

AMENDED IN SENATE APRIL 22, 1998

AMENDED IN SENATE APRIL 13, 1998

SENATE BILL

No. 1997

Introduced by Senator Johnson
(Coauthor: Senator Kopp)

February 20, 1998

An act to amend Section 110 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1997, as amended, Johnson. Property taxation: purchase price.

Existing property tax law establishes a rebuttable presumption that the "full cash value" or "fair market value" of real property is the purchase price of that property, and defines the term "purchase price" for purposes of this presumption.

~~This bill would specify that the "purchase price" of real property does not include any lien imposed by a public entity, including, but not limited to, any lien imposed pursuant to an improvement bond~~ *additionally establish a rebuttable presumption, that may be overcome by a preponderance of the evidence, as provided, that the value of improvements financed by the proceeds of an assessment resulting in a lien imposed on the property by a public entity is reflected in the total consideration, as provided, involved in the transaction.* This bill would also make technical, nonsubstantive changes.

This bill would take effect immediately as a tax levy.

Vote: majority. 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 110 of the Revenue and Taxation
2 Code is amended to read:
3 110. (a) Except as is otherwise provided in Section
4 110.1, “full cash value” or “fair market value” means the
5 amount of cash or its equivalent that property would
6 bring if exposed for sale in the open market under
7 conditions in which neither buyer nor seller could take
8 advantage of the exigencies of the other, and both the
9 buyer and the seller have knowledge of all of the uses and
10 purposes to which the property is adapted and for which
11 it is capable of being used, and of the enforceable
12 restrictions upon those uses and purposes.
13 (b) For purposes of determining the “full cash value”
14 or “fair market value” of real property, other than
15 possessory interests, being appraised upon a purchase,
16 “full cash value” or “fair market value” is the purchase
17 price paid in the transaction unless it is established by a
18 preponderance of the evidence that the real property
19 would not have transferred for that purchase price in an
20 open market transaction. The purchase price shall,
21 however, be rebuttably presumed to be the “full cash
22 value” or “fair market value” if the terms of the
23 transaction were negotiated at arms length between a
24 knowledgeable transferor and transferee neither of
25 which could take advantage of the exigencies of the other.
26 “Purchase price,” as used in this section, means the total
27 consideration provided by the purchaser or on the
28 purchaser’s behalf, valued in money, whether paid in
29 money or otherwise, ~~but does not include the amount of~~
30 ~~any lien imposed by a public entity, including, but not~~
31 ~~limited to, a lien imposed pursuant to an improvement~~
32 ~~bond otherwise. There shall be a rebuttable presumption~~
33 ~~that the value of improvements financed by the proceeds~~
34 ~~of an assessment resulting in a lien imposed on the~~
35 ~~property by a public entity is reflected in the total~~



1 *consideration, exclusive of that lien amount, involved in*
2 *the transaction. This presumption may be overcome if*
3 *the assessor establishes by a preponderance of the*
4 *evidence that all or a portion of the value of those*
5 *improvements is not reflected in the purchase price. If a*
6 *single transaction results in a change in ownership of*
7 *more than one parcel of real property, the purchase price*
8 *shall be allocated among those parcels and other assets, if*
9 *any, transferred based on the relative fair market value*
10 *of each.*

11 (c) For real property, other than possessory interests,
12 the change of ownership statement required pursuant to
13 Section 480, 480.1, or 480.2, or the preliminary change of
14 ownership statement required pursuant to Section 480.4,
15 shall give any information as the board shall prescribe
16 relative to whether the terms of the transaction were
17 negotiated at “arms length.” In the event that the
18 transaction includes property other than real property,
19 the change in ownership statement shall give information
20 as the board shall prescribe disclosing the portion of the
21 purchase price that is allocable to all elements of the
22 transaction. If the taxpayer fails to provide the prescribed
23 information, the rebuttable presumption provided by
24 subdivision (b) shall not apply.

25 (d) Except as provided in subdivision (e), for purposes
26 of determining the “full cash value” or “fair market
27 value” of any taxable property, all of the following shall
28 apply:

29 (1) The value of intangible assets and rights relating to
30 the going concern value of a business using taxable
31 property shall not enhance or be reflected in the value of
32 the taxable property.

33 (2) If the principle of unit valuation is used to value
34 properties that are operated as a unit and the unit
35 includes intangible assets and rights, then the fair market
36 value of the taxable property contained within the unit
37 shall be determined by removing from the value of the
38 unit the fair market value of the intangible assets and
39 rights contained within the unit.



1 (3) The exclusive nature of a concession, franchise, or
2 similar agreement, whether de jure or de facto, is an
3 intangible asset that shall not enhance the value of taxable
4 property, including real property.

5 (e) Taxable property may be assessed and valued by
6 assuming the presence of intangible assets or rights
7 necessary to put the taxable property to beneficial or
8 productive use.

9 (f) For purposes of determining the “full cash value”
10 or “fair market value” of real property, intangible
11 attributes of real property shall be reflected in the value
12 of the real property. These intangible attributes of real
13 property include zoning, location, and other ~~such~~
14 attributes that relate directly to the real property
15 involved.

16 SEC. 2. This act provides for a tax levy within the
17 meaning of Article IV of the Constitution and shall go into
18 immediate effect.

