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No. 2024/017

May 17, 2024

TO COUNTY ASSESSORS:

### WELFARE EXEMPTION: AFFORDABLE HOUSING FOR COMMUNITY LAND TRUST

Effective September 28, 2022, [Assembly Bill 1206](#) (Stats. 2022, ch. 636) amended sections [214](#) and [259.15](#) of the Revenue and Taxation Code, which relate to the welfare exemption. As explained in this letter, the amendments added community land trust property to those properties where a tenant may earn up to 140% of area median income and remain eligible for that rental unit and added the requirement to file an affidavit containing certain tenant information.

Under section 1 of article XIII of the California Constitution, all property is taxable unless otherwise provided for by the State Constitution or the laws of the United States. Under section 4 (b) of article XIII of the California Constitution, the Legislature has the authority to 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 operating for those purposes. This exemption is known as the "welfare exemption" and is implemented according to Revenue and Taxation Code section 214.

Under existing property tax law, property that meets these requirements and 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 certain criteria apply, including 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. (Rev. & Tax. Code, section 214, subd. (g)(1).)

For fiscal years 2018–19 through 2027–28, in the case of an owner of property receiving a low-income housing tax credit under specified federal law, existing property tax law requires that a unit continue to be treated as occupied by a lower income household for these purposes if the occupants were lower income households on the lien date in the fiscal year in which their occupancy of the unit commenced and the unit continues to be rent restricted, notwithstanding an increase in the income of the occupants of the unit up to 140 percent of area median income, adjusted for family size. (Rev. & Tax. Code section 214, subd. (g)(2).)

Consistent with the amended provisions of Revenue and Taxation Code sections 214, for fiscal years 2022–23 through 2027–28, if the owner of property is a community land trust whose property is leased to low-income households, subject to a contract that complies with Revenue and Taxation Code section 402.1, subdivision (a), paragraph (11), the unit is required to continue to be treated as occupied by a lower income household, as described in the previous paragraph.

Additionally, a claim for a welfare exemption by a community land trust property must be accompanied by an affidavit that complies with section 259.15 of the Revenue and Taxation Code and that affidavit is not subject to public disclosure.

As part of the implementation process for the statutory change, forms are in the process of being revised and Assessors will be notified separately once the forms revision process is complete.

A copy of amended sections 214 and 259.15 of the Revenue and Taxation Code, with changes noted in ~~strikeout~~/*italic* format, is enclosed. If you have any questions regarding these changes, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung  
Deputy Director  
Property Tax Department

DY:dc

*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, limited liability companies, 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 a valid organizational clearance certificate issued pursuant to Section 254.6.

(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 this subdivision. The owner or the other organization also shall file with the assessor a copy of a valid, unrevoked letter or ruling 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 501(c)(4) of the Internal Revenue Code or Section 23701d, 23701f, or 23701w.

(E) Subparagraph (A), (B), (C), or (D) shall not 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 is 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 does 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, limited liability companies, or corporations, which property and funds, foundations, limited liability companies, 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, limited liability companies, or corporations, which property and funds, foundations, limited liability companies, 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, limited liability companies, 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, limited liability companies, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, limited liability companies, 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, limited liability companies, 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, 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 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, limited liability companies, or corporations, including limited partnerships in which the managing general partner is an eligible nonprofit corporation or eligible limited liability company, 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 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 in which any 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 million dollars (\$20,000,000) in assessed value.

(D) (i) The property was previously purchased and owned by the Department of Transportation pursuant to a consent decree requiring housing mitigation measures relating to the construction of a freeway and is now solely owned by an organization that qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.

(ii) This subparagraph does not apply to property owned by a limited partnership in which the managing partner is an eligible nonprofit corporation.

(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, 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, subject to the exception in clause (iii), 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 of the Health and Safety Code, 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.

(iii) (I) In the case of an owner of property that is eligible for and receives a low-income housing tax credit pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, a unit shall continue to be treated as occupied by a lower income household if the occupants were lower income households on the lien date in the fiscal year in which their occupancy of the unit commenced and the

unit continues to be rent restricted, notwithstanding an increase in the income of the occupants of the unit to 140 percent of area median income, adjusted for family size. However, the unit shall cease to be treated as a lower income unit if the income of the occupants of the unit increases above 140 percent of area median income, adjusted for family size.

(II) This clause shall only be operative from the 2018–19 fiscal year through the 2027–28 fiscal year.

*(iv) (I) In the case of an owner of property that is a community land trust and whose property is leased to a lower income household, subject to a contract that complies with the requirements of paragraph (11) of subdivision (a) of Section 402.1, a unit shall continue to be treated as occupied by a lower income household if the occupants were lower income households on the lien date in the fiscal year in which their occupancy of the unit commenced and the unit continues to be rent restricted, notwithstanding an increase in the income of the occupants of the unit to 140 percent of area median income, adjusted for family size. However, the unit shall cease to be treated as a lower income unit if the income of the occupants of the unit increases above 140 percent of area median income, adjusted for family size.*

*(II) This clause shall only be operative from the 2022–23 fiscal year through the 2027–28 fiscal year.*

(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:

(A) “Community land trust” has the same meaning as defined in Section 402.1.

~~(A)~~

(B) “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.

~~(B)~~

(C) “Related facilities” means any manager’s units and any and all common area spaces that are included within the physical boundaries of the rental housing development, including, but not limited to, common area space, walkways, balconies, patios, clubhouse space, meeting rooms, laundry facilities, and parking areas, except any portions of the overall development that are nonexempt commercial space.

~~(C)~~



(D) (i) “Units serving lower income households” shall mean units that are occupied by lower income households at an affordable rent, as defined in 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 of the Health and Safety Code, rents that do not exceed those prescribed by the terms of the financing or financial assistance. Units reserved for lower income households at an affordable rent that are temporarily vacant due to tenant turnover or repairs shall be counted as occupied.

(ii) (I) “Units serving lower income households” shall also mean units specified in clause (iii) of subparagraph (A) of paragraph (2).

(II) This clause shall only be operative from the 2018–19 fiscal year through the 2027–28 fiscal year.

(iii) (I) “Units serving lower income households” shall also mean units specified in clause (iv) of subparagraph (A) of paragraph (2).

(II) This clause shall only be operative from the 2022–23 fiscal year through the 2027–28 fiscal year.

(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, limited liability companies, 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, limited liability companies, or corporations that 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 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 do 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.

(k) In the case of property used exclusively for the exempt purposes specified in this section, owned and operated by limited liability companies that are organized and operated for those purposes, the State Board of Equalization shall adopt regulations to specify the ownership, organizational, and operational requirements for those companies to qualify for the exemption provided by this section.

(l) The amendments made by Chapter 354 of the Statutes of 2004 apply with respect to lien dates occurring on and after January 1, 2005.

(m) The amendments made by Chapter 836 of the Statutes of 2016 apply with respect to lien dates occurring on and after January 1, 2017.

(n) The amendments made by Chapter 694 of the Statutes of 2018 apply with respect to lien dates occurring on and after January 1, 2019.

(o) Notwithstanding Section 20 or any other law, the State Board of Equalization is responsible for administering the welfare exemption provided by this section, except where the law places responsibility for administering that exemption with the county assessor.

*Section 259.15 of the Revenue and Taxation Code is amended to read:*

**259.15** (a) (1) For the 2018–19 fiscal year to the 2027–28 fiscal year, the claim for welfare exemption on a property that is eligible for and has received low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, relating to low-income housing credit, including Section 42(g)(2)(D) of the Internal Revenue Code, relating to treatment of units occupied by individuals whose incomes rise above limit, in addition to giving any other information as prescribed by the board, when claiming an exemption for units pursuant to clause (iii) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 214, shall be accompanied by an affidavit that provides *the information set forth in subdivision (b)*.

*(2) For the 2022–23 fiscal year through the 2027–28 fiscal year, when claiming a welfare exemption for units pursuant to clause (iv) of subparagraph (A) of paragraph (2) of subdivision (g) of Section 214, in addition to giving any other information as prescribed by the board, the claim for welfare exemption shall be accompanied by an affidavit that provides the information set forth in subdivision (b).*

*(b) The affidavits required in subdivision (a) shall include the following information:*

(1) A list of all units, for which exemption is claimed, in which the unit will continue to be treated as a low-income unit if the occupant initially met the income limitation and the unit continues to be rent restricted.

(2) All of the following nonpersonally identifiable information about the occupants of the units listed pursuant to paragraph (1):

(A) The unit name or number.

(B) The actual household income of the occupant.

(C) The maximum rent that may be charged to the occupant.

(D) The actual rent charged to the occupant.

(c) The ~~affidavit~~ *affidavits* required to accompany the claim for welfare exemption pursuant to subdivision (a) shall be confidential and shall not be subject to public disclosure.