

AMENDED IN ASSEMBLY MAY 4, 2021
AMENDED IN ASSEMBLY MARCH 25, 2021
CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 528

Introduced by Assembly Member Wicks

February 10, 2021

An act to amend Sections 3691, 3692.4, 3772.5, 3775, 3791.4, 3794.3, and 3795 of, and to add Section 3797.5 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 528, as amended, Wicks. Property taxation: tax-defaulted property: sales to nonprofits.

Existing law generally authorizes a county tax collector to sell tax-defaulted property 5 or more years after the real property has become tax defaulted. Existing law authorizes a nonprofit organization to purchase residential or vacant property, with the approval of the board of supervisors of the county in which it is located, that has been tax defaulted for 5 years or more, or 3 years or more after the property has become tax defaulted and is subject to a nuisance abatement lien, as long as the property is used for low-income housing or public use, as specified. Existing law defines "nonprofit organization" as a nonprofit public benefit corporation organized for the purpose of the acquisition of either single-family or multifamily dwellings for rehabilitation and sale or rent to low-income persons or for other use to serve low-income persons, or vacant land for construction of residential dwellings and subsequent sale or rent to low-income persons, for other use to serve low-income persons, or for dedication of that vacant land to public use.

This bill, among other things, would revise the definition of nonprofit organization to also require that the nonprofit organization (1) own or manage housing units located on property that is exempt from taxation, as specified, (2) contract with a nonprofit corporation that has received a tax exemption for properties intended to be sold to low-income families with financing in the form of zero interest rate loans, (3) is a community housing development organization, or (4) is a community land trust. ~~The bill would reduce the number of years a vacant or residential property is required to be tax defaulted before a nonprofit organization can buy it, with the approval of the county board of supervisors for the county where the property is located, to 2 or more years after a property subject to a nuisance abatement lien is tax defaulted or one or more years after a property subject to a nuisance abatement lien is tax defaulted and is vacant.~~

This bill would require the tax collector to document each step in the tax sale process and provide a file of those documents to the nonprofit organization or public agency that purchases the property at the time of the sale. The bill would require the nonprofit organization to indicate via a checklist to be developed by the tax collector that to the best of their knowledge that the property is free and clear of any issues that may cloud transfer of title. The bill would require tax collectors to provide their lists of tax-defaulted properties eligible for tax sale to the Controller, and the Controller would be required to maintain an up-to-date list of all upcoming tax sales in the state on its internet website. The bill would also require tax collectors, at any time after the property has become tax defaulted, but before it is eligible for tax auction, to provide certain nonprofit organizations with a nonpublic list of tax-defaulted properties at their request.

Existing law requires that whenever the county or the state is the purchaser of a tax-defaulted property that the price be agreed upon between the county board of supervisors, the Controller, and the governing body of any city in which that property is located, and that the price be paid to the county tax collector for distribution.

This bill would require that whenever a nonprofit organization is the purchaser, the price is zero if the state reimburses the tax collector for the minimum bid price and all costs associated with the transaction. The bill would authorize a county, after a property becomes eligible for tax sale, to lower the purchase price to an amount below the minimum bid price for public agencies and nonprofit organizations.

Existing law requires that the county board of supervisors approve certain tax-defaulted property sales and that the Controller approve the agreement.

This bill would require that the county board of supervisors make the decision to approve or disapprove a sale within 90 calendar days of receiving a request for ~~approval~~, *approval* and that the Controller make the determination of approval or rejection of the agreement within one calendar month of receipt of the agreement. The bill would also require the Controller, on or before January 30, 2023, to develop a standardized set of best practices for the sale of tax delinquent properties to nonprofit organizations with input from all relevant stakeholders. The bill would require tax collectors to formally adopt those practices on or before December 31, 2024.

Because this bill would add to the duties of county tax collectors, the bill would impose a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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 the statutory provisions noted above.

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 3691 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 3691. (a) (1) (A) Five years or more, or three years or more
- 4 in the case of nonresidential commercial property, after the property
- 5 has become tax defaulted, the tax collector shall have the power
- 6 to sell and shall attempt to sell in accordance with Section 3692
- 7 all or any portion of tax-defaulted property that has not been

1 redeemed, without regard to the boundaries of the parcels, as
2 provided in this chapter, unless by other provisions of law the
3 property is not subject to sale. Any person, regardless of any prior
4 or existing lien on, claim to, or interest in, the property, may
5 purchase at the sale. In the case of tax-defaulted property that has
6 been damaged by a disaster in an area declared to be a disaster
7 area by local, state, or federal officials and whose damage has not
8 been substantially repaired, the five-year period set forth in this
9 subdivision shall be tolled until five years have elapsed from the
10 date the damage to the property was incurred.

11 (B) A county may elect, by an ordinance or resolution adopted
12 by a majority vote of its entire governing body, to adopt conditions
13 and procedures for the delay of sale of properties as described in
14 subparagraph (A) that it finds may be eligible to file a property
15 tax postponement claim with the State Controller prior to January
16 1, 2017, and may cancel any delinquent penalties, costs, fees, and
17 interest associated with these properties.

18 (C) A county may elect, by an ordinance or resolution adopted
19 by a majority vote of its entire governing body, to have the
20 five-year time period described in subparagraph (A) apply to
21 tax-defaulted nonresidential commercial property.

22 (D) For purposes of this subdivision, “nonresidential commercial
23 property” means all property except the following:

24 (i) A constructed single-family or multifamily unit that is
25 intended to be used primarily as a permanent residence, is used
26 primarily as a permanent residence, or that is zoned as a residence,
27 and the land on which that unit is constructed.

28 (ii) Real property that is used and zoned for producing
29 commercial agricultural commodities.

30 (2) When a part of a tax-defaulted parcel is sold, the balance
31 continues subject to redemption and shall be separately valued for
32 the purpose of redemption in the manner provided by Chapter 2
33 (commencing with Section 4131) of Part 7.

34 (3) (A) The tax collector shall provide notice of an intended
35 sale under this subdivision in the manner prescribed by Sections
36 3704 and 3704.5 and any other applicable statute. If the intended
37 sale is of nonresidential commercial property that has been tax
38 defaulted for fewer than five years, all of the following apply:

39 (i) On or before the notice date, the tax collector shall also mail,
40 in the manner specified in paragraph (1) of subdivision (c) of

1 Section 2924b of the Civil Code, notice containing any information
2 contained in the publication required under Sections 3704 and
3 3704.5 to, as applicable, all of the following:

4 (I) The parties specified in paragraph (2) of subdivision (c) of
5 Section 2924b of the Civil Code.

6 (II) Each taxing agency specified in paragraph (3) of subdivision
7 (c) of Section 2924b of the Civil Code.

8 (III) Any beneficiary of a deed of trust or a mortgagee of any
9 mortgage recorded against the nonresidential commercial property,
10 and any assignee or vendee of these beneficiaries or mortgagees.

11 (ii) For purposes of this paragraph:

12 (I) “Notice date” means a date not less than 45 days nor more
13 than 120 days before an intended sale or not less than 45 days nor
14 more than 120 days before the date upon which the property may
15 be sold.

16 (II) “Recording date of the notice of default” as used in
17 subdivision (c) of Section 2924b of the Civil Code means a date
18 that is 30 days before the notice date.

19 (III) “Deed of trust or mortgage being foreclosed” as used in
20 subdivision (c) of Section 2924b of the Civil Code means the
21 defaulted tax lien.

22 (B) If the property subject to the notice required by this
23 paragraph is the subject of a bankruptcy proceeding, the notice
24 shall constitute a “notice of tax deficiency” pursuant to Section
25 362(b)(9)(B) of Title 11 of the United States Code.

26 (b) (1) (A) Except as provided in Section 3791.4, three years
27 or more after the property has become tax defaulted and a request
28 has been made by a city, county, city and county, or nonprofit
29 organization pursuant to Section 3692.4, or a request has been
30 made by a person or entity that has recorded a nuisance abatement
31 lien on that property, to offer that property at the next scheduled
32 tax sale, the tax collector shall have the power to sell and may sell
33 all or any portion of tax-defaulted property that has not been
34 redeemed, without regard to the boundaries of parcels, as provided
35 in this chapter at the next scheduled tax sale, unless by other
36 provisions of law the property is not subject to sale. Any person,
37 regardless of any prior or existing lien on, claim to, or interest in,
38 the property, may purchase at the sale.

39 (B) (i) At any time after the property has become tax defaulted,
40 but before the property is eligible for tax auction, tax collectors

1 shall provide nonprofit organizations, as described in Section
2 3772.5, and public agencies with a list of tax-defaulted properties
3 at their request. A list of the nonprofit organizations and public
4 agencies that have requested the list shall be a public record. Any
5 list of tax-defaulted properties created pursuant to this clause is a
6 not a public document and is not subject to public inspection,
7 except as specified in this subparagraph.

8 (ii) The Controller shall create a means for indicating interest
9 on its internet website to direct requests from nonprofit
10 organizations to the relevant tax collectors.

11 (C) When a part of a tax-defaulted parcel is sold, the balance
12 continues subject to redemption and shall be separately valued for
13 the purpose of redemption in the manner provided by Chapter 2
14 (commencing with Section 4131) of Part 7.

15 (2) Before the tax collector sells vacant residential developed
16 property pursuant to this subdivision, actual notice, by certified
17 mail, shall be provided to the property owner, if the property
18 owner's identity can be determined from the county assessor's or
19 county recorder's records. The tax collector's power of sale shall
20 not be affected by the failure of the property owner to receive
21 notice.

22 (3) Before the tax collector sells vacant residential developed
23 property pursuant to this subdivision, notice of the sale shall be
24 given in the manner specified by Section 3704.7.

25 (c) The amendments made to this section by the act adding this
26 subdivision apply to property that becomes tax defaulted on or
27 after January 1, 2005.

28 SEC. 2. Section 3692.4 of the Revenue and Taxation Code is
29 amended to read:

30 3692.4. (a) Notwithstanding any other law, any county, city,
31 city and county, or any nonprofit organization as defined in Section
32 3772.5, may request the tax collector to bring to the next scheduled
33 public auction any residential real property that meets all of the
34 following requirements:

35 (1) The property taxes have been delinquent for at least ~~two~~
36 *three* years.

37 (2) The real property will serve the public benefit of providing
38 housing directly related to low-income persons.

1 (3) The real property is not occupied by the owner as ~~their~~ *the*
2 *owner's* principal place of residence, and any tenant occupying
3 the property has been given an opportunity to purchase it.

4 (b) Every request submitted to the tax collector shall include
5 the following:

6 (1) A formal resolution of the governing board of the county,
7 city, city and county, or nonprofit organization, requesting the
8 accelerated auction of the real property and stating the public
9 benefit.

10 (2) A written plan for the development, rehabilitation, or
11 proposed use of the real property and how low-income persons
12 will be served.

13 (c) (1) Upon receiving a request as provided by this section,
14 the tax collector shall include the real property in the next
15 scheduled public auction.

16 (2) The tax collector shall document each step they are required
17 to take in the tax sale process and provide a file of those documents
18 to the nonprofit organization or public agency that purchases the
19 property at the time of the sale.

20 (d) (1) If the real property is acquired by a nonprofit
21 organization at auction, a deed restriction shall be placed on the
22 real property, requiring the real property to be used for low-income
23 housing for a period of at least 55 years for rental housing and 45
24 years for ownership housing, and in no event shall the maximum
25 affordable sales price or rent level be higher than 20 percent below
26 the median market rents or sales prices for the ZIP Code in which
27 the site is located.

28 (2) (A) In lieu of the restriction required by paragraph (1), the
29 deed may provide for equity sharing upon resale, if the real
30 property is a single-family home that will be sold by the nonprofit
31 organization to a low-income owner-occupant.

32 (B) To the extent not in conflict with another public funding
33 source or law, all of the following shall apply to an equity-sharing
34 agreement provided for by the deed:

35 (i) Upon resale by an owner-occupant of the home, the
36 owner-occupant of the home shall retain the market value of any
37 improvements, the downpayment, and their proportionate share
38 of appreciation. The nonprofit organization shall recapture any
39 initial subsidy and its proportionate share of appreciation, which

1 shall then be used for the purpose of providing financial assistance
2 to low-income homebuyers.

3 (ii) For purposes of this subdivision, the initial subsidy shall be
4 equal to the fair market value of the home at the time of initial sale
5 to the low-income owner-occupant minus the initial sale price to
6 the low-income owner-occupant, plus the amount of any
7 downpayment assistance or mortgage assistance. If upon resale
8 by the owner-occupant the market value is lower than the initial
9 market value, then the value at the time of the resale shall be used
10 as the initial market value.

11 (iii) For purposes of this subdivision, the nonprofit
12 organization's proportionate share of appreciation shall be equal
13 to the ratio of the initial subsidy to the fair market value of the
14 home at the time of initial sale.

15 (e) This section may not be construed to preclude the
16 application, to the real property or the current owners of that
17 property, of any other provision of law not in conflict with this
18 section.

19 SEC. 3. Section 3772.5 of the Revenue and Taxation Code is
20 amended to read:

21 3772.5. For purposes of this chapter:

22 (a) "Low-income persons" means persons and families of low
23 or moderate income, as defined by Section 50093 of the Health
24 and Safety Code.

25 (b) (1) "Nonprofit organization" means a nonprofit organization
26 incorporated pursuant to Part 2 (commencing with Section 5110)
27 of Division 2 of Title 1 of the Corporations Code for the purpose
28 of acquisition of either of the following:

29 (A) Single-family or multifamily dwellings for rehabilitation
30 and sale or rent to low-income persons, or for other use to serve
31 low-income persons.

32 (B) Vacant land for construction of residential dwellings and
33 subsequent sale or rent to low-income persons, for other use to
34 serve low-income persons, or for dedication of that vacant land to
35 public use.

36 (2) A "nonprofit organization" shall also meet one of the
37 following criteria:

38 (A) The nonprofit organization owns or manages housing units
39 located on property that is exempt from taxation pursuant to the
40 welfare exemption established in subdivision (a) of Section 214.

1 (B) The nonprofit organization contracts with a nonprofit
2 corporation that has received a welfare exemption under Section
3 214.15 for properties intended to be sold to low-income families
4 with financing in the form of zero interest rate loans.

5 (C) The nonprofit organization is a community housing
6 development organization as described ~~by~~ in Section 92.300 of
7 Title 24 of the Code of Federal Regulations.

8 (D) The nonprofit organization is a community land trust as
9 defined in clause (i) of subparagraph (C) of paragraph (11) of
10 subdivision (a) of Section 402.1.

11 (c) “Rehabilitation” means repairs and improvements to a
12 substandard building, as defined in Section 17920.3 of the Health
13 and Safety Code, necessary to make it a building that is not a
14 substandard building.

15 SEC. 4. Section 3775 of the Revenue and Taxation Code is
16 amended to read:

17 3775. (a) Whenever the county or the state is the purchaser,
18 the price shall be agreed upon between the county board of
19 supervisors and the Controller and the governing body of any city
20 in which that property may be located and that price shall be paid
21 to the county tax collector for distribution.

22 (b) Whenever a nonprofit organization is the purchaser, the
23 purchase price shall be zero if the state reimburses the tax collector
24 for the minimum bid price and all costs associated with the
25 transaction.

26 (c) After a property becomes eligible for tax sale, the county
27 may, at their discretion, lower the purchase price to an amount
28 below the minimum bid price for public agencies and nonprofit
29 organizations.

30 SEC. 5. Section 3791.4 of the Revenue and Taxation Code is
31 amended to read:

32 3791.4. (a) When residential or vacant property has been tax
33 defaulted for five years or more, or ~~two~~ *three* years or more after
34 the property has become tax defaulted and is subject to a nuisance
35 abatement lien, ~~or one year or more after the property has become~~
36 ~~tax defaulted, is subject to a nuisance abatement lien, and is vacant,~~
37 that property may, with the approval of the board of supervisors
38 of the county in which it is located, be purchased pursuant to this
39 chapter by a nonprofit organization, provided that:

1 (1) In the case of residential property, the nonprofit organization
2 shall rehabilitate and sell or rent to, or otherwise use the property
3 to serve, low-income persons.

4 (2) In the case of vacant property, the nonprofit organization
5 shall construct residential dwellings on the property and sell or
6 rent the property to low-income persons, otherwise use the property
7 to serve low-income persons, or dedicate the vacant property to
8 public use.

9 (3) The nonprofit organization shall conform to all demolition
10 and unit replacement requirements pursuant to Section 66300 of
11 the Government Code.

12 (b) The terms and conditions of any conveyance to a nonprofit
13 corporation pursuant to this section shall be specified in the deed
14 or other instrument of conveyance.

15 (c) The nonprofit organization shall indicate via a checklist to
16 be developed by the tax collector that to the best of their knowledge
17 the property is free and clear of any issues that may cloud transfer
18 of title.

19 (d) Tax collectors shall provide their lists of tax-defaulted
20 properties eligible for tax sale pursuant to this article to the
21 Controller, and the Controller shall maintain an up-to-date list of
22 all upcoming tax sales in the state on its internet website.

23 SEC. 6. Section 3794.3 of the Revenue and Taxation Code is
24 amended to read:

25 3794.3. (a) A sale under this chapter shall take place only if
26 approved by the board of supervisors.

27 (b) The board of supervisors shall make the decision to approve
28 or disapprove a sale within 90 calendar days of receiving a request
29 for approval.

30 SEC. 7. Section 3795 of the Revenue and Taxation Code is
31 amended to read:

32 3795. (a) The agreement shall be submitted to the Controller.
33 If the Controller does not approve the agreement, the Controller
34 shall return the agreement to each party with a statement of the
35 objections to it, and thereafter a new or modified agreement may
36 be made.

37 (b) If the Controller approves the agreement, the Controller
38 shall sign the executed copy, return the signed agreement to the
39 tax collector, and keep a copy on file in the Controller's office.

1 (c) The Controller shall make the determination of approval or
2 rejection of the agreement within one calendar month of receipt
3 of the agreement.

4 SEC. 8. Section 3797.5 is added to the Revenue and Taxation
5 Code, to read:

6 3797.5. On or before January 30, 2023, the Controller shall
7 develop a standardized set of best practices for the sale of tax
8 delinquent properties pursuant to this chapter to nonprofit
9 organizations with input from all relevant stakeholders. Tax
10 collectors shall formally adopt those practices on or before
11 December 31, 2024.

12 SEC. 9. The Legislature finds and declares that Section 1 of
13 this act, which amends Section 3691 of the Revenue and Taxation
14 Code, imposes a limitation on the public's right of access to the
15 meetings of public bodies or the writings of public officials and
16 agencies within the meaning of Section 3 of Article I of the
17 California Constitution. Pursuant to that constitutional provision,
18 the Legislature makes the following findings to demonstrate the
19 interest protected by this limitation and the need for protecting
20 that interest:

21 (a) The records may contain personal information and the right
22 to privacy is a personal and fundamental right protected by Section
23 1 of Article I of the California Constitution and by the United
24 States Constitution. All individuals have a right of privacy in
25 information pertaining to them.

26 (b) The list of tax defaulted properties is intended to be used to
27 fulfill the public policy goal of alleviating the affordable housing
28 crisis by making development of affordable housing easier, and
29 the list, if made public, may be used ~~to~~ by predatory investors to
30 thwart that goal.

31 SEC. 10. If the Commission on State Mandates determines
32 that this act contains costs mandated by the state, reimbursement
33 to local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.

O