

AMENDED IN SENATE JUNE 22, 2016
AMENDED IN ASSEMBLY MAY 31, 2016
AMENDED IN ASSEMBLY MAY 16, 2016
AMENDED IN ASSEMBLY MAY 2, 2016
AMENDED IN ASSEMBLY MARCH 18, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2818

Introduced by Assembly Member Chiu
(Coauthor: Assembly Member Thurmond)

February 19, 2016

An act to amend Section 402.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2818, as amended, Chiu. Property taxation: community land trust.

Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected, including, but not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill would require the county assessor to consider, when valuing real property for property taxation purposes, ~~a recorded instrument that contract that is a 99-year ground lease between a community land trust, as defined, and the qualified owner, as defined, of an owner-occupied~~

single-family dwelling or an owner-occupied unit in a multifamily dwelling and that subjects a single-family dwelling or unit in a multifamily dwelling, and the land on which the dwelling or unit is situated that is required for the convenient occupation and use of that dwelling or unit by persons and families of low or moderate income, to affordability restrictions, including, among others, a purchase option for the dwelling or unit in favor of a community land trust, as defined, intended to preserve the dwelling or unit as affordable to persons and families of low or moderate income. unit, to affordability restrictions, as defined.

By changing the manner in which county assessors assess property for property taxation purposes, this bill would 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, 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.

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 402.1 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 402.1. (a) In the assessment of land, the assessor shall consider
- 4 the effect upon value of any enforceable restrictions to which the
- 5 use of the land may be subjected. These restrictions shall include,
- 6 but are not limited to, all of the following:

1 (1) Zoning.

2 (2) Recorded contracts with governmental agencies other than
3 those provided in Sections 422, 422.5, and 422.7.

4 (3) Permit authority of, and permits issued by, governmental
5 agencies exercising land use powers concurrently with local
6 governments, including the California Coastal Commission and
7 regional coastal commissions, the San Francisco Bay Conservation
8 and Development Commission, and the Tahoe Regional Planning
9 Agency.

10 (4) Development controls of a local government in accordance
11 with any local coastal program certified pursuant to Division 20
12 (commencing with Section 30000) of the Public Resources Code.

13 (5) Development controls of a local government in accordance
14 with a local protection program, or any component thereof, certified
15 pursuant to Division 19 (commencing with Section 29000) of the
16 Public Resources Code.

17 (6) Environmental constraints applied to the use of land pursuant
18 to provisions of statutes.

19 (7) Hazardous waste land use restriction pursuant to Section
20 25226 of the Health and Safety Code.

21 (8) (A) A recorded conservation, trail, or scenic easement, as
22 described in Section 815.1 of the Civil Code, that is granted in
23 favor of a public agency, or in favor of a nonprofit corporation
24 organized pursuant to Section 501(c)(3) of the Internal Revenue
25 Code that has as its primary purpose the preservation, protection,
26 or enhancement of land in its natural, scenic, historical, agricultural,
27 forested, or open-space condition or use.

28 (B) A recorded greenway easement, as described in Section
29 816.52 of the Civil Code, that is granted in favor of a public
30 agency, or in favor of a nonprofit corporation organized pursuant
31 to Section 501(c)(3) of the Internal Revenue Code that has as its
32 primary purpose the developing and preserving of greenways.

33 (9) A solar-use easement pursuant to Chapter 6.9 (commencing
34 with Section 51190) of Part 1 of Division 1 of Title 5 of the
35 Government Code.

36 (10) A contract where the following apply:

37 (A) The contract is with a nonprofit corporation organized
38 pursuant to Section 501(c)(3) of the Internal Revenue Code that
39 has received a welfare exemption under Section 214.15 for

1 properties intended to be sold to low-income families who
2 participate in a special no-interest loan program.

3 (B) The contract restricts the use of the land for at least 30 years
4 to owner-occupied housing available at affordable housing cost in
5 accordance with Section 50052.5 of the Health and Safety Code.

6 (C) The contract includes a deed of trust on the property in favor
7 of the nonprofit corporation to ensure compliance with the terms
8 of the program, which has no value unless the owner fails to
9 comply with the covenants and restrictions of the terms of the
10 home sale.

11 (D) The local housing authority or an equivalent agency, or, if
12 none exists, the city attorney or county counsel, has made a finding
13 that the long-term deed restrictions in the contract serve a public
14 purpose.

15 (E) The contract is recorded and provided to the assessor.

16 (11) A recorded instrument *contract* where the following apply:

17 ~~(A) The recorded instrument subjects a single-family dwelling~~
18 ~~or unit in a multifamily dwelling, and the land on which the~~
19 ~~dwelling or unit is situated that is required for the convenient~~
20 ~~occupation and use of that dwelling or unit by persons and families~~
21 ~~of low or moderate income, to affordability restrictions.~~

22 (A) *The contract is a renewable 99-year ground lease between*
23 *a community land trust and the qualified owner of an*
24 *owner-occupied single-family dwelling or an owner-occupied unit*
25 *in a multifamily dwelling.*

26 (B) *The contract subjects a single-family dwelling or unit in a*
27 *multifamily dwelling, and the land on which the dwelling or unit*
28 *is situated that is leased to the qualified owner by a community*
29 *land trust for the convenient occupation and use of that dwelling*
30 *or unit, to affordability restrictions.*

31 ~~(B)~~

32 (C) One of the following public agencies or officials has made
33 a finding that the ~~restriction serves~~ *affordability restrictions in the*
34 *contract serve* the public interest to create and preserve the
35 affordability of residential housing for persons and families of low
36 or moderate income:

37 (i) The director of the local housing authority or equivalent
38 agency.

39 (ii) The county counsel.

40 (iii) The director of a county housing department.

- 1 (iv) The city attorney.
- 2 (v) The director of a city housing department.

3 ~~(C)~~

- 4 (D) The recorded instrument is provided to the assessor.

5 ~~(D)~~

6 (E) For purposes of this section, all of the following definitions
7 shall apply:

8 (i) “Affordability restrictions” ~~include all of the following:~~ *mean*
9 *that all of the following conditions are met:*

10 (I) The dwelling or unit can only be ~~rented, sold, sold~~ or resold
11 ~~to persons and families of low or moderate income~~ *a qualified*
12 *owner* to be occupied as a principal place of residence.

13 (II) The sale or resale price of the dwelling or unit is determined
14 by a formula that ensures the dwelling or unit has a purchase price
15 that is affordable to ~~persons and families of low or moderate~~
16 ~~income.~~ *qualified owners.*

17 ~~(III) The rent collected from the dwelling or unit, if applicable,~~
18 ~~does not exceed the maximum rent allowable to be collected from~~
19 ~~persons and families of low or moderate income.~~

20 ~~(IV)~~

21 (III) There is a purchase option for the dwelling or unit in favor
22 of a community land trust intended to preserve the dwelling or
23 unit as affordable to ~~persons and families of low or moderate~~
24 ~~income.~~ *qualified owners.*

25 ~~(V)~~

26 (IV) The dwelling or unit is to remain affordable to ~~persons and~~
27 ~~families of low or moderate income~~ by recorded deed, deed
28 restriction, ground lease, covenant, memorandum, or other recorded
29 instrument. *qualified owners by a renewable 99-year ground lease.*

30 (ii) “Community land trust” means a nonprofit ~~corporation,~~
31 ~~otherwise qualifying for exemption under Section 214,~~ *corporation*
32 *organized pursuant to Section 501(c)(3) of the Internal Revenue*
33 *Code* that satisfies ~~both~~ *all* of the following:

34 (I) Has as ~~one~~ of its primary purposes the creation and
35 maintenance of permanently affordable single-family or
36 multifamily residences.

37 (II) All ~~residences~~ *dwellings and units* located on the land owned
38 *by the nonprofit corporation* are sold to a qualified owner to be
39 occupied by ~~persons and families of low or moderate income~~ as
40 ~~their primary residence, and the~~ *as the qualified owner’s primary*

1 *residence or rented to persons and families of low or moderate*
2 *income.*

3 (III) *The land owned by the nonprofit corporation, on which*
4 ~~the a~~ *dwelling or unit sold to a qualified owner is situated*
5 *is leased by the nonprofit corporation to the qualified owner for*
6 *the convenient occupation and use of that dwelling or unit for a*
7 *renewable term of 99 years.*

8 (iii) *“Limited equity housing cooperative” has the same meaning*
9 *as that term is defined in Section 817 of the Civil Code.*

10 (iv) *“Persons and families of low or moderate income” has the*
11 *same meaning as that term is defined in Section 50093 of the*
12 *Health and Safety Code.*

13 (v) *“Qualified owner” means either of the following: persons*
14 *and families of low or moderate income, including persons and*
15 *families of low or moderate income that own a dwelling or unit*
16 *collectively as member occupants or resident shareholders of a*
17 *limited equity housing cooperative.*

18 ~~(I) A limited equity housing cooperative.~~

19 ~~(II) Persons and families of low or moderate income.~~

20 (b) *There is a rebuttable presumption that restrictions will not*
21 *be removed or substantially modified in the predictable future and*
22 *that they will substantially equate the value of the land to the value*
23 *attributable to the legally permissible use or uses.*

24 (c) *Grounds for rebutting the presumption may include, but are*
25 *not necessarily limited to, the past history of like use restrictions*
26 *in the jurisdiction in question and the similarity of sales prices for*
27 *restricted and unrestricted land. The possible expiration of a*
28 *restriction at a time certain shall not be conclusive evidence of the*
29 *future removal or modification of the restriction unless there is no*
30 *opportunity or likelihood of the continuation or renewal of the*
31 *restriction, or unless a necessary party to the restriction has*
32 *indicated an intent to permit its expiration at that time.*

33 (d) *In assessing land with respect to which the presumption is*
34 *unrebutted, the assessor shall not consider sales of otherwise*
35 *comparable land not similarly restricted as to use as indicative of*
36 *value of land under restriction, unless the restrictions have a*
37 *demonstrably minimal effect upon value.*

38 (e) *In assessing land under an enforceable use restriction wherein*
39 *the presumption of no predictable removal or substantial*
40 *modification of the restriction has been rebutted, but where the*

1 restriction nevertheless retains some future life and has some effect
2 on present value, the assessor may consider, in addition to all other
3 legally permissible information, representative sales of comparable
4 lands that are not under restriction but upon which natural
5 limitations have substantially the same effect as restrictions.

6 (f) For the purposes of this section the following definitions
7 apply:

8 (1) “Comparable lands” are lands that are similar to the land
9 being valued in respect to legally permissible uses and physical
10 attributes.

11 (2) “Representative sales information” is information from sales
12 of a sufficient number of comparable lands to give an accurate
13 indication of the full cash value of the land being valued.

14 (g) It is hereby declared that the purpose and intent of the
15 Legislature in enacting this section is to provide for a method of
16 determining whether a sufficient amount of representative sales
17 information is available for land under use restriction to ensure
18 the accurate assessment of that land. It is also hereby declared that
19 the further purpose and intent of the Legislature in enacting this
20 section and Section 1630 is to avoid an assessment policy which,
21 in the absence of special circumstances, considers uses for land
22 that legally are not available to the owner and not contemplated
23 by government, and that these sections are necessary to implement
24 the public policy of encouraging and maintaining effective land
25 use planning. This statute shall not be construed as requiring the
26 assessment of any land at a value less than as required by Section
27 401 or as prohibiting the use of representative comparable sales
28 information on land under similar restrictions when this information
29 is available.

30 SEC. 2. If the Commission on State Mandates determines that
31 this act contains costs mandated by the state, reimbursement to
32 local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code.

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

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

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