

BILL NUMBER: AB 1099 CHAPTERED 09/06/05

CHAPTER 193
FILED WITH SECRETARY OF STATE SEPTEMBER 6, 2005
APPROVED BY GOVERNOR SEPTEMBER 6, 2005
PASSED THE SENATE AUGUST 18, 2005
PASSED THE ASSEMBLY MAY 31, 2005
AMENDED IN ASSEMBLY MAY 26, 2005

INTRODUCED BY Assembly Member Leno

FEBRUARY 22, 2005

An act to amend Section 73 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1099, Leno Property tax: exclusion from new construction: active **solar** energy systems.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Pursuant to authority granted to the Legislature in the California Constitution, existing law excludes, for the 1999-2000 fiscal year to the 2004-05 fiscal year, inclusive, from the definition of "newly constructed" the construction or addition of an active **solar** energy system, as defined.

This bill would specify that this exclusion for the construction or addition of an active **solar** energy system applies from the 1999-2000 fiscal year to the 2008-09 fiscal year, inclusive.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 73 of the Revenue and Taxation Code is amended to read:

73. (a) Pursuant to the authority granted to the Legislature pursuant to paragraph (1) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, the term "newly constructed," as used in subdivision (a) of Section 2 of Article XIII A of the California Constitution, does not include the construction or addition of any active **solar** energy system, as defined in subdivision (b).

(b) (1) "Active **solar** energy system" means a system that uses **solar** devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of **solar** energy.

(2) "Active **solar** energy system" does not include **solar** swimming pool heaters or hot tub heaters.

(3) Active **solar** energy systems may be used for any of the following:

(A) Domestic, recreational, therapeutic, or service water heating.

(B) Space conditioning.

(C) Production of electricity.

(D) Process heat.

(E) **Solar** mechanical energy.

(c) (1) (A) The Legislature finds and declares that the definition of spare parts in this paragraph is declarative of the intent of the Legislature, in prior statutory enactments of this section that excluded active **solar** energy systems from the term "newly constructed," as used in the California Constitution, thereby creating a tax appraisal exclusion.

(B) An active **solar** energy system that uses **solar** energy in the production of electricity includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, the use of **solar** energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices such as **solar** cells or other collectors. However, an active **solar** energy system used in the production of electricity includes only equipment used up to, but not including, the stage of the transmission or use of the electricity. For the purpose of this paragraph, the term "parts" includes spare parts that are owned by the owner of, or the maintenance contractor for, an active **solar** energy system that uses **solar** energy in the production of electricity and which spare parts were specifically purchased, designed, or fabricated by or for that owner or maintenance contractor for installation in an active **solar** energy system that uses **solar** energy in the production of electricity, thereby including those parts in the tax appraisal exclusion created by this section.

(2) An active **solar** energy system that uses **solar** energy in the production of electricity also includes pipes and ducts that are used exclusively to carry energy derived from **solar** energy. Pipes and ducts that are used to carry both energy derived from **solar** energy and from energy derived from other sources are active **solar** energy system property only to the extent of 75 percent of their full cash value.

(3) An active **solar** energy system that uses **solar** energy in the production of electricity does not include auxiliary equipment, such as furnaces and hot water heaters, that use a source of power other than **solar** energy to provide usable energy. An active **solar** energy system that uses **solar** energy in the production of electricity does include equipment, such as ducts and hot water tanks, that is utilized by both auxiliary equipment and **solar** energy equipment, that is, dual use equipment. That equipment is active **solar** energy system property only to the extent of 75 percent of its full cash value.

(d) This section applies to property tax lien dates for the 1999-2000 fiscal year to the 2008-09 fiscal year, inclusive. For purposes of supplemental assessment, this section applies only to qualifying construction or additions completed on or after January 1, 1999.

(e) This section shall remain in effect only until January 1, 2010, and as of that date is repealed.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.