Senate Bill No. 796

Passed the Senate September 9, 2021

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Secretary of the Senate

Passed the Assembly September 8, 2021

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Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of _____, 2021, at _____ o'clock ___M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Section 5002.6 of the Public Resources Code, relating to state parks, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 796, Bradford. State parks: state beaches: County of Los Angeles: Manhattan State Beach: deed restrictions: taxation.

Existing law requires the Director of Parks and Recreation, upon the adoption of a specified resolution by the Board of Supervisors of the County of Los Angeles, to grant to the County of Los Angeles, in trust for the people of California, all of the rights, title, and interest of the State of California in specified state beach property, including a portion of Manhattan State Beach. Existing law requires the grant to be made upon the express condition that the County of Los Angeles use, operate, and maintain the granted lands and improvements only for public recreation and beach purposes in perpetuity. Existing law subjects the transfer of those rights, title, and interest in the granted lands to specified restrictions, including prohibitions on new or expanded commercial development on those granted lands and on the sale, transfer, or encumbrance of those granted lands.

This bill would exclude specified property located in Manhattan State Beach, commonly known as Bruce's Beach, from the requirement that the property be used only for public recreation and beach purposes in perpetuity and from those specified restrictions. The bill would authorize the property to be sold, transferred, or encumbered upon terms and conditions determined by the Board of Supervisors of the County of Los Angeles to be in the best interest of the county and the general public. The bill would require the Director of Parks and Recreation, on or before December 31, 2021, to execute an amendment to a specified deed that incorporates the exclusion of that property from that requirement and those restrictions.

Under the California Constitution, all property is taxable and must be assessed at the same percentage of fair market value, unless otherwise provided in the California Constitution or federal

law. The California Constitution limits the maximum amount of any ad valorem tax on real property to 1% of its full cash value and defines "full cash value" for these purposes. Existing property tax law, in accordance with these provisions, defines "full cash value" of real property to mean the fair market value of the property as of the 1975 lien date or, for property which is purchased, is newly constructed, or changes ownership after the 1975 lien date, the date on which the purchase or change in ownership occurs, or the date on which new construction is completed, and if uncompleted, on the lien date. Under existing property tax law, the purchase price, as defined, of real property is rebuttably presumed to be the "full cash value" or "fair market value" if the terms of the transaction were negotiated at arms length between a knowledgeable transferor and transferee neither of which could take advantage of the exigencies of the other.

This bill, for purposes of determining the full cash value of Bruce's Beach upon its sale, transfer, or encumbrance as authorized by the bill's provisions, would require that the fair market value of that land be its full cash value as of the 1975 lien date, adjusted by an inflation factor determined as provided.

The Personal Income Tax Law and the Corporation Tax Law, in modified conformity with federal law, generally define "gross income" as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income for purposes of computing tax liability.

This bill, subject to certain limitations, would provide that, under both the Personal Income Tax Law and the Corporation Tax Law, a recipient's gross income does not include any sale, transfer, or encumbrance of Bruce's Beach, or income directly derived from that sale, transfer, or encumbrance, in accordance with the procedures described above for the taxable year in which the land is sold, transferred, or encumbered.

Existing law, the Documentary Transfer Tax Act, authorizes the board of supervisors of any county or city and county, and the legislative body of any city within the county, to impose by ordinance a tax, at a specified rate, on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the county is granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person, if the consideration or value of the interest or property conveyed or

vested exceeds $100. Existing law provides various exemptions from a tax imposed by a county, city and county, or city under these provisions.

This bill would exempt any sale, transfer, or encumbrance of the portion of Bruce's Beach in accordance with the procedures described above from a documentary transfer tax imposed pursuant to the Documentary Transfer Tax Act.

This bill would state that its provisions are severable.

This bill would make legislative findings and declarations as to the necessity of a special statute for Bruce's Beach.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The United States of America has never fully addressed the institution and practice of 250 years of chattel slavery; the ideology that established and maintained it has left an indelible stain on the fabric of this nation and is embedded in virtually every facet of American culture and civil society.

(b) The legacy of the intentional structuring of opportunity, implementation of policies and practices, and assignment of value based solely on skin color and other physical characteristics has created, and continues to create, unfair disadvantages for Black people.

(c) Racial discrimination has prevented entire communities of people from achieving their full potential due to its manifestations, including, but not limited to, the implementation of Black codes and Jim Crow laws, the widespread and accepted practices of lynching and sexually assaulting Black men and women, voter suppression of Black Americans, the false concept of separate but equal schools, state-sanctioned housing discrimination in the form of redlining and enforcement of racially restrictive covenants, disparate access to and substandard treatment within the health care system, police brutality in Black communities, the misguided war on drugs, and mass incarceration.

(d) Racism aggravates and exacerbates historical inequities and consequently deprives marginalized communities of access to land, economic opportunities, and a stable future.

(e) The experience of Willa and Charles Bruce is an example of how racism against Black people has reached crisis proportions and has resulted in large disparities in family stability, health and mental wellness, education, employment, economic development, public safety, criminal justice, and housing.

(f) In 1912, Willa and Charles Bruce purchased the first of two lots of land along the Strand in the City of Manhattan Beach and turned the location into a seaside resort that welcomed Black beach goers from all over and became colloquially referred to as "Bruce's Beach."

(g) In 1924, the Manhattan Beach Board of Trustees voted to condemn Bruce's Beach and the surrounding land through the power of eminent domain under the ostensible purpose of building a park. The true purpose of the Manhattan Beach Board of Trustees in condemning Bruce's Beach, as evidenced by historical materials, including those cited or discussed in the June 7, 2021, City of Manhattan Beach History Advisory Board Report that was adopted by the Manhattan Beach City Council at its June 15, 2021, regular meeting, was to shut down the Bruce's Beach resort because the Bruces and their patrons were Black. At the same time, the Manhattan Beach Board of Trustees enacted ordinances precluding the opening of any new beach resort in order to prevent the Bruces from relocating their business elsewhere in the city. As a result of these intentional racially discriminatory acts, the Bruces lost their land and their business, the Bruce family moved out of the City of Manhattan Beach, and the city immediately demolished the Bruce's Beach resort. Thereafter, in 1948, the city transferred this empty land to the state. In 1995 the state transferred this land to the County of Los Angeles subject to various deed restrictions that effectively precluded the county from returning to the Bruce family their wrongfully condemned land.

(h) Willa and Charles Bruce were deprived of their rightful property, as well as their right to derive the benefits of that property, including the freedom and fortune of operating their own business on their land.

(i) The fraudulent appropriation of land from private persons in general, and especially on the basis of race, is against the public

interest and denies individuals and communities the right to enjoyment, the right to own property alone, as well as in association with others, the right to inherit, and the right to control one's property.

(j) Government has a responsibility to prohibit and eliminate racial discrimination in all forms and to ensure that all persons are entitled to security against forced removal, harassment, and intimidation by entities who seek to deprive individuals of their rights to self-determination and dignity on the basis of their race.

(k) Government must act in the public's interest to ensure that communities can fairly access justice and an effective remedy, including, when appropriate, the potential return, restitution, resettlement, rehabilitation, or compensation, for unlawful and race-based displacements.

(*l*) The land in the City of Manhattan Beach, which was wrongfully taken from Willa and Charles Bruce, should be returned to their living descendants, and it is in the public interest of the State of California, the County of Los Angeles, the City of Manhattan Beach, and the People of the State of California to do so.

(m) The sale, transfer, or encumbrance of Bruce's Beach as authorized by this act constitutes a change in ownership of the property, which requires the reassessment of the property at its full cash value in accordance with Article XIII A of the California Constitution. The racially motivated taking of the land from Willa and Charles Bruce under false, unlawful pretenses as described in this section has negatively impacted the duration of their ownership of the property and value of the property in comparison with other parcels. Therefore, in determining the full cash value for taxation purposes, the full cash value of Bruce's Beach as of the 1975 lien date, as adjusted for inflation, accurately represents the true fair market value of the property, and it is appropriate to establish that this amount is the full cash value of the property upon its sale, transfer, or encumbrance as authorized by this act.

SEC. 2. Section 5002.6 of the Public Resources Code is amended to read:

5002.6. (a) Notwithstanding any other law, and upon the adoption of a resolution of acceptance pursuant to subdivision (j), the director shall grant to the County of Los Angeles, at no cost to the county, in trust for the people of the State of California, and

subject to the conditions set forth in this section, all of the rights, title, and interest of the State of California in lands, and improvements thereon, generally described as follows, and more particularly described in the deed:

(1) Parcel 1. Approximately 3.83 acres of unimproved land, known as Las Tunas State Beach.

(2) Parcel 2. Approximately 31.21 acres of improved land, known as Topanga State Beach.

(3) Parcel 3. Approximately 46.34 acres of improved land, being a portion of Manhattan State Beach.

(4) Parcel 4. Approximately 26.03 acres of improved land, known as Redondo State Beach.

(5) Parcel 5. Approximately 18.07 acres of improved land, known as Royal Palms State Beach.

(6) Parcel 6. Approximately 30.64 acres of improved land, being a portion of Point Dume State Beach.

(7) Parcel 7. Approximately 15.12 acres of unimproved land, known as Dan Blocker State Beach, and that includes Latigo Shores.

(8) Parcel 8. Approximately 10.50 acres of improved land, being a portion of Malibu Lagoon State Beach, known as Surfrider Beach.

(b) (1) The grant in trust for the people of the State of California made pursuant to subdivision (a) shall be made upon the express condition that the County of Los Angeles shall use, operate, and maintain the granted lands and improvements on the granted lands for public recreation and beach purposes in perpetuity, and shall comply with all restrictions specified in each deed and prescribed in subdivision (e). The county shall not make or permit any other use of the granted lands and improvements. A violation of this prohibition or a violation of subdivision (e) shall constitute a breach of conditions for purposes of paragraph (2).

(2) Upon a material breach of a condition of a grant made pursuant to this section that is determined by a court of competent jurisdiction to have been made intentionally, the State of California shall terminate the interest of the County of Los Angeles in the granted lands and improvements pursuant to Chapter 5 (commencing with Section 885.010) of Title 5 of Part 2 of Division 2 of the Civil Code. Upon exercise of the state’s power of termination in accordance with Section 885.050 of the Civil Code,

all rights, title, and interest of the County of Los Angeles in the granted lands and improvements shall terminate and revert to, and rest in, the state, and the county shall, within 30 days from the date of that judgment, pay to the state an amount equal to funds received by the county annually from the appropriation under Schedule (a) of Item 3680-105-516 of the Budget Act of 1995 or from any subsequent appropriation received from the state specifically for the operation or maintenance of the granted lands and improvements. However, in no event shall that payment exceed the sum of one million five hundred thousand dollars ($1,500,000). The returned funds shall be deposited into the State Parks and Recreation Fund.

(3) Notwithstanding Section 885.030 of the Civil Code, the state's power of termination pursuant to paragraph (2) shall remain in effect in perpetuity.

(c) An operating agreement between the State of California and the County of Los Angeles pertaining to any of the real property described in subdivision (a), in existence at the time of the grant, shall be terminated by operation of law upon the conveyance of the real property to the County of Los Angeles.

(d) There is hereby excepted and reserved to the State of California from the grants made pursuant to subdivision (a) all mineral deposits, as defined in Section 6407, that lie below a depth of 500 feet, without surface rights of entry.

(e) The transfer of all rights, title, and interest in the lands and improvements described in subdivision (a) shall be subject to the following restrictions, which shall be specified in each deed:

(1) (A) No new or expanded commercial development shall be allowed on the granted real property.

(B) A project for new or expanded noncommercial development on the granted real property shall not exceed an estimated cost limitation for each project of two hundred fifty thousand dollars ($250,000), as adjusted annually to reflect the California Construction Index utilized by the Department of General Services. An authorization for new and expanded noncommercial development shall be limited to projects that provide for the safety and convenience of the general public in the use and enjoyment of, and enhancement of, recreational and educational experiences, and shall be consistent with the use, operation, and maintenance of the granted lands and improvements as required pursuant to

subdivision (b). The expenditure of public funds for shoreline protective works shall only be permitted for those protective works that the County of Los Angeles determines are necessary for the protection of public infrastructure or a public facility. For purposes of this subparagraph, "project" means the whole of an action that constitutes the entirety of the particular type of new construction, alteration, or extension or betterment of an existing structure.

(C) Notwithstanding subparagraph (B), the deed for the conveyance of Royal Palms State Beach shall contain a provision that allows for the implementation of the state-approved local assistance grant (project number SL-19-003) to the County of Los Angeles already approved in the Budget Act of 1988 for noncommercial development to rehabilitate the existing park infrastructure at that state beach.

(D) The estimated cost limitation specified in subparagraph (B) shall not apply to the noncommercial projects necessary to bring public accessways and public facilities into compliance with the federal Americans with Disabilities Act of 1990, as amended (42 U.S.C. Sec. 12101 et seq.). The limitation described in this subparagraph shall not affect the restriction described in subparagraph (A).

(2) The granted lands and improvements shall not be subsequently sold, transferred, or encumbered. For purposes of this section, "encumber" includes, but is not limited to, mortgaging the property, pledging the property as collateral, or any other transaction under which the property would serve as security for borrowed funds. A lease of the granted lands or improvements shall only be consistent with the public recreation and beach purposes of this section.

(f) As an alternative to the exercise of the power of termination for a material breach of conditions, each condition set forth in this section shall be enforceable as a covenant and equitable servitude through injunction for specific performance issued by a court of competent jurisdiction.

(g) On and after June 30, 1998, it is the intent of the Legislature that an application by the County of Los Angeles Fire Department to secure state funding support for boating safety and enforcement on waters within the County of Los Angeles shall be given priority consideration by the Legislature, unless an alternative source of

funding is secured before that date that serves the same or similar purposes.

(h) (1) Paragraph (1) of subdivision (b), except the requirement that the County of Los Angeles comply with all restrictions specified in the deed, and subdivision (e) shall not apply to a portion of land within Manhattan State Beach, described in paragraph (3) of subdivision (a), known as "Peck's Manhattan Beach Tract Block 5" and commonly referred to as "Bruce's Beach."

(2) Notwithstanding any other law, easement, covenant, restriction, or servitude, the portion of land identified in paragraph (1) may be sold, transferred, or encumbered upon terms and conditions determined by the Board of Supervisors of the County of Los Angeles to be in the best interest of the County of Los Angeles and the general public.

(3) (A) Notwithstanding Section 110 of the Revenue and Taxation Code, for purposes of determining the full cash value of the land identified in paragraph (1) pursuant to Section 110.1 of the Revenue and Taxation Code upon its sale, transfer, or encumbrance as authorized by this subdivision, the fair market value of that real property shall be its full cash value as of the 1975 lien date, adjusted by an inflation factor determined as provided in subdivision (a) of Section 51 of the Revenue and Taxation Code.

(B) (i) Subject to clause (ii), under the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) and the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), a recipient's gross income does not include (I) any sale, transfer, or encumbrance of the portion of land identified in paragraph (1) in accordance with the procedures described in this section for the taxable year in which the land is sold, transferred, or encumbered and (II) any gain, income, or proceeds received in the taxable year in which the land is sold, transferred, or encumbered that is directly derived from the sale, transfer, or encumbrance of the portion of land identified in paragraph (1) in accordance with the procedures described in this section.

(ii) This subparagraph shall apply only with respect to the first sale, transfer, or encumbrance of the portion of land identified in paragraph (1) as authorized by this subdivision that occurs after

the effective date of the act adding this clause, and shall not apply with respect to any subsequent sale or disposition of that land by the recipient or any other person.

(C) Notwithstanding any other law, any sale, transfer, or encumbrance of the portion of land identified in paragraph (1) in accordance with the procedures described in this section shall not be subject to any documentary transfer tax imposed pursuant to Section 11911 of the Revenue and Taxation Code.

(i) For purposes of this section, the portion of land identified in paragraph (1) of subdivision (h) shall not be subject to Section 11011.1 of the Government Code or Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

(j) This section shall become operative only if the Board of Supervisors of the County of Los Angeles adopts a resolution accepting the fee title grants, in trust for the people of the State of California, in accordance with this section, of the lands and improvements described in subdivision (a).

SEC. 3. With regard to a deed executed by the Director of Parks and Recreation granting property to the County of Los Angeles pursuant to Section 5002.6 of the Public Resources Code, notwithstanding any other law, the director, on or before December 31, 2021, shall execute an amendment to that deed modifying the deed restriction required by subdivision (e) of Section 5002.6 of the Public Resources Code to incorporate the provisions of subdivision (h) of Section 5002.6 of the Public Resources Code as amended by this act.

SEC. 4. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 5. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unusual circumstances surrounding the land ownership at “Bruce’s Beach.”

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure that the property located in Manhattan State Beach, commonly known as “Bruce’s Beach,” is expeditiously sold, transferred, or encumbered upon terms and conditions determined by the Board of Supervisors of the County of Los Angeles to be in the best interest of the county and the general public, it is necessary that this act take effect immediately.

Approved _____, 2021

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Governor