

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 314**

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**Introduced by Senator Vargas**

February 14, 2011

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An act to amend Section 107.4 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 314, as amended, Vargas. Taxation: military housing.

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests that are subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive. Existing property tax law specifies that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a contract that includes, but is not limited to, a long-term lease for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel ~~and~~ or their dependents, *or both*, if the housing units and the private contractor constructing the housing meet specified criteria. *One of these criteria requires any reduction or, if the amount of reduction is unknown the private contractor's reasonable estimate of savings, in property taxes on leased property used for military housing, as defined, inures solely to the benefit of the residents of the military housing through improvements.*

*Existing property tax law provides for escape assessments to be made within 4 years after July 1 of the assessment year in which the property escaped taxation or was underassessed.*

~~This bill would make a technical, nonsubstantive change to that provision authorize the county assessor, if the military requires the property tax savings described above to be held in a reserve account for use in future project construction, to levy an escape assessment within 4 years after July 1 of the assessment year in which the property tax savings are withdrawn from the reserve account.~~

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

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

- 1 SECTION 1. Section 107.4 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 107.4. (a) For purposes of paragraph (1) of subdivision (a) of
- 4 Section 107, there is no independent possession or use of land or
- 5 improvements if that possession or use is pursuant to a contract
- 6 that includes, but is not limited to, a long-term lease, for the private
- 7 construction, renovation, rehabilitation, replacement, management,
- 8 or maintenance of housing for active duty military personnel or
- 9 their dependents, or both, if all of the following criteria are met:
- 10 (1) The military housing constructed and managed by private
- 11 contractor is situated on a military facility under military control,
- 12 and the construction of that housing is performed under military
- 13 guidelines in the same manner as construction that is performed
- 14 by the military.
- 15 (2) All services normally provided by a municipality are required
- 16 to be purchased from the military facility or from a provider
- 17 designated by the military.
- 18 (3) The private contractor is not given the right and ability to
- 19 exercise any significant authority and control over the management
- 20 or operation of the military housing, separate and apart from the
- 21 rules and regulations of the military.
- 22 (4) The number of units, the number of bedrooms per unit, and
- 23 the unit mix are set by the military, and may not be changed by
- 24 the contractor without prior approval by the military.
- 25 (5) Tenants are designated by a military housing agency.
- 26 (6) Financing for the project is subject to the approval of the
- 27 military in its sole discretion.
- 28 (7) Rents charged to military personnel or their dependents are
- 29 set by the military.

1 (8) The military controls the distribution of revenues from the  
2 project to the private contractor, and the private contractor is  
3 allowed only a predetermined profit or fee for constructing the  
4 military housing.

5 (9) Evictions from the housing units are subject to the military  
6 justice system.

7 (10) The military prescribes rules and regulations governing  
8 the use and occupancy of the property.

9 (11) The military has the authority to remove or bar persons  
10 from the property.

11 (12) The military may impose access restrictions on the  
12 contractor and its tenants.

13 (13) (A) Any reduction or, if that amount is unknown, the  
14 private contractor's reasonable estimate of savings, in property  
15 taxes on leased property used for military housing under the  
16 Military Housing Privatization Initiative (10 U.S.C. Sec. 2871 et  
17 seq.) shall inure solely to the benefit of the residents of the military  
18 housing through improvements, such as a child care center provided  
19 by the private contractor.

20 (B) *Notwithstanding Section 532, if the military, in writing or*  
21 *by contract, requires the property tax savings to be held in a*  
22 *reserve account for use in future project construction, the county*  
23 *assessor may levy an escape assessment within four years after*  
24 *July 1 of the assessment year in which the property tax savings*  
25 *are withdrawn from the reserve account.*

26 (14) The military housing is constructed, renovated,  
27 rehabilitated, remodeled, replaced, or managed under the Military  
28 Housing Privatization Initiative, or any successor to that law.

29 (b) This section shall not apply to a military housing unit  
30 managed by a private contractor that is rented to a tenant who is  
31 an unaffiliated member of the general public.

32 (1) "Unaffiliated member of the general public" means a person  
33 who is not a current member of the military. A housing unit rented  
34 to or occupied by a person employed as management or  
35 maintenance personnel for the military housing property shall not  
36 be considered to be a unit rented to an unaffiliated member of the  
37 general public.

38 (2) The private contractor shall annually notify the assessor by  
39 February 15 of any housing units rented to unaffiliated members  
40 of the general public as of the immediately preceding lien date.

- 1 The private contractor shall be responsible for any property taxes
- 2 on housing units rented to unaffiliated members of the general
- 3 public.
- 4 (c) For purposes of this section, “military facility under military
- 5 control” means a military base that restricts public access to the
- 6 military base.