



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

Date Amended:	<b>Enrolled</b>	Bill No:	<a href="#"><u>AB 402</u></a>
Tax:	<b>Property</b>	Author:	<b>Ma</b>
Related Bills:	<b>SB 1045 (SR&amp;T)</b>	Position:	<b>Support</b>

**BILL SUMMARY**

This bill would:

- Expand the parent-child change in ownership exclusion to include transfers between foster parents and foster children, as specified.
- Request that certain residential co-operative housing projects annually report ownership information to county assessors.

**ANALYSIS**

**Parent-Child Change in Ownership Exclusion - Foster Children**  
*Revenue and Taxation Code Section 63.1*

**CURRENT LAW**

**Change in Ownership.** Under existing property tax law, real property is reassessed to its current fair market value after a “change in ownership.” (Article XIII A, Sec. 2; Revenue and Taxation Code Sections 60 - 69.5)

**Parent-Child Exclusion.** Article XIII A, Section 2(h) of the California Constitution provides that certain transfers of property between parents and their children, as defined by the Legislature, are not a change in ownership.

The Legislature, in Section 63.1 of the Revenue and Taxation Code, defined child, in pertinent part, to mean any child born of the parent or parents, or any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years. Because a “foster child” does not meet the statutory definition of a “child” for purposes of this exclusion, a transfer between a foster parent and a foster child is not eligible for the parent-child change in ownership exclusion.

**PROPOSED LAW**

**Foster Children.** This bill would amend Section 63.1 to add to the definition of child any foster child of a state-licensed foster parent, if that child was not, because of a legal barrier, adopted by the foster parent before the child aged out of the foster care system. The relationship between a foster child and foster parent would be deemed to exist until terminated by death. However, for purposes of a transfer that occurs on the date of death, the relationship would still be deemed to exist on the date of the death. §63.1 (c)(3)(E)

**Claim Form Requirements.** The claim form filed to request the change in ownership exclusion is to include:

- a certified copy of the court decision regarding the foster child status of the individual, and

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- a certified statement from the appropriate county agency stating that the foster child was not, because of a legal barrier, adopted by the foster parent or foster parents.

In addition, if requested, legal substantiation of these two items may be required. §63.1(d)(1)(E)

**Foster Parent to Foster Child to Biological Parent Transfers Prohibited.** In the case of a transfer of a principal residence from a foster child to the child's biological parent, an exclusion is not available if the transferor child received that principal residence from a foster parent that was previously granted the foster parent–foster child exclusion. §63.1(a)(1)(B)

## COMMENTS

1. **Sponsor and Purpose.** This provision is sponsored by the author to expand the parent-child exclusion to transfers between foster children and foster parents. The author notes that this bill would encourage and recognize the life long bonds between foster children and foster parents and may help reduce the number of foster youth who age out of the foster care system without a place to live.
2. **Amendments.** The **August 20 amendments** substituted the phrase “child was not eligible for adoption” for “child was not, because of a legal barrier, adopted” throughout the text. The **August 1 amendment** double joined this bill to SB 1045 which also proposes amendments to Section 63.1. The **July 17 amendment** reflects a suggestion made in the prior analysis to ensure that a transfer that occurs on the date of the foster parent's death is eligible for the exclusion. Previously, the bill stated that the foster parent- foster child relationship would be deemed to exist until terminated by death. However, this phrasing required modification since many transfers would likely occur on the date of death, for example, when a home is left to a foster child upon the foster parent's death via a will.

**Change in Ownership Reporting - Residential Co-operative Housing**  
*Revenue and Taxation Code Section 480.8*

**CURRENT LAW**

**Change in Ownership - Properties with Common Areas or Facilities.** Revenue and Taxation Code Section 60 provides a general definition of “change in ownership” which is a transfer of present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

In addressing the practical application of a change in ownership of a real estate project with common areas or facilities, Section 65.1(b) specifies if there is a change in ownership of a unit or lot, then only that particular unit or lot and a share in the common area is to be reappraised. These provisions apply to:

- cooperative housing corporations,
- community apartment projects,
- condominiums,
- planned unit developments, or
- other residential subdivision complexes with common areas or facilities.

Section 65.1(b) also requires that the project owner must ensure that the resulting increase in property taxes is applied to the tenant-shareholder, lessee, or occupant of the individual unit or lot that changed ownership to prohibit the project owner from prorating the increased taxes among the owners of the other units or lots in the project.

**Cooperative Housing Corporations.** In addition, subdivision (i) of Section 61 expressly provides that a transfer of stock in a cooperative housing corporation is a change in ownership requiring reassessment of the property.

**Change in Ownership Reporting.** Revenue and Taxation Code Section 480 requires that whenever there is a change in ownership of real property, the property owner must file a “Change in Ownership Statement” (COS). However, there is no penalty for failing to file the statement unless the assessor prompts the property owner to file the statement by making a written request. If requested, the taxpayer has 45 days to file the COS or otherwise incur penalties as specified. (§482)

**PROPOSED LAW**

**Consolidated Ownership Report.** This bill would add Section 480.8 to the Revenue and Taxation Code to require the owners of a cooperative housing corporation, community apartment project, condominium, planned unit development, or other residential subdivision complex with common areas or facilities in which units or lots are transferred without the use of recorded deeds, to file an annual ownership report, after a written request, with the county assessor by February 1 of each year.

The ownership report is to include:

- The name and mailing address of each owner, stockholder, or holder of an ownership interest in the property.
- The situs address, including the number, of each unit or lot.
- A copy of the stock certificate, or other document that evidences an interest in the unit or lot. Once a copy has been provided, it is not necessary to be provided in subsequent ownership reports.

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- The date that an ownership interest in the property was acquired and the acquisition price of that interest.

**Individual Change in Ownership Statements.** There is no penalty if the consolidated ownership report is not filed. However, in that event, the assessor would send a COS to every owner, tenant-shareholder, or occupant of each individual unit or lot in the residential project and the failure to file that statement would result in a penalty to the owner of each individual unit or lot that fails to independently file the COS. If the assessor sends an individual change in ownership statement, then a notice is to be included with the statement informing the occupants of the unit to forward the statement to the owner or shareholder of the unit in the case where the occupant is not the owner.

## COMMENTS

1. **Sponsor and Purpose.** The California Assessors' Association is sponsoring this provision to establish a practical and cost effective method for the discovery of changes in ownership of housing co-ops. The annual report is necessary so that they can properly administer the property tax laws. It is likely that some of these units are avoiding reassessment where the individuals fail to independently report their purchase of the unit to the assessor within 45 days as required by law.
2. **Amendments.** The **August 1 amendment** specified that when it is necessary to mail individual change in ownership statements to each unit, then a notice is to be included with the statement informing the occupants of the unit to forward the statement to the owner or shareholder of the unit in the case where the occupant is not the owner.
3. **Transfers without Grant Deeds are Difficult to Discover.** The primary discovery method of property that has changed ownership is the recorded grant deed. In stock co-operative housing developments, which are usually referred to as "co-ops," individual units are transferred by means of stock certificates. These certificates are not recorded with the county recorder and may or may not be recorded with the Secretary of State. Consequently, discovery of these changes in ownership by conventional means can be problematic. Assessors generally rely on direct contact with the co-op association or management.
4. **Some Co-ops do not cooperate.** Los Angeles County reports that they have nearly 1600 units in over 50 co-ops. Eleven of these co-ops, comprising a total of 500 units, have refused to provide ownership information. Consequently, the assessor is having difficulty properly administering the property tax laws. It is likely that some of these units have changed ownership, which the assessor has difficulty discovering in a practical and cost effective manner without the association managements' co-operation.
5. **Residential Co-ops Only.** The consolidated ownership report only applies to residential real estate projects with co-operative forms of ownership. Other real estate projects, such as shopping centers, industrial parks, or other commercial or industrial land subdivision complexes with common areas or facilities, are not required to file the annual ownership report.

**COST ESTIMATE**

This bill would not result in any costs to the Board of Equalization.

**REVENUE ESTIMATE**

**BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

Current property tax law excludes certain transfers of real property from classification as a "change in ownership" requiring reappraisal of the subject property for tax purposes.

Under this bill, the transfer of property between a foster parent and a foster child would be excluded from classification as a "change in ownership."

Currently, statistics on the number of real property transfers between foster parents and foster children are not collected, as those transactions are treated as any other change of ownership transaction. This exclusion would be extended to a foster child that was not, because of a legal barrier adopted by the foster parent before the child aged-out of the foster care system.

According to Casey Family Programs, there are currently 80,000 children in foster care in California. Of those, half of them list reunification with parents as their permanency goal, while another twenty percent list adoption as their goal. Of the remaining 20,000 foster children, about thirty percent, or 6,000 have been in placement in the foster care system for more than three years.

The revenue effect is difficult to estimate because the permanency goal for most children in foster care is either reunification with parents, or adoption. In cases where foster care is long-term, often a child is placed with several different families over an extended period of time. Over the course of adulthood, it is difficult to determine which former foster children established the type of relationship with a foster parent that would encourage the transfer of property, as specified under this bill. For these reasons, it is likely that the number of affected transfers in a year would be small, perhaps fewer than 60, and that the bulk of these would be transfers of principal places of residence.

Based on reports from county assessors, the average assessed value of properties receiving the homeowners' exemption in 2006 was \$280,000. The median home price in December 2006 was \$568,000. The total amount of affected value can then be estimated as follows:

$$[\$568,000 - \$280,000] \times 60, \text{ or } \$17.3 \text{ million.}$$

**REVENUE SUMMARY**

**Foster Children Transfers.** The annual revenue impact at the basic one percent property tax rate from extending the change in ownership exclusion to transfers between a foster parent and foster child is \$17.3 million x 1 percent, or \$173,000.

**Change in Ownership Reporting.** The provision requiring an ownership report does not have a direct revenue impact. However, the report may aid in the discovery of previously unreported changes in ownership which could result in increased property taxes.

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