ASSEMBLY BILL No. 1344

Introduced by Assembly Member Fletcher

February 27, 2009

An act to amend Section 107.4 of the Revenue and Taxation Code, relating to taxation.

legislative counsel's digest

AB 1344, as introduced, Fletcher. Taxation: military housing.

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests that are subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive. Existing property tax law specifies that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a contract that includes, but is not limited to, a long-term lease for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel and their dependents, if the housing units and the private contractor constructing the housing meet specified criteria. Existing law specifies that one of these criteria is a requirement that any reduction, as specified, in property taxes on leased property used for military housing, as defined, inures solely to the benefit of the residents of the military housing through improvements.

This bill would clarify that, for the purpose of the definition of a taxable possessory interest, any reduction, as specified, in property taxes on leased property used for military housing, as defined, would inure solely to the benefit of the current or future residents of the military housing through current or future improvements, including project serving facilities, as specified, and housing improvements, as specified, provided by the contractor with the approval of the military. This bill would specify that these property tax savings may be used to fund the construction of improvements or to service debt incurred to fund the construction of improvements.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

SECTION 1. Section 107.4 of the Revenue and Taxation Code is amended to read:

107.4. For purposes of paragraph (1) of subdivision (a) of Section 107, there is no independent possession or use of land or improvements if that possession or use is pursuant to a contract that includes, but is not limited to, a long-term lease, for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel and their dependents, if all of the following criteria are met:

(a) The military family housing constructed and managed by private contractor is situated on a military facility under military control, and the construction of that housing is performed under military guidelines in the same manner as construction that is performed by the military.

(b) All services normally provided by a municipality are required to be purchased from the military facility or a provider designated by the military.

(c) The private contractor is not given the right and ability to exercise any significant authority and control over the management or operation of the military family housing, separate and apart from the rules and regulations of the military.

(d) The number of units, the number of bedrooms per unit, and the unit mix are set by the military, and ~~may~~ *shall* not be changed by the contractor without prior approval by the military.

(e) Tenants are designated by a military housing agency.

(f) Financing for the project is subject to the approval of the military in its sole discretion.

(g) Rents charged to military personnel or their dependents are set by the military.

(h) The military controls the distribution of revenues from the project to the private contractor, and the private contractor is allowed only a predetermined profit or fee for constructing the military family housing.

(i) Evictions from the housing units are subject to the military justice system.

(j) The military prescribes rules and regulations governing the use and occupancy of the property.

(k) The military has the authority to remove or bar persons from the property.

(*l*) The military may impose access restrictions on the contractor and its tenants.

(m) *(1)* Any reduction or, if that amount is unknown, the private contractor's reasonable estimate of savings, in property taxes on leased property used for military housing under the Military Housing Privatization Initiative (10 U.S.C. Sec. 2871 ~~and following)~~ *et seq.)* shall inure solely to the benefit of the *current or future* residents of the military housing through *any of the following current or future* improvements~~, such as a child care center~~ provided by the private contractor~~.~~ *with the approval of the military:*

(A) Project serving facilities, including, but not limited to, day care centers, recreation or community centers, fitness centers, parks or playgrounds, parking, and outdoor lighting, and any furnishings, fixtures, and equipment for those facilities.

(B) Housing improvements, including, but not limited to, the construction of additional housing units, the renovation of housing units, and the upgrade of housing units.

(2) The property tax savings specified in paragraph (1) may be used to fund the construction of improvements or to service debt incurred to fund the construction of improvements.

(n) The military family housing is constructed, renovated, rehabilitated, remodeled, replaced, or managed under the Military Housing Privatization Initiative, or any successor to that law.

(o) For purposes of this section, "military facility under military control" means a military base that restricts public access to the military base.

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