

AMENDED IN SENATE MARCH 5, 2024

SENATE BILL

No. 964

Introduced by Senator Seyarto

January 23, 2024

An act to *add Section 1326 to the Code of Civil Procedure, and to amend Sections ~~4675~~ 4674, 4675, and 4676 of, and to add Section 3777 to, the Revenue and Taxation Code, relating to taxation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 964, as amended, Seyarto. Property tax: tax-defaulted property sales.

Existing law governs the sale to certain entities of a property that has been tax defaulted for 5 years or more, or 3 years or more, as applicable, in an applicable county, including by authorizing the state, county, any revenue district the taxes of which on the property are collected by county officers, or a redevelopment agency created pursuant to the California Community Redevelopment Law, to purchase the property or any part thereof, as prescribed. Existing law also authorizes a nonprofit organization to purchase, with the approval of the board of supervisors of the county in which it is located, a residential or vacant property that has been tax-defaulted for 5 years or more, or 3 years or more if the property is subject to a nuisance abatement lien, as prescribed. Existing law requires the sales price of a property sold pursuant to the provisions described or referenced above to include certain amounts, including all defaulted taxes and assessments and all associated penalties and costs.

This bill would prohibit a property or property interest from being offered for sale under the provisions described above if that property

or property interest has not been offered for sale under the provisions described ~~below~~. *below, unless certain conditions are satisfied.*

Existing law generally authorizes a county tax collector to sell to any person tax-defaulted property 5 years or more, or 3 years or more, as applicable, after that property has become tax defaulted. Existing law authorizes a party of interest in the property to file with the county a claim for the excess proceeds, in proportion to that person's interest held with others of equal priority in the property at the time of sale, at any time before the expiration of one year following the recordation of the tax collector's deed to the purchaser and provides for the distribution of those excess proceeds. Existing law requires, if excess proceeds from the sale of tax-defaulted property exceed \$150, the county to provide notice of the right to claim the excess proceeds, as prescribed.

~~This bill would increase the claims period described above to 2 years if the county does not receive any claims before the expiration of one year following the recordation of the tax collector's deed to the purchaser and would make conforming changes.~~ *require a county to review a claim filed pursuant to the provisions described above and determine whether the claim is complete and valid, and would prescribe a procedure for curing any deficiency in the claim.* The bill would also require the notice described above to include certain information, including the consequences for failing to apply for excess proceeds within the claims period. By requiring a county to ~~administer the claims period for a longer time period and to include additional information in the required notice of the right to claim excess proceeds,~~ *undertake new duties with respect to the claims process,* the bill would impose a state-mandated local program.

Existing law authorizes certain excess proceeds from sales of property pursuant to the provisions described above to be transferred to the county general fund, as specified. Existing law generally governs and regulates the receipt, custody, investment, management, disposal, and escheat of various classes of unclaimed property to the possession of which the state is, or may become, entitled under the provisions of certain law. Existing law creates the Unclaimed Property Fund and requires all money, except permanently escheated money, paid to the state or any officer or employee thereof for deposit in the State Treasury under those provisions to be deposited in the fund on order of the Controller. Existing law provides that moneys in that fund are continuously appropriated to the Controller for specified purposes.

This bill would instead require those excess proceeds from sales of property pursuant to the provisions described above to be transferred to the Controller for deposit in the Defaulted Tax Sale Subaccount, which this bill would establish in the fund to consist of moneys received by the Controller pursuant to the bill's provisions. The bill would provide that those moneys are available upon appropriation for specified purposes. By requiring a county to undertake new duties with respect to these moneys, 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 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 1326 is added to the Code of Civil*
2 *Procedure, to read:*

3 1326. (a) *The Defaulted Tax Sale Subaccount is hereby*
4 *established in the Unclaimed Property Fund.*

5 (b) *The Defaulted Tax Sale Subaccount shall consist of moneys*
6 *received by the Controller and required to be deposited into the*
7 *subaccount pursuant to Chapter 8 (commencing with Section 3771)*
8 *of Part 6 of Division 1 of the Revenue and Taxation Code.*

9 (c) *Notwithstanding Section 1325, the moneys in the Defaulted*
10 *Tax Sale Subaccount shall be available upon appropriation for*
11 *the purposes of this title.*

12 ~~SECTION 1.~~

13 SEC. 2. Section 3777 is added to the Revenue and Taxation
14 Code, immediately following Section 3776, to read:

15 3777. (a) Property or a property interest shall not be offered
16 for sale under the provisions of this chapter if that property or
17 property interest has not been offered for sale under the provisions
18 of Chapter 7 (commencing with Section ~~3691~~; 3691) *unless all*
19 *of the following conditions are satisfied:*

1 (1) *The county's property assessment shows that the property*
2 *or property interest is worth less than the defaulted debt.*

3 (2) *Offering the property or property interest for sale under the*
4 *provisions of Chapter 7 (commencing with Section 3691) would*
5 *cost the county more than offering the property or property interest*
6 *for sale under the provisions of this chapter.*

7 (3) *The county's board of supervisors approved offering the*
8 *property or property interest for sale under the provisions of this*
9 *chapter by majority vote after the issue is discussed during a*
10 *regularly scheduled open meeting or hearing that gave the*
11 *community an opportunity to discuss the proposed offering for*
12 *sale.*

13 (b) *When considering whether to approve offering the property*
14 *or property interest for sale under the provisions of this chapter*
15 *at an open meeting or hearing as described in paragraph (3) of*
16 *subdivision (a), the county's board of supervisors shall consider*
17 *all evidence and arguments presented during the meeting or*
18 *hearing, including, but not limited to, evidence or arguments*
19 *concerning both of the following:*

20 (1) *The value of the property or property interest and the*
21 *county's property assessment showing that value.*

22 (2) *The cost of offering the property or property interest for*
23 *sale under the provisions of Chapter 7 (commencing with Section*
24 *3691) as compared to the cost of offering the property or property*
25 *interest for sale under the provisions of this chapter.*

26 SEC. 3. *Section 4674 of the Revenue and Taxation Code is*
27 *amended to read:*

28 4674. Any excess in the proceeds deposited in the delinquent
29 tax sale trust fund remaining after satisfaction of the amounts
30 distributed under Sections 4672, 4672.1, 4672.2, 4673, and 4673.1
31 shall be retained in the fund on account of, and may be claimed
32 by parties of interest in the property as provided in, Section 4675.
33 At the expiration of the period specified in subdivision (e) of
34 Section 4675, any excess proceeds not claimed under Section 4675
35 may be transferred to the county general fund of the county by the
36 county auditor, except that prior to the transfer, the county may
37 deduct those costs of maintaining the redemption and tax-defaulted
38 property files, and those costs of administering and processing the
39 claims for excess proceeds, that have not been recovered under
40 any other law: shall be transferred to the Controller for deposit

1 *in the Defaulted Tax Sale Subaccount in the Unclaimed Property*
2 *Fund established pursuant to Section 1326 of the Code of Civil*
3 *Procedure.*

4 ~~SEC. 2.~~

5 *SEC. 4.* Section 4675 of the Revenue and Taxation Code is
6 amended to read:

7 4675. (a) (1) ~~Subject to paragraph (2), any~~ Any party of interest
8 in the property may file with the county a claim for the excess
9 proceeds, in proportion to that person's interest held with others
10 of equal priority in the property at the time of sale, at any time
11 before the expiration of one year following the recordation of the
12 tax collector's deed to the purchaser. *The claim shall be postmarked*
13 *on or before the one-year expiration date to be considered timely.*

14 ~~(2) The claim expiration date shall be two years following the~~
15 ~~recordation of the tax collector's deed to the purchaser if the county~~
16 ~~does not receive a claim by a person described in subparagraph~~
17 ~~(B) of paragraph (1) of subdivision (c) before the expiration of~~
18 ~~one year following the recordation of the tax collector's deed to~~
19 ~~the purchaser.~~

20 ~~(3) A claim pursuant to this subdivision shall be postmarked on~~
21 ~~or before the claim expiration date to be considered timely.~~

22 (2) (A) *The county shall review a claim filed pursuant to*
23 *paragraph (1) and determine whether the claim is complete and*
24 *valid.*

25 (B) *If the county determines that a claim is incomplete or invalid,*
26 *the county shall provide written notice to the claimant describing*
27 *what is needed to cure the deficiency and informing the claimant*
28 *that the claimant has 60 days to cure the deficiency.*

29 (C) *A claim reviewed pursuant to this paragraph is timely if*
30 *originally postmarked on or before the one-year expiration date*
31 *even if the 60-day cure period required by this paragraph extends*
32 *beyond that one-year expiration date.*

33 (b) After the property has been sold, a party of interest in the
34 property at the time of the sale may assign their right to claim the
35 excess proceeds only by a dated, written instrument that explicitly
36 states that the right to claim the excess proceeds is being assigned,
37 and only after each party to the proposed assignment has disclosed
38 to each other party to the proposed assignment all facts of which
39 that party is aware relating to the value of the right that is being
40 assigned. Any attempted assignment that does not comply with

1 these requirements shall have no effect. This subdivision applies
2 only with respect to assignments on or after the effective date of
3 this subdivision.

4 (c) Any person or entity who in any way acts on behalf of, or
5 in place of, any party of interest with respect to filing a claim for
6 any excess proceeds shall submit proof with the claim that the
7 amount and source of excess proceeds have been disclosed to the
8 party of interest and that the party of interest has been advised of
9 their right to file a claim for the excess proceeds on their own
10 behalf directly with the county at no cost.

11 (d) The claims shall contain any information and proof deemed
12 necessary by the board of supervisors to establish the claimant's
13 rights to all or any portion of the excess proceeds.

14 (e) (1) Except as provided in paragraph (2), no sooner than the
15 claim expiration date *and any review and cure periods* determined
16 pursuant to subdivision (a), and if the excess proceeds have been
17 claimed by any party of interest as provided herein, the excess
18 proceeds shall be distributed on order of the board of supervisors
19 to the parties of interest who have claimed the excess proceeds in
20 the order of priority set forth in subdivisions (a) and (b). For the
21 purposes of this article, parties of interest and their order of priority
22 are:

23 (A) First, lienholders of record before the recordation of the tax
24 deed to the purchaser in the order of their priority.

25 (B) Second, any person with title of record to all or any portion
26 of the property before the recordation of the tax deed to the
27 purchaser.

28 (2) (A) If the board of supervisors has been petitioned to rescind
29 the tax sale pursuant to Section 3731, any excess proceeds shall
30 not be distributed to the parties of interest as provided by paragraph
31 (1) before the earlier of the claim expiration date *and any review*
32 *and cure periods* determined pursuant to subdivision (a) or ~~two~~
33 *years one year* following the date the board of supervisors
34 determines the tax sale should not be rescinded, and only if the
35 person who petitioned the board of supervisors pursuant to Section
36 3731 has not commenced a proceeding in court pursuant to Section
37 3725.

38 (B) If a proceeding has been commenced in a court pursuant to
39 Section 3725, any excess proceeds shall not be distributed to the

1 parties of interest as provided by paragraph (1) until a final court
2 order is issued.

3 (f) If a person with title of record is deceased at the time of the
4 distribution of the excess proceeds, the heirs may submit an
5 affidavit pursuant to Chapter 3 (commencing with Section 13100)
6 of Part 1 of Division 8 of the Probate Code, to support their claim
7 for excess proceeds.

8 (g) Any action or proceeding to review the decision of the board
9 of supervisors, or the county officer to whom the board delegated
10 authority pursuant to Section 4675.1, to accept or deny the claim
11 shall be commenced within 90 days after the date of that decision
12 of the board of supervisors or the county officer.

13 ~~SEC. 3.~~

14 *SEC. 5.* Section 4676 of the Revenue and Taxation Code is
15 amended to read:

16 4676. (a) If excess proceeds from the sale of tax-defaulted
17 property exceed one hundred fifty dollars (\$150), the county shall
18 provide notice of the right to claim the excess proceeds, as provided
19 in this section.

20 (b) No later than 90 days after the sale of the property, the
21 county shall mail written notice of the right to claim excess
22 proceeds to the last known mailing address of parties of interest,
23 as defined in Section 4675. The county shall make a reasonable
24 effort to obtain the name and last known mailing address of parties
25 of interest.

26 (c) If the last known address of a party of interest cannot be
27 obtained, the county shall publish notice of the right to claim excess
28 proceeds in a newspaper of general circulation in the county.
29 Publication is not required if the cost to publish is equal to or
30 greater than the amount of the excess proceeds. The notice shall
31 be published once a week for three successive weeks and shall
32 commence no later than 90 days after the sale of the property.

33 (d) The cost of obtaining the name and last known mailing
34 address of parties of interest and of mailing or publishing the
35 notices required under this section shall be deducted from the
36 excess proceeds and shall be distributed to the county general fund.

37 (e) A notice pursuant to this section shall contain all of the
38 following information:

39 (1) The amount of the tax debt with respect to which the
40 tax-defaulted property was in default.

- 1 (2) The amount for which the property was sold.
- 2 (3) The consequences for failing to apply for excess proceeds
- 3 within the time period prescribed in Section 4675.
- 4 ~~SEC. 4.~~
- 5 *SEC. 6.* If the Commission on State Mandates determines that
- 6 this act contains costs mandated by the state, reimbursement to
- 7 local agencies and school districts for those costs shall be made
- 8 pursuant to Part 7 (commencing with Section 17500) of Division
- 9 4 of Title 2 of the Government Code.