



Fact Sheet: AB 84 Welfare Property Tax Exemption for Affordable Housing

PROPOSED BILL

Assembly Bill (AB) 84 reduces the cost of developing affordable housing by facilitating access to the critical welfare exemption.

Specifically, the bill:

- Clarifies that land, including vacant land, restricted for use as affordable housing qualifies for the welfare exemption. In other words, the property is exempt from the date the restrictions are placed on the property, not when construction commences.
- Presumes that deed restricted affordable housing qualifies for the exemption and requires the county assessor to conditionally grant an exemption within 30 days, subject to retroactive tax payments if the owner or any units are ultimately deemed ineligible.
- Expands the 140% area median income (AMI) rule to cover all deed restricted affordable housing.

BACKGROUND

Pursuant to the state constitution, affordable rental housing owned-by a nonprofit entity is considered a “charitable” use and exempt from basic property taxes. This is known as the “welfare exemption.” The constitution and statute are clear that this exemption applies to “buildings under construction and land required for their convenient use.” Affordable housing developers often purchase land subject to recorded covenants restricting use of the land to affordable housing and then spend a few years cobbling together necessary public funding before

commencing construction. Most county assessors will not approve the welfare exemption back to the date of acquisition, only to the start of construction, which results in developers paying significant taxes (covered ultimately by additional state and local housing subsidies) on land that should be and will be exempt.

Second, even though most affordable housing developers have been approved for exemptions numerous times and the use of a particular site as affordable housing and the percentage of affordable units on that site are set in recorded affordability restrictions, developers must pay the taxes up front and seek reimbursement after both the Board of Equalization and the county assessor approve a development’s exemption. As a result, developers float hundreds of thousands of dollars in tax payments for as much as three years, only to get the money back. The developers pay interest to borrow this money, which further increases development costs.

Third, tenants who enter affordable housing must meet specified income limits but are not required to move out when their income subsequently increases. For all affordable housing programs, except the welfare exemption, the unit is still considered affordable. For the last few years, welfare exemption law has acknowledged this reality and maintains the exemption as long as the tenant’s income does not exceed 140% of AMI (known as the 140% AMI rule). However, this provision sunsets in 2028 and only applies to developments that receive Low-Income Housing Tax Credits, leaving out many non-tax-credit developments in the same predicament.

SOLUTION

In order to reduce the cost of constructing affordable homes, AB 84 ensures that nonprofit affordable rental housing can access the existing welfare property tax exemption from the date the property is restricted for affordable housing and without floating unnecessary tax payments while the application is under review.

SUPPORT

California Housing Partnership (Sponsor)

OPPOSITION

None at this time.

FOR MORE INFORMATION

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