

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2818**

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**Introduced by Assembly Member Chiu**

February 19, 2016

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An act to ~~amend Section 402.1 of~~ *add Sections 401.21 and 214.17* to the Revenue and Taxation Code, relating to ~~taxation: taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2818, as amended, Chiu. ~~Property taxation: assessment. Property taxation: community land trust.~~

Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected, including, but not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

~~This bill would make a nonsubstantive change to that provision.~~

*This bill would prohibit the county assessor, when valuing an owner-occupied single-family dwelling or owner-occupied unit in a multifamily dwelling and the land on which it is situated that is required for the convenient occupation and use of that dwelling or unit, if the dwelling or unit is on land leased to the owner by a community land trust, as defined, from valuing the dwelling or unit and the land at any value greater than the purchase price for that dwelling or unit. The bill would apply this prohibition only to a dwelling or unit and land that is owned and occupied by persons and families of low or moderate income, as defined.*

*Existing property tax law, in accordance with the California Constitution, provides for a “welfare exemption” for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met.*

*This bill, on and after January 1, 2017, would provide that property is within the welfare exemption if that property is owned and operated by a nonprofit corporation, otherwise qualifying for the welfare exemption, that is organized for the specific and primary purpose of creating and maintaining permanently affordable single-family or multifamily residences to which specified conditions apply. This bill, in the case of property not previously designated as open space, would prohibit this exemption from being denied on the basis that the subject property does not currently include a single-family or multifamily residence as so described or a single-family or multifamily residence as so described that is in the course of construction.*

*By imposing new duties upon local government officials, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

*Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.*

*This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.*

*This bill would take effect immediately as a tax levy.*

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

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

1     *SECTION 1. Section 401.21 is added to the Revenue and*  
2 *Taxation Code, to read:*

3     401.21. (a) *When valuing an owner-occupied single-family*  
4 *dwelling or owner-occupied unit in a multifamily dwelling and the*  
5 *land on which it is situated that is required for the convenient*  
6 *occupation and use of that dwelling or unit, if the dwelling or unit*  
7 *is on land leased to the owner by a community land trust, the*  
8 *assessor shall not value the dwelling or unit and the land at any*  
9 *value greater than the purchase price for that dwelling or unit.*

10     (b) *This section shall only apply to a dwelling or unit and land*  
11 *that is owned and occupied by persons and families of low or*  
12 *moderate income.*

13     (c) *For purposes of this section, all of the following definitions*  
14 *shall apply:*

15     (1) *“Affordability restrictions” include, but are not limited to,*  
16 *any of the following:*

17     (A) *The dwelling or unit can only be sold or resold to persons*  
18 *and families of low or moderate income to be occupied by the*  
19 *owner as his or her principal place of residence.*

20     (B) *The resale price of the dwelling or unit is determined by a*  
21 *formula that ensures affordability to persons and families of low*  
22 *or moderate income.*

23     (C) *There is a purchase option in favor of the community land*  
24 *trust.*

25     (2) *“Community land trust” means a nonprofit corporation,*  
26 *otherwise qualifying for exemption under Section 214, that is*  
27 *organized for the specific and primary purpose of creating and*  
28 *maintaining permanently affordable single-family or multifamily*  
29 *residences to which both of the following conditions apply:*

30     (A) *All residences on the land are sold to, and occupied by,*  
31 *persons and families of low or moderate income, and the land on*  
32 *which it is situated that is required for the convenient occupation*  
33 *and use of that dwelling or unit is leased to those owners by the*  
34 *nonprofit corporation for a term of 99 years, including renewal*  
35 *option.*

36     (B) *The leasehold interest is limited by affordability restrictions*  
37 *recorded on the land lease or other similar recorded instrument.*

1 (3) “Persons and families of low or moderate income” has the  
 2 same meaning as that term is defined in Section 50093 of the  
 3 Health and Safety Code.

4 (d) This section shall apply to lien dates occurring on and after  
 5 January 1, 2017.

6 SEC. 2. Section 214.17 is added to the Revenue and Taxation  
 7 Code, to read:

8 214.17. (a) Property is within the exemption provided by  
 9 Sections 4 and 5 of Article XIII of the California Constitution if  
 10 that property is owned and operated by a nonprofit corporation,  
 11 otherwise qualifying for exemption under Section 214, that is  
 12 organized for the specific and primary purpose of creating and  
 13 maintaining permanently affordable single-family or multifamily  
 14 residences in which both of the following conditions apply:

15 (1) All residences on the land are intended for ownership and  
 16 occupancy as a primary residence by persons and families of low  
 17 or moderate income, and the land on which it is situated that is  
 18 required for the convenient occupation and use of that residence  
 19 is leased to those owners by the nonprofit corporation for a term  
 20 of 99 years, including renewal options.

21 (2) The leasehold interest is limited by affordability restrictions  
 22 recorded on the land lease or other similar recorded instrument.

23 (b) In the case of property not previously designated as open  
 24 space, the exemption provided by subdivision (a) may not be denied  
 25 to a property on the basis that the property does not currently  
 26 include a single-family or multifamily residence, as described in  
 27 subdivision (a), or a single-family or multifamily residence, as  
 28 described in subdivision (a), that is in the course of construction.

29 (c) For purposes of this section, both of the following shall  
 30 apply:

31 (1) “Affordability restrictions” include, but are not limited to,  
 32 any of the following:

33 (A) The residence can only be sold or resold to persons and  
 34 families of low or moderate income to be occupied by the owner  
 35 as his or her principal place of residence.

36 (B) The resale price of the residence is determined by a formula  
 37 that ensures affordability to persons and families of low or  
 38 moderate income.

39 (C) There is a purchase option in favor of the community land  
 40 trust.

1 (2) “Persons and families of low or moderate income” has the  
2 same meaning as that term is defined in Section 50093 of the  
3 Health and Safety Code.

4 (d) This section shall apply to lien dates occurring on and after  
5 January 1, 2017.

6 SEC. 3. If the Commission on State Mandates determines that  
7 this act contains costs mandated by the state, reimbursement to  
8 local agencies and school districts for those costs shall be made  
9 pursuant to Part 7 (commencing with Section 17500) of Division  
10 4 of Title 2 of the Government Code.

11 SEC. 4. Notwithstanding Section 2229 of the Revenue and  
12 Taxation Code, no appropriation is made by this act and the state  
13 shall not reimburse any local agency for any property tax revenues  
14 lost by it pursuant to this act.

15 SEC. 5. This act provides for a tax levy within the meaning of  
16 Article IV of the Constitution and shall go into immediate effect.

17 SECTION 1. Section 402.1 of the Revenue and Taxation Code  
18 is amended to read:

19 ~~402.1. (a) In the assessment of land, the assessor shall consider~~  
20 ~~the effect upon value of any enforceable restrictions to which the~~  
21 ~~use of the land may be subjected. These restrictions include, but~~  
22 ~~are not limited to, all of the following:~~

23 ~~(1) Zoning.~~

24 ~~(2) Recorded contracts with governmental agencies other than~~  
25 ~~those provided in Sections 422, 422.5, and 422.7.~~

26 ~~(3) Permit authority of, and permits issued by, governmental~~  
27 ~~agencies exercising land use powers concurrently with local~~  
28 ~~governments, including the California Coastal Commission and~~  
29 ~~regional coastal commissions, the San Francisco Bay Conservation~~  
30 ~~and Development Commission, and the Tahoe Regional Planning~~  
31 ~~Agency.~~

32 ~~(4) Development controls of a local government in accordance~~  
33 ~~with any local coastal program certified pursuant to Division 20~~  
34 ~~(commencing with Section 30000) of the Public Resources Code.~~

35 ~~(5) Development controls of a local government in accordance~~  
36 ~~with a local protection program, or any component thereof, certified~~  
37 ~~pursuant to Division 19 (commencing with Section 29000) of the~~  
38 ~~Public Resources Code.~~

39 ~~(6) Environmental constraints applied to the use of land pursuant~~  
40 ~~to provisions of statutes.~~

- 1     ~~(7) Hazardous waste land use restriction pursuant to Section~~  
2     ~~25226 of the Health and Safety Code.~~
- 3     ~~(8) (A) A recorded conservation, trail, or scenic easement, as~~  
4     ~~described in Section 815.1 of the Civil Code, that is granted in~~  
5     ~~favor of a public agency, or in favor of a nonprofit corporation~~  
6     ~~organized pursuant to Section 501(e)(3) of the Internal Revenue~~  
7     ~~Code that has as its primary purpose the preservation, protection,~~  
8     ~~or enhancement of land in its natural, scenic, historical, agricultural,~~  
9     ~~forested, or open-space condition or use.~~
- 10    ~~(B) A recorded greenway easement, as described in Section~~  
11    ~~816.52 of the Civil Code, that is granted in favor of a public~~  
12    ~~agency, or in favor of a nonprofit corporation organized pursuant~~  
13    ~~to Section 501(e)(3) of the Internal Revenue Code that has as its~~  
14    ~~primary purpose the developing and preserving of greenways.~~
- 15    ~~(9) A solar-use easement pursuant to Chapter 6.9 (commencing~~  
16    ~~with Section 51190) of Part 1 of Division 1 of Title 5 of the~~  
17    ~~Government Code.~~
- 18    ~~(10) A contract where the following apply:~~
- 19    ~~(A) The contract is with a nonprofit corporation organized~~  
20    ~~pursuant to Section 501(e)(3) of the Internal Revenue Code that~~  
21    ~~has received a welfare exemption under Section 214.15 for~~  
22    ~~properties intended to be sold to low-income families who~~  
23    ~~participate in a special no-interest loan program.~~
- 24    ~~(B) The contract restricts the use of the land for at least 30 years~~  
25    ~~to owner-occupied housing available at affordable housing cost in~~  
26    ~~accordance with Section 50052.5 of the Health and Safety Code.~~
- 27    ~~(C) The contract includes a deed of trust on the property in favor~~  
28    ~~of the nonprofit corporation to ensure compliance with the terms~~  
29    ~~of the program, which has no value unless the owner fails to~~  
30    ~~comply with the covenants and restrictions of the terms of the~~  
31    ~~home sale.~~
- 32    ~~(D) The local housing authority or an equivalent agency, or, if~~  
33    ~~none exists, the city attorney or county counsel, has made a finding~~  
34    ~~that the long-term deed restrictions in the contract serve a public~~  
35    ~~purpose.~~
- 36    ~~(E) The contract is recorded and provided to the assessor.~~
- 37    ~~(b) There is a rebuttable presumption that restrictions will not~~  
38    ~~be removed or substantially modified in the predictable future and~~  
39    ~~that they will substantially equate the value of the land to the value~~  
40    ~~attributable to the legally permissible use or uses.~~

1 ~~(e) Grounds for rebutting the presumption may include, but are~~  
2 ~~not necessarily limited to, the past history of like use restrictions~~  
3 ~~in the jurisdiction in question and the similarity of sales prices for~~  
4 ~~restricted and unrestricted land. The possible expiration of a~~  
5 ~~restriction at a time certain shall not be conclusive evidence of the~~  
6 ~~future removal or modification of the restriction unless there is no~~  
7 ~~opportunity or likelihood of the continuation or renewal of the~~  
8 ~~restriction, or unless a necessary party to the restriction has~~  
9 ~~indicated an intent to permit its expiration at that time.~~

10 ~~(d) In assessing land with respect to which the presumption is~~  
11 ~~unrebutted, the assessor shall not consider sales of otherwise~~  
12 ~~comparable land not similarly restricted as to use as indicative of~~  
13 ~~value of land under restriction, unless the restrictions have a~~  
14 ~~demonstrably minimal effect upon value.~~

15 ~~(e) In assessing land under an enforceable use restriction wherein~~  
16 ~~the presumption of no predictable removal or substantial~~  
17 ~~modification of the restriction has been rebutted, but where the~~  
18 ~~restriction nevertheless retains some future life and has some effect~~  
19 ~~on present value, the assessor may consider, in addition to all other~~  
20 ~~legally permissible information, representative sales of comparable~~  
21 ~~lands that are not under restriction but upon which natural~~  
22 ~~limitations have substantially the same effect as restrictions.~~

23 ~~(f) For the purposes of this section the following definitions~~  
24 ~~apply:~~

25 ~~(1) "Comparable lands" are lands that are similar to the land~~  
26 ~~being valued in respect to legally permissible uses and physical~~  
27 ~~attributes.~~

28 ~~(2) "Representative sales information" is information from sales~~  
29 ~~of a sufficient number of comparable lands to give an accurate~~  
30 ~~indication of the full cash value of the land being valued.~~

31 ~~(g) It is hereby declared that the purpose and intent of the~~  
32 ~~Legislature in enacting this section is to provide for a method of~~  
33 ~~determining whether a sufficient amount of representative sales~~  
34 ~~information is available for land under use restriction to ensure~~  
35 ~~the accurate assessment of that land. It is also hereby declared that~~  
36 ~~the further purpose and intent of the Legislature in enacting this~~  
37 ~~section and Section 1630 is to avoid an assessment policy which,~~  
38 ~~in the absence of special circumstances, considers uses for land~~  
39 ~~that legally are not available to the owner and not contemplated~~  
40 ~~by government, and that these sections are necessary to implement~~

1 ~~the public policy of encouraging and maintaining effective land~~  
2 ~~use planning. This statute shall not be construed as requiring the~~  
3 ~~assessment of any land at a value less than as required by Section~~  
4 ~~401 or as prohibiting the use of representative comparable sales~~  
5 ~~information on land under similar restrictions when this information~~  
6 ~~is available.~~

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