

AMENDED IN ASSEMBLY MARCH 22, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2226

Introduced by Assembly Member Hueso

February 24, 2012

An act to add Sections 11440.70 and 50035 to the Government Code, relating to government proceedings.

LEGISLATIVE COUNSEL’S DIGEST

AB 2226, as amended, Hueso. Agency proceedings: evidence: presumption.

The Administrative Procedure Act governs the conduct of formal and informal proceedings before state agencies, as defined. Existing law specifies that in proceedings and hearings before a court, a presumption exists that the owner of the legal title to property is presumed to be the owner of the full beneficial title.

This bill would require a state agency, as defined, and a city, county, or city and county to apply that presumption in proceedings before that state agency, city, county, or city and county.

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. (a) California’s real estate economy is an
- 2 essential part of the state’s economy.
- 3 (b) Stable and predictable title is an essential element of a
- 4 functioning real estate economy.

1 (c) The presumption of ownership of property specified in
2 Section 662 of the Evidence Code is intended to provide certainty
3 of title by creating a presumption that the owner of property is the
4 owner of the full beneficial title, which may be rebutted only by
5 clear and convincing evidence.

6 (d) The need to provide for certainty of title extends not only
7 to court proceedings, but also to proceedings before state and local
8 agencies.

9 (e) The purposes of this act is to ensure that state and local
10 agencies apply Section 662 of the Evidence Code to proceedings
11 before those agencies.

12 SEC. 2. Section 11440.70 is added to the Government Code,
13 to read:

14 11440.70. In any ~~proceedings~~ *proceeding before an agency*
15 *pursuant to this chapter or, Chapter 5 (commencing with Section*
16 *11500), or any other statute or regulation,* if the title to, or
17 ownership of, property is in question, Section 662 of the Evidence
18 Code shall control the determination of ownership. *Notwithstanding*
19 *Section 11415.10 or 11415.20, or any other law, this section shall*
20 *apply to all state agencies, even if the state agency is otherwise*
21 *exempt from this chapter or if the governing procedure of the*
22 *agency is determined by a different statute or regulation.*

23 SEC. 3. Section 50035 is added to the Government Code, to
24 read:

25 50035. In any proceeding before a city, county, or city and
26 county, if the title to, or ownership of, property is in question,
27 Section 662 of the Evidence Code shall control the determination
28 of ownership.