



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-1868 Property taxation: assessments: affordable housing. (2023-2024)

SHARE THIS:  

Date Published: 09/26/2024 10:00 AM

Assembly Bill No. 1868

CHAPTER 553

An act to amend Section 402.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 25, 2024. Filed with Secretary of State September 25, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1868, Friedman. Property taxation: assessments: affordable housing.

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. Under existing law, these restrictions include, among other enumerated items, a recorded contract with a nonprofit corporation that meets prescribed requirements, including requirements that the nonprofit corporation has received a welfare exemption for properties intended to be sold to low-income families who participate in a special no-interest loan program, and that the contract includes a deed of trust on the property in favor of the nonprofit corporation to ensure compliance with the terms of the program, as described.

This bill would, for purposes of valuing property by the county assessor, establish a rebuttable presumption that, at the time of purchase, an assessor shall not include the value of the above-described deed of trust. By changing the manner in which county assessors assess property for property taxation purposes, this bill would impose a state-mandated local program.

The bill would also make a technical, nonsubstantive change to those provisions.

This bill would incorporate additional changes to Section 402.1 of the Revenue and Taxation Code proposed by AB 2897 to be operative only if this bill and AB 2897 are enacted and this bill is enacted last.

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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 402.1 of the Revenue and Taxation Code is amended to read:

402.1. (a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:

(1) Zoning.

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

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

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

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

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

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

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

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

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

(10) (A) A contract where the following apply:

(i) The contract is with a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 for properties intended to be sold to low-income families who participate in a special no-interest loan program.

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

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

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

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

(B) For real property subject to a contract that satisfies all the requirements of subparagraph (A), there shall be a rebuttable presumption that, at the time of purchase, an assessor shall not include the value of the deed of trust referenced in clause (iii) of subparagraph (A) of this paragraph.

(11) (A) A contract where the following apply:

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

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

(iii) One of the following public agencies or officials has made a finding that the affordability restrictions in the contract serve the public interest to create and preserve the affordability of residential housing for persons and families of low or moderate income:

(l) The director of the local housing authority or equivalent agency.

(II) The county counsel.

(III) The director of a county housing department.

(IV) The city attorney.

(V) The director of a city housing department.

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

(B) (i) For purposes of this paragraph, the sale or resale price of the dwelling or unit is rebuttably presumed to include both the dwelling or unit and the leased land on which the dwelling or unit is situated. This presumption may be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of the leased land is not reflected in the sale or resale price of the dwelling or unit.

(ii) Notwithstanding any other law, corrections of base year values and declines in value owing to the restrictions on properties assessed under this subparagraph shall apply to all lien dates occurring after September 27, 2016.

(C) For purposes of this paragraph, all of the following definitions shall apply:

(i) "Affordability restrictions" mean that all of the following conditions are met:

(I) The dwelling or unit can only be sold or resold to a qualified owner to be occupied as a principal place of residence.

(II) The sale or resale price of the dwelling or unit is determined by a formula that ensures the dwelling or unit has a purchase price that is affordable to qualified owners.

(III) There is a purchase option for the dwelling or unit in favor of a community land trust intended to preserve the dwelling or unit as affordable to qualified owners.

(IV) The dwelling or unit is to remain affordable to qualified owners by a renewable 99-year ground lease.

(ii) "Community land trust" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that satisfies all of the following:

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

(II) All dwellings and units located on the land owned by the nonprofit corporation are sold to a qualified owner to be occupied as the qualified owner's primary residence or rented to persons and families of low or moderate income.

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

(iii) "Limited equity housing cooperative" has the same meaning as that term is defined in Section 817 of the Civil Code.

(iv) "Persons and families of low or moderate income" has the same meaning as that term is defined in Section 50093 of the Health and Safety Code.

(v) "Qualified owner" means persons and families of low or moderate income, including persons and families of low or moderate income that own a dwelling or unit collectively as member occupants or resident shareholders of a limited equity housing cooperative.

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

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

(d) In assessing land with respect to which the presumption is un rebutted, the assessor shall not consider sales of otherwise comparable land not similarly restricted as to use as indicative of value of land under restriction, unless the restrictions have a

demonstrably minimal effect upon value.

(e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.

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

(1) "Comparable lands" are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.

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

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

SEC. 1.5. Section 402.1 of the Revenue and Taxation Code is amended to read:

402.1. (a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:

(1) Zoning.

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

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

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

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

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

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

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

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

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

(10) (A) A contract where the following apply:

(i) The contract is with a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 for properties intended to be sold to low-income families who participate in a special no-interest loan program.

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

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

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

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

(B) For real property subject to a contract that satisfies all the requirements of subparagraph (A), there shall be a rebuttable presumption that, at the time of purchase, an assessor shall not include the value of the deed of trust referenced in clause (iii) of subparagraph (A) of this paragraph.

(11) (A) A contract where the following apply:

(i) The contract is a renewable 99-year ground lease between a community land trust, or a wholly owned subsidiary of a community land trust that is solely directed and managed by the community land trust, and the qualified owner of an owner-occupied single-family dwelling or an owner-occupied unit in a multifamily dwelling.

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

(iii) One of the following public agencies or officials has made a finding that the affordability restrictions in the contract serve the public interest to create and preserve the affordability of residential housing for persons and families of low or moderate income:

(I) The director of the local housing authority or equivalent agency.

(II) The county counsel.

(III) The director of a county housing department.

(IV) The city attorney.

(V) The director of a city housing department.

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

(B) (i) For purposes of this paragraph, the sale or resale price of the dwelling or unit is rebuttably presumed to include both the dwelling or unit and the leased land on which the dwelling or unit is situated. This presumption may be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of the leased land is not reflected in the sale or resale price of the dwelling or unit.

(ii) Notwithstanding any other law, corrections of base year values and declines in value owing to the restrictions on properties assessed under this subparagraph shall apply to all lien dates occurring after September 27, 2016.

(C) For purposes of this paragraph, all of the following definitions shall apply:

(i) "Affordability restrictions" mean that all of the following conditions are met:

(I) The dwelling or unit can only be sold or resold to a qualified owner to be occupied as a principal place of residence.

(II) The sale or resale price of the dwelling or unit is determined by a formula that ensures the dwelling or unit has a purchase price that is affordable to qualified owners.

(III) There is a purchase option for the dwelling or unit in favor of a community land trust intended to preserve the dwelling or unit as affordable to qualified owners.

(IV) The dwelling or unit is to remain affordable to qualified owners by a renewable 99-year ground lease.

(ii) "Community land trust" means a nonprofit corporation exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code that satisfies all of the following:

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

(II) (ia) All dwellings and units located on the land owned by the nonprofit corporation or its wholly owned subsidiary are either sold to a qualified owner to be occupied as the qualified owner's primary residence or rented to persons and families of low or moderate income.

(ib) In the case of dwellings or units sold to qualified owners, if the community land trust, directly or through its wholly owned subsidiary, owns the land underneath the dwellings or units, then the land underneath the dwellings or units shall be leased to the qualified owner of a dwelling or unit on the land for the convenient occupation and use of that dwelling or unit for a renewable term of 99 years. In the case of dwellings or units that are part of a condominium, cooperative, or other common interest development under which the land is owned by a homeowners' association or person other than the community land trust, then the condominium unit or interest owned by the community land trust shall be sold to qualified owners for the convenient occupation and use of that dwelling or unit subject to affordability restrictions as that term is defined in this subdivision, except that in lieu of a ground lease there shall be an affordability covenant, of a duration of at least 99 years, recorded against the unit or interest.

(iii) "Limited equity housing cooperative" has the same meaning as that term is defined in Section 817 of the Civil Code.

(iv) "Persons and families of low or moderate income" has the same meaning as that term is defined in Section 50093 of the Health and Safety Code.

(v) "Qualified owner" means persons and families of low or moderate income, including persons and families of low or moderate income that own a dwelling or unit collectively as member occupants or resident shareholders of a limited equity housing cooperative.

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

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

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

(e) In assessing land under an enforceable use restriction wherein the presumption of no predictable removal or substantial modification of the restriction has been rebutted, but where the restriction nevertheless retains some future life and has some effect on present value, the assessor may consider, in addition to all other legally permissible information, representative sales of comparable lands that are not under restriction but upon which natural limitations have substantially the same effect as restrictions.

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

(1) "Comparable lands" are lands that are similar to the land being valued in respect to legally permissible uses and physical attributes.

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

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

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 402.1 of the Revenue and Taxation Code proposed by both this bill and Assembly Bill 2897. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 402.1 of the Revenue and Taxation Code, and (3) this bill is enacted after Assembly Bill 2897, in which case Section 1 of this bill shall not become operative.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.