



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date Amended:	04/25/05	Bill No:	AB 14
Tax:	Property	Author:	Harman
Related Bills:			

BILL SUMMARY

This bill would, with respect to an existing property being converted to a condominium, prohibit the assessor from taking any action, including assigning parcel numbers, for properties with less than five units until receiving a document from the city and/or county certifying their consent to the conversion.

ANALYSIS

Current Law

Title 6 “**Common Interest Developments**” of Chapter 4 “**Recording Transfers of Real Property**” of Part 4 “**Acquisition of Property**” of Division 2 “**Property**” of the Civil Code outlines the laws related to establishing the individual ownership of a multifamily structure or development. Section 1351(c) thereof defines a “common interest development” as any of the following:

- Condominium project
- Planned development
- Community apartment project
- Stock cooperative

It also defines each of these terms. Section 1352 of the Civil Code provides that a common interest development is created when a separate interest coupled with an interest in a common area is conveyed provided certain documents, as specified, are recorded.

Existing law in the Revenue and Taxation Code provides for the separate assessment of specified interests in real property under certain conditions. Those interests include:

- Condominium –Sections 2188.3 and 2188.6
- Planned development - Section 2188.5
- Community apartment project, stock cooperative, or limited equity housing cooperative - Section 2188.7

In addition, Section 2188.11 provides that the assessor may separately assess certain undivided interests as required by Sections 2821 et. seq. Revenue and Taxation Code Section 2821 allows any person filing an affidavit of interest to apply to the tax collector to have any parcel separately valued for the purpose of paying property taxes. Section 2828 requires the assessor to then determine the separate valuation for the parcel.

Revenue and Taxation Code Section 327 provides that the assessor may renumber or reletter parcels or prepare new map pages to show combinations or divisions of parcels.

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 Board’s formal position.

Proposed Law

This bill would, in part, add Section 71.5 to the Revenue and Taxation Code to provide that the assessor shall not take any action upon, and shall not assign any parcel numbers for, a common interest development that will consist of less than five units that is a conversion of an existing property, until the assessor receives a document that certifies the consent of the city, county, or city and county to the project produced by the consenting entity.

COMMENTS

1. **Sponsor and Purpose.** The City of Huntington Beach is sponsoring this measure to help insure that properties are legally and properly converted to condominiums. The City of Huntington Beach found that at least 122 apartment units representing 26 buildings were converted to condominiums without the approval of the city. The individual units were then sold to unsuspecting homebuyers. One of the ways that this illegal conversion was facilitated was by obtaining individual parcel numbers on each unit from the county assessor. In an effort to prevent a property of less than five units from being converted to condominiums without the city's knowledge, this bill requires a document be recorded certifying the city and or county's approval of the conversion. If conversions are made without complying with the local ordinances, potential homeowners would receive none of the current consumer protections in many local ordinances. Many local ordinances require disclosure of financial solvency, disclosure of the condition of the property, and provision for parking.
2. **Would the proposed new section of law be better placed in the grouping of laws in the Revenue and Taxation Code related to assigning assessor parcel numbers?** The author may want to consider relocating this provision of law from Chapter 3 of Part 0.5 of the Revenue and Taxation Code "New Construction" to Chapter 2 of Part 2 entitled "Legal Description of Lands for Assessment Purposes" to ensure that the proper persons will be aware of the prohibition of assigning assessor parcel numbers. A conversion of a property in and of itself is not considered new construction that would trigger a reassessment of the property.
3. **Suggested Technical Amendments.** The phrase "take any action" is rather broad with respect to an assessor's many duties for property tax purposes. Would it prohibit the assessor from re-assessing the property due to new construction? Would it prevent a change in ownership unrelated to the action to convert a property from multi-family residential property units offered for rent to condominium units offered for sale. What if the property is eligible for a decline in value reassessment or the property owner files an appeal on the value of the property? Further, its location in the new construction provisions of laws could confuse the issue. In addition, cross-references from the Revenue and Taxation Code to the appropriate sections of the Civil Code, as well as additional provisions in the separate assessment provisions of code would assist property tax administrators.

The following technical amendments are suggested:

327.5 The assessor shall not prepare a separate assessment or a separate valuation, take any action upon, and shall not assign any parcel numbers for, a common interest development as defined in Section 1351 of the Civil Code that will consist of less than five units that is a conversion of an existing property, until the assessor receives a document that certifies the consent of the city, county, or city and county to the project produced by the consenting entity as required by Section 1352 of the Civil Code.

2188.6. (a) Unless a request for exemption has been recorded pursuant to subdivision (d), prior to the creation of a condominium as defined in Section 783 of the Civil Code, the county assessor may separately assess each individual unit which is shown on the condominium plan of a proposed condominium project when all of the following documents have been recorded as required by law:

(1) A subdivision final map or parcel map, as described in Sections 66434 and 66445, respectively, of the Government Code.

(2) A condominium plan, as defined in subdivision (e) of Section 1351 of the Civil Code.

(3) A declaration, as defined in subdivision (h) of Section 1351 of the Civil Code.

(4) In the case of a conversion of an existing property that will consist of less than five units, a document that certifies the consent of the city, county, or city and county to the project produced by the consenting entity as required by subdivision (d) of Section 1352 of the Civil Code.

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2823. The county assessor shall determine a separate valuation on the parcel, and shall determine the valuation of the remaining parcel. The sum of the valuations of the parcels shall equal their total valuation before separation.

A separate valuation shall not be made of any parcel covered by a subdivision map filed for record after the lien date immediately preceding the current fiscal year. In connection with the recording of a final subdivision map a segregation may nevertheless be made so as to include all of the land within the subdivision in a single parcel.

A separate valuation shall not be made dividing any piece of property separately assessed in the original assessment into more than four parcels. However, this prohibition shall not apply in any county in which the board of supervisors so provides in an ordinance adopted by a majority vote of the board.

A separate valuation shall not be made of a common interest development as defined in Section 1351 of the Civil Code that will consist of less than five units that is a conversion of an existing property, until the assessor receives a document that certifies the consent of the city, county, or city and county to the project produced by the consenting entity as required by Section 1352 of the Civil Code.

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COST ESTIMATE

With respect to administration, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes.

REVENUE ESTIMATE

This bill has no revenue impact.

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