Date of Hearing: May 21, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Buffy Wicks, Chair
AB 613 (Mark González) – As Amended May 7, 2025

Policy Committee: Revenue and Taxation Vote: 6 - 0

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill adds certain contracts between a commercial community ownership entity and a nonprofit organization to the list of enforceable restrictions an assessor must consider when assessing a property's value.

Specifically, this bill:

1) Provides that an eligible contract meets the following conditions: (a) the contract is a renewable lease, for a term of three years of more, between a commercial community ownership entity that owns the land and a nonprofit, (b) the contract subjects the leased unit to affordability restrictions, (c) at least 70% of the commercial square footage of the entity's property must be leased to nonprofits subject to affordability restrictions, and (d) the contract is recorded and provided to the assessor.

2) Requires one of the following entities to determine whether the lease meets the required conditions: (a) county counsel, (b) director of the county economic development department or equivalent agency, (c) city attorney, or (d) director of the city economic development department or equivalent agency.

3) Defines "affordability restrictions" to mean terms that require the commercial unit be leased at a rent that is less than the fair market value for a similar property and that has been found to serve the public interest to create and preserve the affordability of units for nonprofits.

4) Defines "commercial community ownership entity" to mean a 501(c)(3) nonprofit organization that either: (a) has as one of its primary purposes the creation and maintenance of property for other nonprofits, or (b) has received a welfare exemption for providing housing to low-income households and leases units to nonprofits on the same property.

5) Defines "nonprofit" to mean a nonprofit organization with fewer than 20 employees.

6) Declares the goals and performance indicators for this tax expenditure and requires the State Board of Equalization (BOE) to annually collect related data from county assessors to report to the Legislature.

FISCAL EFFECT:

1) Annual property tax revenue loss of an unknown, but likely significant amount, potentially in the millions of dollars, by requiring an assessor to consider an additional enforceable

restriction when assessing a property's value. The BOE notes that this bill would potentially apply to a large number of nonprofit organizations, as the only limiting factor is that the nonprofit has fewer than 20 employees. This bill does not limit the nonprofit to one that would otherwise qualify for the existing welfare exemption under property tax law, nor restrict the commercial rent to a certain percentage below fair market value. Although this bill specifies that the state is prohibited from reimbursing any local agency for lost property tax revenues and property tax is a local government revenue source, reductions in property tax revenues increase Proposition 98 General Fund (GF) spending by up to roughly 50% (the exact amount depends on the specific amount of the annual Proposition 98 guarantee).

2) Costs of an unknown, but potentially significant, amount to the BOE to update informational materials, provide guidance to county assessors, and produce the annual report (GF).

3) Costs of an unknown, but potentially significant, amount to county assessors to review eligible contracts and revise assessment practices. If the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service for which the state must reimburse local costs, counties could claim reimbursement from the state (GF).

COMMENTS:

1) **Purpose.** According to the author, this bill ensures that "nonprofit-owned commercial properties leasing space at below-market rates benefit from reduced assessed property values." The author contends this bill "will lower costs for mission-driven property owners and expand access to stable, affordable spaces" for nonprofits.

2) **Welfare Exemption.** The California Constitution exempts from property taxes, in whole or in part, property used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities (a) that are organized and operating for those purposes, (b) that are nonprofit, and (c) no part of whose net earnings inures to the benefit of any private shareholder or individual. To qualify for this "welfare exemption," however, the nonprofit must own the property. If the nonprofit is leasing property from a non-exempt property owner, the nonprofit lease does not qualify the non-exempt property owner for the welfare exemption.

   Existing law requires an assessor to consider certain enforceable restrictions in a contract subjecting the land to certain uses when valuing real property for property taxation purposes. Such considerations may allow an otherwise non-exempt property owner to qualify for the welfare exemption because use of the land is restricted to an exempt purpose. This bill requires an assessor to consider an enforceable restriction in a contract of a commercial community ownership entity that leases property to a nonprofit with fewer than 20 employees at a rent below fair market value. To the extent this bill requires an assessor to provide a commercial community ownership entity with a lower property tax assessment, this bill may conflict with the constitutional requirement that a property be used for a charitable purpose to qualify for the welfare exemption, as this bill does not limit the commercial community ownership entity to leasing the property to a nonprofit organization with a religious, hospital, or charitable purpose and it is unclear how the act of renting commercial property at below fair market value, especially without further specifying what amount below fair market value, in itself serves as a charitable purpose.

3) **Support and Opposition.** This bill is supported by various community groups and investment funds, with TMC Community Capital arguing this bill "will help organizations like mine acquire and own commercial property for the purpose of leasing to…nonprofits at affordable rents."

   This bill is opposed by the California Assessors' Association, which argues this bill "defines new entities…but lacks clarity on the specific eligibility criteria and operational parameters for these entities" and will "require significant administrative oversight, particularly with regard to verifying and documenting renewable leases."

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