

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN SENATE JUNE 11, 2014

AMENDED IN ASSEMBLY MAY 28, 2014

AMENDED IN ASSEMBLY MAY 14, 2014

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1760

Introduced by Assembly Members Chau and Bocanegra
(Principal coauthor: Senator Jackson)

February 14, 2014

An act to ~~amend Section 214 of~~ *add Sections 214.06, 214.07, and 214.09* to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1760, as amended, Chau. Property taxation: welfare exemption: rental housing and related facilities: payment in lieu of taxes agreement.

Existing property tax law establishes a partial welfare exemption for property used exclusively for rental housing and related facilities that are owned and operated by either of any certain types of nonprofit entities or veterans' organizations that meet specified exemption requirements, if either of certain qualifying criteria are met. *Existing law requires the owner of the property, in order to be eligible for the exemption, to certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households.*

This bill would, on or after January 1, 2015, prohibit a local government from entering into a payment in lieu of taxes (PILOT) agreement with a property owner of a low-income housing project, and would make any PILOT agreement entered into in violation of this provision void and unenforceable. ~~This bill would presume that any payments made under any PILOT agreement entered into before January 1, 2015, are used to maintain the affordability of, or reduce the rents otherwise necessary for, the units occupied by lower income households. This bill would require any outstanding ad valorem tax, interest, or penalty that was levied between January 1, 2012, and January 1, 2015, as a result of a PILOT agreement to be canceled, and would also require any tax, interest, or penalty, as so levied, that was paid prior to January 1, 2015, to be refunded. This~~ *The bill would establish a conclusive presumption that any payments made under a PILOT agreement entered into before January 1, 2015, comply with the certification requirement described above and were or are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households. The bill would define a PILOT agreement to mean any agreement entered into between a local government and a property owner of a low-income housing project that requires the owner of the low-income housing project to pay the local government a charge, as provided, and would define a “low-income housing project” to mean a low-income housing project that is eligible for the exemption described above.*

This bill would become operative only if SB 1203 of the 2013–14 Regular Session is enacted and takes effect on or before January 1, 2015.

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

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

- 1 *SECTION 1. The Legislature finds and declares the following:*
- 2 *(a) In Section 50001 of the Health and Safety Code, the*
- 3 *Legislature has long declared that the subject of housing is of vital*
- 4 *statewide importance to the health, safety, and welfare of the*
- 5 *residents of this state.*
- 6 *(b) The lack of housing, and in particular the lack of decent,*
- 7 *safe, and sanitary housing that is affordable to low-income*

1 households, is a critical problem that continues to threaten the
2 economic, environmental, and social quality of life in California.

3 (c) The Legislature, in enacting subdivision (g) of Section 214
4 of the Revenue and Taxation Code in 1987, determined that the
5 funds that were being paid in property taxes could better be used
6 in furtherance of the goal of providing low-income housing and
7 that a property tax exemption was necessary to ensure that
8 low-income housing properties with restricted rents would be able
9 to provide the residents with a livable community and remain
10 financially feasible over the life of the deed restrictions, generally
11 55 years.

12 (d) Payment in lieu of taxes agreements are an issue of statewide
13 concern because of the need to prevent arbitrary and
14 discriminatory financial barriers that prevent construction of
15 needed low-income housing in the state. Therefore, restricting
16 agreements with local governments as set forth in Section 214.06
17 of the Revenue and Taxation Code is a matter of statewide concern
18 and not a municipal affair as that term is used in Section 5 of
19 Article XI of the California Constitution.

20 SEC. 2. Section 214.06 is added to the Revenue and Taxation
21 Code, to read:

22 214.06. (a) Notwithstanding any other law, on or after January
23 1, 2015, a local government shall not enter into a payment in lieu
24 of taxes (PILOT) agreement with a property owner of a low-income
25 housing project. Any PILOT agreement entered into in violation
26 of this subdivision shall be void and unenforceable.

27 (b) An inference shall not be drawn from the enactment of this
28 section with regard to whether the law, as it read prior to January
29 1, 2015, authorized a local government to enter into a PILOT
30 agreement.

31 SEC. 3. Section 214.07 is added to the Revenue and Taxation
32 Code, to read:

33 214.07. (a) Notwithstanding any other law, it shall be
34 conclusively presumed that any payments made under any payment
35 in lieu of taxes (PILOT) agreement entered into before January
36 1, 2015, comply with the certification requirements of
37 subparagraph (B) of paragraph (2) of subdivision (g) of Section
38 214 and were or are used to maintain the affordability of, or reduce
39 rents otherwise necessary for, the units occupied by lower income
40 households.

1 (b) An inference shall not be drawn from the enactment of this
2 section with regard to whether the law, as it read prior to January
3 1, 2015, authorized a local government to enter into a PILOT
4 agreement.

5 SEC. 4. Section 214.09 is added to the Revenue and Taxation
6 Code, to read:

7 214.09. For purposes of Sections 214.06, 214.07, and 214.08,
8 all of the following shall apply:

9 (a) "Local government" means any city, county, city and county,
10 housing authority, housing successor to a redevelopment agency,
11 or a joint powers agency that has approved land use entitlements
12 or building permits, provided land or financing, or approved the
13 issuance of tax-exempt bonds pursuant to the federal Tax Equity
14 and Fiscal Responsibility Act for the low-income housing project.

15 (b) "Low-income housing project" means a low-income housing
16 project that is eligible for the exemption provided by subdivision
17 (g) of Section 214.

18 (c) "Payment in lieu of taxes agreement" means any agreement
19 entered into between a local government and a property owner of
20 a low-income housing project that requires the owner of the
21 low-income housing project to pay the local government a charge
22 to compensate the local government for lost property tax revenues
23 resulting from the low-income housing project receiving an
24 exemption pursuant to subdivision (g) of Section 214.

25 SEC. 5. This act shall become operative only if Senate Bill
26 1203 of the 2013–14 Regular Session is also enacted and takes
27 effect on or before January 1, 2015.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, June 11, 2014. (JR11)**