

AMENDED IN ASSEMBLY AUGUST 9, 2010

AMENDED IN SENATE JUNE 2, 2010

SENATE BILL

No. 1250

Introduced by Senator Ducheny

February 19, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as amended, Ducheny. Taxation: military housing.

Existing

(1) *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.

This bill would specify that ~~a possession or use is not independent if, under a contract described above, the housing is solely for active duty military personnel and their dependents~~ *the definition does not apply to a military housing unit managed by a private contractor, under a contract described above, that is rented to a tenant who is an unaffiliated member of the general public, as defined, and would require the private*

contractor to be responsible for any property taxes on housing units rented to unaffiliated members of the general public.

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

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

- 1 SECTION 1. Section 107.4 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 107.4. (a) For purposes of paragraph (1) of subdivision (a) of
- 4 Section 107, there is no independent possession or use of land or
- 5 improvements if that possession or use is pursuant to a contract
- 6 that includes, but is not limited to, a long-term lease, for the private
- 7 construction, renovation, rehabilitation, replacement, management,
- 8 or maintenance of housing-solely for active duty military personnel
- 9 or their dependents, or both, if all of the following criteria are met:
- 10 (a)
- 11 (1) The military housing constructed and managed by private
- 12 contractor is situated on a military facility under military control,
- 13 and the construction of that housing is performed under military
- 14 guidelines in the same manner as construction that is performed
- 15 by the military.
- 16 (b)
- 17 (2) All services normally provided by a municipality are required
- 18 to be purchased from the military facility or a provider designated
- 19 by the military.
- 20 (c)
- 21 (3) The private contractor is not given the right and ability to
- 22 exercise any significant authority and control over the management
- 23 or operation of the military housing, separate and apart from the
- 24 rules and regulations of the military.
- 25 (d)
- 26 (4) The number of units, the number of bedrooms per unit, and
- 27 the unit mix are set by the military, and may not be changed by
- 28 the contractor without prior approval by the military.
- 29 (e)
- 30 (5) Tenants are designated by a military housing agency.
- 31 (f)
- 32 (6) Financing for the project is subject to the approval of the
- 33 military in its sole discretion.

1 ~~(g)~~
2 (7) Rents charged to military personnel or their dependents are
3 set by the military.

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

9 ~~(i)~~
10 (9) Evictions from the housing units are subject to the military
11 justice system.

12 ~~(j)~~
13 (10) The military prescribes rules and regulations governing
14 the use and occupancy of the property.

15 ~~(k)~~
16 (11) The military has the authority to remove or bar persons
17 from the property.

18 ~~(l)~~
19 (12) The military may impose access restrictions on the
20 contractor and its tenants.

21 ~~(m)~~
22 (13) Any reduction or, if that amount is unknown, the private
23 contractor's reasonable estimate of savings, in property taxes on
24 leased property used for military housing under the Military
25 Housing Privatization Initiative (10 U.S.C. Sec. 2871 et seq.) shall
26 inure solely to the benefit of the residents of the military housing
27 through improvements, such as a child care center provided by the
28 private contractor.

29 ~~(n)~~
30 (14) The military housing is constructed, renovated,
31 rehabilitated, remodeled, replaced, or managed under the Military
32 Housing Privatization Initiative, or any successor to that law.

33 (b) *This section shall not apply to a military housing unit*
34 *managed by a private contractor that is rented to a tenant who is*
35 *an unaffiliated member of the general public.*

36 (1) *“Unaffiliated member of the general public” means a person*
37 *who is not a current member of the military. A housing unit rented*
38 *to or occupied by a person employed as management or*
39 *maintenance personnel for the military housing property shall not*

1 *be considered to be a unit rented to an unaffiliated member of the*
2 *general public.*

3 *(2) The private contractor shall annually notify the assessor by*
4 *February 15 of any housing units rented to unaffiliated members*
5 *of the general public as of the immediately preceding lien date.*
6 *The private contractor shall be responsible for any property taxes*
7 *on housing units rented to unaffiliated members of the general*
8 *public.*

9 ~~(c)~~

10 *(c) For purposes of this section, “military facility under military*
11 *control” means a military base that restricts public access to the*
12 *military base.*