

AMENDED IN ASSEMBLY MAY 2, 2016
AMENDED IN ASSEMBLY MARCH 18, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2818

Introduced by Assembly Member Chiu

February 19, 2016

An act to add Sections 401.21 and 214.17 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2818, as amended, Chiu. Property taxation: community land trust.

Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected, including, but not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

~~This bill would prohibit the county assessor, when valuing bill, for lien dates occurring on and after January 1, 2017, in assessing an owner-occupied single-family dwelling or owner-occupied unit in a multifamily dwelling dwelling, and the land on which it the dwelling or unit is situated that is required for the convenient occupation and use of that dwelling or unit, if the dwelling or unit is on land leased to the owner by a community land trust, as defined, from valuing the dwelling or unit and the land at any value greater than the purchase price for that dwelling or unit. The bill would apply this prohibition only to a dwelling or unit and land that is owned and occupied by persons and families of~~

~~low or moderate income, as defined. unit by persons and families of low or moderate income, would require the value of the dwelling or unit and the land to be presumed to be the purchase price of the dwelling or unit.~~

This bill, for lien dates occurring on and after January 1, 2017, in assessing a dwelling or unit owned by a limited equity housing cooperative or by a member-occupant or resident shareholder of the limited equity housing cooperative, and the land on which the dwelling or unit is situated required for the convenient occupation and use of the dwelling or unit by persons and families of low or moderate income, would also require the value of the dwelling or unit and the land to be presumed to be the purchase price of the share conveying an exclusive right to occupancy and possession of that dwelling or unit.

Existing property tax law, in accordance with the California Constitution, provides for a “welfare exemption” for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met.

This bill, on and after January 1, 2017, would provide that property is within the welfare exemption if that property is owned and operated by a nonprofit corporation, otherwise qualifying for the welfare exemption, ~~that is organized for the specific and primary purpose of~~ *has as one of its primary purposes the creating and maintaining of permanently affordable single-family or multifamily residences to which specified conditions apply.* ~~This~~ *The* bill, in the case of property not previously designated as open space, would prohibit this exemption from being denied on the basis that the subject property does not currently include a single-family or multifamily residence as so described or a single-family or multifamily residence as so described that is in the course of construction. *The bill would require the exemption to apply to a property for no more than 5 years from the date any of certain restrictions are recorded against the property.*

By imposing new duties upon local government officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 401.21 is added to the Revenue and
2 Taxation Code, to read:

3 401.21. (a) ~~When valuing~~*In assessing* an owner-occupied
4 single-family dwelling or owner-occupied unit in a multifamily
5 ~~dwelling dwelling~~, and the land on which ~~it~~ *the dwelling or unit*
6 is situated that is required for the convenient occupation and use
7 of that dwelling or unit, ~~if the dwelling or unit is on land leased to~~
8 ~~the owner by a community land trust, the assessor shall not value~~
9 ~~the dwelling or unit and the land at any value greater than the~~
10 ~~purchase price for that dwelling or unit.~~ *unit by persons and*
11 *families of low or moderate income, the value of the dwelling or*
12 *unit and the land shall be presumed to be the purchase price of*
13 *the dwelling or unit.*

14 ~~(b) This section shall only apply to a dwelling or unit and land~~
15 ~~that is owned and occupied by persons and families of low or~~
16 ~~moderate income.~~

17 *(b) In assessing a dwelling or unit owned by a limited equity*
18 *housing cooperative or by a member-occupant or resident*
19 *shareholder of the limited equity housing cooperative, and the*
20 *land on which the dwelling or unit is situated that is required for*
21 *the convenient occupation and use of the dwelling or unit by*
22 *persons and families of low or moderate income, the value of the*
23 *dwelling or unit and the land shall be presumed to be the purchase*

1 *price of the share conveying an exclusive right to occupancy and*
 2 *possession of that dwelling or unit.*

3 (c) For purposes of this section, all of the following definitions
 4 shall apply:

5 (1) “Affordability restrictions” include, but are not limited to,
 6 any of the following:

7 (A) The dwelling or unit can only be ~~sold or~~ *rented, sold, or*
 8 *resold to persons and families of low or moderate income to be*
 9 *occupied by the owner as his or her as a principal place of*
 10 *residence.*

11 (B) The *sale or resale price of the dwelling or unit is determined*
 12 *by a formula that ensures affordability the dwelling or unit has a*
 13 *purchase price that is affordable to persons and families of low*
 14 *or moderate income.*

15 (C) *The rent collected from the dwelling or unit does not exceed*
 16 *the maximum rent allowable to be collected from persons and*
 17 *families of low or moderate income.*

18 (E)

19 (D) There is a purchase option *for the dwelling or unit in favor*
 20 *of the community land trust. trust intended to preserve the dwelling*
 21 *or unit as affordable to persons and families of low or moderate*
 22 *income.*

23 (E) *Any restriction that ensures the dwelling or unit is to remain*
 24 *affordable to persons and families of low or moderate income by*
 25 *recorded deed, deed restriction, ground lease, covenant,*
 26 *memorandum, or other recorded instrument.*

27 (F) *Any restriction in a recorded instrument from which one of*
 28 *the following public agencies or officials has made a finding that*
 29 *the restriction serves the public interest to create and preserves*
 30 *the affordability of residential housing for persons and families*
 31 *of low or moderate income:*

32 (i) *The director of the local housing authority or equivalent*
 33 *agency.*

34 (ii) *The county counsel.*

35 (iii) *The director of a county housing department.*

36 (iv) *The city attorney.*

37 (v) *The director of a city housing department.*

38 (2) “Community land trust” means a nonprofit corporation,
 39 otherwise qualifying for exemption under Section 214, that ~~is~~
 40 ~~organized for the specific and primary purpose of~~ *has as one of*

1 *its primary purposes the creating and maintaining of permanently*
2 *affordable single-family or multifamily residences to which both*
3 *of the following conditions apply:*

4 (A) ~~All residences on the land are sold to, and occupied by, to~~
5 ~~a qualified owner to be occupied by~~ persons and families of low
6 or moderate ~~income, income as their primary residence,~~ and the
7 land on which ~~it the dwelling or unit is situated that is required is~~
8 ~~leased by the nonprofit corporation to the qualified owner for the~~
9 ~~convenient occupation and use of that dwelling or unit is leased~~
10 ~~to those owners by the nonprofit corporation for a renewable term~~
11 ~~of 99 years, including renewal option. years.~~

12 (B) ~~The leasehold interest is limited by dwelling or unit is~~
13 ~~subject to affordability restrictions recorded on the land lease or~~
14 ~~other similar recorded instrument. restrictions.~~

15 (3) *“Limited equity housing cooperative” has the same meaning*
16 *as that term is defined in Section 817 of the Civil Code.*

17 (3)

18 (4) *“Persons and families of low or moderate income” has the*
19 *same meaning as that term is defined in Section 50093 of the*
20 *Health and Safety Code.*

21 (5) *“Qualified owner” means either of the following:*

22 (A) *A limited equity housing cooperative.*

23 (B) *Persons and families of low or moderate income.*

24 (6) *“Purchase price” means a price that does not exceed the*
25 *sale or resale formula that ensures the dwelling or unit has a*
26 *purchase price that is affordable to persons and families of low*
27 *or moderate income.*

28 (d) This section shall apply to lien dates occurring on and after
29 January 1, 2017.

30 SEC. 2. Section 214.17 is added to the Revenue and Taxation
31 Code, to read:

32 214.17. (a) Property is within the exemption provided by
33 Sections 4 and 5 of Article XIII of the California Constitution if
34 that property is owned and operated by a nonprofit corporation,
35 otherwise qualifying for exemption under Section 214, ~~that is~~
36 ~~organized for the specific and primary purpose of~~ *has as one of*
37 *its primary purposes the creating and maintaining of permanently*
38 *affordable single-family or multifamily residences in which both*
39 *of the following conditions apply:*

1 (1) All residences on the land are intended for ownership and
 2 occupancy as a primary residence by a *qualified owner to be*
 3 *occupied by persons and families of low or moderate income,*
 4 *income as their primary residence, and the land on which it the*
 5 *residence is situated that is required is leased by the nonprofit*
 6 *corporation to the qualified owner for the convenient occupation*
 7 *and use of that residence is leased to those owners by the nonprofit*
 8 *corporation residence for a renewable term of 99 years, including*
 9 *renewal options: years.*

10 (2) ~~The leasehold interest is limited by residence is subject to~~
 11 ~~affordability restrictions recorded on the land lease or other similar~~
 12 ~~recorded instrument. restrictions.~~

13 (b) In the case of property not previously designated as open
 14 space, the exemption provided by subdivision (a) may not be
 15 denied to a property on the basis that the property does not
 16 currently include a single-family or multifamily residence, as
 17 described in subdivision (a), or a single-family or multifamily
 18 residence, as described in subdivision (a), that is in the course of
 19 construction.

20 (c) *The exemption required pursuant to this section shall apply*
 21 *to a property for no more than five years from the date any*
 22 *restriction described in subparagraph (E) or (F) of paragraph (1)*
 23 *of subdivision (d) is recorded against the property.*

24 (e)

25 (d) For purposes of this section, ~~both~~ *all* of the following shall
 26 apply:

27 (1) “Affordability restrictions” include, but are not limited to,
 28 any of the following:

29 (A) The residence can only be ~~sold~~ *rented, sold, or resold* to
 30 persons and families of low or moderate income to be occupied
 31 ~~by the owner as his or her~~ *as a principal place of residence.*

32 (B) The *sale or resale price* of the residence is determined by
 33 a formula that ensures ~~affordability~~ *the residence has a purchase*
 34 *price that is affordable* to persons and families of low or moderate
 35 income.

36 (C) *The rent collected from the residence does not exceed the*
 37 *maximum rent allowable to be collected from persons and families*
 38 *of low or moderate income.*

39 (E)

1 (D) There is a purchase option for the residence in favor of the
2 ~~community land trust~~ nonprofit organization intended to preserve
3 the residence as affordable to persons and families of low or
4 moderate income.

5 (E) Any restriction that ensures the residence is to remain
6 affordable to persons and families of low or moderate income by
7 recorded deed, deed restriction, ground lease, covenant,
8 memorandum, or other recorded instrument.

9 (F) Any restriction in a recorded instrument from which one of
10 the following public agencies or officials has made a finding that
11 the restriction serves the public interest to create and preserve the
12 affordability of residential housing for persons and families of low
13 or moderate income:

14 (i) The director of the local housing authority or equivalent
15 agency.

16 (ii) The county counsel.

17 (iii) The director of a county housing department.

18 (iv) The city attorney.

19 (v) The director of a city housing department.

20 (2) "Limited equity housing cooperative" has the same meaning
21 as that term is defined in Section 817 of the Civil Code.

22 ~~(2)~~

23 (3) "Persons and families of low or moderate income" has the
24 same meaning as that term is defined in Section 50093 of the
25 Health and Safety Code.

26 (4) "Qualified owner" means either of the following:

27 (A) A limited equity housing cooperative.

28 (B) Persons and families of low or moderate income.

29 ~~(4)~~

30 (e) This section shall apply to lien dates occurring on and after
31 January 1, 2017.

32 SEC. 3. If the Commission on State Mandates determines that
33 this act contains costs mandated by the state, reimbursement to
34 local agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code.

37 SEC. 4. Notwithstanding Section 2229 of the Revenue and
38 Taxation Code, no appropriation is made by this act and the state
39 shall not reimburse any local agency for any property tax revenues
40 lost by it pursuant to this act.

1 SEC. 5. This act provides for a tax levy within the meaning of
2 Article IV of the Constitution and shall go into immediate effect.

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