[Assembly Bill 2450](#) (Achadjian)
Date: 08/02/16
Program: Property Tax
Sponsor: California Assessors' Association (CAA)
Revenue and Taxation Code Sections 402.2 and 5091
Effective: January 1, 2017

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Summary: Requires contracts with governmental agencies that restrict property use for affordable owner-occupied housing to be recorded and requires public agencies to notify the county assessor when it intends to acquire taxable property.

Summary of Amendments: Since the previous analysis, the bill was amended to move the substance of the affordable housing contract recording requirement into a separate law section.

Purpose: To provide better information to the county assessor (1) regarding affordable housing use restrictions and (2) when taxable property being acquired by a public agency will subsequently become tax exempt.

Fiscal Impact Summary: No direct impact

Existing Law:

Enforceable Restrictions. When determining a property's fair market value, property tax law requires the assessor to consider the effect of legally enforceable restrictions on a property's use, such as zoning or environmental constraints.[1] Similarly, when determining land value, the law[2] requires the assessor to consider the effect of certain government-imposed restrictions on land use, certain nonprofit organization-imposed affordable housing restrictions, and certain easements granted to nonprofit organizations to preserve and protect land in its natural state. This law[3] expressly requires assessors to consider certain *recorded* contracts with governmental agencies that restrict property use. These land use restrictions can negatively impact property value.

Government Property Acquisitions. Most government owned property is exempt from the property tax. The law[4] details the process for tax cancellation on newly acquired government-owned property. The law requires public entities to provide both the county assessor and county auditor with a copy of the instrument evidencing the public entity's property acquisition and request that the auditor cancel the taxes, as specified.[5] However, prior to the actual acquisition, the law also requires a public entity *proposing* to acquire property that will become tax exempt to notify the county tax collector once funds to acquire the property are budgeted. The notice must specify the extent of the proposed project and the estimated time to acquire all the properties needed for the project.

Proposed Law:

Affordable Owner-Occupied Homes. This bill requires contracts with government agencies restricting the use of property for owner-occupied housing available at affordable housing cost to be recorded.

This recording requirement is not to be construed to prevent the assessor from applying those laws[6] that require the assessor to consider specified enforceable restrictions when making value determinations.

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[1] Revenue and Taxation Code (RTC) [Section 110(a).](#)
[2] RTC [Section 402.1](#).
[3] RTC Section 402.1(a)(2)
[4] Article 5 "Cancellation of Taxes on Exempt Property ([RTC Sections 5081-5091](#)). Article 5 was added by AB 135 (Stats.1979, Ch. 31) and primarily relates to eminent domain provisions.
[5] RTC [Section 5082.1](#).
[6] RTC Sections 110(a) and 402.1.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

Government Property Acquisitions. This bill requires the public agency to provide the county assessor with the required notice of intent to acquire.

Commentary:

1. **Effect of this bill.** Requires public agencies to provide county assessors with specified information that impact property tax assessments and requires certain contracts to be recorded so that the assessor can obtain access to the contract documents.

   - **Contract Recording.** The CAA states that assessors need this information to properly assess property. Contracts that impose enforceable restrictions on property use might impact the value the assessor sets for tax purposes. The notification is important because homes purchased under an affordable housing program with use restrictions might allow for a reduced assessment. The contact recording requirement stems from homes purchased under an affordable housing program with restrictions that allow for reduced assessment of which the assessor had no knowledge.

   - **Government Property Acquisitions: Notification.** The CAA states that assessors need this information to properly assess property by tracking the proposed government acquisition of taxable property that may lead to its eventual exemption from property taxation.

2. **The August 2, 2016 amendments** delete the affordable housing contract recording requirement from RTC Section 402.1 and instead add a new section of law (Section 402.2) with the same substantive effect. The new section explicitly states that contracts are to be recorded. A separate section removes the requirement from a list of assessor-related requirements. This is less confusing since Section 402.1 already requires assessors to consider contracts that are recorded with governmental agencies and certain non-profit organizations. The new language adds a cross reference to Section 110(a) which also requires assessors to consider enforceable restrictions when determining value. The **June 15, 2016 amendments** added the requirement that affordable owner-occupied use restrictions be recorded. As introduced, the bill proposed requiring all governmental agencies to provide the assessor with contracts that restrict property use, but those provisions were deleted by **April 12, 2016 amendments** due to opposition from the League of Cities. As revamped the contract must be recorded, but the recording duty could be delegated to other persons or entities and assessors could obtain access to recorded documents from the county recorder. The April 12 amendments addressed the assessor notification problem in terms of change in ownership reporting, rather than providing copies of recorded documents, given the League of Cities concerns. But this approach was also subsequently deleted by **April 25, 2016 amendments** since the BOE-prescribed COS already requests information about government-imposed enforceable restrictions for low-income housing. The BOE and CAA can modify the COS and related preliminary change in ownership report (PCOR) via the annual form revision and approval process. The modification authority allows expanding the existing question to include reference to non-profit -imposed restrictions.

3. **The BOE-prescribed COS requests certain information about governmental-imposed enforceable restrictions for low-income housing.** The COS is one source of information about these restrictions, however, often the documents are prepared for the property owner, and the property owner signs the COS in the escrow process so the COS-provided information may be inaccurate. The form, however, does not request information for all government-imposed restrictions, nor does it request information about nonprofit organization-imposed restrictions added to the law last year by AB 668 (Gomez). Question N on both the COS (Section 480) and the PCOR (Sections 480.4 and 480.3) concerns purchases of low-income housing subject to government-imposed restrictions. The COS and PCOR asks the property buyer to check yes or no:

   - N. This is a transfer subject to subsidized low-income housing requirements with governmentally imposed restrictions.

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The instructions relating to the question read:

- Check YES only if property is subject to subsidized low-income housing requirements with governmentally imposed restrictions; property may qualify for a restricted valuation method (i.e., may result in lower taxes).

Costs: Any associated BOE-costs are absorbable.

Revenue Impact: The bill has no direct revenue impact.

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