

CONCURRENCE IN SENATE AMENDMENTS

AB 1933 (Friedman)

As Amended June 28, 2022

Majority vote

SUMMARY

Expands the property tax welfare exemption to eligible nonprofit corporations that build and rehabilitate affordable housing units for sale, subject to certain limitations, to low-income families, as defined.

Senate Amendments

- 1) Modify the requirements regarding a 45-year recorded affordability agreement to apply to the property, rather than the residential units themselves.
- 2) Allow a property to claim the exemption if some of the units are not sold to first-time homebuyers; however, only the units that meet the affordability requirements in this bill are eligible for the exemption.
- 3) Require county assessors to adjust the exemption allowed in this bill by a proration factor that reflects the portion of the property proposed to be built or rehabilitated with eligible units as a percentage of the total development.
- 4) Require county assessors to issue escape assessments pursuant to existing law if a property, or any portion of the units therein, do not meet the requirements of this bill upon completion of construction or if construction is abandoned.

COMMENTS

Nonprofit organizations and undeveloped properties: Nonprofit organizations seeking legislation to exempt their undeveloped properties from property tax is well-trodden territory before the Legislature.¹ Many nonprofit organizations own and pay taxes on such land (churches, hospitals, private universities). The courts have taken the view that constitutional provisions granting exemptions are to be construed strictly, but reasonably. In this regard, the constitution explicitly states in Article XIII, Section 5 that the welfare exemption applies in the case of "intended use" of otherwise welfare-exemption-eligible property only after the buildings are "under construction".

Housing for sale and the welfare exemption: AB 1559 (Wiggins), Chapter 927, Statutes of 1999, added R&TC Section 214.15, and expanded the welfare exemption by exempting from taxation property owned and operated by an eligible nonprofit corporation that would otherwise qualify for the exemption, if that property is used for the rehabilitation or construction of housing for the purposes of selling the property to a low-income homebuyer when the sale is financed with a zero-interest rate loan. This expansion created a land-banking "use" exception for a specific affordability model utilized by Habitat for Humanity (Habitat), which was authorized because

¹ For example, see AB 2662 (2001-02); AB 783 (2003-04); AB 3074 (2003-04); AB 722 (2005-06); AB 1788 (2011-12) and AB 2818 (2015-16).

Habitat was forced to decline subdivision lot donations due to its inability to carry the associated property tax liability.

According to the Author

California has a housing deficit of 180,000 housing units annually. Incentivizing non-profits to build single-family homes and encourage homeownership will lead to more houses, stable families, and safer communities. AB 1933 is also a measure that will pay for itself over time as the homeowners begin to pay property taxes, and the non-profit can use the exemption to build even more units.

Arguments in Support

Heritage Housing Partners (HHP), writing in support as sponsors of this bill, notes, in part:

Unfortunately, it is difficult for HHP to build additional units because, to date, they have been denied a property tax welfare exemption by the state. This is largely due to a technicality; because the homebuyer under the HHP model is paying interest on a conventional mortgage, instead of all financing going through a 0% interest loan originated by a non-profit, the welfare exemption is denied. This means HHP must front the property tax costs of development between when the land is purchased until the property is constructed and turned over to the family. This costs HHP thousands of dollars of additional property taxes per unit, resources that can go into providing more housing.

Arguments in Opposition

The California Assessors Association, writing in opposition to this bill, unless amended, notes, in part:

AB 1933 should include a requirement of a sale at cost, with assurances of a zero- or low-interest rate loan to ensure the community benefit test is met before an exemption is granted. In the event that escapes are necessary, developers should be required to provide financial security for the exempted taxes based on the original value and adjusted by 2% per year. Finally, AB 1933 states that assessors would be required to enroll escapes if a property is abandoned or not put to use within five years; however, it does not address the statute of limitations for enrolling such corrections, as was done in SB 196.

FISCAL COMMENTS

According to the Senate Appropriations Committee:

- 1) The Board of Equalization (BOE) indicates that it would incur minor and absorbable administrative costs to update claim forms, the Assessors Handbook, and Publication 149: Property Tax Welfare Exemption.
- 2) BOE indicates that this bill would result in lower property taxes in the near-term, which would be more than offset by higher property tax revenues in the long run (See Staff Comments); however, the respective magnitudes are unknown. 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).

- 3) By changing the manner in which assessors value real property, this bill creates a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs (General Fund). The magnitude of these costs is unknown.

VOTES:

ASM REVENUE AND TAXATION: 9-0-2

YES: Irwin, Nguyen, Gray, Grayson, Levine, Mullin, Petrie-Norris, Luz Rivas, Seyarto

ABS, ABST OR NV: Mayes, Quirk

ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0

YES: Wicks, Seyarto, Carrillo, Gabriel, Kalra, Kiley, Quirk-Silva, Ward

ASM APPROPRIATIONS: 12-0-4

YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

ABS, ABST OR NV: Bigelow, Megan Dahle, Davies, Fong

ASSEMBLY FLOOR: 76-0-2

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Bigelow, Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray, Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon

ABS, ABST OR NV: Berman, O'Donnell

SENATE FLOOR: 40-0-0

YES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

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