SENATE COMMITTEE ON REVENUE AND TAXATION
Senator Jerry McNerney, Chair
2025 - 2026 Regular

Bill No:	AB 1294	**Hearing Date:**	6/24/26
Author:	Haney	**Tax Levy:**	No
Version:	6/15/26 Amended	**Fiscal:**	Yes
Consultant:	Grinnell		

REAL PROPERTY TAX: WELFARE EXEMPTION: MODERATE-INCOME HOUSING

Creates an alternate welfare exemption equal to the percentage that the number of units serving low- and moderate-income households represents out of the total number of residential units, applies in the Counties of Alameda and Sacramento, and the City and County of San Francisco.

Background

Welfare exemption. The California Constitution provides that all property is taxable and shall be assessed as a percentage of fair market value. The Constitution 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. The Legislature enacted this exemption, which is commonly known as the "welfare exemption." The welfare exemption has a similar policy rationale as tax-exempt status for charitable groups: revenues paid in tax to the government divert needed resources away from the organization's good works.

To qualify for the welfare exemption, the organization's primary purpose must be either religious, hospital, scientific, or charitable. Whether its operations are for one of these purposes is determined by its activities. A qualifying organization's property may be exempted fully or partially from property taxes, depending on how much of the property is used for qualifying purposes and activities. Assessors can require specified information as part of a welfare exemption claim, which can vary based on the category of the exemption. State law also requires a property owner claiming an exemption to annually supply an affidavit to the assessor with any information required by the Board of Equalization (BOE).

The welfare exemption also applies to property used for rental housing, if it meets several requirements, including that there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the project's usage. The exemption also provides that the units designated for use by lower-income households must be continuously available to or occupied by lower-income households. The exemption can include property used for rental housing when the housing is financed by tax-exempt mortgage revenue bonds; general obligation bonds; federal, state, or local grants; or federal Low Income Housing Tax Credits (LIHTCs). For projects with both low-income and market-rate units, the owner can claim a partial exemption equal to the percentage of the value of the number of units serving lower-income households.

To receive a welfare exemption, both the organization and the use of the property must be approved. Nonprofit organizations must apply to BOE for an Organizational Clearance

Certificate (OCC) using form BOE-277 and provide the specified requisite documentation. While a nonprofit organization may possess a valid OCC, once they form a limited partnership, the partnership itself must then apply for a supplemental OCC and supply additional information.

Once BOE has certified the OCC and supplemental OCC, the nonprofit must also file a claim for a welfare exemption with the county assessor using BOE-267. Assessors generally verify that each property meets all of the following conditions:

- Government assistance: The property owner receives low-income housing tax credits or government financing on the property.
- Use restriction: The property is subject to a recorded deed restriction, regulatory agreement, or other legal document restricting its use for low-income housing purposes at specified rents (80% of Area Median Income).
- Rents charged: The rents charged to lower-income household occupants do not exceed the rent prescribed by the deed restrictions or regulatory agreement.
- Property tax savings: The owner certifies that the funds otherwise spent to pay taxes are instead used to maintain the affordability for, or reduce rents of units occupied by, the lower-income households.
- Occupancy: While there is generally no minimum percentage of units that must be occupied by lower-income households, the exemption only extends to the units serving lower-income households.
- Limited partnership: In the case of housing owned by a limited partnership in which the managing general partner is an eligible nonprofit organization or an eligible limited liability company, use and rent restrictions must be contained in an enforceable and verifiable agreement with a public agency or in a recorded deed restriction to which the limited partnership certifies.

Assessors can still deny an exemption claim based on non-qualifying use of the property, even if BOE has issued an OCC and supplemental OCC. Assessors may do so when rent levels or tenant household incomes are higher than the prescribed limits set forth in regulatory agreements or by statute. Property owners must file an annual claim listing the household income of the tenants for each exempt unit, which is based on information provided to the property owner by tenant-completed worksheets.

In California, affordable housing developers specialize in using subsidies – usually LIHTCs, but also other forms of state or local assistance – to construct projects with affordable units. While these projects are eligible for the welfare exemption, market-rate developers who provide units affordable to tenants of moderate income are not. These units likely provide lower returns than market rate ones. Seeking to encourage market-rate developers to construct and make available moderate-income housing to complement the existing network of nonprofit developers who build subsidized LIHTC projects, the author wants to allow a similar welfare exemption for units affordable to tenants of moderate income.

Proposed Law

AB 1294 creates an alternate welfare exemption from property tax equal to the percentage that the number of units serving low- and moderate-income households represents out of the total number of residential units. The bill applies many of the same requirements as the exemption in current law for units serving low- or very-low-income units, including:

- The property is owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations, including limited partnerships in which the managing partner is an eligible nonprofit corporation or eligible limited liability company.
- The organization meets the requirements in the Constitution for an organization to claim the welfare exemption.
- The property owner certifies that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by low- and moderate-income households.

To implement its exemption, AB 1294 adds modified requirements on property owners to qualify:

- The property owner certifies that there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the applicable project's usage and that provides that the units designated for use by low- and moderate-income households are continuously available to, or occupied by, low- and moderate-income households, for a period of not less than 55 years. When the property owner is a limited partnership in which the managing general partner is a nonprofit corporation, the restriction must be contained in an enforceable and verifiable agreement with a public agency or in a recorded deed restriction.
- The initial rent charged upon occupancy of each exempt unit is below fair market for that unit type for that geographic submarket. There are two ways to determine fair market rent: first, according to the U.S. Department of Housing and Urban Development's (HUD's) Small Area Fair Market Rent for the applicable ZIP Code, or second, as determined by a market study conducted by the property owner in "general conformance" with California Tax Credit Allocation Committee guidelines. The study must be conducted when the first exempt unit is leased, and updated every five years. The property owner cannot increase this rent amount more than the percent set by HCD limits.
- The initial rent charged upon occupancy for each unit designated for low- or moderate-income housing must be at least 10% below the HUD's Small Area Fair Market Rent, or 20% below fair market rent for the unit type if the developer uses their own study.

Additionally, AB 1294 applies similar treatment to units exempt under its provisions as to units exempt as affordable for tenants of low- or very-low-income. Specifically, a tenant's income can grow from 120% of Average Medium Income (AMI) to 140% of AMI while continuing to qualify the owner for an exemption, consistent with treatment for LIHTCs projects (AB 1193, Gloria, 2017) or when a Community Land Trust owns the property (AB 1206, Bennett, 2022).

AB 1294 applies commencing on the January 1, 2027 lien date, and only to units newly constructed or converted on or after that date and before January 1, 2030, but ends after 15 years. The measure applies solely to property located in the Counties of Alameda and Sacramento, or the City and County of San Francisco.

The measure also defines "low and moderate income households" by reference to the Health and Safety Code; however, the measure provides that if the terms of federal, state or local financing conflict with those definitions, those terms prevail. The bill also deems occupied units that are temporarily vacant due to tenant turnover or repairs. The bill also includes a severability clause.

State Revenue Impact

Pending.

Comments

1. Purpose of the bill. According to the author, "California's housing crisis is forcing teachers, nurses, firefighters, construction workers, and other working Californians out of the communities they serve. While we have programs that support low-income housing, we continue to underbuild housing for middle-income residents who earn too much to qualify for affordable housing but cannot afford market-rate rents. AB 1294 creates a pilot program in Alameda, Sacramento, and San Francisco counties to encourage the construction of rental housing for households earning up to 120% of Area Median Income. By providing a partial property tax exemption, the bill helps make these projects financially feasible and expands housing options for working families. We need housing for the people who keep California running."

2. Moderate too. Clearly, California's housing crisis is dire, with low production levels exacerbated by growing income and wealth disparities. For the most part, the state's efforts to directly finance or encourage housing are directed towards persons of low-, very-low-, and extremely-low-income, defined as those who make less than 80% of AMI. Most notably, the current welfare exemption from property tax applies only to units restricted to low-income persons. Given that the units are rent-restricted, the exemption tries to compensate property owners for reserving units that by definition generate lower rental revenues than market rate units, with the tradeoff of potentially lower property tax revenues for schools and local agencies. AB 1294 would allow a new welfare exemption for rental housing units occupied by or available to moderate-income (120% of AMI) persons as well, in three counties. With rents at this level, property owners should have a greater ability to pay property taxes than owners of projects with units reserved as low-income. So why should the public subsidize this form of housing at the cost of less revenue for public services? Local agencies, especially counties, are under fiscal stress due to higher costs and cuts to federal programs. AB 1294 supporters argue that rents are exorbitantly high in many parts of California, and little to no housing is being constructed for those of moderate income, so the bill's property tax subsidy could be the difference between new workforce housing and no development at all. Any new development or substantial rehabilitation will generally increase property tax revenues on aggregate, and only restricted units qualify owners for exemptions. Supporters add that government funding for housing for low- and very-low-income housing vastly exceed that for "missing middle" housing, and AB 1294's property tax savings may be worth it for developers to commit to charge less than market rate rents.

3. Community benefit? The welfare exemption has two explicit Constitutional requirements: The property must be owned by charitable organizations, and must be used exclusively for exempt purposes. The welfare exemption applies to many forms of properties, but generally requires the activity on the property to "benefit the community as a whole or an unascertainable and indefinite portion thereof" (*Stockton Civic Theatre v. Board of Supervisors*, 66 Cal.2d. 13, 1967). However, it is unclear whether newly constructed rental housing units made affordable to those earning up to 119% of AMI is charitable or provides a community benefit; Californians with less income paying imputed property taxes through rents or directly when owning a home will subsidize the construction of units occupied by more affluent persons. However, AB 1294 follows other precedents: The state offers a welfare exemption from property tax for vacant land that is subsequently improved for sale by a Community Land Trust, and for properties that house

elderly or disabled persons and their families, which applies when those families are of low- to moderate-income.

4. Buying up. The current welfare exemption from property tax for rental units available to or occupied by tenants of very-low- or low-income generally requires some form of public subsidy to qualify for the exemption. AB 1294 does not contain a similar requirement because projects with units affordable to those of moderate income are usually not eligible for traditional forms of public assistance. However, AB 1294 does not preclude those forms of assistance as a condition of its exemption. Why would a property owner choose lower rents paid by very-low- or low-income tenants if they can receive the same property tax exemption and higher rents from units leased to moderate-income tenants instead?

5. Here and there. As noted above, the welfare exemption exists so that charities need not divert funds they would use for good works to pay taxes, which would limit their societal benefits. With one exception, the Legislature hasn't allowed a charitable exemption in one county for a project, but not in another for an identical project. The sole exception is for properties conveyed to a nonprofit organization because of a consent decree relating to a highway construction that displaced residents in Los Angeles County. What's the policy justification for treating properties in some counties differently than identical ones in others? Are there conditions in the rental housing markets in the Counties of Alameda and Sacramento, or the City and County of San Francisco, that necessitate such special treatment?

6. Still nonprofits. AB 1294 expands the welfare exemption from property tax to property owners who charge higher rents than those currently eligible for the exemption. With that said, it does not change the Constitutional requirement to claim the welfare exemption, which is that it is "owned and held in trust by corporations or other entities (1) that are organized and operating for [charitable] purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures to the benefit of any private shareholder or individual." While the exemption for affordable rental housing allows different corporate forms than current exemptions, BOE can only grant a supplemental OCC when the nonprofit corporation, or eligible limited liability company, and all general partners of the limited partnership certify that the limited partnership agreement provides sufficient management authority and duties to qualify the nonprofit corporation or eligible limited liability company as the managing general partner of the limited partnership.

7. The rent I pay. The current welfare exemption from property tax for affordable rental housing requires property owners to certify and ensure rents charged to lower-income households do not exceed those set in the Health and Safety Code, or those prescribed by deed restrictions or regulatory agreements that are attached to the public subsidy that qualifies the housing for the exemption. AB 1294 provides that the initial rent of any unit exempt under the bill not exceed the fair market rent for the unit type in the comparable properties within the geographic subregion in which the property is located, with growth capped by a specified percentage. The developer can set rents 10% below market rent according to HUD's Small Area Fair Market Rent, or 20% below the rent according to a study they conduct. While the measure does require the developer's study to be conducted in accordance with California Tax Credit Allocation Commission guidelines, should developers be able to determine the rent that qualifies them for a publicly-subsidized exemption? Is the assessor or another party responsible for ensuring the rents set in the study are correct and accurate?

8. Gut and amend. As approved by the Assembly, AB 1294 required the Department of Housing and Community Development to create a standardized application for housing

entitlement that all local governments must accept. On June 15th, 2026, the author amended the bill to delete those contents and insert its current ones.

9. Special legislation. The California Constitution prohibits special legislation when a general law can apply (Section 16 of Article IV). AB 1294 contains findings and declarations explaining the need for legislation that applies only to the Counties of Alameda and Sacramento, or the City and County of San Francisco.

10. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because AB 1294 changes the way assessors value real property, Legislative Counsel says that this bill imposes a new state mandate. The measure also provides that the state shall not reimburse local agencies for property tax revenue losses, instead stating that, should the Commission on State Mandates determine that the bill imposes a reimbursable mandate, reimbursement must be made pursuant to existing statutory provisions.

11. Related legislation. AB 1294 is the fourth attempt by developers in three years to obtain this form of special tax treatment, all of which died on the Senate Appropriations Committee's Suspense File:

- In 2024, the Committee approved SB 1227 (Wiener), which, among other provisions, would have allowed a welfare exemption for rental housing units occupied by or available to those of moderate income within a specified area in the City and County of San Francisco.
- In 2025, the Committee approved SB 336 (Wiener), largely similar to this bill, but with statewide application.
- SB 1415 (Arreguin, 2026), largely identical to SB 336.

Assembly Actions

Not relevant to this version of the bill.

Support and Opposition (8/3/26)

Support: Mayor Daniel Lurie, City and County of San Francisco (Sponsor)
Downtown Sacramento Partnership
San Francisco Bay Area Planning and Urban Research Association

Opposition: California Association of Realtors

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