
THIRD READING

Bill No: SB 1456
Author: Stern (D), et al.
Amended: 3/31/22
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 4/20/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 5/19/22
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, Wieckowski

SUBJECT: Property taxation: welfare exemption: low-income housing

SOURCE: Author

DIGEST: This bill eliminates the statewide cap on the value of property under the welfare exemption from property tax for non-publicly financed affordable housing.

ANALYSIS:

Existing law:

- 1) Provides that all property is taxable unless explicitly exempted by the Constitution or federal law (California Constitution, Article XIII, Section One).
- 2) Allows the Legislature to exempt property used exclusively for charitable purposes so long as it is owned by non-profit entities organized and operated for charitable purposes, such as universities, hospitals, and libraries, known as the “welfare exemption” (California Constitution, Article XIII, Section Four).
- 3) Allows the welfare exemption, and applies it to property used for rental housing when:

- a) Tax-exempt mortgage revenue bonds; general obligation bonds; federal, state, or local grants; or federal low-income housing tax credits finance the housing,
 - b) The property is enforceably restricted for low-income housing, and rents do not exceed those prescribed in deed restrictions, and
 - c) The property owner certifies that funds that would have been used to pay property taxes are used to maintain the affordability of the units or reduce rents,
- 4) Provides that the exemption is equal to that percentage of the value of the property equal to the percentage that the number of units serving lower income households represents of the total number of residential units.
- 5) Allows the exemption for non-publicly financed rental housing property when:
- a) 90% of the households occupying the housing must be low-income persons, whose rent does not exceed specified limits for low-income persons;
 - b) The property is subject to a recorded deed restriction, regulatory agreement, or other legal document restricting the property's use to low-income housing.
 - c) The property is managed solely by a charitable non-profit organization (specifically, excluding limited partnerships) to be eligible.
- 6) Sets a statewide cap of \$20 million in value per property owner claiming the welfare exemption for non-publicly financed rental housing (SB 1115, Hill, Chapter 694, Statutes of 2018).
- 7) Requires property owners claiming the welfare exemption to provide specified information regarding the household income of and the rent charged to an occupant of an exempt unit.

This bill:

- 1) Strikes the \$20 million cap on value.
- 2) Applies to lien dates on or after the effective date of this bill.

Background

Welfare exemption for property used for rental housing. Prior to 1999, rental housing owners could claim a welfare exemption from property tax for low-income housing if 20% of the property's residents were low-income. After the Los Angeles Housing Project investigated some of the city's worst housing projects, they discovered that tax-exempt property owners were not providing basic maintenance to housing that qualified them for the exemption from property tax. Responding to the investigation, the Legislature enacted AB 1559 (Wiggins, Chapter 927, Statutes of 1999), which required property owners to receive public financing in the forms listed above for the project to claim the welfare exemption, in addition to the above requirements. However, AB 1559 revoked the exemption for many worthy properties owned by charities that weren't publicly financed, so the Legislature subsequently enacted AB 659 (Wiggins, Chapter 609, Statutes of 2000), which again allowed an exemption for non-publicly financed rental housing property, subject to several requirements, including a statewide cap of \$20,000 in tax subject to the exemption.

Since 2000, the value of housing has increased, compelling some non-profits to pay taxes on amounts that exceeded the cap, and discouraging other groups from acquiring rental housing in the hopes of preserving existing affordable units in their areas. In response, the Legislature enacted SB 996 (Hill, Chapter 836, Statutes of 2016), which quintupled the cap, and revised it to instead apply to the property's value, not the tax paid, with the new threshold at \$10 million of assessed value, among other provisions.

In 2018, the Legislature again increased the cap to \$20 million in value, and created a process for taxpayers to file a claim to have any outstanding taxes or escape assessments cancelled. In 2019, the Senate unanimously approved SB 294 (Hill), which would have increased the cap to \$250 million. After the author amended the bill to reduce the cap increase from \$250 million to \$100 million, and sunset the change after ten years, the Assembly approved the bill. However, Governor Newsom vetoed the bill, citing potential significant long-term General Fund costs and reduced local revenue.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- The Board of Equalization (BOE) indicates that it would incur minor and absorbable administrative costs to update claim forms, Property Tax Rule 140, and its Assessors' Handbook.
- BOE indicates that, based on county assessor data, one organizations could be over the \$20 million current-law cap; BOE is currently clarifying that the data reported to it is accurate. Generally, the bill would lead to a revenue loss over time, as (1) assessed values of organizations' current holdings exceed \$20 million over time (resulting from the annual inflation factor of up to two percent), and (2) to the extent organizations acquire or construct additional property that would be exceed to the \$20 million cap. Lower local property tax revenues lead to increased General Fund Proposition 98 spending by up to roughly 50 percent (the exact amount depends on the specific amount of the annual Proposition 98 guarantee, which in turns depends upon a variety of economic, demographic and budgetary factors).
- Under the California Constitution, this bill's imposing of new duties on local county officials related to the real property tax assessment process could be subject to reimbursement by the State. The magnitude of these potential costs is unknown.

SUPPORT: (Verified 5/20/22)

AIDS Healthcare Foundation
California Business Properties Association
California Business Roundtable
California Catholic Conference
Coalition for Economic Survival
UNITE HERE! Local 11

OPPOSITION: (Verified 5/20/22)

None received

ARGUMENTS IN SUPPORT: According to the author, "There is an overwhelming need for more housing in California. According to the latest Regional Housing Needs Assessment (RHNA), the state will need 2.5 million new homes over the next 8 years to meet housing goals, with at least 1 million of that total to meet the needs for low-income housing. The National Low Income Housing Coalition estimates that the state is short more than 962,000 affordable

homes for extremely low income renters. The lack of affordable housing has contributed to our homeless crisis, with more than 160,000 Californians living on the streets and millions more living one paycheck away from homelessness. Despite strong efforts by the Legislature and the Governor to meet our housing needs, we are still failing to achieve our housing goals. The state reports that we have built less than the number of units necessary to meet those goals. In order to reach the level of affordable housing development necessary to turn the situation around, we must embrace and maximize every affordable housing opportunity available to us. Currently, dozens of nonprofit affordable housing developers are working strenuously to respond to the affordable housing crisis. However, current law does not treat all developers the same. Nonprofit developers that use public funds such as tax credits or state or federal grants and loans are eligible for a 100% property tax exemption. A nonprofit developer that privately finances low income housing and uses no public funds is eligible for a property tax exemption up to a maximum of \$20 million in aggregate valuation. The irony is that the project that costs the state no money hits a permanent wall at \$20 million in assessed value while a project that can cost the state millions of dollars receives a property tax exemption up to 100% on an unlimited number of projects. SB 1456 seeks to level the playing field so that all nonprofit developers who are contributing to our affordable housing stock are treated the same.”

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