

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 418 (Wilson)
Version: March 17, 2025
Hearing Date: July 8, 2025
Fiscal: Yes
Urgency: No
ID

SUBJECT

Property taxation: tax-defaulted property

DIGEST

This bill requires a county board of supervisors that intends to sell tax-defaulted property by an agreement sale with a government agency or qualified nonprofit to conduct a hearing to approve the sale, at which parties of interest may present evidence, and permits the board's decision on the agreement sale to be appealed to a superior court by petition for judicial review within 45 days of the decision, as specified.

EXECUTIVE SUMMARY

Under the U.S. Constitution, state and local governments may not take private property for public use unless they provide the property owner just compensation. When a property owner fails to pay their property taxes, the property is considered tax-defaulted, and the county may initiate a process to sell the property in order to recoup the unpaid taxes, interest, and delinquent tax charges. A county's tax collector may only sell a tax-defaulted property once the property has been in default for five years, or for three years in the case of a commercial property unless extended by the county board of supervisors. The tax collector must provide specified notices in order to conduct a tax-defaulted sale, and a property owner may redeem their property at any time before the tax sale by paying the unpaid taxes and related interest and fees. A tax collector may sell tax-defaulted property by public auction, which is commonly known as a Chapter 7 sale, by sealed bid, or by a negotiated sale to a government agency or qualified nonprofit (commonly known as a Chapter 8 sale). While a property owner and other parties of interest are entitled to obtain any excess proceeds from a Chapter 7 sale, Chapter 8 sales are typically made for the value of the overdue taxes and related charges. A recent U.S. Supreme Court ruling, *Tyler v. Hennepin*, may cast doubt on the constitutionality of Chapter 8 sales under the U.S. Constitution's takings clause. AB 418 attempts to address these concerns by requiring that the sale price of a Chapter 8 sale be equal to or greater than the sale price that the government agency would have received

at a Chapter 7 public auction. AB 418 requires a county board of supervisors to conduct a hearing to determine that question before a Chapter 8 sale take place, and the property owner and any party of interest may present evidence at this hearing. Lastly, AB 418 permits a party to appeal the board's decision on the Chapter 8 sale within 45 days of the decision, as specified.

AB 418 is sponsored by the California Association of County Treasurers and Tax Collectors, and is supported by a number of local government groups, counties, and pro-housing organizations. The Committee has received no timely letters of opposition. AB 418 previously passed out of the Senate Revenue and Taxation Committee by a vote of 5 to 0.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Guarantees that no person may be deprived of life, liberty, or property without due process of law, and that private property may not be taken for public use without just compensation. (U.S. Const., Amend. V.)

Existing state law:

- 1) Stipulates that all property is taxable, unless otherwise provided by the California Constitution or federal law. (Cal. Const., Article XIII, Sec. 1.)
- 2) Details the series of actions a tax collector must follow, such as notices and publications, in the case of tax-defaulted property. (Rev. & Tax. Code §§ 3365, 3691.)
- 3) Provides that a property becomes tax-defaulted if taxes remain unpaid after the end of the current fiscal year, and subject to sale by the county tax collector if the taxpayer fails to redeem the property by repaying in full the defaulted taxes, interest, and penalties within five years of the property becoming tax-defaulted, or three years for commercial property, unless the county board of supervisors extends the time period for commercial properties to five years. (Rev & Tax. Code §§ 3436, 3693, 126.)
- 4) Requires the tax collector to attempt to sell tax-defaulted property at a public auction to the highest bidder within four years of the property becoming subject to sale. Provides that certain properties, such as properties with oil, gas, or mineral rights or property rendered unusable by size or location shall be sold via a sealed bid to the highest bidder. (Rev. & Tax. Code § 3692.)
- 5) Requires the minimum bid amount in a sale by public auction, sealed bid, or agreement sale to be no less than the amount of the sum of defaulted taxes,

delinquent penalties and costs, redemption penalties, a redemption fee, and any outstanding balance of any property tax postponement loan, as defined. For an agreement sale, permits the property to be offered at a minimum price set by the tax collector if the property was offered for sale through a public auction at least once and no acceptable bids were received. (Rev. & Tax. Code §§ 3698.5, 3793.1.)

- 6) Requires revenues resulting from the public auction sale of a tax-defaulted property to be allocated according to a specific schedule, and stipulates that any excess proceeds may be claimed by parties of interest, including lienholders of record and any persons with title of record to the property, within one year of the sale. (Rev. & Tax. Code §§ 4675, 4676.)
- 7) Permits the State, taxing agencies, revenue districts, and special districts to object to the sale by public auction or sealed bid of a tax-defaulted property on the basis that it is needed for public use and forbids the tax collector from conducting the sale of the property subject to the objection. Requires a sale by agreement to be submitted to the State Controller for approval. (Rev. & Tax. Code §§ 3695.4, 3795.)
- 8) Authorizes, under certain conditions, a nonprofit organization to purchase the real property by an agreement sale if the nonprofit organization will rehabilitate or construct residential dwellings for sale or rent to low- or moderate-income persons or families. (Rev. & Tax. Code § 3791.4.)
- 9) Establishes the process for adjudicating writs of mandate for the purpose of determining the validity of a final administrative order or decision. (Code Civ. Proc. §§ 1094.5 – 1094.6.)
- 10) Provides that where a writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer, the case must be heard by the court sitting without a jury. (Code Civ. Proc. §1094.5 (a).)
- 11) Provides that the inquiry in any such action described in 10) shall extend to the questions of whether the respondent agency has proceeded without, or in excess of, jurisdiction, whether there was a fair trial, and whether there was any prejudicial abuse of discretion. Provides that abuse of discretion is established if the respondent agency has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence. (Code Civ. Proc. § 1094.5 (b).)
- 12) Provides that in any action pursuant to 10), if it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to

exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. (Code Civ. Proc. § 1094.5 (c).)

- 13) Provides that if the court, in a proceeding pursuant to 10), finds that there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing before respondent, it may enter judgment remanding the case to be reconsidered in light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit the evidence at the hearing on the writ without remanding the case. (Code Civ. Proc. § 1094.5 (d).)

This bill:

- 1) Prohibits a county board of supervisors from approving a sale agreement for tax-defaulted property unless it conducts a hearing, and finds at the hearing, upon substantial evidence in light of the whole record, that either:
 - a) the sale price is greater than or equal to the tax sale value of the property;
or
 - b) the tax sale value of the property is less than the amount necessary to redeem the property, such that there would be no excess proceeds from a public auction sale.
- 2) Defines the “tax sale value” as the amount that typically could be realized from the sale of the property at a properly advertised and conducted public auction under existing law.
- 3) Requires a notice of the hearing to be provided by registered mail to the last assessee of each portion of the property and to parties of interest, as defined, at their last known address, at least 45 days before the hearing. Requires this notice to include:
 - a) a description of the property as described in the agreement;
 - b) the name of the last assessee of the property, subject to a specified examination by the tax collector;
 - c) a statement that an agreement for the sale of the property or for an option to purchase it, or both, as applicable, has been proposed with the taxing agency or nonprofit organization named in the agreement;
 - d) the proposed sale price of the property;
 - e) the date, time, and location of the hearing;
 - f) a statement informing the parties of their rights to appear and present evidence, as provided, and that the sale will not take place unless the board of supervisors makes one of the findings required for approval of a sale by agreement pursuant to this bill; and,

- g) the following statement: "If you challenge the proposed sale in court, you may be limited to raising only those issues you or someone else raised at the hearing described in this notice, or in written correspondence delivered to the county at, or prior to, the hearing."
- 4) Establishes that it is not necessary to mail a copy of the notice to any party who files with the tax collector a written acknowledgment of receipt of a copy of the notice or a waiver of the notice.
- 5) Provides that the validity of any sale is not affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive mailed notice.
- 6) Provides that the property owner and all parties of interest in the property each have the right to appear at the hearing and to present any relevant evidence regarding the value of the property or the existence or amount of excess proceeds to which they may be entitled under existing law.
- 7) Provides that evidence may be presented to the board of supervisors at the hearing, or in writing any time prior to the hearing, and that any evidence presented will become part of the record when the board of supervisors considers authorizing a sale by agreement.
- 8) Requires any costs incurred in conducting the hearing and making the findings set forth in this bill be paid by the taxing agency or nonprofit organization by which the property is to be or may be purchased.
- 9) Clarifies that any determination made by the board of supervisors may be challenged by filing a petition for judicial review in the superior court of the county within 45 days after the board issues its decision. Requires the petition for judicial review to name the county as the respondent and to clearly state the grounds upon which the petitioner alleges the determination is unlawful or unsupported by substantial evidence, and requires that judicial review comply with specified procedures of current law relating to appeals of administrative orders.
- 10) Requires the reviewing court to review the administrative record to determine whether the board's decision is supported by substantial evidence in the administrative record. Prohibits any new evidence from being introduced in the judicial review proceeding, except as provided.
- 11) Requires that the notice of the right to judicial review and the applicable deadlines be included in the written notice of the board's determination provided to all parties who appeared at the hearing or submitted written evidence.

- 12) Permits a reviewing court to vacate and remand, if it determines that the decision of the board of supervisors was not supported by substantial evidence or failed to follow statutory requirements for the sale, as provided.

COMMENTS

1. Author's statement

According to the author:

AB 418 establishes a process that California's county tax collectors will follow, when utilizing the Chapter 8 sale process, to ensure that the property is disposed of in a way that is transparent and affords property owners an administrative remedy if the property owner disputes the price set at a Chapter 8 tax sale. These additional steps still preserve the Treasurer-Tax Collector's informed discretion to utilize options to manage those properties for which appraisals are not financially logical. AB 418 aims to ensure that the sale of tax-defaulted property within California is aligned with the ruling of *Tyler v Hennepin County* and reflects the decision of the Supreme Court. AB 418 provides a middle-ground solution allowing Tax Collectors to continue their use of the Chapter 8 sales process, while also protecting the rights of the owners or last assesse of said properties.

2. The Tax-defaulted property sale process

One of the primary ways in which the state of California raises taxes is through taxes upon property. To ensure the payment of property taxes, the state has a lien upon the taxpayer's property for the payment of all due taxes, interest, and charges related to the property tax, and the county tax collector can enforce this lien to recover what a taxpayer owes if they ultimately fail to pay. (Rev. & Tax. Code § 2187.) Property taxes are typically due in two installments, on November 1st and February 1st. Property taxes are considered delinquent, and may incur a 10 percent penalty charge, if they are not paid by December 10 and April 10, respectively. (Rev. & Tax Code §§ 2617, 2618.) If the property owner does not pay the property taxes by the end of the fiscal year in which they are due (June 30th), they are considered tax-defaulted and can be subject to a tax sale to compensate the county for the overdue taxes.

However, the county cannot immediately sell the property. Instead, the tax collector must publish multiple notices – first, a notice of impending default, and then a notice of default once the property is in default. (Rev. & Tax Code §§ 3351, 3436.) After a property becomes in default of its tax bill, a five-year (or three years for commercial properties) timeline runs, unless the county board of supervisors sets a five-year period for commercial property. After a property has been in default for three or five years, as applicable, the tax collector can begin the process to sell the property to make up the

delinquent property tax. (Rev. & Tax Code § 3691.) However, at any time after the property has been declared in default and before the tax sale, the property owner may redeem their property by paying all due taxes, assessments, penalties, and fees. (Rev. & Tax Code §§ 4101, 402.09.)

The tax sale process at this point still requires a number of steps. The tax collector must obtain approval from the board of supervisors of the county, by submitting a notice of the properties which they intend to sell. The tax collector then must publish a notice on June 8th of every year of their intent to sell for all tax-defaulted property. (Rev. & Tax Code §§ 3361, 3363.) Between 21 and 35 days before July 1, the tax collector must send a notice of default and power to sell to the property owner to their last known address. (Rev. & Tax. Code § 3365.) The tax collector must send a notice of proposed sale to all parties of interest at least 45 days but no more than 120 days before the sale, including to the last known address of property owner and to government agencies that have a lien interest in the property. (Rev. & Tax. Code §§ 3701, 4674.)

The county may then dispose of the property in three ways: by selling the property at a competitive auction, often called a Chapter 7 sale; by selling the property by a sealed bid sale; or by a negotiated sale to a qualified government agency or a nonprofit that builds affordable housing or preserves open space. If the county sells the property through a Chapter 7 sale, the property may actually be sold for more than the value of the due taxes, interest, and penalties. If that happens, any party of interest, including the property owner, in the remaining proceeds has one year from the date of the sale to claim the proceeds. (Rev. & Tax Code § 4675.) After that period, any remaining excess proceeds may be transferred to the county's general fund. (Rev. & Tax Code § 4674.)

A Chapter 8 sale works differently. In a Chapter 8 sale, the purchasing agency or nonprofit must pay the delinquent taxes, penalties, interest, and other costs, and the agency or nonprofit negotiates the final price with the tax collector. The sale must be approved by the county board of supervisors, and the board may place additional conditions on the sale, such as that it be used to benefit low-income individuals. Once a sale agreement is reached, the tax collector must send the agreement to the current property owner and any parties of interest prior to the effective date of the agreement, and a notice of the sale must be published at least 21 days before the effective date.

3. Tyler v. Hennepin

AB 418 is designed to address a recent U.S. Supreme Court ruling regarding tax sales. In *Tyler v. Hennepin County*, the government of a Minnesota county sold the plaintiff's home for \$40,000 to satisfy a delinquent tax bill of \$15,000. (*Tyler v. Hennepin* (2023) 598 U.S. 631.) Of the \$15,000 that Tyler owed, only \$2,300 was for the delinquent property taxes, the other \$13,000 was accumulated interest and penalties. The state law at issue in *Tyler v. Hennepin* was a Minnesota law that provided Minnesota taxpayers one year from when property taxes are due to pay the taxes before they become delinquent. After

that point, the county in which the property is located may obtain a judgment transferring limited title in the property to the state. The property owner then has three years to redeem the property in order to regain title by paying all of the owed taxes and interest and fees. If the owner fails to do so, title to the property vests in the state, and the state can keep the property, or sell it to a private party and keep the proceeds.

When the county kept the net proceeds from the sale of Tyler's home, she sued, claiming that such action was unconstitutional under the U.S. Constitution's takings clause of the Fifth Amendment. Under the Takings Clause of the Fifth Amendment, the state may not take an individual's property for public use without just compensation. (U.S. Const., Amend. V.) When her case was dismissed by the district and appeals courts, Taylor sought review by the Supreme Court. In deciding the case, the Supreme Court noted that many states' tax sales laws permitted selling a taxpayer's property to recover the tax owed, but provided for a way in which the taxpayer could recover any proceeds from the sale that were in excess of the owed taxes. However, Minnesota's law did not provide any such opportunity. Based primarily on that reasoning, the Court found that Tyler had made a plausible claim under the Takings Clause and likely is due just compensation, and ordered the lower court decisions reversed.

4. AB 418 creates a process to address potential concerns with California's tax-sale process after *Hennepin*

According to the author, the litigants in *Tyler* are on a nationwide campaign to change state laws related to tax sale, and the Chapter 8 tax sale process is one such target. The claim here is that the Chapter 8 sale process, because it is negotiated between two parties, may result in defaulted property being sold for less than the "fair market value" of the property that would have been obtained through a Chapter 7 auction, thereby depriving the owner of the value of their property that is in excess of the owed taxes. However, the author asserts that, oftentimes, Chapter 8 sales involve property in which the tax bill is greater than the value of the property, thus there would be no excess proceeds for a property owner if the property was sold through a Chapter 7 auction.

5. Does AB 418 address the Takings clause concerns?

Nevertheless, considering the concerns that the current Chapter 8 could deprive a property owner of the excess value of their property after a sale to recover overdue taxes, AB 418 proposes a number of changes to the Chapter 8 sales process. AB 418 requires that the county board of supervisors conduct a hearing regarding the Chapter 8 sale, at which the board must find upon substantial evidence that either: the sale price is greater than or equal to the amount that typically could be realized for the property at a public auction, or that the price that could be obtained for the property at a public auction is less than the amount owed on the property. AB 418 would require the board of supervisors to provide the property owner and any parties of interest notice of the hearing at least 45 days before the hearing date. The property owner and all parties of

interest would have the right to appear at the hearing and present any relevant evidence regarding the value of the property or the existence of excess proceeds, either at or before the hearing.

AB 418 also provides for judicial review of the board of supervisors' determination. Once the board has made its determination, it must provide notice of that determination and of parties' right to judicial review and the deadline for such review to all parties who appeared at the hearing or submitted evidence to the board. It would permit the board's determination to be challenged through a petition for judicial review in the superior court of the county where the property is located within 45 days of the issuance of the board's decision. The court would be able to review the administrative record of the hearing to determine whether the board's decision was supported by substantial evidence in the record. If the court determines that the board's decision was not supported by substantial evidence, or that the board failed to follow the requirements of a Chapter 8 sale, it may vacate the board's decision and remand the matter back to the board.

AB 418 would implement a process by which property owners and other parties of interest could challenge a Chapter 8 sale and be heard before the sale becomes final. It also places limitations on Chapter 8 sales, essentially requiring that they be for a price that is at least as much as would have been received for the property through a public sale, or that the property owner would not have received any excess proceeds had the sale taken place through a public auction. These last requirements are meant to ensure that any Chapter 8 sale would not deprive a property owner of excess proceeds that they otherwise would have received if the property had been sold by auction. Although current law does not explicitly permit the state to keep any excess proceeds, like did the Minnesota law in *Tyler*, the concern that it could be found to nonetheless act to deprive an owner of their excess proceeds would be addressed by this bill. Lastly, the requirement that the board of supervisors hold a hearing, and that any interested parties may appeal the decision of the board to a superior court, provides property owners greater due process when their property is sold through Chapter 8.

SUPPORT

California Association of County Treasurers and Tax Collectors (sponsor)

California Housing Partnership

California State Association of Counties (CSAC)

County of Lake

County of Merced

Rural County Representatives of California (RCRC)

Urban Counties of California (UCC)

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: SB 288 (Seyarto, 2025) prohibits a property from being offered for sale through the Chapter 8 tax sale process unless at least one specified criteria is met, including that the property has been offered for sale through a Chapter 7 public auction, or that the property has a value of \$10,000 or less. SB 288 is currently pending before the Senate Revenue and Taxation Committee.

Prior Legislation:

SB 964 (Seyarto, 2024) would have permitted a tax sale under Chapter 8 when the property was not first offered for sale through a Chapter 7 public auction only if the State Board of Equalization conducts a property valuation that shows that the property is worth less than the amount of the defaulted debt. SB 964 died in the Senate Appropriations Committee.

AB 3288 (Committee on Revenue and Taxation, Ch. 123, Stats. 2024) required the governing body of a taxing agency objecting to a tax sale to file their objection before the date of the first publication of the notice of intended sale, and required claims for excess proceeds from a tax sale to be deposited in the mail by the statutory deadline to be considered received by that deadline.

AB 445 (Essayli, 2023) would have prohibited a tax sale under Chapter 8 if the property has not yet been offered for sale through the Chapter 7 process, and would have extended the period during which a party of interest may collect excess proceeds from a Chapter 7 sale from one year to 2 years. AB 445 died in the Assembly Revenue and Taxation Committee.

AB 2021 (Wicks, 2022) would have required county tax collectors to post specified information on their websites, including on how to obtain a list of tax-defaulted properties subject to sale, and would have required the State Controller's office to post a report on its website of the total number of tax sale agreements completed in the previous year, among other information. AB 2021 died to the Senate Appropriations Committee.

AB 1839 (Choi, 2022) would have prohibited a tax sale under Chapter 8 if the property has not yet been offered for sale through the Chapter 7 process, and would have extended the period during which a party of interest may collect excess proceeds from a Chapter 7 sale from one year to 2 years. AB 1839 died in the Assembly Revenue and Taxation Committee.

PRIOR VOTES:

Senate Revenue and Taxation Committee (Ayes 5, Noes 0)

Assembly Floor (Ayes 75, Noes 0)

Assembly Appropriations Committee (Ayes 14, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)

Assembly Revenue and Taxation Committee (Ayes 7, Noes 0)
