



Legislative Bill Analysis

Assembly Bill [2897](#) (Connolly)
Date: April 1, 2024 (Amended)
Program: Property Taxes
Revenue and Taxation Code sections 214 and 402.1
Effective: January 1, 2025

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Summary: AB 2897 amends Revenue and Taxation Code (RTC) section 402.1 to allow a wholly owned subsidiary of a Community Land Trust (CLT) to qualify as a CLT if it is solely directed and managed by the CLT. Allows a CLT to sell a dwelling or unit to a qualified owner, but not the deed restricted land underneath it, if the CLT subjects the property to a revised 99-year lease restriction.

This bill also updates a number of cross references to CLTs in code sections unrelated to property tax governance.

The April 1 amendments reinstate the existing requirement that one of a number of specified public agency officials find that the affordability restrictions in the contract serve the public interest to create and preserve the affordability of residential housing for persons and families of low or moderate income – prior to the contract being recorded and provided to a county assessor (RTC section 402.1).

Fiscal Impact Summary: No revenue impact anticipated.

In General: Under section 4(b) of article XIII of the California Constitution, the Legislature is authorized to exempt from taxation, in whole or in part:

Property used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities (1) that are organized and operated for those purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures to the benefit of any private shareholder or individual.

In exercising the above constitutional authorization, the Legislature enacted RTC section 214, reiterating the constitutional authorization, outlining numerous conditions and qualifications for receiving the exemption, and adding scientific as the fourth qualifying purpose. RTC section 214 provides that property used exclusively for charitable purposes owned and operated by entities organized and operated for charitable purposes is exempt from taxation if the entities are not owned and operated for profit, and the property is used for the actual operation of the exempt activity.

Charitable Purposes. 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. The State Supreme Court has broadly construed the charitable purpose aspect of the welfare exemption to include a wide range of activities that benefit the general public.¹ The term "charitable" is not confined to the relief of poverty but includes all kinds of humanitarian activities,

¹ *Stockton Civic Theatre v. Board of Supervisors* (1967) 66 Cal.2d. 13.

rendered at cost or less, the object of which is the care of the physical and mental well-being of the recipients.

Exclusive Use. The RTC does not specifically define the term *used exclusively*; however, the courts have done so in a series of decisions. The California Supreme Court has stated that the phrase "exclusively used" may not be given a literal interpretation to mean that the property exempted must be used solely for the purposes communicated to the total exclusion of any other use. The Supreme Court held that *used exclusively* for exempt purposes includes any property which is used exclusively for any activity which is incidental to and reasonably necessary for the accomplishment of the exempt purpose.² Courts have applied this precedent to mean that a qualified organization's primary use of its property must be for exempt purposes, and any other uses of property must be related to and reasonably necessary for the accomplishment of the exempt purpose.³

Housing Welfare Exemption. Historically, property tax administrators took a narrow view of whether the welfare exemption extends to property used for housing and related facilities provided by religious, hospital, scientific, and charitable organizations. Previously, they viewed most housing as non-exempt because the property was used primarily for private residential purposes rather than exempt purposes and was not being used exclusively for exempt purposes as required by prior interpretations of RTC section 214.⁴

However, the courts have taken a broader view, consistent with the Supreme Court's directive that statutory and constitutional provisions granting exemptions are to be construed strictly but reasonably.⁵ As a result, the courts have exempted properties used for a wide range of housing as property used exclusively for exempt [religious, charitable or hospital] purposes within the meaning of RTC section 214(a).

The State Board of Equalization (BOE) has worked to establish clearer exemption qualification standards. In 1999, the BOE adopted [Property Tax Rule \(Rule\) 137, Application of the Welfare Exemption to Property Used For Housing](#). Rule 137 clarifies that the welfare exemption applies to housing and related facilities owned and operated by qualified nonprofit organizations. It establishes a single uniform statewide standard for determining qualification for the welfare exemption as it applies to such properties.⁶

Subdivision (g) of section 214 extends the welfare exemption to property owned and operated by qualifying organizations and used exclusively for rental housing, which is occupied by lower - income households. "Lower income households" are defined by reference to Health and Safety Code (H&SC) section 50079.5, which provides persons and families whose income does not exceed the qualifying limits under Section 8 of the United States Housing Act of 1937. In 2006, the BOE adopted [Property Tax Rule 140, which](#) interprets RTC section 214 (g) and specifies numerous definitions and requirements for a full-or-partial welfare exemption for low-income housing properties; Rule 140 was amended in 2019.

² *Cedars of Lebanon v. County of Los Angeles* (1950) 35 Cal.2d 729, 736.

³ *Honeywell Information Systems, Inc. v. County of Sonoma* (1974) 44 Cal.App.3d 23; *YMCA v. County of Los Angeles* (1950) 35 Cal.2d 760; *St. Germain Foundation v. County of Siskiyou* (1963) 212 Cal.App.2d 911; *Greek Theatre Association v. County of Los Angeles* (1978) 76 Cal.App.3d 768.

⁴ Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions*, p. 62.

⁵ *Ibid*; *Cedars of Lebanon v. County of Los Angeles* (1950) 35 Cal.2d 729, 735.

⁶ *Id.* at p. 65.

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CLTs. A CLT is a land ownership model that allows moderate and low-income homeownership opportunities. It is based on the land owned by a nonprofit entity that then sells the dwelling unit(s) to those who qualify as low-income while maintaining ownership of the land the dwelling is built upon.

Existing Law: Under the California Constitution, all property is taxable unless otherwise provided for by the State Constitution or the laws of the United States.⁷ The Legislature may exempt from property taxation in whole or in part property used exclusively for religious, hospital, scientific, or charitable purposes and owned or held in trust by nonprofit corporations or other entities if specific criteria are met.⁸

This exemption is known as the "welfare exemption" and is implemented according to RTC section [214](#). RTC section 214 generally exempts from taxation, subject to certain conditions and qualifications, property (1) owned by nonprofit organizations organized and operated for charitable purposes and (2) used exclusively for those purposes.

RTC section 214(g)(1) generally provides that property used exclusively for low-income rental housing owned and operated by nonprofit organizations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation, shall be deemed within the exemption authorized by RTC section 214.

The State Board of Equalization (BOE) and 58 County Assessors jointly administer the welfare exemption. The BOE is responsible for determining whether an organization is organized and operating for exempt purposes, which qualifies the organization for either an Organizational Clearance Certificate (OCC) or a Supplemental Clearance Certificate (SCC). The County Assessor is responsible for determining whether using a qualifying organization's property is eligible for the welfare exemption. The County Assessor shall not grant the welfare exemption for an organization's property unless the organization holds either a valid OCC or SCC issued by the BOE. However, the County Assessor may deny a welfare exemption claim based on non-qualifying use of the property, notwithstanding that the BOE has issued the organization an OCC or SCC. The BOE tracks [eligible nonprofit organizations and limited liability companies](#) that hold valid OCCs and SCCs and monitors those organizations for continued eligibility.

Once the BOE issues an OCC or an SCC to a qualified organization, the organization must file a BOE-267 Claim for the Welfare Exemption with the County Assessor where the property is located. The County Assessor is responsible for evaluating the application, determining whether the use of the property meets the statutory requirements for receiving the welfare exemption, and ultimately granting or denying the exemption to claimants.

Under existing property tax law, properties that meet these requirements and are used exclusively for rental housing, including related facilities, are entitled to a partial exemption, equal to that percentage of the value of the property that is equal to the percentage that the number of units serving lower income households represents of the total number of residential units, in any year that specific criteria apply. These criteria include that the property be subject to a legal restriction that provides that units designated for use by lower-income households are continuously available to or occupied by lower-income households at rents not exceeding specified limits.⁹

⁷ Cal. Const., [art. XIII, section 1](#).

⁸ Cal. Const., [art. XIII, section 4\(b\)](#).

⁹ RTC, section 214(g)(1).

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In 2019, the Legislature added RTC section [214.18](#) into law, which stated that property owned by a CLT that qualifies for a welfare exemption under RTC section 214 is also within the exemption provided by sections 4 and 5 of article XIII of the California Constitution as long as several conditions were met and repeals the section on January 1, 2025.¹⁰

SB 196 also required the BOE to annually collect data from County Assessors relating to CLTs and the number of units created by CLTs under the welfare exemption authorized under RTC section 214.18.

In 2020, the Legislature clarified the requirements for CLTs to claim the welfare exemption and made property owned by a CLT eligible for the welfare exemption before beginning construction. Additionally, these clarifications prevented County Assessors from denying the welfare exemption to CLTs who were in the process of constructing affordable housing but did not have any units complete. However, these clarifications made CLTs liable for property tax for the years the CLT received the exemption if the construction was not completed within a certain timeframe.¹¹

On December 1, 2021, the BOE issued a Letter To Assessors (LTA) providing information and guidance on treating CLT housing considering these legislative changes.¹²

RTC section 402.1 requires CLTs to maintain 99-year renewable leases for dwellings sold to qualified owners situated on land owned by the nonprofit.

Proposed Law:

Expands the Definition of CLT to Include Wholly Owned Subsidiaries. This bill amends RTC sections 214 and 402.1 to expand the definition of a CLT to include a wholly owned subsidiary of the CLT that is solely directed and managed by the CLT.

This bill also adds a new subsection to RTC section 402.1¹³ to address dwellings or units that are part of a condominium, cooperative, or other common interest development under which the land is owned by a homeowners' association or person other than the CLT. In such cases, the condominium unit or interest owned by the CLT is authorized to be sold to qualified occupants, as long as an affordability restriction of at least 99 years is in place.

Consistency in Cross References in Existing Law. The bill updates cross references to CLTs in the Civil Code (section 2924) and the Health and Safety Code (sections 50650.5, 50720.2, and 50720.4) to provide a consistent definition of a CLT and proper cross references to the RTC.

Costs: This bill would have initial implementation costs of approximately \$3,617 and minimal ongoing costs going forward.

Revenue Impact: No impact anticipated. Staff views AB 2897 as a continuation of existing law regarding what is required of a CLT for purposes of property tax assessment, and simply adds updated cross references in various statutes for the definition of a CLT.

¹⁰ SB 196, Chapter 669, Stats. 2019.

¹¹ SB 1473, Chapter 371, Stats. 2020; RTC section 214.18.

¹² Letter to Assessors No. 2021/052, California State Board of Equalization, December 1, 2021.

¹³ RTC section 402.1(a)(11)(C)(ii)(II)(ib)

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