substandard housing under subdivision (b).

10 (2) The number of violations complied with within the
11 period prescribed in subdivision (b).

12 (3) The number of notices of noncompliance issued
13 pursuant to subdivision (c).

14 (4) The number of appeals from those notices
15 pursuant to subdivision (c).

16 (5) The number of successful appeals by owners.

17 (6) The number of notices of noncompliance mailed to
18 the Franchise Tax Board pursuant to subdivision (c).

19 (7) The number of cases in which a notice of
20 noncompliance was not sent pursuant to subdivision (d).

21 (8) The number of extensions for compliance granted
22 pursuant to subdivision (b) and the mean average length
23 of the extensions.

24 (9) The mean average length of time from the
25 issuance of a notice of violation to the mailing of a notice
26 of noncompliance to the Franchise Tax Board where the
27 notice is actually sent to the Franchise Tax Board.

28 (10) The number of cases where compliance is
29 achieved after a notice of noncompliance has been
30 mailed to the Franchise Tax Board.

31 (11) The number of instances of disallowance of tax
32 deductions by the Franchise Tax Board resulting from
33 referrals made by the regulatory agency. This
34 information may be filed in a supplemental report in
35 succeeding years as it becomes available.

36 (h) The provisions of this section relating to
37 substandard housing consisting of abandoned or
38 unoccupied dwellings—~~shall~~ do not apply to any lender
39 engaging in a “federally related transaction,” as defined
40 in Section 11302 of the Business and Professions Code,



1 who acquires title through judicial or nonjudicial
2 foreclosure, or accepts a deed in lieu of foreclosure. The
3 exception provided in this subdivision covers only
4 substandard housing consisting of abandoned or
5 unoccupied dwellings involved in the federally related
6 transaction.

7 SEC. 2. Section 24436.5 of the Revenue and Taxation
8 Code is amended to read:

9 24436.5. (a) No deduction shall be allowed for
10 interest, depreciation, taxes, or amortization paid or
11 incurred in the income year under Section 24343, 24344,
12 24345, or 24349, with respect to substandard housing
13 located in this state, except as provided in subdivision (e).

14 (b) "Substandard housing" means occupied dwellings
15 from which the taxpayer derives rental income or
16 unoccupied or abandoned dwellings for which both of the
17 following apply:

18 (1) ~~The housing has been determined by~~

19 (A) *For occupied dwellings from which the taxpayer*
20 *derives rental income, a state or local government*
21 *regulatory agency—~~to violate~~ has determined that the*
22 *housing violates state law or local codes dealing with*
23 *health, safety, or building.*

24 (B) *For dwellings that are unoccupied or abandoned*
25 *for at least 90 days, a state or local government regulatory*
26 *agency has determined that the housing contains one or*
27 *more conditions that constitute a serious violation of state*
28 *law or local codes dealing with health, safety, or building,*
29 *and that constitute a threat to public health and safety.*

30 (2) Either of the following occur:

31 (A) After written notice of violation by the regulatory
32 agency, specifying the applicability of this section, the
33 housing has not been repaired or brought to a condition
34 of compliance within six months after the date of the
35 notice or the time prescribed in the notice, whichever
36 period is ~~longest~~ later.

37 (B) Good faith efforts for compliance have not been
38 commenced, as determined by the regulatory agency.

39 "Substandard housing" ~~shall also mean~~ *also means*
40 employee housing that has not, within 30 days of the date



1 of the written notice of violation or the date for
2 compliance prescribed in the written notice of violation,
3 been brought into compliance with the conditions stated
4 in the written notice of violation of the Employee
5 Housing Act (Part 1 (commencing with Section 17000) of
6 Division 13 of the Health and Safety Code) issued by the
7 enforcement agency that specifies the application of this
8 section. The regulatory agency may, for good cause
9 shown, extend the compliance date prescribed in a
10 violation notice.

11 (c) (1) When the period specified in *paragraph (2) of*
12 subdivision (b) has expired without compliance, the
13 government regulatory agency shall mail to the taxpayer
14 a notice of noncompliance. The notice of noncompliance
15 shall be in a form and shall include information
16 prescribed by the Franchise Tax Board, shall be mailed by
17 certified mail to the taxpayer at his or her last known
18 address, and shall advise the taxpayer ~~(A) of~~ *of (A)* an
19 intent to notify the Franchise Tax Board of the
20 noncompliance within 10 days unless an appeal is filed,
21 (B) where an appeal may be filed, and (C) a general
22 description of the tax consequences of that filing with the
23 Franchise Tax Board. Appeals shall be made to the same
24 body and in the same manner as appeals from other
25 actions of the regulatory agency. If no appeal is made
26 within 10 days or *if* after disposition of the appeal—~~if~~ the
27 regulatory agency is sustained, the regulatory agency
28 shall notify, in writing, the Franchise Tax Board of the
29 noncompliance.

30 (2) The notice of noncompliance shall contain the
31 legal description or the lot and block numbers of the real
32 property, the assessor's parcel number, and the name of
33 the owner of record as shown on the latest equalized
34 assessment roll. In addition, the regulatory agency shall,
35 at the same time as notification of the notice of
36 noncompliance is sent to the Franchise Tax Board, record
37 a copy of the notice of noncompliance in the office of the
38 recorder for the county in which the substandard housing
39 is located that includes a statement of tax consequences
40 that may be determined by the Franchise Tax Board.



1 However, the failure to record a notice with the county
2 recorder—~~shall~~ *does* not relieve the liability of any taxpayer
3 nor—~~shall~~ *does* it create any liability on the part of the
4 regulatory agency.

5 (3) The regulatory agency may charge the taxpayer a
6 fee in an amount not to exceed the regulatory agency's
7 costs incurred in recording any notice of noncompliance
8 or issuing any release of that notice. The notice of
9 compliance shall be recorded and shall serve to expunge
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12 the notice of noncompliance. No deduction by the
13 taxpayer, or any other taxpayer who obtains title to the
14 property subsequent to the recordation of the notice of
15 noncompliance, shall be allowed for the items provided
16 in subdivision (a) from the date of the notice of
17 noncompliance until the date the regulatory agency
18 determines that the substandard housing has been
19 brought to a condition of compliance. The regulatory
20 agency shall mail to the Franchise Tax Board and the
21 taxpayer a notice of compliance, which notice shall be in
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25 deductions shall be denied at the rate of $\frac{1}{12}$ for each full
26 month during the period of noncompliance.

27 (4) If the property is owned by more than one owner
28 or the recorded title is in the name of a fictitious owner,
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30 this subdivision shall be satisfied for each owner if the
31 notices are mailed to one owner or to the fictitious name
32 owner at the address appearing on the latest available
33 property tax bill. However, notices made pursuant to this
34 subdivision shall not relieve the regulatory agency from
35 furnishing taxpayer identification information required
36 to implement this section to the Franchise Tax Board.

37 (d) For the purposes of this section, a notice of
38 noncompliance shall not be mailed by the regulatory
39 agency to the Franchise Tax Board if any of the following
40 occur:

1 (1) The housing was rendered substandard solely by
2 reason of earthquake, flood or other natural disaster
3 except where the condition remains for more than three
4 years after the disaster.

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6 financing to bring the housing into compliance with those
7 laws or codes—~~which~~ *that* have been violated, causing the
8 housing to be classified as substandard, and has
9 commenced repairs or other work necessary to bring the
10 housing into compliance.

11 (3) The owner of substandard housing that is not
12 within the meaning of housing accommodation, as
13 defined in subdivision (d) of Section 35805 of the Health
14 and Safety Code, has done both of the following:

15 (A) Attempted to secure financing to bring the
16 housing into compliance with those laws or codes that
17 have been violated, causing the housing to be classified as
18 substandard.

19 (B) Been denied that financing solely because the
20 housing is located in a neighborhood or geographical area
21 in which financial institutions do not provide financing
22 for rehabilitation of any of that type of housing.

23 (e) The provisions of this section do not apply to
24 deductions from income derived from property rendered
25 substandard solely by reason of a change in applicable
26 state or local housing standards unless those violations
27 cause substantial danger to the occupants of the property,
28 as determined by the regulatory agency which has served
29 notice of violation pursuant to subdivision (b).

30 (f) The owner of substandard housing found to be in
31 noncompliance shall, upon total or partial divestiture of
32 interest in the property, immediately notify the
33 regulatory agency of the name and address of the person
34 or persons to whom the property has been sold or
35 otherwise transferred and the date of the sale or
36 transference.

37 (g) By July 1 of each year, the regulatory agency shall
38 report to the appropriate legislative body of its
39 jurisdiction all of the following information, for the



1 preceding calendar year, regarding its activities to secure
2 code enforcement, which shall be public information:

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15 noncompliance was not sent pursuant to the provisions of
16 subdivision (d).

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19 of the extensions.

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28 deductions by the Franchise Tax Board resulting from
29 referrals made by the regulatory agency. This
30 information may be filed in a supplemental report in
31 succeeding years as it becomes available.

32 (h) The provisions of this section relating to
33 substandard housing consisting of abandoned or
34 unoccupied dwellings—~~shall~~ do not apply to any lender
35 engaging in a “federally related transaction,” as defined
36 in Section 11302 of the Business and Professions Code,
37 who acquires title through judicial or nonjudicial
38 foreclosure, or accepts a deed in lieu of foreclosure. The
39 exception provided in this subdivision covers only
40 substandard housing consisting of abandoned or



1 unoccupied dwellings involved in the federally related
2 transaction.

3 SEC. 3. This act provides for a tax levy within the
4 meaning of Article IV of the Constitution and shall go into
5 immediate effect.

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7 **CORRECTIONS**

8 **Text — Page 3.**

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