

**Assembly Bill No. 1991**

CHAPTER 1169

An act to add Section 107.8 to, and to repeal and add Section 206.1 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1996. Filed with Secretary of State September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1991, Granlund. Property taxation: possessory interests: exemption.

Existing property tax law defines a possessory interest in property that is subject to tax. Existing law defines a taxable possessory interest to mean the possession of, claim to, or right to the possession of land or improvements that is independent, durable, and exclusive of rights held by others in the property, as specified. Existing law defines the term "independent" for purposes of this provision.

This bill would provide that the possession of, claim to, or right to the possession of, land or improvements pursuant to a lease is not independent, for purposes of that provision, under certain conditions.

Existing property tax law exempts from tax any real property, including a possessory interest, that is reasonably and necessarily required for the parking of automobiles by persons engaged in religious activities. Existing law requires, as a condition of receiving this exemption, that the real property in question be owned by the religious organization utilizing that property for parking purposes, and not at other times be used for commercial purposes.

This bill would expand this exemption to apply to land and improvements regardless of whether the fee interest in the land and improvements is held by the religious organization using the land and improvements for parking purposes, provided certain conditions are met. This bill would also revise and recast the exemption to make technical, nonsubstantive changes.

This bill would take effect immediately as a tax levy.

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

SECTION 1. Section 107.8 is added to the Revenue and Taxation Code, to read:

107.8. (a) For purposes of applying subdivision (a) of Section 107 to a lease-leaseback of publicly owned real property, the possession of, claim to, or right to the possession of, land or improvements



pursuant to a lease is not independent if the lessee (1) is obligated simultaneously to sublease the property to the public owner of the property for all or substantially all of the lease period, (2) may not exercise authority and exert control over the management or operation of the property separate and apart from the policies, statutes, ordinances, rules and regulations of the public owner, (3) provides as part of the sublease that the public owner has the right to repurchase all of the lessee's rights in the lease, and (4) cannot receive rent or other amounts from the public owner under the sublease (including any amounts due with respect to any repurchase) the present value of which, at the time the lease is entered into, exceeds the present value of the rent or other amounts payable by the lessee under the lease.

(b) For purposes of subdivision (a), the term "all or substantially all" means at least 85 percent.

SEC. 2. Section 206.1 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 206.1 is added to the Revenue and Taxation Code, to read:

206.1. (a) Pursuant to the authority of subdivision (d) of Section 4 of Article XIII of the California Constitution, and in accordance with subdivision (b) of this section, all real property that is necessarily and reasonably required for the parking of automobiles of persons who are attending religious services, or are engaged in religious services or worship or any religious activity, is exempt from taxation.

(b) For purposes of the exemption established by subdivision (a), all of the following shall apply:

(1) "Real property" means land and improvements or a possessory interest in land and improvements.

(2) The real property is not required to be contiguous to the land on which the church or other structure used for religious services or as the place of worship or religious activity is located.

(3) The real property is not at other times used for commercial purposes. For purposes of this paragraph, "commercial purposes" does not include use of the property for the parking of vehicles or bicycles, the revenue from which does not exceed the ordinary and necessary costs of maintaining the real property.

(4) The exemption shall apply to otherwise qualifying land and improvements regardless of whether the land and improvements are owned by the church, religious denomination, or sect using the land and improvements for the parking of automobiles by persons described in subdivision (a). However, the exemption shall apply to land and improvements that are not owned by the church, religious denomination, or sect using the land and improvements for the parking of automobiles by persons described in subdivision (a) only as long as all of the following conditions are met:



(A) The congregation of the church, religious denomination, or sect is no greater than 500 members.

(B) The church, religious denomination, or sect is engaged in a lease of the land and improvements for the exclusive purpose of the parking of automobiles by persons described in subdivision (a).

(C) The church, religious denomination, or sect is responsible, under the terms of its lease with the fee owner of the land and improvements, for paying the property taxes levied on the land and improvements. For purposes of this subparagraph, paying property taxes levied on land and improvements includes reimbursement paid to the fee owner of the land and improvements for those taxes.

(D) The real property is used exclusively for the parking of automobiles by persons described in subdivision (a).

(E) The fee owner of the real property and the county agree that the fee owner shall pay the total amount of taxes that would be levied on the real property for the current fiscal year and the first two subsequent fiscal years in the absence of a grant of exemption pursuant to this paragraph for the current fiscal year, if the real property is used for any purpose other than that specified in subparagraph (D) during either of those two subsequent fiscal years.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

