



[Senate Bill 964](#) (Seyarto)

Date: April 25, 2024 (amended)
Program: Property Taxes
Revenue and Taxation Code Section 3777
Effective: Immediately/Upon Signature

Ted Angelo (Division Chief) 916-274-3423
Ted Angelo (Analyst) 916-274-3423
Hao Nguy (Revenue) 916-274-3417
Analysis Date: May 6, 2024

Summary:

Senate Bill 964 would prohibit a Chapter 8 sale of tax-defaulted property unless the property is first offered under Chapter 7 or the State Board of Equalization (BOE) conducts a property valuation that shows the value of the property interest is worth less than the amount of the defaulted debt.

Fiscal Impact Summary:

BOE would incur potentially significant staff costs depending on the number of properties it would need to evaluate annually. The estimated annual cost to BOE is \$1.8 million to \$2.0 million in staffing plus additional travel costs. These staffing and travel costs cannot be absorbed by BOE's existing resources. See "Costs" below for further details.

Existing Law:

Existing law authorizes a county tax collector to sell property that has become tax defaulted to any person, regardless of any prior or existing lien on, claim to, or interest in, the property, after 3 years for commercial property or after 5 years for residential property.

Existing law also generally authorizes the sale of defaulted property to certain entities after 5 years or more, or 3 years or more, in an applicable county, including by authorizing the state, county, any revenue district collecting property tax, or a redevelopment agency created pursuant to the California Community Redevelopment Law, to purchase the property.

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 nuisance abatement.

Existing law requires the sales price of a property sold pursuant to the provisions described above to include all defaulted taxes, assessments, and associated penalties and costs.

Background:

Property taxes are due in two installments: November 1, and February 1, with delinquency for the second installment occurring on April 10. Generally, state law requires county tax collectors to begin imposing penalties for nonpayment of property taxes of 10% of each amount due, plus

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.

administrative charges, once taxes become delinquent. If a property owner does not pay the property taxes due in the current fiscal year before June 30th, their property becomes tax-defaulted and, after a specified amount of time, can be subject to tax sale to satisfy outstanding taxes, penalties, and administrative charges.

To protect property owners, the Legislature has enacted specific procedural requirements to ensure tax collectors notify delinquent taxpayers when their property is subject to tax sale and offer them an opportunity to keep their property.

Chapter 7 Sales. After proper notification steps are taken, the tax collector is authorized to sell a residential property that has been in default for five years or three years for a commercial property. However, the tax collector must sell the property within four years of it being subject to sale. To conduct a tax sale, the tax collector must transmit to the county board of supervisors a notice of the properties they intend to sell. After approval of the board of supervisors, every June 8th, the tax collector publishes a notice of power and intent to sell (power to sell) property that will be tax defaulted with specified disclosures, which starts the tax sale process.

At least 30 days before publishing the notice of the intended sale, the tax collector must send a notice to all taxing agencies having the right to levy taxes or assessments on the property and each city having jurisdiction over a property scheduled for the tax sale. The State, a city, or any taxing agency or revenue district may object to the sale of a portion of the property and may attempt to purchase it themselves if it is needed for public use.

Notice to Nonprofit Groups: The tax collector must also forward a copy of the notice to any nonprofit organization that has requested a copy, which can also object to a tax sale and propose to purchase the property themselves, but only for the purposes of:

1. Constructing or rehabilitating currently substandard residential property to rent or sell to low-income persons or otherwise use the property to serve low-income persons or
2. Dedicating vacant land for open space purposes, or for constructing residential dwellings for subsequent sale or rent to low-income persons, or for other uses to serve low-income persons.

Nonprofit agencies can also request that the tax collector send to tax sale a property eligible, but not scheduled, for tax sale. When a public agency or nonprofit proposes to purchase the property, the tax collector then proposes that the property be subject to a Chapter 8 sale.

Chapter 8 Sales. Government entities and nonprofit organizations can enter into agreements to purchase tax defaulted residential or vacant property, known as a "Chapter 8 sale." A Chapter 8 sale is not held by auction. Instead, the State, local agency, or nonprofit submits an application to the county with a purchase price, which must be approved by the county board of supervisors. The sale requires payment of delinquent taxes, redemption penalties, and other costs. In some cases, the tax collector is authorized to further reduce the price.

The county board of supervisors may establish conditions of sale to the nonprofit to ensure the completion of rehabilitation within a reasonable time and maximum benefit to low-income persons.

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.

After approval, the tax collector must send a copy of the executed agreement to the State Controller for approval. If approved, the tax collector publishes notice of the agreement. The tax collector must then complete most of the same steps as a Chapter 7 sale, such as sending the agreement to the current property owner and any parties of interest not less than 45 nor more than 60 days prior to the effective date of the agreement and publishing the notice of agreement.

The sale cannot become effective less than 21 days from the date the tax collector publishes notice of the agreement. Unlike Chapter 7 sales, no process for rescission exists for Chapter 8 sales.

Proposed Law:

Senate Bill 964 would authorize Chapter 8 tax sales that have not been offered for sale under Chapter 7, if the BOE conducts a property valuation that shows the value of the property interest is worth less than the amount of the defaulted debt.

Under SB 964, a taxing authority intending to sell a property or property interest would need to notify the BOE of that intent and the BOE would then be required to provide the taxing authority with a valuation of that property or property interest within 45 days of the notification.

The bill would also direct the State Controller to determine if the BOE's valuation shows that the property or property interest is worth less than the amount of the defaulted debt, as part of the Chapter 8 approval process.

Commentary:

SB 964 allows counties to proceed with tax sales so long as they have a valuation from the BOE that shows the value of the property interest is worth less than the amount of the defaulted debt. However, while the BOE values unitary property of statewide assessees like utilities and railroads, and oversees County Assessors, its property tax staff generally does not appraise individual properties or interests. Rather, individual properties are locally assessed, as County Assessors have jurisdiction over the valuation of individual properties.

BOE is not directly involved in the property tax collection process, nor does it typically assess the value of county parcels. BOE provides oversight and guidance to County Assessors who are typically responsible for this process. This proposal would involve the BOE beyond its regular domain and scope of practice.

Although in the past Chapter 8 sales have been rare (16 in 6 counties in 2022 and 30 in 12 counties in 2023), going forward, there is a likelihood of a large increase in Chapter 8 sales in the future. For example, Lake County was recently placed under court order to dispose of 12,000 tax-defaulted parcels that are extremely low value.

Currently, this bill does not augment BOE's budget to compensate for the costs of the valuation of each parcel, which must include an in-person site visit by a BOE appraiser and be completed in a short timeframe of just 45 days. If this bill were to pass, it would be improbable that even a

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.

percentage of the anticipated valuations could be done with existing BOE appraisal staff and operating budget.

Even if this bill was amended to provide the necessary augmentation of BOE staff, and additional budgetary funds were allocated to BOE to purchase equipment and cover necessary travel costs to perform the appraisals, it would be extremely difficult for BOE to stand up this new program within a reasonable timeframe – especially when considering the current State budget deficit and the length of time needed to review and approve any necessary budget change proposal.

Lastly, nonprofit organizations or government entities may want to contract with their own appraisers to conduct the valuation, but only a BOE valuation will suffice under the bill for a nonprofit organization or government entity that wants to purchase a property or property interest. There would likely be legal costs involved as well.

Legal Background:

Last year, the United States Supreme Court decided the case of *Tyler v. Hennepin County*, Minnesota, 598 U.S. 631, 143 S. CT. 1369. In that case, the Court ruled that the County had violated the United States Constitution's Fifth Amendment takings clause. Unlike in California, where taxpayers can claim excess proceeds from a tax sale, under Minnesota law, the state can either keep a tax-defaulted property for public use or sell it, retaining all proceeds, including those in excess of the tax due.

Commentary:

According to the author, "SB-964 seeks to bring California into compliance with the recent *Tyler v. Hennepin County* ruling by the United States Supreme Court. By providing a third-party valuation of a property, pending a Chapter 8 sale, local governments can ensure that they are providing the property at fair market value and are in compliance with the Supreme Court ruling. This will protect local governments from being targeted for Constitutional violations while keeping an essential tool for selling tax-defaulted properties within California."

Costs:

In calculating the estimated administrative costs to BOE, we must rely on the available County Treasurer/Tax Collector data, which includes only 13 out of 58 counties. Those missing counties are either nonresponsive or have no Chapter 8 related sales to report. Additionally, the large variance in the number of potential "power to sell" parcels compared to those that were actually sold is significant as it makes predicting an accurate workload very complex.

Our estimate contemplates staffing for a quick turnaround as the bill has a 45-day timeline from the notice for BOE to complete our work. Given these factors, BOE would potentially need to augment its staff of property appraisers by at least 10 positions, but likely more.

From the Property Tax Department alone, a mid-range estimate for a new appraisal unit dedicated to these proposed default assessments is estimated to consist of full-time hours for a new unit, starting with 1 Principal Property Appraiser, 1 Supervising Property Appraiser, 1 Senior Specialist Property Appraiser, 6 Associate Property Appraisers, and 1 Tax Technician I. If 10 new permanent positions are needed to carry out this proposed new workload, the estimated ongoing

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.

cost would be approximately \$1.5 million. Since the appraisal of parcels would require an in-person site visit to evaluate and appraise the properties, additional costs for travel and accommodations throughout the state would be needed as well.

Additionally, the Legal Department would incur increased staff time for appeals by potential litigants alleging problems with the BOE's valuations.

The Communications Department would need to handle increased public inquiries regarding property valuation concerns, as would the Taxpayers' Rights Advocate (TRA) office.

Again, depending on the number of assessments, total annual costs to BOE for workload impact to all divisions could easily exceed \$1.8 million to \$2 million annually.

Revenue Impact: Unknown

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.