

ASSEMBLY BILL

No. 2735

Introduced by Assembly Member De Leon

February 19, 2010

An act to add and repeal Section 62.3 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2735, as introduced, De Leon. Property taxation: change in ownership: exclusion.

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 in ownership has occurred. Existing property tax law specifies those circumstances in which the transfer of ownership interests results in a change in ownership of the real property, and provides that certain transfers do not result in a change of ownership.

This bill would provide that a transfer of a cotenancy interest, as defined, in real property from one cotenant to the other that takes effect upon the death of the transferor cotenant and before January 1, 2021, does not constitute a change of ownership, as provided. This bill would require the transferor cotenant to sign an affidavit, as specified, under penalty of perjury. The bill would repeal these provisions on January 1, 2021.

By requiring the transferor cotenant to sign an affidavit under penalty of perjury, this bill would expand the scope of the existing crime of perjury, and thereby 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.

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.

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:

- 1 SECTION 1. Section 62.3 is added to the Revenue and Taxation
- 2 Code, to read:
- 3 62.3. (a) Notwithstanding any other provision in this chapter,
- 4 a change in ownership shall not include a transfer of a cotenancy
- 5 interest in real property from one cotenant to the other that takes
- 6 effect upon the death of the transferor cotenant if all of the
- 7 following conditions apply:
- 8 (1) The transfer is solely by and between either of the following:
- 9 (A) Two joint tenants who together own 100 percent of the real
- 10 property in joint tenancy.
- 11 (B) Two individuals who together own 100 percent of the real
- 12 property as tenants in common.
- 13 (2) As a result of the death of the transferor cotenant, the
- 14 deceased cotenant's tenancy in common or joint tenancy interest
- 15 in the real property is transferred to the surviving cotenant, which
- 16 results in the surviving cotenant holding a 100-percent ownership
- 17 interest in the real property immediately after the transfer, thereby
- 18 terminating the cotenancy.
- 19 (3) For the one-year period immediately preceding the transfer,
- 20 the real property was coowned by the transferor and the transferee,

1 and both cotenants have been the owners of record of that real
2 property.

3 (4) The real property constituted the principal residence of both
4 cotenants immediately preceding the transferor cotenant's death.

5 (5) The transferor and the transferee continuously resided at
6 that residence for the one-year period immediately preceding the
7 transfer.

8 (6) The transferee has signed, under penalty of perjury, an
9 affidavit affirming that he or she continuously resided with the
10 transferor at the residence for the one-year period immediately
11 preceding the transfer.

12 (b) A transfer of cotenancy interest in real property from one
13 cotenant to the other shall take effect upon the death of the
14 transferor cotenant under any of the following circumstances:

15 (1) Pursuant to the transferor cotenant's will or trust, upon the
16 death of the transferor cotenant.

17 (2) Through intestate succession from the transferor cotenant.

18 (3) By operation of law, upon the death of the transferor
19 cotenant.

20 (c) The exclusion provided by this section shall not apply to
21 any transfer of real property interests for which a separate exclusion
22 in this chapter applies.

23 (d) For purposes of this section, both of the following apply:

24 (1) "Cotenancy interest" means an interest in real property held
25 only as tenants in common or joint tenants.

26 (2) "Principal residence" means a dwelling eligible for either
27 the homeowners' exemption or the disabled veterans' exemption.

28 (e) This section shall only apply to transfers that occur on or
29 after January 1, 2011, and before January 1, 2021.

30 (f) This section shall remain in effect only until January 1, 2021,
31 and as of that date is repealed.

32 SEC. 2. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within
39 the meaning of Section 6 of Article XIII B of the California
40 Constitution.

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

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