AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 2362

Introduced by Assembly Members Skinner and Blakeslee

February 19, 2010

An act to amend Section 70 of the Revenue and Taxation Code, relating to taxation *to take effect immediately, tax levy*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2362, as amended, Skinner. ~~Taxation: property tax: soft-story construction.~~ *Property tax: new construction exclusion: soft-story construction.*

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change of ownership has occurred.

The California Constitution authorizes the Legislature to exclude from classification as "newly constructed" the construction or installation in existing buildings of certain seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies.

This bill would, for a specified period, exclude from the classification "newly constructed" the portion of reconstruction or improvement to a soft-story residential building, as defined.

By changing the manner in which local assessors assess property for property taxation purposes, this bill would impose a state-mandated local program.

(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

~~(3) Existing law provides that the Legislature reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.~~

~~This bill would provide that, notwithstanding that provision, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.~~

(4) This bill would provide that certain provisions become inoperative if Senate Constitutional Amendment 4 of the 2008–09 Regular Session is approved by the voters at the June 8, 2010, statewide general election.

(5) This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 70 of the Revenue and Taxation Code is amended to read:

70. (a) "Newly constructed" and "new construction" means:

(1) Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and

(2) Any alteration of land or of any improvement (including fixtures) since the last lien date that constitutes a major rehabilitation thereof or that converts the property to a different use.

(b) Any rehabilitation, renovation, or modernization that converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of that improvement or fixture.

(c) Notwithstanding the provisions of subdivisions (a) and (b), where real property has been damaged or destroyed by misfortune or calamity, "newly constructed" and "new construction" do not mean any timely reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, that is not substantially equivalent to the damaged or destroyed property, shall be deemed to be new construction and only that portion that exceeds substantially equivalent reconstruction shall have a new base year value determined pursuant to Section 110.1.

(d) (1) Notwithstanding the provisions of subdivisions (a) and (b), where a structure must be improved to comply with local ordinances on seismic safety, "newly constructed" and "new construction" do not mean the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with the local ordinance. This exclusion shall remain in effect during the first 15 years following that reconstruction or improvement (unless the property is purchased or changes ownership during that period, in which case the provisions of Chapter 2 (commencing with Section 60) of this division shall apply).

(2) In the sixteenth year following the reconstruction or improvement referred to in paragraph (1), the assessor shall place on the roll the current full cash value of the portion of reconstruction or improvement to the structure that was excluded pursuant to this subdivision.

(3) The governing body that enacted the local ordinance shall issue a certificate of compliance upon the request of the owner who, pursuant to a notice or permit issued by the governing body that specified that the reconstruction or improvement is necessary to comply with a seismic safety ordinance, so reconstructs or

improves his or her structure in accordance with the ordinance. The certificate of compliance shall be filed by the property owner with the county assessor not later than six months after the completion of the project. The failure to file a certificate of completion within the prescribed filing period shall be deemed a waiver of the exclusion for that year.

(e) (1) Notwithstanding the provisions of subdivisions (a) and (b), where a tank must be improved, upgraded, or replaced to comply with federal, state, and local regulations on underground storage tanks, "newly constructed" and "new construction" do not mean the improvement, upgrade, or replacement of a tank to meet compliance standards, and the improvement, upgrade, or replacement shall be considered to have been performed for the purpose of normal maintenance and repair.

(2) Notwithstanding the provisions of subdivisions (a) and (b), where a structure, or any portion thereof, was reconstructed, as a consequence of completing work on an underground storage tank to comply with federal, state, and local regulations on these tanks, timely reconstruction of the structure shall be considered to have been performed for the purpose of normal maintenance and repair where the structure, or portion thereof, after reconstruction is substantially equivalent to the prior structure in size, utility, and function.

(f) (1) Notwithstanding the provisions of subdivisions (a) and ~~(b), where a structure is improved pursuant to Section 50560 of the Health and Safety Code, "newly constructed" and "new~~ *(b), "newly constructed" and "new* construction" do not include the portion of reconstruction or improvement to a soft-story building. This exclusion shall remain in effect during the first 10 years following the reconstruction or improvement, unless the property is purchased or changes ownership during that period, in which case the provisions of Chapter 2 (commencing with Section 60) shall apply.

(2) In the 11th year following the reconstruction or improvement referred to in paragraph (1), the assessor shall place on the roll the current full cash value of the portion of reconstruction or improvement to the structure that was excluded pursuant to this subdivision.

(3) For purposes of this section, "soft-story building" means a wood frame, multiunit residential building constructed before

January 1, 1978, where the ground floor portion of the structure contains parking or other similar open floor space that causes soft, weak, or open-front wall lines.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 4. The provisions of Section ~~3~~ *1* of this act shall become inoperative if Senate Constitutional Amendment 4 of the 2008–09 Regular Session is approved by the voters at the June 8, 2010, statewide general election.

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

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