

Assembly Bill No. 659

CHAPTER 601

An act to amend Sections 214 and 237 of, and to add Section 230 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 23, 2000. Filed
with Secretary of State September 24, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 659, Wiggins. Property tax exemptions.

The California Constitution authorizes the Legislature to classify personal property for differential taxation or for exemption by means of a statute approved by a $\frac{2}{3}$ vote of the membership of each house.

This bill would, pursuant to this constitutional authorization, exempt from those taxes that attach as a lien on or after January 1, 2001, a wooden vessel of historical significance, as defined, and all personal property thereon used in its operation.

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 exempts from property taxation low-income housing that is owned and operated by the housing entity of a federally designated Indian tribe.

This bill would modify this exemption to instead apply to that percentage of the value of the property that corresponds to that portion of the property used for lower income households. This modified exemption would require that at least 30% of the housing units of an exempt property be continuously available to, or occupied by, lower income households, as defined.

Pursuant to the same constitutional authority, existing law also partially exempts from property taxation property used exclusively for rental housing and related facilities, that is owned by either any of certain types of nonprofit entities or a veterans organization that meets exemption requirements, if either of certain qualifying criteria are met and if, among other things, the owner of the property certifies and ensures the existence of an enforceable and verifiable agreement with a public agency, or a recorded deed restriction, with respect to the property's usage.

This bill would apply this latter requirement exclusively to any claim for this partial exemption for the 2000–01 fiscal year or any fiscal year thereafter, and, except in the case of a limited partnership in which the managing general partner is a nonprofit corporation eligible for the exemption, allow the requirement to be met in a legal



document other than an agreement with a public agency or a recorded deed restriction. This bill would, except in the case of a limited partnership in which the managing general partner is a nonprofit corporation eligible for the exemption, also establish, as an additional qualifying criterion for the partial exemption for the 2000–01 fiscal year or any fiscal year thereafter, the occupancy of 90% or more of the property by lower income households whose rent does not exceed that rent prescribed by a specified statute. This bill would, with regard to a single property or multiple properties, limit to \$20,000 of taxes the total exemption amount that may be allowed to a taxpayer for any fiscal year on the sole basis of the application of this additional criterion.

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.

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

(B) For purposes of subparagraph (A):

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

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

(C) Subparagraph (A) shall have no application in determining whether paragraph (3) has been satisfied unless the owner of the property and any other organization using the property as provided in subparagraph (A) have filed with the assessor duplicate copies of valid unrevoked letters or rulings from the Internal Revenue Service that state that the owner and the other organization qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code. The owner of the property and any other organization using the property as provided in subparagraph (A) also shall file duplicate copies of their most recently filed federal income tax returns.

(D) For the purposes of determining whether the property is used for the actual operation of the exempt activity, consideration shall not be given to the use of the property for meetings conducted by any other organization if the meetings are incidental to the other organization’s primary activities, are not fundraising meetings or



activities as defined in subparagraph (B), are held no more than once per week, and the other organization and its use of the property meet all other requirements of paragraphs (1) to (5), inclusive, of subdivision (a). The owner or the other organization also shall file with the assessor duplicate copies of valid, unrevoked letters or rulings from the Internal Revenue Service or the Franchise Tax Board stating that the other organization, or the national organization of which it is a local chapter or affiliate, qualifies as an exempt organization under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code or Section 23701d, 23701f, or 23701w, together with duplicate copies of that organization's most recently filed federal income tax return, if the organization is required by federal law to file a return.

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

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

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

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

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

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



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

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

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

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

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

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

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public



Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

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

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

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

(g) (1) Property used exclusively for rental housing and related facilities and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation, meeting all of the requirements of this section, or by veterans’ organizations, as described in Section 215.1, meeting all the requirements of paragraphs (1) to (7), inclusive, of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section and shall be entitled to a partial exemption equal to that percentage of the value of the property that the portion of the property serving lower income



households represents of the total property in any year in which either of the following criteria applies:

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

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

(C) In the case of a claim, other than a claim with respect to property owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation, that is filed for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent or more of the occupants of the property are lower income households whose rent does not exceed the rent prescribed by Section 50053 of the Health and Safety Code. The total exemption amount allowed under this subdivision 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 subparagraph, may not exceed twenty thousand dollars (\$20,000) of tax.

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

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

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

(B) 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.



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

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

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

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

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

SEC. 2. Section 230 is added to the Revenue and Taxation Code, to read:

230. (a) With regard to taxes that attach as a lien on or after January 1, 2001, wooden vessels of historical significance, and all personal property thereon used in their operation, are exempt from taxation. This exemption applies if all of the following conditions are satisfied:

(1) The owner and operator is a nonprofit organization that has qualified for exemption under either Section 23701d of this code or under Section 501(c)(3) of the Internal Revenue Code.



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

(3) The vessel is used primarily as, or as a part of, a maritime museum that is regularly open to the public.

(4) Income from fundraising use and use for charter activities does not exceed 40 percent of operating revenues of the vessel, and all net earnings are used to further the exempt activity of the museum.

(b) When claiming an exemption pursuant to this section, a claiming organization shall give all information required and answer all questions in an affidavit, to be furnished by the assessor, that is signed by the claimant under penalty of perjury. The assessor may require other proof of the facts stated in the affidavit before allowing the exemption. A claimant for an exemption pursuant to this section is subject to Sections 255 and 260.

(c) For purposes of this section, the following definitions apply:

(1) “Wooden vessel of historical significance” means any wooden vessel that is a refurbished original, wooden inland waters vessel of 47 feet or larger, built in California during or prior to 1910, that continuously thereafter has remained in California waters, and that has been designated a California State Historical Landmark.

(2) “Regularly open to the public” means that the museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

SEC. 3. Section 237 of the Revenue and Taxation Code is amended to read:

237. (a) (1) Subject to the requirements set forth in paragraph (2), there is exempt from taxation under this part that portion of the assessed value of property, owned and operated by a federally designated Indian tribe or its tribally designated housing entity, that corresponds to that portion of the property that is continuously available to, or occupied by, lower income households, as defined in Section 50079.5 of the Health and Safety Code at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflict with that section, rents that do not exceed those prescribed by the terms of the financing agreements or financial assistance agreements.

(2) The exemption set forth in subdivision (a) applies only if the property and entity meet the following requirements:

(A) At least 30 percent of the property’s housing units are either continuously available to, or occupied by, lower income households, as defined in Section 50079.5 of the Health and Safety Code, at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflict with that section, rents



that do not exceed those prescribed by the terms of the financing agreements or financial assistance agreements.

(B) The housing entity is nonprofit.

(C) No part of the net earnings of the housing entity inure to the benefit of any private shareholder or individual.

(b) In lieu of the tax imposed by this part, a tribe or tribally designated housing entity may agree to make payments to a county, city, city and county, or political subdivision of the state for services, improvements, or facilities provided by that entity for the benefit of a low-income housing project owned and operated by the tribe or tribally designated housing entity. Any payments in lieu of tax may not exceed the estimated cost to the city, county, city and county, or political subdivision of the state of the services, improvements, or facilities to be provided.

(c) A tribe or tribally designated housing entity applying for an exemption under this section shall provide the following documents to the assessor:

(1) Documents establishing that the designating tribe is federally recognized.

(2) Documents establishing that the housing entity has been designated by the tribe.

(3) Documents establishing that there is a deed restriction, agreement, or other legally binding document requiring that the property be used in compliance with subparagraph (A) of paragraph (2) of subdivision (a).

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

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

