

Assembly Bill No. 902

CHAPTER 208

An act to amend Sections 3704.7, 4112, 4672.2, and 4672.3 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 1, 2011. Filed with
Secretary of State September 1, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 902, Alejo. Taxation: property tax delinquency and sales.

Under existing property tax law, unpaid property taxes are declared delinquent and subject to penalties and costs, and, if the taxes remain unpaid, the property is declared tax-defaulted and subject to sale if not redeemed by the owner within a certain amount of time.

Existing law requires a tax collector, in the case of the proposed tax sale of property that is the primary residence of the last known assessee, to make a reasonable effort to contact the owner-occupant of the property to be sold, as specified, and requires that the costs incurred by the tax collector in attempting to make contact, not to exceed \$100, be added to the required amount for redemption of the property.

This bill would remove the \$100 limitation described above, and would instead require the actual and reasonable costs incurred by the tax collector in attempting to make contact to be established by the board of supervisors, as specified.

Existing law requires the tax collector, when tax-defaulted property subject to a recorded notice is redeemed, to collect certain fees including, among others, a fee of \$35 to reimburse the county for its costs of obtaining the names and last known mailing addresses of, and for mailing specified notices to, parties of interest, in addition to the amount required to redeem the tax-defaulted property. Existing law authorizes the tax collector, if the tax-defaulted property is redeemed prior to the proposed sale, but after the county has incurred costs to publish the notice of intended sale in a newspaper, as provided, to collect a fee to reimburse the tax collector for those costs.

This bill would remove the \$35 limitation described above, and would instead require the tax collector to collect a fee to reimburse the county for its actual and reasonable costs incurred in obtaining the information of, and for mailing the notices to, parties of interest. This bill would also authorize the tax collector to collect a fee to reimburse the tax collector for the costs of publishing a notice of agreement in a newspaper, as provided, under the circumstances described above. This bill would require the amount of any fee collected by the tax collector when tax-defaulted property subject to a

recorded notice is redeemed to be established by the board of supervisors of a county, as provided.

Existing law requires the price at which certain tax-defaulted property may be offered for sale to be the total amount necessary to redeem the property, plus costs, and prescribes the manner of distribution of proceeds from the sale of tax-defaulted property, including, among others, a distribution to the county general fund, not to exceed \$35, to reimburse the county for the cost of giving of a specified notice, and a distribution to the tax collector, not to exceed \$100, to reimburse the county for the costs of a personal contact, as specified.

The bill would remove the \$35 limitation described above, and would instead require any fee collected to reimburse the county for its actual and reasonable costs incurred in giving notice to be distributed to the county general fund. This bill would also remove the \$100 limitation described above, and would instead require a distribution to the tax collector equal to the total amount of the actual and reasonable costs incurred by the tax collector in conducting the personal contact.

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

SECTION 1. Section 3704.7 of the Revenue and Taxation Code is amended to read:

3704.7. (a) In the case of a property that is the primary residence of the last known assessee, as indicated by either a valid homeowner's exemption on file with the county assessor in the name of the last known assessee, or the fact that the mailing address for the last tax bill is the same address as the property, the tax collector or his or her agent shall, in addition to any other notice required by this chapter, make a reasonable effort to contact in person, not more than 120 days or less than 10 days prior to the date of the sale, the owner-occupant of that property. In the course of the personal contact, the tax collector, or his or her agent, shall inform the owner-occupant of the following:

(1) That the property, if not redeemed, shall be offered for sale at a public auction.

(2) His or her redemption rights pursuant to Part 7 (commencing with Section 4101).

(b) If the personal contact described in subdivision (a) is not made after reasonable efforts, the tax collector or his or her agent shall attempt to serve written notice, no less than five days prior to the date of the sale, with respect to the fact of the sale and the requirement that the tax collector be contacted immediately with respect to redemption of the property.

(c) The amount of the actual and reasonable costs incurred by the tax collector, or his or her agent, or both, in complying with the requirements of subdivisions (a) and (b), as established pursuant to the requirements of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of

Title 5 of the Government Code, shall be added to the required amount for redemption of the property.

(d) No transfer of title shall be invalidated by reason of failure to comply with the requirements of this section.

SEC. 2. Section 4112 of the Revenue and Taxation Code is amended to read:

4112. (a) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the tax collector shall collect all of the following, in addition to the amount required to redeem:

(1) A fee to reimburse the county for its actual and reasonable costs incurred in obtaining the names and last known mailing addresses of, and for mailing notices required by Sections 3701 and 3799 to, parties of interest as defined by Section 4675, which shall be distributed to the county general fund.

(2) A fee in the amount required by Section 27361.3 of the Government Code that shall be distributed to the county recorder for the cost of recordation of a rescission of the notice, as required by subdivision (c).

(3) A fee of one hundred fifty dollars (\$150) if redemption is within 90 days of the proposed date for the tax sale of the redeemed property. In the case of unsold tax-defaulted properties remaining on the abstract after the tax sale, the fee shall become a part of the redemption amount and collectible whenever the property is redeemed. The fee shall be distributed to the county general fund to reimburse the county for costs incurred by the county in preparing to conduct that sale.

(4) The amount described in subdivision (c) of Section 3704.7 to reimburse the county for the cost of a personal contact required by that section.

(b) Notwithstanding subdivision (a), if the tax-defaulted property is redeemed prior to the proposed sale, but after the county has incurred notice or publication costs pursuant to Section 3702 or 3798 in connection with a notice of intended sale, a fee in an amount reasonably necessary to reimburse the tax collector for those costs may be collected.

(c) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the notice becomes null and void and the tax collector shall execute and record with the county recorder a rescission of the notice in the form prescribed by the Controller. The rescission shall be acknowledged by the county clerk, without charge.

(d) The amount of any fee imposed under paragraph (1) of subdivision (a) or subdivision (b) shall be established by the board of supervisors of the county and shall be subject to the requirements of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 3. Section 4672.2 of the Revenue and Taxation Code is amended to read:

4672.2. There shall be distributed to the county general fund any fee collected to reimburse the county for its actual and reasonable costs incurred in giving notice pursuant to Sections 3701 and 3799 for all or any portion

of each separately valued parcel of real property subject to a power of sale pursuant to Section 3691 and sold to private parties or to taxing agencies. The notice fee for property sold shall be paid from the total amount to be distributed after satisfaction of the amounts specified in Sections 4672 and 4672.1. If the amount is insufficient, the notice fee shall be reduced accordingly.

SEC. 4. Section 4672.3 of the Revenue and Taxation Code is amended to read:

4672.3. (a) To reimburse the county for the costs of a personal contact, there shall be distributed to the tax collector a sum equal to the total amount of the actual and reasonable costs incurred by the tax collector in conducting the personal contact pursuant to Section 3704.7, for all or any portion of each separately valued parcel of real property subject to a power of sale and sold to private parties or a taxing agency.

(b) The amount of the costs shall be paid from the total amount to be distributed from the sold property, after satisfaction of the amount specified in Section 4672. If, after satisfaction of the amount specified in Section 4672, there is insufficient funds to pay the costs specified in subdivision (a), the costs shall be reduced accordingly.