



**Senate Bill 336** (Wiener)

Date: February 12, 2025 (Introduced)  
Program: Property Taxes  
Revenue and Taxation Code section 214  
Effective: Upon enactment, immediately

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**Summary:** This bill amends section 214 of the Revenue and Taxation Code (RTC) to extend the welfare exemption to rental housing owned by nonprofit organizations and are occupied by moderate-income households.

**Fiscal Impact Summary:** Expanding the welfare exemption to include new moderate-income rental units would result in an estimated annual revenue loss in the range of \$93 million to \$151 million.

**Existing Law:** Existing law provides that low-income rental housing owned and operated by a qualifying nonprofit organization<sup>1</sup> may be exempt from property taxation under the welfare exemption, provided certain conditions and requirements are met. The law allows an unlimited exemption for rental housing owned by a nonprofit organization if it receives government financing or low-income housing tax credits.<sup>2</sup> However, the law limits the exemption to the first \$20 million in assessed value statewide<sup>3</sup> on low-income rental housing property owned by a nonprofit that does not receive government financing or low-income housing tax credits.

**Lower Income Household Definition.** Property tax law defines lower income households by cross reference to the Health and Safety Code.<sup>4</sup> In general, lower income households are those households with incomes that do not exceed 80 percent of the Area Median Income (AMI) adjusted for family size; income limits are established for all geographic areas of the state. The law also requires the California Department of Housing and Community Development (HCD) to annually publish these income limits based on data by the U.S. Department of Housing and Urban Development (HUD). Existing law<sup>5</sup> allows owners of low-income rental housing properties receiving federal low-income housing tax credits to continue to claim the property tax exemption on units occupied by tenants whose household income increases after move-in to a level above the lower income limit up to the federal law related limit of 140 percent of AMI (over-income tenant), provided that the units remain rent-restricted.

**Joint Administration.** The State Board of Equalization (BOE) and the 58 County Assessors jointly administer the welfare exemption.<sup>6</sup> The BOE determines whether the organization is eligible to receive the Welfare Exemption; and if eligible, issues an Organizational Clearance Certificate for the claimant to provide with claim forms filed in any of the 58 counties. The County Assessor

<sup>1</sup> A qualified organization may also be an eligible limited liability company (LLC) or a limited partnership in which the managing general partner is an eligible nonprofit corporation or eligible LLC.

<sup>2</sup> RTC section 214(g)(1)(A) and section 214(g)(1)(B).

<sup>3</sup> RTC section 214(g)(1)(C).

<sup>4</sup> Health and Safety Code (HSC) section 50079.5. Additionally, the BOE annually reports the household income limits to assessors.

<sup>5</sup> RTC sections 214(g)(2)(A)(iii). See Letter To Assessors No. 2017/055.

<sup>6</sup> RTC section 214(o).

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determines whether the use of the property is eligible for the exemption. Applications for exemption of property are filed with the county assessor where the property is located. The assessor is responsible for granting or denying the exemption.

**Proposed Law:** For lien dates occurring on or after January 1, 2026, this bill extends the welfare exemption to qualified rental housing and related facilities owned by certain nonprofit organizations that are occupied by low- and moderate-income households. The following conditions are to be met:

The owner of the property certifies, under penalty of perjury, all of the following:

- That there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the applicable project's usage and that provides that the units designated for use by low- and moderate-income households are continuously available to, or occupied by, low- and moderate-income households.
- In the case of a limited partnership in which the managing general partner is an eligible nonprofit corporation, the restriction and provision specified above 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.
- 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 moderate-income households.

Additionally, the owner of the property must claim the exemption under this subdivision within five years following the issuance of a building permit for newly constructed residential units on the property.

**Moderate-Income Household.** "Low- and moderate-income households" shall have the same meaning as "persons and families of low or moderate income" as defined by [section 50093](#) of the Health and Safety Code.

**Effective Date:** This bill would be effective immediately.

**In General:** Under [section 4 \(b\)](#) of Article XIII of the California Constitution, the Legislature has the authority to exempt property (1) used exclusively for religious, hospital, or charitable purposes, and (2) owned or held in trust by nonprofit organizations operating for those purposes. This exemption from property taxation, popularly known as the *welfare exemption*, was first adopted by voters as a constitutional amendment on November 7, 1944.

When the Legislature enacted RTC section 214 to implement this constitutional provision in 1945, a fourth purpose, *scientific*, was added to the three mentioned in the Constitution. Section 214 parallels and expands upon the Constitutional provision by exempting property used exclusively for the stated purposes (religious, hospital, scientific, or charitable), owned by qualifying nonprofit organizations if certain requirements are met. An organization's *primary* purpose must be either religious, hospital, scientific, or charitable. Whether its operations are for one of these purposes is determined by its activities. A qualifying organization's property may be exempted fully or partially from property taxes, depending on how much of the property is used for qualifying purposes and activities.

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Section 214 is the primary welfare exemption statute in a statutory scheme that consists of more than 20 additional provisions. Over the years, the scope of the welfare exemption has been expanded by both legislation and numerous judicial decisions. In general, the following requirements must be met before property is eligible for exemption:

- The property must be irrevocably dedicated to religious, hospital, scientific, or charitable purposes.
- The owner must not be organized or operated for profit and must be qualified as an exempt organization, under a specific federal or state statute, by the Internal Revenue Service or the Franchise Tax Board.
- No part of the net earnings of the owner may inure to the benefit of any private shareholder or individual.
- The property must be used for the actual operation of the exempt activity.

**Property with Government Financing or Tax Credits: Unlimited Exemption.** Under existing law, when a nonprofit organization owns and operates a low-income rental housing property that receives government financing or low-income housing tax credits, these properties may be exempt from property tax. Generally, a low-income rental housing property<sup>7</sup> may qualify for the welfare exemption provided:

- **Government Financing or Tax Credits.** The property owner receives low-income housing tax credits or government financing on the property. *RTC section 214(g)(1)(A) and (B)*
- **Use Restriction.** The property is subject to a recorded deed restriction, regulatory agreement, or "other legal document" restricting its use for low-income housing purposes at specified rents. *RTC section 214(g)(2)(A)(i) and Property Tax Rule 140*
- **Rents Charged.** The rents charged to lower income household occupants do not exceed the rent prescribed by the deed restrictions or regulatory agreement. *RTC sections 214(g)(1)(A) and 214(g)(2)(A)(i)*
- **Property Tax Savings.** The owner certifies that the funds otherwise necessary to pay property taxes are instead used to maintain the affordability of, or reduce rents for, units occupied by the lower income households. *RTC section 214(g)(2)(B)*
- **Limited Partnership: Special Requirements.** In the case of housing owned by a limited partnership in which the managing general partner is an eligible nonprofit corporation or an eligible LLC,<sup>8</sup> use and rent restrictions must be contained in an enforceable and verifiable agreement with a public agency or in a recorded deed restriction. *RTC section 214(g)(2)(A)(ii) and Property Tax Rule 140*

<sup>7</sup> Such property may include single-family residences, multifamily residences (e.g., duplex, triplex, fourplex), and apartment complexes.

<sup>8</sup> See Property Tax Rule 136.

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While there is no minimum percentage of units that must be occupied by lower-income households, the exemption only extends to the units serving lower income households. *RTC section 214(g)(1)*

Current law requires property owners to annually file a claim to receive the exemption. The claim must state the number of units serving low-income households, including temporarily vacant units that are held for such households, and requires an attachment that lists qualified households.<sup>9</sup>

### Commentary:

1. **Author's Statement.** California localities struggle to meet their Regional Housing Needs Allocation (RHNA) goals for below-market-rate housing, including both low- and moderate-income housing. Unlike low-income housing projects, those serving moderate-income households (up to 120% of AMI) do not benefit from the welfare tax exemption or most sources of public subsidy, even though such projects fall well below the rent levels market-rate housing projects command in many California jurisdictions. Statewide, California jurisdictions only met sixty percent of their RHNA targets in the [5<sup>th</sup> cycle](#). SB 336 expands the welfare exemption for low-income affordable rental housing units at or below 80% of AMI to include moderate-income rental units up to 120% of AMI that serve California's middle-income workforce. Expanding this tax exemption would significantly increase the private market's ability to finance and deliver "Missing Middle" housing throughout the state.
2. **The RHNA Process.** Refers to the first two steps (Determination and Allocation) of a multi-step process that California governments utilize to plan for housing needs in each region of the state. Since 1969, California has required that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. This process starts with HCD determining how much housing at a variety of affordability levels is needed for each region in the state. Then the regional governments develop a methodology to allocate that housing need to local governments. California's local governments then adopt housing plans (called housing elements) as part of their "general plan" (also required by the state) to show how the jurisdiction will meet local housing needs.
3. **Previous Legislation.** In 2018, Assembly Bill 3152 (Chiu) proposed to extend the welfare exemption for rental housing owned by nonprofit organizations that were occupied by moderate-income households in certain counties in the state. AB 3152 was held in the Assembly Appropriations Committee. In 2019, Assembly Bill 1734 (Chiu), for tax liens dates on or after January 1, 2020, and before January 1, 2025, proposed to extend the welfare exemption to rental housing owned by nonprofit organizations and occupied by moderate-income households. This bill was also held in Assembly

<sup>9</sup> RTC section 214(g)(3)(C). Vacant units in elderly and handicapped unit that qualify under moderate income under RTC section 214(g) are not eligible for exemption

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### Appropriations.

4. **Loss of Low-Income Housing?** If the focus shifts to moderate-income tenants, could this take the attention and future construction away from low-income housing needs as this may reduce the number of units available for low-income households.
5. **Moderate-Income Elderly and Handicapped Families.** Existing law provides an exemption for properties that are used for housing and related facilities for low- and moderate-income elderly or handicapped families<sup>10</sup>. The law allows a partial exemption equal to the percentage that the number of low- and moderate-income elderly and handicapped families represents of the total number of families occupying the property. This bill would extend the welfare exemption to units rented by occupants with moderate income that are not elderly or handicapped.

**Costs:** Costs to BOE are estimated to be \$18,517 in fiscal year 2025/2026, \$4,700 in 26/27, \$4,700 in 27/28, and \$1,000 annually thereafter.

### Revenue Impact:

According to the RHNA data, 204,481 moderate-income units was the goal set or permits issued overall for the state for the 5<sup>th</sup> cycle (2014-2023), of which 125,664 (61.5%) was attained. The attainment varied across the state, ranging from two percent in Santa Barbara, thirty-six percent in San Francisco and the highest fifty-six percent in Redding.

The RHNA 6<sup>th</sup> cycle (2023-2031) goal is 420,863 units. According to HCD 2018-2023 data, of the 126,848 permits submitted in that time frame, 84,457, or about sixty-seven percent, were for rental-based housing tenure. Applying the sixty-seven percent to the 6<sup>th</sup> cycle results in estimated 281,978 units (67% × 420,863 units).

According to an April 2025 CalMatters article<sup>11</sup>, the average apartment in California costs around \$430,000 to build. Total assessed value is estimated to be \$121 billion (\$430,000 cost × 281,978 units). Given the RHNA cycle is an eight-year cycle, the annual property tax loss is estimated to be \$152 million (((\$121 billion × 1%) / 8 years).

The above estimate assumes all units will be constructed as envisioned in the 6<sup>th</sup> cycle. Even with the SB 336 welfare tax exemption incentive, if the attainment rate is similar to the 5<sup>th</sup> cycle (61.5%), then the estimated units would be 258,831 (61.5% × 420,863 units), and tenure as rental housing would be 173,417 units (67% × 258,831 units). Based on the estimated construction cost of \$430,000, assessed value is estimated to be \$75 billion (\$430,000 cost × 173,417 units), and the estimated annual property tax loss is estimated to be \$93 million (((\$75 billion × 1%) / 8 years).

<sup>10</sup> RTC section 214(f).

<sup>11</sup> <https://calmatters.org/commentary/2025/04/california-affordable-housing-costs-time/>

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A dynamic revenue analysis factoring in the reaction of developers and pertinent stakeholders to the proposed welfare tax exemption to include up to 120% AMI units is beyond the scope of this analysis. The above analysis provides a possible range of property tax revenue loss i.e. \$93 million to \$151 million annually.

For purposes of this revenue estimate, staff assumes SB 336 is intended to apply only to new construction on or after January 1, 2026.

**Revenue Summary:**

The expansion of the welfare tax by SB 336 to include new moderate-income rental units would result in annual revenue estimate loss in the range of \$93 million to \$151 million.

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