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AB-1933 Property taxation: welfare exemption: nonprofit corporation: low-income families. (2021-2022)

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Assembly Bill No. 1933

CHAPTER 643

An act to add and repeal Section 214.15.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1933, Friedman. Property taxation: welfare exemption: nonprofit corporation: low-income families.

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. Existing property tax law states that property is within that welfare exemption if the property is owned and operated by a nonprofit corporation, otherwise qualifying for the welfare exemption, that is organized and operated for the specific and primary purpose of building and rehabilitating single or multifamily residences for sale at cost to low-income families, with financing in the form of a zero interest rate loan and without regard to religion, race, national origin, or the sex of the head of household.

This bill would also provide, for lien dates occurring on or after January 1, 2023, and before January 1, 2028, that property is fully exempt from property taxation and is also within that welfare exemption if that property is owned and operated by a nonprofit corporation, as described, that is organized and operated for the specific and primary purpose of building and rehabilitating single or multifamily residential units and the property has units that meet specified requirements. The bill would limit the exemption to the portion of the property proposed to be built or rehabilitated with units meeting the requirements and would limit, following completion of construction, the exemption to the portion of the property with units that meet the requirements, as specified. The bill would prohibit the denial of this exemption for property not previously designated as open space on the basis that the property does not currently include a single or multifamily residential unit, as described, or a single or multifamily residential unit, as described, that is in the course of construction.

This bill would require a nonprofit corporation that utilizes this welfare exemption to be subject to an annual independent audit and to make the audit available to specified entities in order to continue to qualify for the exemption. The bill would make a nonprofit corporation liable for property tax for the years for which the property was exempt from taxation pursuant to the bill's provisions if the property was not developed or rehabilitated, or if the development or rehabilitation is not in the course of construction, by specified dates depending on the date the nonprofit corporation acquired the property. The bill would require an officer of the nonprofit corporation claiming the exemption to sign under penalty of perjury an affidavit affirming to the county assessor that the property owned and operated by the nonprofit corporation is for the future construction of single or multifamily residential units on that property, as described. By adding to the duties of local tax officials and expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would require the State Board of Equalization to annually collect and report to the Legislature, by June 1, 2025, and every June 1 thereafter until June 1, 2028, data from county assessors to quantify the amount of assessed value exempted and the number of owner-occupied dwelling units created by nonprofits granted the exemption in the bill. The bill would require nonprofits to provide information to county assessors about the additional dwelling units created under the exemption.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Existing law requires the state 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 those provisions, 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 214.15.1 is added to the Revenue and Taxation Code, to read:

214.15.1. (a) Subject to subdivision (b), property shall be fully exempt from property taxation and is within the exemption provided by Sections 4 and 5 of Article XIII of the California Constitution if that property is owned and operated by a nonprofit corporation, otherwise qualifying for exemption under Section 214, that is organized and operated for the specific and primary purpose of building and rehabilitating single or multifamily residential units, if the property is subject to a 45-year recorded agreement with the appropriate local agency, and if the agreement requires all of the following:

(1) Requires some or all of the property's units to be owner occupied and sold only to and purchased only by first-time homebuyers that are low-income families.

(2) Requires the initial downpayment on the units described in paragraph (1) to be 5 percent or less of the market value of the unit at the time of purchase.

(3) Requires the units described in paragraph (1) to be made available at an affordable housing cost to buyers.

(b) (1) The property for which the exemption under this section is sought may be related to a larger, mixed-income development project where a portion of the units may be available to persons or families that are not low-income families. However, only the portion of the property proposed to be built or rehabilitated with units that meet the requirements under subdivision (a) shall receive the exemption. Following completion of construction, only the portion of the property with units that meet the requirements under subdivision (a) shall receive the exemption.

(2) On each lien date, the assessor shall adjust the exemption allowed under this section by a proration factor that reflects the portion of the property proposed to be built or rehabilitated with units that meet the requirements of subdivision (a) as a percentage of the total development. Following completion of construction, the adjustment shall reflect the portion of the property with units that meet the requirements of subdivision (a) as a percentage of the total development.

(3) The assessor shall assess as escaped property, pursuant to Section 532, any property for which a welfare exemption was granted pursuant to this section if either of the following occurs:

(A) Construction is abandoned.

(B) Upon completion of construction, the property does not meet the requirements in subdivision (a). For properties described in this subparagraph, the assessor shall assess as escaped property that portion of the property that was proposed to be, but was not, built or rehabilitated with units that meet the requirements of subdivision (a).

(c) (1) In the case of property not previously designated as open space, the exemption specified by subdivision (a) may not be denied to a property on the basis that the property does not currently include a single or multifamily residential unit as described in that subdivision, or a single or multifamily residential unit as so described that is in the course of construction.

(2) With regard to paragraph (1), the Legislature finds and declares all of the following:

(A) The exempt activities of a nonprofit corporation as described in subdivision (a) qualitatively differ from the exempt activities of other nonprofit entities that provide housing in that the exempt purpose of a nonprofit corporation as described in subdivision (a) is not to own and operate a housing project on an ongoing basis, but is instead to make housing, and the land reasonably necessary for the use of that housing, available for prompt sale to low-income residents.

(B) In light of this distinction, the holding of real property by a nonprofit corporation as described in subdivision (a), for the future construction on that property of a single or multifamily residence as described in that same subdivision, is central to that corporation's exempt purposes and activities.

(C) In light of the factors set forth in subparagraphs (A) and (B), the holding of real property by a nonprofit corporation described in subdivision (a), for the future construction on that property of a single or multifamily residence as described in that same subdivision, constitutes the exclusive use of that property for a charitable purpose within the meaning of subdivision (b) of Section 4 of Article XIII of the California Constitution.

(d) For purposes of this section, all of the following definitions apply:

(1) "Abandoned" has the same meaning as that term is used in Section 214.2.

(2) "Affordable housing cost" means a cost, with respect to low-income families, that does not exceed 30 percent of gross income.

(3) "First-time homebuyer" means a person who does not currently have any ownership interest in any principal residence and has not had any ownership interest in any principal residence in the three-year period prior to the date that the mortgage is executed for a unit purchased by the person described in paragraph (1) of subdivision (a) of this section. For purposes of this paragraph, "principal residence" means any property used as the person's principal place of residence.

(4) "Low-income families" means very low income households, as defined in Section 50105, extremely low income households, as defined in Section 50106, lower income households, as defined in Section 50079.5, and persons and families of low income, as defined in Section 50093, and includes persons and families of extremely low income and persons and families of very low income, as those terms are used in Section 50093 of the Health and Safety Code, as those sections read on January 1, 2022.

(e) The nonprofit corporation that utilizes the exemption in this section shall be subject to an annual independent audit to ensure that the buyers of the units meet the requirements of this section. The nonprofit corporation shall make the audit available upon request to the city, county, and county assessor where the unit is located and to the Department of Housing and Community Development in order to continue to qualify for the exemption pursuant to this section.

(f) (1) A nonprofit corporation making a claim for an exemption pursuant to this section shall not be eligible for the exemption under this section unless an officer of the nonprofit corporation signs under penalty of perjury an affidavit affirming to the county assessor that the property owned and operated by the nonprofit corporation is for the future construction of single or multifamily residential units on that property, as required by this section.

(2) (A) Notwithstanding any other law, the nonprofit corporation shall be liable for property tax for the years for which the property was exempt from taxation pursuant to this section if the property was not developed or rehabilitated, or if the development or rehabilitation is not in the course of construction, in accordance with subdivision (a) as follows:

(i) In the case of property acquired by the nonprofit corporation before January 1, 2023, by January 1, 2028.

(ii) In the case of property acquired by the nonprofit corporation on and after January 1, 2023, and before January 1, 2028, within five years of the lien date following the acquisition of the property by the nonprofit corporation.

(B) The nonprofit corporation shall notify the assessor of the county in which the property is located if property owned by the nonprofit corporation granted an exemption pursuant to this section is not in the course of construction by the dates specified in subparagraph (A).

(g) (1) This section shall be operative for lien dates occurring on or after January 1, 2023, and before January 1, 2028.

(2) This section shall remain in effect only until January 1, 2034, and as of that date is repealed.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) The availability of housing is of vital statewide importance and the development of decent and secure housing for every Californian is a priority of the highest order.

(2) There is currently a severe housing crisis in California that especially impacts the ability of persons and families of low income to purchase and own a home.

(3) To facilitate the acquisition, development, rehabilitation, and financing of restricted affordable dwellings for ownership by persons and families of low income, nonprofits eligible under this act, when acquiring, developing, or rehabilitating property for persons and families of low income, must be exempt from property taxation upon acquisition of the property.

(4) It is the intent of the Legislature to apply the requirements of Section 41 of the Revenue and Taxation Code with respect to the exemption under Section 214.15.1 of the Revenue and Taxation Code, as added by this act.

(b) The goal, purpose, and objective of the exemption is to facilitate the acquisition, development, rehabilitation, and financing of restricted affordable dwellings for ownership by persons and families of low income.

(c) (1) To assist the Legislature in determining whether the exemption allowed by this act fulfills the goal, purpose, and objective as described in subdivision (a), the State Board of Equalization shall annually collect and report to the Legislature, pursuant to paragraph (2), data from county assessors to quantify the amount of assessed value exempted and the number of owner-occupied dwelling units created by nonprofits granted this exemption.

(2) By June 1, 2025, and every June 1 thereafter until June 1, 2028, the State Board of Equalization shall report this information to the Legislature in accordance with Section 9795 of the Government Code.

(d) Nonprofits claiming the exemption shall provide information to county assessors, in the form and manner as required by the county assessor, about the additional dwelling units created under the exemption.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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

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

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