

**Introduced by Senator Jackson  
(Coauthor: Senator DeSaulnier)**

February 20, 2014

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An act to amend Section 214 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1203, as introduced, Jackson. 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.

This bill would void any payment in lieu of taxes (PILOT) agreement, which the bill would define as any agreement entered into between a local government and a property owner of a low-income housing project that is eligible for the property tax exemption described above, that requires, among other things, the owner of the low-income housing project to pay the local government a charge. This bill would prohibit a PILOT agreement from making a property owner ineligible for the exemption described above. This bill would also specify that these provisions are declaratory of existing law.

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 214 of the Revenue and Taxation Code is amended to read:

214. (a) Property used exclusively for religious, hospital, scientific, or charitable purposes owned and operated by community chests, funds, foundations, limited liability companies, or corporations organized and operated for religious, hospital, scientific, or charitable purposes is exempt from taxation, including ad valorem taxes to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978, or any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition, if:

(1) The owner is not organized or operated for profit. However, in the case of hospitals, the organization shall not be deemed to be organized or operated for profit if, during the immediately preceding fiscal year, operating revenues, exclusive of gifts, endowments and grants-in-aid, did not exceed operating expenses by an amount equivalent to 10 percent of those operating expenses. As used herein, operating expenses include depreciation based on cost of replacement and amortization of, and interest on, indebtedness.

(2) No part of the net earnings of the owner inures to the benefit of any private shareholder or individual.

(3) The property is used for the actual operation of the exempt activity, and does not exceed an amount of property reasonably necessary to the accomplishment of the exempt purpose.

(A) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to use of the property for either or both of the following described activities if that use is occasional:

(i) The owner conducts fundraising activities on the property and the proceeds derived from those activities are not unrelated business taxable income, as defined in Section 512 of the Internal Revenue Code, of the owner and are used to further the exempt activity of the owner.

(ii) The owner permits any other organization that meets all of the requirements of this subdivision, other than ownership of the property, to conduct fundraising activities on the property and the

1 proceeds derived from those activities are not unrelated business  
2 taxable income, as defined in Section 512 of the Internal Revenue  
3 Code, of the organization, are not subject to the tax on unrelated  
4 business taxable income that is imposed by Section 511 of the  
5 Internal Revenue Code, and are used to further the exempt activity  
6 of the organization.

7 (B) For purposes of subparagraph (A):

8 (i) “Occasional use” means use of the property on an irregular  
9 or intermittent basis by the qualifying owner or any other qualifying  
10 organization described in clause (ii) of subparagraph (A) that is  
11 incidental to the primary activities of the owner or the other  
12 organization.

13 (ii) “Fundraising activities” means both activities involving the  
14 direct solicitation of money or other property and the anticipated  
15 exchange of goods or services for money between the soliciting  
16 organization and the organization or person solicited.

17 (C) Subparagraph (A) shall have no application in determining  
18 whether paragraph (3) has been satisfied unless the owner of the  
19 property and any other organization using the property as provided  
20 in subparagraph (A) have filed with the assessor a valid  
21 organizational clearance certificate issued pursuant to Section  
22 254.6.

23 (D) For the purposes of determining whether the property is  
24 used for the actual operation of the exempt activity, consideration  
25 shall not be given to the use of the property for meetings conducted  
26 by any other organization if the meetings are incidental to the other  
27 organization’s primary activities, are not fundraising meetings or  
28 activities as defined in subparagraph (B), are held no more than  
29 once per week, and the other organization and its use of the  
30 property meet all other requirements of paragraphs (1) to (5),  
31 inclusive, of this subdivision. The owner or the other organization  
32 also shall file with the assessor a copy of a valid, unrevoked letter  
33 or ruling from the Internal Revenue Service or the Franchise Tax  
34 Board stating that the other organization, or the national  
35 organization of which it is a local chapter or affiliate, qualifies as  
36 an exempt organization under Section 501(c)(3) or 501(c)(4) of  
37 the Internal Revenue Code or Section 23701d, 23701f, or 23701w.

38 (E) Nothing in subparagraph (A), (B), (C), or (D) shall be  
39 construed to either enlarge or restrict the exemption provided for

1 in subdivision (b) of Section 4 and Section 5 of Article XIII of the  
2 California Constitution and this section.

3 (4) The property is not used or operated by the owner or by any  
4 other person so as to benefit any officer, trustee, director,  
5 shareholder, member, employee, contributor, or bondholder of the  
6 owner or operator, or any other person, through the distribution  
7 of profits, payment of excessive charges or compensations, or the  
8 more advantageous pursuit of their business or profession.

9 (5) The property is not used by the owner or members thereof  
10 for fraternal or lodge purposes, or for social club purposes except  
11 where that use is clearly incidental to a primary religious, hospital,  
12 scientific, or charitable purpose.

13 (6) The property is irrevocably dedicated to religious, charitable,  
14 scientific, or hospital purposes and upon the liquidation,  
15 dissolution, or abandonment of the owner will not inure to the  
16 benefit of any private person except a fund, foundation, or  
17 corporation organized and operated for religious, hospital,  
18 scientific, or charitable purposes.

19 (7) The property, if used exclusively for scientific purposes, is  
20 used by a foundation or institution that, in addition to complying  
21 with the foregoing requirements for the exemption of charitable  
22 organizations in general, has been chartered by the Congress of  
23 the United States (except that this requirement shall not apply  
24 when the scientific purposes are medical research), and whose  
25 objects are the encouragement or conduct of scientific  
26 investigation, research, and discovery for the benefit of the  
27 community at large.

28 The exemption provided for herein shall be known as the  
29 “welfare exemption.” This exemption shall be in addition to any  
30 other exemption now provided by law, and the existence of the  
31 exemption provision in paragraph (2) of subdivision (a) of Section  
32 202 shall not preclude the exemption under this section for museum  
33 or library property. Except as provided in subdivision (e), this  
34 section shall not be construed to enlarge the college exemption.

35 (b) Property used exclusively for school purposes of less than  
36 collegiate grade and owned and operated by religious, hospital, or  
37 charitable funds, foundations, limited liability companies, or  
38 corporations, which property and funds, foundations, limited  
39 liability companies, or corporations meet all of the requirements  
40 of subdivision (a), shall be deemed to be within the exemption

1 provided for in subdivision (b) of Section 4 and Section 5 of Article  
2 XIII of the California Constitution and this section.

3 (c) Property used exclusively for nursery school purposes and  
4 owned and operated by religious, hospital, or charitable funds,  
5 foundations, limited liability companies, or corporations, which  
6 property and funds, foundations, limited liability companies, or  
7 corporations meet all the requirements of subdivision (a), shall be  
8 deemed to be within the exemption provided for in subdivision  
9 (b) of Section 4 and Section 5 of Article XIII of the California  
10 Constitution and this section.

11 (d) Property used exclusively for a noncommercial educational  
12 FM broadcast station or an educational television station, and  
13 owned and operated by religious, hospital, scientific, or charitable  
14 funds, foundations, limited liability companies, or corporations  
15 meeting all of the requirements of subdivision (a), shall be deemed  
16 to be within the exemption provided for in subdivision (b) of  
17 Section 4 and Section 5 of Article XIII of the California  
18 Constitution and this section.

19 (e) Property used exclusively for religious, charitable, scientific,  
20 or hospital purposes and owned and operated by religious, hospital,  
21 scientific, or charitable funds, foundations, limited liability  
22 companies, or corporations or educational institutions of collegiate  
23 grade, as defined in Section 203, which property and funds,  
24 foundations, limited liability companies, corporations, or  
25 educational institutions meet all of the requirements of subdivision  
26 (a), shall be deemed to be within the exemption provided for in  
27 subdivision (b) of Section 4 and Section 5 of Article XIII of the  
28 California Constitution and this section. As to educational  
29 institutions of collegiate grade, as defined in Section 203, the  
30 requirements of paragraph (6) of subdivision (a) shall be deemed  
31 to be met if both of the following are met:

32 (1) The property of the educational institution is irrevocably  
33 dedicated in its articles of incorporation to charitable and  
34 educational purposes, to religious and educational purposes, or to  
35 educational purposes.

36 (2) The articles of incorporation of the educational institution  
37 provide for distribution of its property upon its liquidation,  
38 dissolution, or abandonment to a fund, foundation, or corporation  
39 organized and operated for religious, hospital, scientific, charitable,

1 or educational purposes meeting the requirements for exemption  
2 provided by Section 203 or this section.

3 (f) Property used exclusively for housing and related facilities  
4 for elderly or handicapped families and financed by, including,  
5 but not limited to, the federal government pursuant to Section 202  
6 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section  
7 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of  
8 Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of  
9 Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and  
10 operated by religious, hospital, scientific, or charitable funds,  
11 foundations, limited liability companies, or corporations meeting  
12 all of the requirements of this section shall be deemed to be within  
13 the exemption provided for in subdivision (b) of Section 4 and  
14 Section 5 of Article XIII of the California Constitution and this  
15 section.

16 The amendment of this paragraph made by Chapter 1102 of the  
17 Statutes of 1984 does not constitute a change in, but is declaratory  
18 of, existing law. However, no refund of property taxes shall be  
19 required as a result of this amendment for any fiscal year prior to  
20 the fiscal year in which the amendment takes effect.

21 Property used exclusively for housing and related facilities for  
22 elderly or handicapped families at which supplemental care or  
23 services designed to meet the special needs of elderly or  
24 handicapped residents are not provided, or that is not financed by  
25 the federal government pursuant to Section 202 of Public Law  
26 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public  
27 Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law  
28 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law  
29 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption  
30 pursuant to this subdivision unless the property is used for housing  
31 and related facilities for low- and moderate-income elderly or  
32 handicapped families. Property that would otherwise be exempt  
33 pursuant to this subdivision, except that it includes some housing  
34 and related facilities for other than low- or moderate-income elderly  
35 or handicapped families, shall be entitled to a partial exemption.  
36 The partial exemption shall be equal to that percentage of the value  
37 of the property that is equal to the percentage that the number of  
38 low- and moderate-income elderly and handicapped families  
39 occupying the property represents of the total number of families  
40 occupying the property.

1 As used in this subdivision, “low and moderate income” has the  
2 same meaning as the term “persons and families of low or moderate  
3 income” as defined by Section 50093 of the Health and Safety  
4 Code.

5 (g) (1) Property used exclusively for rental housing and related  
6 facilities and owned and operated by religious, hospital, scientific,  
7 or charitable funds, foundations, limited liability companies, or  
8 corporations, including limited partnerships in which the managing  
9 general partner is an eligible nonprofit corporation or eligible  
10 limited liability company, meeting all of the requirements of this  
11 section, or by veterans’ organizations, as described in Section  
12 215.1, meeting all the requirements of paragraphs (1) to (7),  
13 inclusive, of subdivision (a), shall be deemed to be within the  
14 exemption provided for in subdivision (b) of Section 4 and Section  
15 5 of Article XIII of the California Constitution and this section  
16 and shall be entitled to a partial exemption equal to that percentage  
17 of the value of the property that the portion of the property serving  
18 lower income households represents of the total property in any  
19 year in which any of the following criteria applies:

20 (A) The acquisition, rehabilitation, development, or operation  
21 of the property, or any combination of these factors, is financed  
22 with tax-exempt mortgage revenue bonds or general obligation  
23 bonds, or is financed by local, state, or federal loans or grants and  
24 the rents of the occupants who are lower income households do  
25 not exceed those prescribed by deed restrictions or regulatory  
26 agreements pursuant to the terms of the financing or financial  
27 assistance.

28 (B) The owner of the property is eligible for and receives  
29 low-income housing tax credits pursuant to Section 42 of the  
30 Internal Revenue Code of 1986, as added by Public Law 99-514.

31 (C) In the case of a claim, other than a claim with respect to  
32 property owned by a limited partnership in which the managing  
33 general partner is an eligible nonprofit corporation, that is filed  
34 for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent  
35 or more of the occupants of the property are lower income  
36 households whose rent does not exceed the rent prescribed by  
37 Section 50053 of the Health and Safety Code. The total exemption  
38 amount allowed under this subdivision to a taxpayer, with respect  
39 to a single property or multiple properties for any fiscal year on

1 the sole basis of the application of this subparagraph, may not  
2 exceed twenty thousand dollars (\$20,000) of tax.

3 (D) (i) The property was previously purchased and owned by  
4 the Department of Transportation pursuant to a consent decree  
5 requiring housing mitigation measures relating to the construction  
6 of a freeway and is now solely owned by an organization that  
7 qualifies as an exempt organization under Section 501(c)(3) of the  
8 Internal Revenue Code.

9 (ii) This subparagraph shall not apply to property owned by a  
10 limited partnership in which the managing partner is an eligible  
11 nonprofit corporation.

12 (2) In order to be eligible for the exemption provided by this  
13 subdivision, the owner of the property shall do both of the  
14 following:

15 (A) (i) For any claim filed for the 2000–01 fiscal year or any  
16 fiscal year thereafter, certify and ensure, subject to the limitation  
17 in clause (ii), that there is an enforceable and verifiable agreement  
18 with a public agency, a recorded deed restriction, or other legal  
19 document that restricts the project’s usage and that provides that  
20 the units designated for use by lower income households are  
21 continuously available to or occupied by lower income households  
22 at rents that do not exceed those prescribed by Section 50053 of  
23 the Health and Safety Code, or, to the extent that the terms of  
24 federal, state, or local financing or financial assistance conflicts  
25 with Section 50053, rents that do not exceed those prescribed by  
26 the terms of the financing or financial assistance.

27 (ii) In the case of a limited partnership in which the managing  
28 general partner is an eligible nonprofit corporation, the restriction  
29 and provision specified in clause (i) shall be contained in an  
30 enforceable and verifiable agreement with a public agency, or in  
31 a recorded deed restriction to which the limited partnership  
32 certifies.

33 (B) Certify that the funds that would have been necessary to  
34 pay property taxes are used to maintain the affordability of, or  
35 reduce rents otherwise necessary for, the units occupied by lower  
36 income households.

37 (3) As used in this subdivision, “lower income households” has  
38 the same meaning as the term “lower income households” as  
39 defined by Section 50079.5 of the Health and Safety Code.



1     (4) (A) Notwithstanding any other law, both of the following  
2 shall apply:

3     (i) Any payment in lieu of taxes (PILOT) agreement shall be  
4 void.

5     (ii) A PILOT agreement shall not make a low-income housing  
6 project ineligible for the exemption provided by this subdivision.

7     (B) For purposes of this paragraph, all of the following shall  
8 apply:

9     (i) “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     (ii) “Low-income housing project” means a low-income housing  
16 project that is eligible for the exemption provided by this  
17 subdivision.

18     (iii) “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, among other things,  
21 the owner of the low-income housing project to pay the local  
22 government a charge. A charge shall not include either of the  
23 following:

24     (I) An impact fee consistent with fees paid by all other  
25 residential developments.

26     (II) A fee for a specific service provided directly to the  
27 low-income housing project that is not provided to those not  
28 charged and that does not exceed the actual cost of providing the  
29 service, including, but not limited to, bond issuance and project  
30 monitoring.

31     (C) This paragraph is declaratory of existing law and shall  
32 apply to any PILOT agreement entered into prior to its enactment.

33     (h) Property used exclusively for an emergency or temporary  
34 shelter and related facilities for homeless persons and families and  
35 owned and operated by religious, hospital, scientific, or charitable  
36 funds, foundations, limited liability companies, or corporations  
37 meeting all of the requirements of this section shall be deemed to  
38 be within the exemption provided for in subdivision (b) of Section  
39 4 and Section 5 of Article XIII of the California Constitution and  
40 this section. Property that otherwise would be exempt pursuant to

1 this subdivision, except that it includes housing and related  
2 facilities for other than an emergency or temporary shelter, shall  
3 be entitled to a partial exemption.

4 As used in this subdivision, “emergency or temporary shelter”  
5 means a facility that would be eligible for funding pursuant to  
6 Chapter 11 (commencing with Section 50800) of Part 2 of Division  
7 31 of the Health and Safety Code.

8 (i) Property used exclusively for housing and related facilities  
9 for employees of religious, charitable, scientific, or hospital  
10 organizations that meet all the requirements of subdivision (a) and  
11 owned and operated by funds, foundations, limited liability  
12 companies, or corporations that meet all the requirements of  
13 subdivision (a) shall be deemed to be within the exemption  
14 provided for in subdivision (b) of Section 4 and Section 5 of Article  
15 XIII of the California Constitution and this section to the extent  
16 the residential use of the property is institutionally necessary for  
17 the operation of the organization.

18 (j) For purposes of this section, charitable purposes include  
19 educational purposes. For purposes of this subdivision,  
20 “educational purposes” means those educational purposes and  
21 activities for the benefit of the community as a whole or an  
22 unascertainable and indefinite portion thereof, and do not include  
23 those educational purposes and activities that are primarily for the  
24 benefit of an organization’s shareholders. Educational activities  
25 include the study of relevant information, the dissemination of that  
26 information to interested members of the general public, and the  
27 participation of interested members of the general public.

28 (k) In the case of property used exclusively for the exempt  
29 purposes specified in this section, owned and operated by limited  
30 liability companies that are organized and operated for those  
31 purposes, the State Board of Equalization shall adopt regulations  
32 to specify the ownership, organizational, and operational  
33 requirements for those companies to qualify for the exemption  
34 provided by this section.

35 (l) The amendments made by Chapter 354 of the Statutes of  
36 2004 shall apply with respect to lien dates occurring on and after  
37 January 1, 2005.