

ASSEMBLY BILL

No. 2069

Introduced by Assembly Member Solorio

February 23, 2012

An act to amend Sections 5473.8, 5473.11, and 5474.6 of the Health and Safety Code, and to amend Section 37212 of the Water Code, relating to property-related service charges.

LEGISLATIVE COUNSEL'S DIGEST

AB 2069, as introduced, Solorio. Sanitation, sewerage, and water charges: collection.

Existing law authorizes various local public entities to prescribe fees or other charges for services and facilities furnished by them in connection with their water, sanitation, storm drainage, or sewerage system, as well as for the privilege of connecting to these sanitation or sewerage facilities. These charges, under specified circumstances, may be collected on the tax roll in the same manner as property taxes and the amount of the charges constitutes a lien against the lot or parcel against which the charge has been imposed, unless the real property has been transferred or conveyed to a bona fide purchaser for value, or a lien of a bona fide encumbrancer for value has been created and attached prior to the date upon which the first installment of the property taxes would become delinquent.

This bill would instead require the transfer, conveyance, or attachment to occur during the year preceding the date on which the first installment of property taxes that evidence the charges appears on the tax roll, in order to preclude the local public entity's lien from attaching to the real property of the bona fide purchaser or encumbrancer for value.

Existing law requires the charges for the above described services and facilities to remain delinquent for 60 days and the imposing entity to provide the assessee with notice of the delinquency, in order for the charges to constitute a lien against the lot or parcel of land for which the service was provided.

This bill would delete the 60 day delinquency and notice requirements and, instead, authorize the amount of unpaid charges to be secured at any time by filing a specified certificate in the office of the county recorder. This bill would provide that the amount required to be paid, with interest and a penalty, constitutes a lien on all real property owned by the person or afterwards acquired by him or her before the lien expires.

Existing law provides procedures for the collection of unpaid charges by a water district for water or other services. These unpaid charges become a lien on the parcel of land upon which the water and other services were used, unless the real property has been transferred or conveyed to a bona fide purchaser for value, or a lien of a bona fide encumbrancer for value has been created and attached prior to the date of which the first installment of taxes would become delinquent.

This bill would require the transfer, conveyance, or attachment to occur during the year preceding the date on which the first installment of real property taxes that evidence the charges appears on the tax roll, in order for the water district’s lien to not attach to the real property of the bona fide purchaser or encumbrancer for value.

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

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

1 SECTION 1. Section 5473.8 of the Health and Safety Code is
2 amended to read:
3 5473.8. All laws applicable to the levy, collection and
4 enforcement of general taxes of the entity, including, but not
5 limited to, those pertaining to the matters of delinquency,
6 correction, cancellation, refund and redemption, are applicable to
7 ~~such~~ the charges *authorized pursuant to this article*, except that if
8 any real property to which ~~such~~ these charges relate has been
9 transferred or conveyed to a bona fide purchaser for value, or if a
10 lien of a bona fide encumbrancer for value has been created and
11 attaches thereon, *during the year* prior to the date on which the

1 first installment of ~~such the~~ *general taxes would become delinquent*
 2 *that include the charges that appear on the assessment roll*, then
 3 the lien which would otherwise be imposed by Section 5473.5
 4 shall not attach to ~~such the~~ real property and the charges relating
 5 to ~~such this~~ property shall be transferred to the unsecured roll of
 6 collection.

7 SEC. 2. Section 5473.11 of the Health and Safety Code is
 8 amended to read:

9 5473.11. (a) An entity shall notify the assessee shown on the
 10 latest equalized assessment roll whenever delinquent and unpaid
 11 charges for services which would become a lien on the property
 12 pursuant to subdivision (b) remain delinquent and unpaid for 60
 13 days.

14 ~~(b) Notwithstanding any other provision of this article, charges~~
 15 ~~for services and facilities furnished by the entity shall constitute~~
 16 ~~a lien against the lot or parcel of land for which the service was~~
 17 ~~provided if the charges remain delinquent for a period of 60 days,~~
 18 ~~and the entity has notified the assessee of the property shown on~~
 19 ~~the latest equalized assessment roll of the delinquent charges~~
 20 ~~pursuant to subdivision (a) and the lien provided by this section.~~

21 ~~(c) The lien provided herein shall have no force or effect until~~
 22 ~~a certificate specifying the amount of the unpaid charges is~~
 23 ~~recorded with the county recorder and when so recorded shall have~~
 24 ~~the force, effect and priority of a judgment lien and continue for~~
 25 ~~three years from the time of recording unless sooner released or~~
 26 ~~otherwise discharged.~~

27 *(b) The amount of the unpaid charges may, in the discretion of*
 28 *the district, be secured at any time by filing for record in the office*
 29 *of the county recorder of any county, a certificate specifying the*
 30 *amount of the unpaid charges and the name and address of the*
 31 *person liable therefore. From the time of recordation of the*
 32 *certificate, the amount required to be paid together with interest*
 33 *and a penalty constitutes a lien upon all real property in the county*
 34 *owned by the person or afterwards, and before the lien expires,*
 35 *acquired by him or her. The lien shall have the force, priority, and*
 36 *effect of a judgment lien and shall continue for 10 years from the*
 37 *date of the filing of the certificate unless sooner released or*
 38 *otherwise discharged. The lien may, within 10 years from the filing*
 39 *of the certificate or within 10 years from the date of the last*
 40 *extension of the lien in the manner herein provided, be extended*

1 *by filing for record a new certificate in the office of the county*
 2 *recorder of any county and from the time of this filing the lien shall*
 3 *be extended to the real property in this county for 10 years unless*
 4 *sooner released or otherwise discharged.*

5 SEC. 3. Section 5474.6 of the Health and Safety Code is
 6 amended to read:

7 5474.6. (a) The tax collector shall include the amounts of the
 8 installments of fees or charges and the interest on bills for taxes
 9 levied against the respective lots and parcels of land. Thereafter,
 10 all laws applicable to the levy, collection and enforcement of taxes
 11 of the entity, including penalties and interest thereon and
 12 cancellation or refund thereof, shall be applicable to ~~such~~ *those*
 13 installments of fees or charges and interest, except that if, *during*
 14 *the year preceding the date on which the first installment of real*
 15 *property taxes which evidence the fees or charges appears on the*
 16 *roll*, any real property to which ~~such~~ *the* fees or charges relate has
 17 been transferred or conveyed to a bona fide purchaser for value,
 18 or if a lien of a bona fide encumbrancer for value has been created
 19 and attaches thereon, prior to the date on which the first installment
 20 of ~~such~~ *those* taxes would become delinquent, then the lien which
 21 would otherwise be imposed by Section 5474.5 shall not attach to
 22 such real property and the fees or charges and interest shall be
 23 transferred to the unsecured roll for collection.

24 (b) *The amount of the unpaid installments of fees or charges*
 25 *and interest may, in the discretion of the entity, be secured at any*
 26 *time by filing for record in the office of the county recorder of any*
 27 *county, a certificate specifying the amount of the fees or charges*
 28 *and interest and the name and address of the person liable*
 29 *therefore. From the time of recordation of the certificate, the*
 30 *amount required to be paid together with interest and penalty*
 31 *constitutes a lien upon all real property in the county owned by*
 32 *the person or afterwards, and before the lien expires, acquired by*
 33 *him or her. The lien has the force, priority, and effect of a judgment*
 34 *lien and shall continue for 10 years from the date of the filing of*
 35 *the certificate unless sooner released or otherwise discharged.*
 36 *The lien may, within 10 years from the filing of the certificate or*
 37 *within 10 years from the date of the last extension of the lien in*
 38 *the manner herein provided, be extended by filing for record a*
 39 *new certificate in the office of the county recorder of any county*
 40 *and from the time of this filing the lien shall be extended to the*

1 *real property in this county for 10 years unless sooner released*
2 *or otherwise discharged.*

3 SEC. 4. Section 37212 of the Water Code is amended to read:
4 37212. In case any charges for water or other services, or either,
5 remain unpaid:

6 (a) If unpaid for 60 days or more on July 1st, the district board
7 may, by resolution, order the secretary to do each of the following:

8 (1) Prepare a list of the parcels of land upon which water and
9 other services, or either, requested in writing by the owner of the
10 property, was used, and for which the charges remain unpaid.

11 (2) Certify that ~~such~~ *the* list is true and correct.

12 (3) Submit ~~such~~ *the* list of unpaid charges and parcels to the
13 county auditor no later than five days after the estimate of the
14 district board was furnished pursuant to Section 37206.

15 Upon receipt by the county auditor of ~~such~~ *the* list and a certified
16 copy of ~~such~~ *the* resolution, the amount of the unpaid charges
17 attributed to each parcel mentioned in ~~such~~ *the* list shall constitute
18 a special assessment against ~~such~~ *the* parcel, and shall be a lien on
19 that property for ~~such~~ *that* amount. ~~Such~~ *The* lien attaches upon
20 recordation in the office of the county recorder of the county in
21 which the property is situated of a certified copy of ~~such~~ *the*
22 resolution of the district board accompanied by a certified copy
23 of ~~such~~ *the* list specifically describing the real property by a legal
24 description or reference to an assessor's parcel number and
25 specifying the amount applicable to each parcel. The assessment
26 shall be collected at the same time and in the same manner as
27 ordinary municipal ad valorem taxes are collected, and shall be
28 subject to the same penalties, and the same procedure and sale in
29 case of delinquency as provided for ~~such~~ *the* taxes. All laws
30 applicable to the levy, collection and enforcement of municipal
31 ad valorem taxes shall be applicable to ~~such~~ *the* assessment, except
32 that if, *during the year preceding the date on which the first*
33 *installment of real property taxes which evidence the charges*
34 *appears on the roll*, any real property to which ~~such~~ *the* lien would
35 attach has been transferred or conveyed to a bona fide purchaser
36 for value, or if a lien of a bona fide encumbrancer for value has
37 been created and attached thereon, prior to the date on which the
38 first installment of ~~such~~ *the* taxes would become delinquent, then
39 the lien which would otherwise be imposed by this section shall
40 not attach to such real property and the delinquent and unpaid

1 charges, as certified, relating to ~~such~~ *the* property shall be
2 transferred to the unsecured roll for collection.

3 The county shall deduct from the charges collected an amount
4 sufficient to compensate the county for costs incurred in collecting
5 ~~such~~ *the* delinquent and unpaid charges. The amount of ~~such~~ *this*
6 compensation shall be fixed by agreement between the board of
7 supervisors and the district’s board of directors.

8 (b) The amount of the unpaid charges may, in the discretion of
9 the district, be secured at any time by filing for record in the office
10 of the county recorder of any county, a certificate specifying the
11 amount of ~~such~~ *the* charges and the name and address of the person
12 liable therefor.

13 From the time of recordation of the certificate, the amount
14 required to be paid together with interest and penalty constitutes
15 a lien upon all real property in the county owned by the person or
16 afterwards, and before the lien expires, acquired by him *or her*.
17 The lien has the force, priority, and effect of a judgment lien and
18 shall continue for 10 years from the date of the filing of the
19 certificate unless sooner released or otherwise discharged. The
20 lien may, within 10 years from the filing of the certificate or within
21 10 years from the date of the last extension of the lien in the manner
22 herein provided, be extended by filing for record a new certificate
23 in the office of the county recorder of any county and from the
24 time of ~~such~~ *the* filing the lien shall be extended to the real property
25 in ~~such~~ *this* county for 10 years unless sooner released or otherwise
26 discharged.