

Senate Bill No. 1250

CHAPTER 327

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

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, Ducheny. Taxation: military housing.

(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 for active duty military personnel or their dependents, or both, and would provide that the definition of a taxable possessory interest 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.

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. (a) 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 or their dependents, or both, if all of the following criteria are met:

(1) The military 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.

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

(3) 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 housing, separate and apart from the rules and regulations of the military.

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

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

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

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

(8) 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 housing.

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

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

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

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

(13) 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 et seq.) shall inure solely to the benefit of the residents of the military housing through improvements, such as a child care center provided by the private contractor.

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

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

(1) "Unaffiliated member of the general public" means a person who is not a current member of the military. A housing unit rented to or occupied by a person employed as management or maintenance personnel for the military housing property shall not be considered to be a unit rented to an unaffiliated member of the general public.

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

(c) 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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