

**Introduced by Senator Hill**February 10, 2016

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An act to amend Section 214 of, and to add Section 214.17 to, the Revenue and Taxation Code, relating to taxation.

## LEGISLATIVE COUNSEL'S DIGEST

SB 996, as introduced, Hill. Property taxation: welfare exemption.

The California Constitution authorizes the Legislature to exempt from taxation property that is used exclusively for religious, hospital, or charitable purposes, and is owned or held in trust by a nonprofit entity. Pursuant to this constitutional authority, existing law partially exempts from property taxation property used exclusively for rental housing and related facilities, if specified criteria are met, including, except in the case of a limited partnership in which the managing general partner is a nonprofit corporation eligible for the exemption, that 90% or more of the occupants of the property are lower income households whose rents do not exceed the rent limits prescribed by a specified law. Existing law limits the total exemption amount allowed to a taxpayer, with respect to a single property or multiple properties for any fiscal year on the sole basis of the application of this criterion, to \$20,000 of tax.

This bill would increase that total exemption amount allowed to \$100,000 of tax, with respect to lien dates occurring on and after January 1, 2017.

This bill would require any outstanding qualified ad valorem tax in excess of the \$20,000 limitation, and related interest or penalty, which was levied or imposed on and after January 1, 2013, and before January 1, 2017, with respect to qualified property for which a qualified claim was filed, to be canceled, and any such qualified ad valorem tax, and related interest or penalty levied or imposed that was paid on or before

January 1, 2017, to be refunded, to the extent that the amount canceled or refunded does not result in a total exemption amount in excess of \$100,000 of tax being allowed to a qualified taxpayer with respect to a single property or multiple properties for any fiscal year. The bill would, on and after January 1, 2017, prohibit an escape assessment from being levied on qualified property if that amount would be subject to cancellation or refund pursuant to this bill.

This bill would make legislative findings and declarations regarding the public purpose served by the bill.

By imposing new duties upon county tax officials with respect to the refund of these property tax payments, 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.

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

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

- 1 SECTION 1. Section 214 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 214. (a) Property used exclusively for religious, hospital,
- 4 scientific, or charitable purposes owned and operated by
- 5 community chests, funds, foundations, limited liability companies,
- 6 or corporations organized and operated for religious, hospital,
- 7 scientific, or charitable purposes is exempt from taxation, including
- 8 ad valorem taxes to pay the interest and redemption charges on

1 any indebtedness approved by the voters prior to July 1, 1978, or  
2 any bonded indebtedness for the acquisition or improvement of  
3 real property approved on or after July 1, 1978, by two-thirds of  
4 the votes cast by the voters voting on the proposition, if:

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

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

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

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

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

28 (ii) The owner permits any other organization that meets all of  
29 the requirements of this subdivision, other than ownership of the  
30 property, to conduct fundraising activities on the property and the  
31 proceeds derived from those activities are not unrelated business  
32 taxable income, as defined in Section 512 of the Internal Revenue  
33 Code, of the organization, are not subject to the tax on unrelated  
34 business taxable income that is imposed by Section 511 of the  
35 Internal Revenue Code, and are used to further the exempt activity  
36 of the organization.

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

38 (i) "Occasional use" means use of the property on an irregular  
39 or intermittent basis by the qualifying owner or any other qualifying  
40 organization described in clause (ii) of subparagraph (A) that is

1 incidental to the primary activities of the owner or the other  
2 organization.

3 (ii) “Fundraising activities” means both activities involving the  
4 direct solicitation of money or other property and the anticipated  
5 exchange of goods or services for money between the soliciting  
6 organization and the organization or person solicited.

7 (C) Subparagraph (A) shall have no application in determining  
8 whether paragraph (3) has been satisfied unless the owner of the  
9 property and any other organization using the property as provided  
10 in subparagraph (A) have filed with the assessor a valid  
11 organizational clearance certificate issued pursuant to Section  
12 254.6.

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

28 (E) Nothing in subparagraph (A), (B), (C), or (D) shall be  
29 construed to either enlarge or restrict the exemption provided for  
30 in subdivision (b) of Section 4 and Section 5 of Article XIII of the  
31 California Constitution and this section.

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

38 (5) The property is not used by the owner or members thereof  
39 for fraternal or lodge purposes, or for social club purposes except

1 where that use is clearly incidental to a primary religious, hospital,  
2 scientific, or charitable purpose.

3 (6) The property is irrevocably dedicated to religious, charitable,  
4 scientific, or hospital purposes and upon the liquidation,  
5 dissolution, or abandonment of the owner will not inure to the  
6 benefit of any private person except a fund, foundation, or  
7 corporation organized and operated for religious, hospital,  
8 scientific, or charitable purposes.

9 (7) The property, if used exclusively for scientific purposes, is  
10 used by a foundation or institution that, in addition to complying  
11 with the foregoing requirements for the exemption of charitable  
12 organizations in general, has been chartered by the Congress of  
13 the United States (except that this requirement shall not apply  
14 when the scientific purposes are medical research), and whose  
15 objects are the encouragement or conduct of scientific  
16 investigation, research, and discovery for the benefit of the  
17 community at large.

18 The exemption provided for herein shall be known as the  
19 “welfare exemption.” This exemption shall be in addition to any  
20 other exemption now provided by law, and the existence of the  
21 exemption provision in paragraph (2) of subdivision (a) of Section  
22 202 shall not preclude the exemption under this section for museum  
23 or library property. Except as provided in subdivision (e), this  
24 section shall not be construed to enlarge the college exemption.

25 (b) Property used exclusively for school purposes of less than  
26 collegiate grade and owned and operated by religious, hospital, or  
27 charitable funds, foundations, limited liability companies, or  
28 corporations, which property and funds, foundations, limited  
29 liability companies, or corporations meet all of the requirements  
30 of subdivision (a), shall be deemed to be within the exemption  
31 provided for in subdivision (b) of Section 4 and Section 5 of Article  
32 XIII of the California Constitution and this section.

33 (c) Property used exclusively for nursery school purposes and  
34 owned and operated by religious, hospital, or charitable funds,  
35 foundations, limited liability companies, or corporations, which  
36 property and funds, foundations, limited liability companies, or  
37 corporations meet all the requirements of subdivision (a), shall be  
38 deemed to be within the exemption provided for in subdivision  
39 (b) of Section 4 and Section 5 of Article XIII of the California  
40 Constitution and this section.

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

9 (e) Property used exclusively for religious, charitable, scientific,  
10 or hospital purposes and owned and operated by religious, hospital,  
11 scientific, or charitable funds, foundations, limited liability  
12 companies, or corporations or educational institutions of collegiate  
13 grade, as defined in Section 203, which property and funds,  
14 foundations, limited liability companies, corporations, or  
15 educational institutions meet all of the requirements of subdivision  
16 (a), shall be deemed to be within the exemption provided for in  
17 subdivision (b) of Section 4 and Section 5 of Article XIII of the  
18 California Constitution and this section. As to educational  
19 institutions of collegiate grade, as defined in Section 203, the  
20 requirements of paragraph (6) of subdivision (a) shall be deemed  
21 to be met if both of the following are met:

22 (1) The property of the educational institution is irrevocably  
23 dedicated in its articles of incorporation to charitable and  
24 educational purposes, to religious and educational purposes, or to  
25 educational purposes.

26 (2) The articles of incorporation of the educational institution  
27 provide for distribution of its property upon its liquidation,  
28 dissolution, or abandonment to a fund, foundation, or corporation  
29 organized and operated for religious, hospital, scientific, charitable,  
30 or educational purposes meeting the requirements for exemption  
31 provided by Section 203 or this section.

32 (f) Property used exclusively for housing and related facilities  
33 for elderly or handicapped families and financed by, including,  
34 but not limited to, the federal government pursuant to Section 202  
35 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section  
36 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of  
37 Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of  
38 Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and  
39 operated by religious, hospital, scientific, or charitable funds,  
40 foundations, limited liability companies, or corporations meeting

1 all of the requirements of this section shall be deemed to be within  
2 the exemption provided for in subdivision (b) of Section 4 and  
3 Section 5 of Article XIII of the California Constitution and this  
4 section.

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

10 Property used exclusively for housing and related facilities for  
11 elderly or handicapped families at which supplemental care or  
12 services designed to meet the special needs of elderly or  
13 handicapped residents are not provided, or that is not financed by  
14 the federal government pursuant to Section 202 of Public Law  
15 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public  
16 Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law  
17 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law  
18 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption  
19 pursuant to this subdivision unless the property is used for housing  
20 and related facilities for low- and moderate-income elderly or  
21 handicapped families. Property that would otherwise be exempt  
22 pursuant to this subdivision, except that it includes some housing  
23 and related facilities for other than low- or moderate-income elderly  
24 or handicapped families, shall be entitled to a partial exemption.  
25 The partial exemption shall be equal to that percentage of the value  
26 of the property that is equal to the percentage that the number of  
27 low- and moderate-income elderly and handicapped families  
28 represents of the total number of families occupying the property.

29 As used in this subdivision, “low and moderate income” has the  
30 same meaning as the term “persons and families of low or moderate  
31 income” as defined by Section 50093 of the Health and Safety  
32 Code.

33 (g) (1) Property used exclusively for rental housing and related  
34 facilities and owned and operated by religious, hospital, scientific,  
35 or charitable funds, foundations, limited liability companies, or  
36 corporations, including limited partnerships in which the managing  
37 general partner is an eligible nonprofit corporation or eligible  
38 limited liability company, meeting all of the requirements of this  
39 section, or by veterans’ organizations, as described in Section  
40 215.1, meeting all the requirements of paragraphs (1) to (7),

1 inclusive, of subdivision (a), shall be deemed to be within the  
2 exemption provided for in subdivision (b) of Section 4 and Section  
3 5 of Article XIII of the California Constitution and this section  
4 and shall be entitled to a partial exemption equal to that percentage  
5 of the value of the property that is equal to the percentage that the  
6 number of units serving lower income households represents of  
7 the total number of residential units in any year in which any of  
8 the following criteria applies:

9 (A) The acquisition, rehabilitation, development, or operation  
10 of the property, or any combination of these factors, is financed  
11 with tax-exempt mortgage revenue bonds or general obligation  
12 bonds, or is financed by local, state, or federal loans or grants and  
13 the rents of the occupants who are lower income households do  
14 not exceed those prescribed by deed restrictions or regulatory  
15 agreements pursuant to the terms of the financing or financial  
16 assistance.

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

20 (C) In the case of a claim, other than a claim with respect to  
21 property owned by a limited partnership in which the managing  
22 general partner is an eligible nonprofit corporation, that is filed  
23 for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent  
24 or more of the occupants of the property are lower income  
25 households whose rent does not exceed the rent prescribed by  
26 Section 50053 of the Health and Safety Code. The total exemption  
27 amount allowed under this subdivision to a taxpayer, with respect  
28 to a single property or multiple properties for any fiscal year on  
29 the sole basis of the application of this subparagraph, may not  
30 exceed ~~twenty one hundred thousand dollars (\$20,000)~~ *(\$100,000)*  
31 of tax.

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

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

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

4 (A) (i) For any claim filed for the 2000–01 fiscal year or any  
5 fiscal year thereafter, certify and ensure, subject to the limitation  
6 in clause (ii), that there is an enforceable and verifiable agreement  
7 with a public agency, a recorded deed restriction, or other legal  
8 document that restricts the project’s usage and that provides that  
9 the units designated for use by lower income households are  
10 continuously available to or occupied by lower income households  
11 at rents that do not exceed those prescribed by Section 50053 of  
12 the Health and Safety Code, or, to the extent that the terms of  
13 federal, state, or local financing or financial assistance conflicts  
14 with Section 50053, rents that do not exceed those prescribed by  
15 the terms of the financing or financial assistance.

16 (ii) In the case of a limited partnership in which the managing  
17 general partner is an eligible nonprofit corporation, the restriction  
18 and provision specified in clause (i) shall be contained in an  
19 enforceable and verifiable agreement with a public agency, or in  
20 a recorded deed restriction to which the limited partnership  
21 certifies.

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

26 (3) As used in this subdivision:

27 (A) “Lower income households” has the same meaning as the  
28 term “lower income households” as defined by Section 50079.5  
29 of the Health and Safety Code.

30 (B) “Related facilities” means any manager’s units and any and  
31 all common area spaces that are included within the physical  
32 boundaries of the rental housing development, including, but not  
33 limited to, common area space, walkways, balconies, patios,  
34 clubhouse space, meeting rooms, laundry facilities and parking  
35 areas, except any portions of the overall development that are  
36 nonexempt commercial space.

37 (C) “Units serving lower income households” shall mean units  
38 that are occupied by lower income households at an affordable  
39 rent, as defined in Section 50053 of the Health and Safety Code  
40 or, to the extent that the terms of federal, state, or local financing

1 or financial assistance conflicts with Section 50053, rents that do  
2 not exceed those prescribed by the terms of the financing or  
3 financial assistance. Units reserved for lower income households  
4 at an affordable rent that are temporarily vacant due to tenant  
5 turnover or repairs shall be counted as occupied.

6 (h) Property used exclusively for an emergency or temporary  
7 shelter and related facilities for homeless persons and families and  
8 owned and operated by religious, hospital, scientific, or charitable  
9 funds, foundations, limited liability companies, or corporations  
10 meeting all of the requirements of this section shall be deemed to  
11 be within the exemption provided for in subdivision (b) of Section  
12 4 and Section 5 of Article XIII of the California Constitution and  
13 this section. Property that otherwise would be exempt pursuant to  
14 this subdivision, except that it includes housing and related  
15 facilities for other than an emergency or temporary shelter, shall  
16 be entitled to a partial exemption.

17 As used in this subdivision, “emergency or temporary shelter”  
18 means a facility that would be eligible for funding pursuant to  
19 Chapter 11 (commencing with Section 50800) of Part 2 of Division  
20 31 of the Health and Safety Code.

21 (i) Property used exclusively for housing and related facilities  
22 for employees of religious, charitable, scientific, or hospital  
23 organizations that meet all the requirements of subdivision (a) and  
24 owned and operated by funds, foundations, limited liability  
25 companies, or corporations that meet all the requirements of  
26 subdivision (a) shall be deemed to be within the exemption  
27 provided for in subdivision (b) of Section 4 and Section 5 of Article  
28 XIII of the California Constitution and this section to the extent  
29 the residential use of the property is institutionally necessary for  
30 the operation of the organization.

31 (j) For purposes of this section, charitable purposes include  
32 educational purposes. For purposes of this subdivision,  
33 “educational purposes” means those educational purposes and  
34 activities for the benefit of the community as a whole or an  
35 unascertainable and indefinite portion thereof, and do not include  
36 those educational purposes and activities that are primarily for the  
37 benefit of an organization’s shareholders. Educational activities  
38 include the study of relevant information, the dissemination of that  
39 information to interested members of the general public, and the  
40 participation of interested members of the general public.

1 (k) In the case of property used exclusively for the exempt  
2 purposes specified in this section, owned and operated by limited  
3 liability companies that are organized and operated for those  
4 purposes, the State Board of Equalization shall adopt regulations  
5 to specify the ownership, organizational, and operational  
6 requirements for those companies to qualify for the exemption  
7 provided by this section.

8 (l) The amendments made by Chapter 354 of the Statutes of  
9 2004 shall apply with respect to lien dates occurring on and after  
10 January 1, 2005.

11 (m) *The amendments made by the act adding this subdivision*  
12 *shall apply with respect to lien dates occurring on and after*  
13 *January 1, 2017.*

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

16 214.17. (a) For purposes of this section:

17 (1) “Total exemption amount limitation” means the exemption  
18 amount limitation with respect to a single property or multiple  
19 properties that is specified in subparagraph (C) of paragraph (1)  
20 of subdivision (g) of Section 214, as that section read before  
21 January 1, 2017.

22 (2) (A) “Qualified property” means property used exclusively  
23 for rental housing and related facilities where 90 percent or more  
24 of the occupants of the property are lower income households  
25 whose rent does not exceed the rent prescribed by Section 50053  
26 of the Health and Safety Code and that qualifies for exemption  
27 under Section 214 on the sole basis of this criteria as specified in  
28 subparagraph (C) of paragraph (1) of subdivision (g) of Section  
29 214.

30 (B) “Qualified property” does not include property owned by  
31 a limited partnership in which the managing general partner is an  
32 eligible nonprofit organization, as described in subparagraph (C)  
33 of paragraph (1) of subdivision (g) of Section 214.

34 (3) “Qualified taxpayer” means a taxpayer subject to the total  
35 exemption amount limitation.

36 (4) “Qualified claim” means a claim for exemption that was  
37 filed for a qualified property with the assessor on and after January  
38 1, 2013, and before January 1, 2017, for which the assessor granted  
39 a partial exemption.

1 (5) “Qualified ad valorem tax, and related interest, or penalty”  
2 means that portion of ad valorem tax levied to a qualified taxpayer  
3 on qualified property with respect to a single property or multiple  
4 properties that does not exceed one hundred thousand dollars  
5 (\$100,000) of tax, and any interest or penalty imposed with regard  
6 to that portion of tax.

7 (b) (1) To the extent that the amount canceled or refunded does  
8 not result in a total exemption amount in excess of one hundred  
9 thousand dollars (\$100,000) of tax being allowed to a qualified  
10 taxpayer with respect to a single property or multiple properties  
11 that are qualified property for any fiscal year, each of the following  
12 shall be canceled or refunded as provided:

13 (A) Any outstanding qualified ad valorem tax in excess of the  
14 total exemption amount limitation, and related interest or penalty,  
15 which was levied or imposed on and after January 1, 2013, and  
16 before January 1, 2017, with respect to a qualified property for  
17 which a qualified claim was filed, shall be canceled.

18 (B) Any qualified ad valorem tax in excess of the total  
19 exemption amount limitation, and related interest or penalty, which  
20 was levied or imposed on and after January 1, 2013, and before  
21 January 1, 2017, with respect to a qualified property for which a  
22 qualified claim was filed, and paid on or before January 1, 2017,  
23 shall be refunded.

24 (2) On or after January 1, 2017, an escape assessment shall not  
25 be levied on qualified property if that amount would be subject to  
26 cancellation or refund under paragraph (1).

27 SEC. 3. The Legislature finds and declares that Section 2 of  
28 this act fulfills a statewide public purpose because it addresses  
29 California’s serious shortage of affordable, decent, safe, and  
30 sanitary housing for persons and families of low or moderate  
31 income, including the elderly and handicapped, by providing  
32 necessary property tax relief for certain tax-exempt organizations  
33 so that these tax-exempt organizations can provide this affordable  
34 housing for persons and families of low or moderate income.

35 SEC. 4. If the Commission on State Mandates determines that  
36 this act contains costs mandated by the state, reimbursement to  
37 local agencies and school districts for those costs shall be made  
38 pursuant to Part 7 (commencing with Section 17500) of Division  
39 4 of Title 2 of the Government Code.

1 SEC. 5. Notwithstanding Section 2229 of the Revenue and  
2 Taxation Code, no appropriation is made by this act and the state  
3 shall not reimburse any local agency for any property tax revenues  
4 lost by it pursuant to this act.

O