



DRAFT

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

Date Amended:	07/06/99	Bill No:	SB 42
Tax:	Property	Author:	Johnson
Board Position:		Related Bills:	

BILL SUMMARY:

This measure would 1) give tenants that use the services of an interim holding entity to facilitate the purchase of their mobile home park an additional six month period, as specified, to achieve a 51% tenant participation rate and 2) add a “tenant-in-common ownership group” to the list of entities eligible to act in the interim holding entity capacity.

ANALYSIS:

Current Law:

Current law excludes certain transfers of mobilehome parks from change in ownership if the park is ultimately purchased by at least 51% of the tenants renting the individual spaces of the mobilehome park. Qualifying conversions to resident ownership permit the residents of the park to retain the base year value of the previous owner, rather than triggering a reassessment of the mobilehome park to current market value. In some cases, prior to the transfer to the tenants directly or to an entity owned by the tenants, there is an interim transfer of the mobilehome park to a non-tenant owned entity. This entity helps facilitate the purchase and conversion to a resident-owned park. To qualify for the change in ownership exclusion, the intermediary entity must complete the conversion and subsequently transfer the park to the tenants or an entity owned by the tenants within 36 months of the initial transfer.

Proposed Law:

With respect to mobilehome parks initially transferred on or after January 1, 1995, this bill would extend the 36-month period to obtain a 51% tenant participation by an additional six months for in-progress purchases of rental spaces in the mobilehome park by the individual tenants renting their spaces prior to purchase if: 1) a purchase contract has been executed, 2) escrow was opened with a licensed escrow agent prior to expiration of the 36-month period, and 3) escrow closed within 6 months of the end of the 36-month period.

In General:

California's system of property taxation under Article XIII A of the State Constitution (Proposition 13) values property at its 1975 fair market value, with annual increases limited to the amount of inflation or 2%, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or new construction, the value of

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the property for property tax purposes is redetermined based on current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value."

Exclusion for Sale of Undivided Mobilehome Park to Tenant Owned Entity- §62.1(a): A transfer on or after January 1, 1985 of a mobilehome park to a specified legal entity, formed by the tenants of a park, for purposes of purchasing the park, is excluded from change in ownership provided that any transfer of the park on or after January 1, 1989 involves 51% ownership of the acquiring legal entity by tenants renting at least 51% of the spaces in the park prior to the transfer. Under Section 62.1(c), if the park has been excluded from a change in ownership under the window provisions and the park has not been converted to condominium, limited equity, or cooperative ownership, then any transfer (after January 1, 1989) of the shares of stock or ownership interests in the entity which acquired the park in accordance with Section 62.1(a), results in a pro-rata change in ownership in the park real property for the portion of ownership interests which have transferred. As an exception, this pro-rata change in ownership does not take place, if the transfers are for the purpose of converting the park to condominium or cooperative ownership.

Exclusion for Sale of Individual Rental Spaces to Individual Tenants - §62.1(b): Transfers of rental spaces in a mobilehome park to individual tenants of the spaces are also excluded from change in ownership provided that (1) at least 51% of the spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants form, within thirty-six months after the first purchase of a rental space by a tenant, a resident organization, defined in Health & Safety Code §50781. If the tenant(s) notify the assessor of their intent to comply with these conditions, there is no reappraisal of any spaces purchased by individual tenant(s) during that time period. The assessor may levy escape assessments, if the requirements for the exclusion are not met. This exclusion applies only to parks in operation for five years or more, and to qualifying transfers on or after January 1, 1985.

Exclusion for Interim Holding By Non-Tenant Owned Entity - §62.2: Section 62.2 allows for application of the change of ownership exclusion in Section 62.1 upon the occurrence of an "interim transfer" of the mobilehome park to an entity (including a governmental entity) not owned by the park residents. This exclusion permits an initial transfer to an entity not formed by the tenants, followed within 18 months, by a transfer to one that is formed by the tenants. For parks originally transferred on or after January 1, 1993, the interim time period is extended to 36 months, and for parks located within a certain disaster area, the time period is extended to 76 months. The intent, stated by the Legislature in Section 62.1(e), is that the exclusion is for transfers to these entities which "facilitate affordable conversion of mobilehome parks to tenant ownership." Otherwise the transfer is disqualified from the change in ownership exclusion of Section 62.1.

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Background:

In 1984, Section 62.1 was added to the Revenue and Taxation Code with a sunset date of January 1, 1989 by Ch. 1692 (AB 2240, Seymour). In 1987, the sunset date was extended to January 1, 1994 by Ch. 1344 (SB 298, Craven). In the 1992 legislative session, SB 1312 (Craven) proposed an extension of the sunset date to January 1, 2000; however this bill was held in abeyance by the Senate Revenue and Taxation Committee amid concerns of property tax revenue loss to local government and questions as to the constitutionality of the exclusion. As a result a Legislative Counsel opinion was requested. Legislative Counsel's Opinion #6691, issued May 18, 1992, opined that the exclusion from change in ownership of mobilehome parks converted to resident-ownership from change in ownership was not a valid interpretation of that term as it is used in Article XIII A of the California Constitution, and was not authorized by any constitutional provision allowing mobilehome parks preferential treatment in avoiding reappraisal. To date no constitutional amendment has been enacted. In 1993, the sunset date was extended to January 1, 2000 by Ch. 1200 (SB 664, Craven; see also SB 351, Craven) and in 1998, the provisions were extended indefinitely by Ch. 139 (AB 2384, Aguiar).

Previous Holding Period Extensions. Since its 1988 enactment, Section 62.2 has been amended three times to increase the time period allowed for third party possessions prior to transfer, by the following measures:

- Chapter 442 (SB 674, Craven) of the Statutes of 1991 increased the interim period from 270 days to one year.
- Chapter 1080 (SB 1426, Rosenthal) of the Statutes of 1992 increased the interim period from one year to 18 months.
- Chapter 687 (SB 53, Craven) of the Statutes of 1995 increased the interim period from 18 months to 36 months for mobilehome parks initially transferred on or after January 1, 1993 and extended the time period that an intermediary entity may hold ownership of a mobilehome park from 18 months to 76 months for a mobilehome park located in the County of Los Angeles.

COMMENTS:

1. **Sponsor and Purpose.** This bill is sponsored by Rancho Carlsbad Partners the owner of Rancho Carlsbad Mobilehome Park, a mobilehome park that is owned 51% by the residents of the park and 49% by investors. Its purpose is to ensure that the mobilehome park, located in San Diego County, will be able to receive the change in ownership exclusion. The 36-month period expired before 51% of the tenants were able to complete the purchase of their individual spaces, but many sales were in the escrow process. With this bill, the mobilehome park will be able to qualify for the change in ownership exclusion. Generally, tenants organize to purchase the park in an effort to curb the increasing rents charged by the previous mobilehome park owner. Without the change in ownership exclusion, the property tax increase of the underlying

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park could be a significant expense to the tenants, many of whom are on a fixed or low income.

- 2. The interim holding period has been extended each time a park has failed to qualify within the allotted time period.** Since its 1988 enactment, Section 62.2 has been amended three times to increase the time period allowed for third party possessions prior to transfer to the tenants directly or a tenant owned entity: 1) in 1991, the interim period was increased from 270 days to one year; 2) in 1992, the interim period was increased from one year to 18 months; 3) in 1995, the interim was increased to 36 months and a special provision of 76 months was permitted for a particular mobilehome park in Los Angeles County.

COST ESTIMATE:

With respect to property taxes, the Board would incur some minor absorbable costs in informing and advising local county assessors, the public, and staff of the law changes.

REVENUE ESTIMATE:

Background, Methodology, and Assumptions

The revenue effect of excluding from “change in ownership” qualifying transfers of mobilehome parks to tenant ownership depends upon the number of parks in which the tenants are successful in purchasing their park and meeting the requirements of Section 62.1 or Section 62.2 of the Revenue and Taxation Code, the difference between the fair market value and the assessed value of the park at the date of sale, and the market for the tenant-owned interests after the conversion. Mobilehome park tenant conversion is a long, drawn-out, complex and frequently unsuccessful process. In the revenue estimate for 1993’s SB 351 which extended the effective date for the change in ownership exclusion to January 1, 2000, it was reported that there were approximately 5,500 mobilehome parks in California and that only 70 of these had been purchased by residents since 1985.

Board staff surveyed counties in 1993 to determine the property tax revenue loss resulting from mobilehome park transfers that were excluded from change of ownership under Section 62.1 and Section 62.2. The average initial tax loss per qualifying park purchase in the 1993 study was \$33,040. This loss is mitigated over time as the individual tenant interests are sold to new tenants and these sales are then revalued for “change in ownership”.

Data gathered from the counties show that the number of conversions that take place each year ranges from about 5 to over 15. The average initial tax loss per qualifying park purchase for conversions between 1993 and 1997 is about \$24,000.

Specific to this bill, the pre-sale assessed value of the Rancho Carlsbad Mobilehome Park was approximately \$9 million. The owners have been notified that, because the tenants

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were not able to achieve a 51% tenant participation rate with the 36 month period, the property will be reappraised for the 1995 changed in ownership to a current market value of approximately \$34 million. At a 1% property tax rate, this bill will result in about a \$250,000 annual reduction in property taxes for the Rancho Carlsbad Mobilehome Park. There will likely be additional mobilehome parks that will qualify for the change in ownership exclusion over the years as a result of this measure.

Revenue Summary

The initial tax reduction on the one property known to be affected by the bill is \$250,000 per year. The reduction on that property will be lowered in future years, as individual tenants sell their interests, thereby triggering a reassessment of those interests. There is a potential for revenue reductions on other properties in future years, but this bill would affect only those properties for which an extension of six months to complete the ownership change would make the difference between being reassessed and not being reassessed. Also, the one property known to be affected by this bill is unusually large; other properties that potentially might be affected are not likely to be as valuable.

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