

Date of Hearing: March 10, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION  
Mike Gipson, Chair

AB 418 (Wilson) – As Amended March 3, 2025

Majority vote. Fiscal committee.

**SUBJECT:** Property taxation: tax-defaulted property

**SUMMARY:** Requires a county board of supervisors to make certain determinations before a tax defaulted property may be sold by agreement. Specifically, **this bill:**

- 1) Requires a county board of supervisors, before authorizing a tax defaulted property to be sold by agreement, to conduct a hearing, as specified, finding that:
  - a) The sale price is greater than or equal to the "tax sale value" of the property; or,
  - b) The "tax sale value" of the property is less than the amount necessary to redeem the property in accordance with existing law, such that there would be no excess proceeds from a sale under the provisions of Chapter 7.
- 2) Requires a county tax collector to mail a copy of a hearing notice 45 days prior to the hearing, by registered mail, to the last assessee of each portion of the property and to parties of interest, as defined, at their last known address. A county tax collector must examine the assessment rolls beginning with the year of delinquency to, and including that of, the last equalized roll to determine the address of the property's last assessee. A notice of hearing is not required to be sent to a party who files a written acknowledgement of receipt of the notice, or a waiver of the notice, with the county tax collector. The validity of a sale by agreement is not affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive mailed notice.
- 3) Defines the "tax sale value" as the amount that typically could be realized from the sale of the property at a properly advertised and conducted public auction under existing law.
- 4) Requires a notice for hearing to include:
  - a) A description of the property substantially as described in the agreement;
  - b) The name of the last assessee of the property, subject to a specified examination by the tax collector;
  - c) A statement that an agreement for the sale of the property or for an option to purchase it, or both, as applicable, has been proposed with the taxing agency or nonprofit organization named in the agreement;
  - d) The proposed sale price of the property;

- e) The date, time, and location of the hearing;
  - f) A statement informing the parties of their rights to appear and present evidence, as provided, and that the sale will not take place unless the board of supervisors makes one of the findings required for approval of a sale by agreement pursuant to this bill; and,
  - g) A statement in substantially the following form: "If you challenge the proposed sale in court, you may be limited to raising only those issues you or someone else raised at the hearing described in this notice, or in written correspondence delivered to the county at, or prior to, the hearing."
- 5) Provides that the assessee and all parties of interest in the property shall each have the right to appear at the hearing and to present any relevant evidence regarding the value of the property or the existence or amount of excess proceeds to which they may be entitled under existing law. That evidence may be presented to the board of supervisors at the hearing or in writing any time prior to the hearing, and any evidence presented will become part of the record when the board of supervisors considers authorizing a sale by agreement.
- 6) Requires any costs incurred in conducting the hearing and making the findings set forth in this bill be paid by the taxing agency or nonprofit organization by which the property is to be or may be purchased.
- 7) Requires the state to reimburse local agencies and school districts for costs arising from this bill if the Commission on State Mandates determines that this bill contains costs mandated by the state.

**EXISTING LAW:**

- 1) Stipulates that all property is taxable, unless otherwise provided by the California Constitution or federal law (California Constitution, Article XIII, Section 1).
- 2) Requires taxpayers to pay their property tax bills on real property in two installments, which become delinquent on December 10 and April 10, respectively, and subject to penalties (Revenue and Taxation Code (R&TC) Sections 2617 and 2618).
- 3) Details the series of actions a tax collector must follow, such as notices and publications, in the case of tax-defaulted property (R&TC Section 3365 and Section 3691 *et seq.*).
- 4) Provides that a property becomes tax-defaulted if taxes remain unpaid after June 30, and subject to sale by the county tax collector if the taxpayer fails to redeem the property by repaying in full the defaulted taxes, interest, and penalties within five years, or three years in the case of nonresidential commercial property (R&TC Sections 3436, 3693, and 126).
- 5) Generally requires the tax collector to attempt to sell tax-defaulted property at a public auction to the highest bidder within four years of the property becoming subject to sale. Provides that certain properties, such as properties with oil, gas, or mineral rights or property rendered unusable by size or location shall be sold via a sealed bid to the highest bidder (R&TC Section 3692).

- 6) Requires the minimum bid amount in a sale by public auction, sealed bid, or agreement sale to be no less than the amount of the sum of defaulted taxes, delinquent penalties and costs, redemption penalties, a redemption fee, and any outstanding balance of any property tax postponement loan, as defined (R&TC Section 3698.5 and 3793.1).
- 7) Requires revenues resulting from the sale of a tax-defaulted property to be allocated according to a specific schedule and stipulates that any excess proceeds may be claimed by parties of interest, which include lienholders of record and any persons with title of record to the property. Requires the county to provide notice to parties of interest within 90 days of the sale of a property if the excess proceeds are more than \$150 (R&TC Sections 4675 and 4676).
- 8) Permits, subject to application of certain affordability requirements, an eligible nonprofit organization, among other entities, to request the tax collector to bring any residential real property to the next scheduled tax sale if that property has been delinquent for three years, would serve the public benefit of providing housing directly related to low- or moderate-income households, and is not occupied by the owner as their principal place of residence. Requires the tax collector to bring the real property for which such a request has been submitted to the next scheduled tax sale (R&TC Section 3692.4).
- 9) Permits the State, taxing agencies, revenue districts, and special districts to object to the sale by public auction or sealed bid of a tax-defaulted property on the basis that it is needed for public use and forbids the tax collector from conducting the sale of the property subject to the objection (R&TC Section 3695.4). Requires a sale by agreement to be submitted to the State Controller for approval (R&TC Section 3795).
- 10) Authorizes, for real property that has been defaulted for five or more years, or three or more years if the property is subject to a nuisance abatement lien, a nonprofit organization to purchase the real property by an agreement sale if the nonprofit organization will rehabilitate or construct residential dwellings for sale or rent to low- or moderate-income persons or families (R&TC Section 3791.4).
- 11) Stipulates that the transfer of deed resulting from an agreement sale has the same effect as a deed conveyed to a private purchaser after sale of tax-defaulted property pursuant to a public auction or sealed bid (R&TC Section 3806).

**FISCAL EFFECT:** Unknown, but likely no impact to state revenues.

**COMMENTS:**

- 1) The author has submitted the following statement in support of this bill:

AB 418 establishes a process that California's county tax collectors will follow, when utilizing the Chapter 8 sale process, to ensure that the property is disposed of in a way that is transparent and affords property owners an administrative remedy if the property owner disputes the price set at a Chapter 8 tax sale. These additional steps still preserve the Treasurer-Tax Collector's informed discretion to utilize options to manage those properties for which appraisals are not financially logical. AB 418 aims to ensure that the sale of tax-defaulted property within California is aligned with the ruling of *Tyler v Hennepin County* and reflects the decision of the Supreme Court. AB 418 provides a

middle-ground solution allowing Tax Collectors to continue their use of the Chapter 8 sales process, while also protecting the rights of the owners or last assessee of said properties.

- 2) Writing as sponsors of this bill, the California Association of County Treasurers and Tax Collectors (CACTTC) states, in part:

When a tax collector uses a Chapter 8 sale to dispose of a property, oftentimes, the defaulted tax amount on the property far exceeds the value of the property [original emphasis]. Given those circumstances, it would make it difficult for the county to dispose of the property at an auction and recover the full amount of taxes owed, let alone realize any excess proceeds for the property owner. Preparing a property for tax sale takes staff time, and incurs costs such as research, publication, and more [...]. [T]housands of parcels routinely cycle through Chapter 7 sales every few years as owners buy them at auction, and then realize there is no potential to improve the lot and then abandon the property and the default cycle perpetuates. However, in light of *Tyler v. Hennepin [County]*, and the myriad public record act requests that county tax collectors are fielding to provide information on their use of Chapter 8 sales, some additional procedures that provide the public and the property owner a transparent process by which the tax collector sets the sales price, that is then approved by both the Board of Supervisors and the State Controller, are called for to address any concerns regarding California county tax collection procedures being consistent with *Tyler v. Hennepin County*.

- 3) Writing as supporters of a previous, but substantially similar version of this bill, a coalition representing various counties states, in part:

Unlike the laws in Minnesota, California's laws require that if a property is sold at a tax auction, any proceeds from the auction that remain after all delinquencies are paid are then made available to parties of interest (i.e. the owner) of that property, and those parties have one year to file a claim for those excess proceeds. Under current law, a county is prohibited from depriving a property owner of their excess proceeds without first providing public notice and certified mailing to the last known address, notifying the owner of the existence of excess proceeds and of the one-year timeframe to file a claim. [...] In California, there are thousands of tax-defaulted properties that hold little to no value or otherwise present specific or unusual challenges to dispose of through a traditional tax auction. Using a Chapter 8 tax sale process to dispose of such properties can make the most sense for the local agency and for the property owner.

- 4) Committee Staff comments:

- a) *Tax-defaulted property*: Existing law generally declares real property for which taxes have not been paid by July 1 in default. After a period of five years, or three years in the case of a nonresidential commercial property or property subject to a nuisance abatement lien, the defaulted property becomes subject to the power to sell by the tax collector. The tax collector is required to issue notices to owners of defaulted property informing them of the property's status, and to subsequently inform the property owner of the intent to sell the property at auction, after certain requirements are met. According to the County Tax Collectors' Reference Manual, published by the State Controller, current tax sale

practice allows the title of tax-defaulted property to remain with the property owner or successor in interest while the property is subject to the tax collector's power to sell; ownership terminates upon completion of the tax sale by the tax collector and payment of the purchase amount. During the period between the property being declared in default and the sale of the property, the property owner has a right to redeem the status of the property by paying all taxes, assessments, penalties, and fees. Upon completion of the sale, however, this right terminates, and the title to the property is deeded to the purchaser. The property must be sold at the minimum bid price, unless certain circumstances apply. Any party of interest in the property may claim the excess proceeds resulting from the sale of a property up to one year after the date of the sale. If no party of interest claims any excess proceeds after a period of one year, the balance may be transferred to the county general fund after reimbursing certain costs incurred by specified entities. The process for selling a tax-defaulted property by public auction is also referred to as a Chapter 7 sale.

- b) *Sale by agreement*: Eligible entities may object to the sale of a property at public auction and request a sale by agreement if the property may be used for a public purpose, including use of the property by an eligible nonprofit organization to rehabilitate or construct residential dwellings for sale or rent to low- or moderate-income persons or families. A sale by agreement schedule commences after a tax collector receives a correctly completed application, with approval from the State Controller, and an objection letter from an eligible taxing agency or nonprofit organization if the property is scheduled to be sold at open auction or by sealed bid. The property must be sold at the minimum bid price. Upon completion of the sale, the right to redemption terminates and the title is deeded to the purchaser, which has the same effect as the completion of a sale by public auction or sealed bid. The process for selling a tax-defaulted property by agreement is also referred to as a Chapter 8 sale.
- c) *Tyler v. Hennepin County*: In 2023, the U.S. Supreme Court ruled in favor of the plaintiff in *Tyler v. Hennepin Cty.*, [598 U.S. 631, 143 S. Ct. 1369 (2023)]. Geraldine Tyler, a property owner in Hennepin County, Minnesota, filed suit against the county in the U.S. District Court of Minnesota, alleging an unconstitutional taking in violation of the Fifth Amendment. Tyler's tax-defaulted property was sold for \$40,000, fulfilling the \$15,000 in unpaid taxes and additional charges, but no amount of the \$25,000 in excess proceeds was returned to Tyler. The U.S. District Court of Minnesota held that where state law recognizes no property interest in surplus proceeds from a tax-foreclosure sale conducted after adequate notice to the owner, there is no unconstitutional taking, citing a case adjudicated by the U.S. Supreme Court, *Nelson v. City of New York* (1956) 352 U.S. 103 [77 S.Ct. 195, 1 L.Ed.2d 171]. The US Court of Appeals for the Eighth Circuit upheld the District Court's ruling, before being overturned by the U.S. Supreme Court, which held "[t]he County had the power to sell Tyler's home to recover the unpaid property taxes. But it could not use the toehold of the tax debt to confiscate more property than was due."
- d) *California legislation in response to Tyler v. Hennepin County*: In 2022 and 2023, this Committee heard two bills that would have responded to the ongoing suit working its way through the process of judicial review. AB 1839 (Choi), of the 2021-22 Legislative Session, and AB 445 (Essayli), of the 2023-24 Legislative Session, were essentially identical and both were sponsored by the Howard Jarvis Taxpayers Association. The

authors claimed that California's Chapter 8 process to dispose of tax-defaulted property circumvented the Chapter 7 process, and sought to force a Chapter 7 sale before a Chapter 8 sale could take place. Those bills failed consideration in this Committee, and no evidence was presented, anecdotally or otherwise, substantiating the claim of circumvention.

- e) *This bill:* As opposed to previous proposals modifying the tax-defaulted property sale process in response to *Tyler v. Hennepin County*, this bill takes a different tack. Rather than subjecting a property to a Chapter 7 sale before a Chapter 8 sale, this bill proposes a valuation examination, where the county must determine that the amount for which a property would be sold at public auction is less than the price proposed in a sale by agreement. A county board of supervisors may not authorize the sale of a property unless this examination determines that a Chapter 8 sale will not result in a sale price lower than the price in a Chapter 7 sale.

As noted by the CACTTC, the Chapter 8 sale process provides counties flexibility to dispose of tax-defaulted properties that would otherwise continually cycle through the tax-defaulted property sales process, which increases costs for counties, undermining the very purpose of selling tax-defaulted properties. This bill maintains the existing process, while ensuring that a county fully examines the potential for excess proceeds such that no property owner suffers from an unconstitutional taking.

- f) *Related legislation:* SB 288 (Seyarto) requires that a property be subject to a certain examination before being offered for a Chapter 8 sale, including that a property be first offered at a Chapter 7 sale, that the assessed value of the property be \$10,000 or less, or that the owner of the property has provided affirmative consent, among others. SB 288 is pending hearing by the Senate Committee on Revenue and Taxation.
- g) *Prior legislation:*
- i) AB 445 (Essayli), of the 2023-24 Legislative Session, would have modified the process of a sale by agreement for a tax-defaulted property and increased the claim period for excess proceeds resulting from a sale by public auction or sealed bid. AB 445 failed passage in this Committee.
  - ii) SB 964 (Seyarto), of the 2023-24 Legislative Session, would have required, before a Chapter 8 sale can occur, that the State Board of Equalization determine that the value of the property to be sold at a Chapter 8 sale is less than the amount of unpaid property tax liability, or that a Chapter 7 sale be held first. SB 964 was held on the Senate Appropriations Committee's Suspense File.
  - iii) AB 1839 (Choi), of the 2021-22 Legislative Session, was essentially identical to AB 445. AB 1839 failed passage in this Committee.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Association of Treasurers and Tax Collectors

California Housing Partnership Corporation  
California State Association of Counties  
Howard Jarvis Taxpayers Association  
Rural County Representatives of California  
San Francisco, City and County of  
Urban Counties of California

**Opposition**

None on file

**Analysis Prepared by:** Harrison Bowlby / REV. & TAX. / (916) 319-2098