

ASSEMBLY BILL

No. 2353

Introduced by Assembly Member Ward

February 12, 2024

An act to add Section 4985.05 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2353, as introduced, Ward. Property taxation: welfare exemption: delinquent payments: interest and penalties.

Existing property tax law, in accordance with the California Constitution, provides for a “welfare exemption” for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met. Under existing property tax law, property that meets these requirements that is used exclusively for rental housing and related facilities is 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 any of certain criteria apply.

Existing law imposes various penalties and costs for delinquent payment of real property taxes. Existing law, however, requires the cancellation of any delinquent penalty, cost, redemption penalty, interest, or redemption fee upon satisfactory proof, as described, that the penalty, cost, interest, or fee attached due to an error of the tax collector, the auditor, or the assessor or due to their inability to complete valid procedures initiated prior to the delinquency date, as specified.

This bill would provide that a taxpayer is not liable for interest or penalties imposed by the county tax collector, and would prohibit the county tax collector from taking or continuing any collection action, with respect to any delinquent installments of property taxes levied upon a property for which the taxpayer has submitted to the county assessor an application for an exemption pursuant to the above-described partial welfare exemption, except as provided. The bill would set forth the content of the exemption application and would require the county assessor to acknowledge to the taxpayer and the county tax collector their receipt of the exemption application within 60 days of the taxpayer's submittal of the application. The bill would provide that any bill, notice of deficiency, or other routine communication sent to the taxpayer from the tax collector does not constitute a collection action under the bill's provisions. By imposing additional duties on local tax officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 4985.05 is added to the Revenue and
2 Taxation Code, to read:
3 4985.05. (a) Notwithstanding any law, but except as provided
4 in subdivision (b), the taxpayer shall not be liable for interest or
5 penalties imposed by the county tax collector, nor shall the county
6 tax collector take or continue any collection action, with respect
7 to any delinquent installments of property taxes levied upon a
8 property for which the taxpayer has submitted to the county
9 assessor an application for an exemption pursuant to subdivision
10 (g) of Section 214. The application for exemption shall contain,
11 for purposes of receiving the benefit of this section, all of the
12 following:

1 (1) The appropriate clearance certificate or supplemental
2 clearance certificate from the State Board of Equalization.

3 (2) A description of the property that includes the total number
4 of residential units, the number of residential units eligible for
5 exemption, the total square footage of the improvements, and the
6 square footage of improvements not eligible for exemption.

7 (3) An enforceable and verifiable agreement with a public
8 agency, a recorded deed restriction, or other legal document
9 consistent with the requirements of clause (i) of subparagraph (A)
10 of paragraph (2) of subdivision (g) of Section 214.

11 (b) The limitations of subdivision (a) shall not apply to either
12 of the following:

13 (1) The prorated portion of any delinquent installments of
14 property taxes that are related to improvements ineligible for
15 exemption pursuant to the information provided in paragraph (2)
16 of subdivision (a), or to residential units not restricted as affordable
17 to lower income households pursuant to the agreement, restriction,
18 or document provided in paragraph (3) of subdivision (a).

19 (2) Any late or delinquent installments related to property which
20 the assessor, upon completion of its review of the application for
21 exemption pursuant to subdivision (g) of Section 214, has deemed
22 ineligible for exemption.

23 (c) The county assessor shall acknowledge to the taxpayer and
24 the county tax collector receipt of the application for exemption
25 described in subdivision (a) within 60 days of the taxpayer's
26 submittal of the application.

27 (d) Any bill, notice of deficiency, or other routine
28 communication sent to the taxpayer from the tax collector shall
29 not constitute a collection action under this section.

30 SEC. 2. If the Commission on State Mandates determines that
31 this act contains costs mandated by the state, reimbursement to
32 local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code.



Fact Sheet: AB 2353

Improving Implementation of the Welfare Property Tax Exemption for Affordable Housing

PROPOSED BILL

Assembly Bill (AB) 2353 would ensure non-profit affordable rental housing developers can access the existing welfare property tax exemption without floating unnecessary tax payments while their application is under review, reducing the cost of constructing affordable housing.

BACKGROUND

Pursuant to the State Constitution, affordable rental housing owned by a non-profit entity is considered a “charitable” use and is exempt from basic property taxes. This is known as a “welfare exemption.”¹

Although most affordable housing developers have been approved for welfare exemptions numerous times, and the use of a particular site as affordable housing (including the percentage of affordable units on that site) is set in recorded affordability restrictions, developers must nonetheless pay property taxes up front and seek reimbursement after both the Board of Equalization (BOE) and the county assessor have approved a development’s exemption.

As a result, affordable housing developers float hundreds of thousands of dollars in unnecessary tax payments, for as much as three years, only to get the money back (albeit without interest) once their application is approved.

However, developers must borrow money to pay for property taxes, on which they pay

interest. Thus, affordable housing developers lose crucial and extremely limited affordable housing dollars by paying for property taxes up front, and incurring interest, further increasing development costs.

SOLUTION

AB 2353 would reduce the cost of developing affordable housing by allowing non-profit affordable housing developers to withhold relevant tax payments, without penalty, while their welfare exemption applications are under review. To be eligible, a property must be subject to a recorded affordability covenant and the developer must have received a clearance certificate from the BOE, indicating they are eligible for the exemption.

SUPPORT

California Housing Partnership (Sponsor)

OPPOSITION

None at this time.

FOR MORE INFORMATION

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Bill Version: Introduced February 12, 2024

¹ State Board of Equalization. (2019, December). Property Tax Welfare Exemption.

<https://www.boe.ca.gov/proptaxes/pdf/pub149.pdf>