

Date of Hearing: April 7, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION

Mike Gipson, Chair

AB 613 (Mark González) – As Amended March 28, 2025

Majority vote. Tax levy. Fiscal committee.

SUBJECT: Property taxation: assessment: affordable commercial property

SUMMARY: Adds a contract between a "commercial community ownership entity" renting commercial space to a "community-serving small business or nonprofit" to the list of enforceable restrictions that an assessor must consider when assessing property value. Specifically, **this bill:**

- 1) Enacts the Community-Owned Real Estate (CORE) Act, which adds a contract that is a renewable lease of three years or more between a "commercial community ownership entity" owning the land and a "community-serving small business or nonprofit" to the list of contracts that an assessor must consider when assessing the value of a property. A contract eligible for this bill's consideration must subject the commercial unit being leased to affordability restrictions, and must require that at least 70% of the square footage of the commercial unit is leased to a "community-serving small business or nonprofit," excluding areas occupied by the commercial community ownership entity. The contract must be recorded and provided to the county assessor.
- 2) Defines the following phrases and terms:
 - a) "Affordability restrictions" means terms that require the commercial unit to be leased at a rent that is less than the fair market value for a similar property and that have been found to serve the public interest to create and preserve the affordability of commercial units for "community-serving small businesses and nonprofits" by the county counsel, the city attorney, or the director of the county or city economic development department, or an equivalent agency;
 - b) A "commercial community ownership entity" means an entity that is a nonprofit corporation exempt from federal income tax pursuant to of the Internal Revenue Code (IRC) Section 501(c)(3), a limited partnership in which the managing general partner is a nonprofit corporation exempt from federal income tax pursuant to IRC Section 501(c)(3), or a limited liability company wholly owned by a nonprofit corporation exempt from federal income tax pursuant to IRC Section 501(c)(3). A commercial community ownership entity must also have as one of its primary purposes the creation and maintenance of commercial property for low-income entrepreneurs, small businesses, or nonprofits, or have received a welfare exemption pursuant to Revenue and Taxation Code (R&TC) Section 214 for providing housing to low-income households and is leasing commercial units on the same property; and,

- c) A "community-serving small business or nonprofit" means a microenterprise, as defined in existing law, a restaurant with fewer than 10 employees, or a nonprofit organization with fewer than 20 employees.
- 3) Finds and declares, for the purposes of complying with R&TC Section 41, that the goal, purpose, and objective of this bill is to support the availability of commercial property for community-based businesses, the efficacy of which may be measured by the Legislature by examining the amount of additional assessed value exempted, and the number and type of taxpayers granted this exemption. The State Board of Equalization (BOE) must annually collect this information, to the extent available, from county assessors and annually report this information to the Legislature on or before June 1, 2027.
- 4) Requires the state to reimburse local agencies and school districts for any costs mandated by this bill, if the Commission on State Mandates determines that this bill contains costs mandated by the state.
- 5) Provides that this bill makes no appropriation, and that the state shall not reimburse any local agency for any property tax revenues lost pursuant to this bill.
- 6) Takes immediate effect as a tax levy.

EXISTING LAW:

- 1) Provides that all property is taxable unless otherwise provided by the California Constitution or the laws of the United States. (California Constitution, Article XIII, Section 1.)
- 2) Limits the maximum amount of *ad valorem* property taxation to 1% of the full cash value of the property. Generally, the Constitution restricts the full cash value of a property to the assessed value upon a change of ownership in, or new construction on, the property. This is referred to as the base year value, which may be adjusted upwards for inflation at no more than 2% annually. (California Constitution, Article XIII, Section 1 and 2.)
- 3) Authorizes the Legislature to partially or fully exempt property used for certain purposes, including charitable purposes, owned by a nonprofit organization organized and operated for those certain purposes if no part of the organization's earnings inure to the benefit of any private shareholder or individual. (California Constitution, Article XIII, Section 4.) Properties with buildings under construction, land required for convenient use of the buildings, and equipment in the buildings qualify for the exemption. (California Constitution, Article XIII, Section 5.) Existing statute implements this authorization by requiring that eligible property is irrevocably dedicated, and used, for the exempt purpose, and that property is used in an amount reasonably necessary to accomplish the exempt purpose. This exemption is commonly referred to as the "welfare exemption." (R&TC Section 214(a).)
- 4) Provides that property owned by a qualifying non-profit organization that is used exclusively for rental housing and related facilities is a charitable purpose eligible for the welfare exemption, as restricted. Property owners must certify that there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the property's usage and must rent units to households with low-income, defined as 80% or less of the area median income (AMI), at amounts that generally

do not exceed 30% of the household's income. Additionally, property owners must certify that funds that would have been used to pay property taxes are used to maintain unit affordability or reduce rents to lower-income households. (R&TC Section 214(g).)

- 5) Requires an assessor to consider the impact to the value of a property when that property is subject to certain enforceable restrictions, including an affordability contract based on the community land trust (CLT) model. (R&TC section 402.1.)

FISCAL EFFECT: A revenue estimate by the State Board of Equalization is pending, but Committee Staff notes that this bill likely results in a revenue loss in excess of this Committee's Suspense File threshold.

COMMENTS:

- 1) The author has submitted the following statement in support of this bill:

California's small businesses and nonprofit organizations are essential to the economic and cultural fabric of our communities. However, gentrification and displacement—intensified by the economic impacts of COVID-19—have forced many community-serving businesses and nonprofits to close permanently. This crisis disproportionately affects businesses owned and operated by people of color, women, and immigrants.

AB 613, the CORE Act, tackles this issue by ensuring that nonprofit-owned commercial properties leasing space at below-market rates benefit from reduced assessed property values. This bill will lower costs for mission-driven property owners and expand access to stable, affordable spaces for small businesses and nonprofits.

By reducing the tax burden on nonprofit-owned commercial properties, AB 613 will incentivize community-driven real estate ownership, promote long-term stability, and prevent displacement. It is a critical step in fostering equitable economic development, strengthening community wealth-building, and preserving the small businesses and nonprofits that serve California's diverse communities.

- 2) TMC Community Capital, writing in support of this bill, states in part:

California's small businesses are increasingly at risk of displacement due to escalating rents and rising property values, particularly in gentrifying neighborhoods. In response, mission-driven organizations like mine are trying to take proactive steps to counteract this trend by acquiring commercial properties and offering below-market leases to local businesses and nonprofits, ensuring they can remain in the community. AB 613 will help expand these efforts by providing targeted tax incentives for mission-driven organizations focused on community-oriented commercial ownership models, helping to preserve affordable spaces for local businesses and fostering long-term economic resilience within California's communities.

- 3) Committee Staff Comments:

- a) *California property tax law:* Existing property tax law already provides a mechanism to prevent significant increases to property tax bills when the value of a property rises. This mechanism establishes a base year value, the assessed value upon acquisition or transfer

of a property, and uses that base year value, plus an inflation adjustment factor, to establish the assessed value for property taxation purposes. Additionally, the Constitution limits the tax rate to 1% on any property. This mechanism was established by Proposition 13 in 1978.

- b) *Property taxes and school districts*: Property taxes provide funding for local governments and agencies, school districts, and community colleges. Approximately 40% of all property tax revenue is directed to school districts and community colleges, while about 60% is directed to other local agencies.
- c) *The welfare exemption*: To qualify for the welfare exemption, a non-profit organization must be organized and operated for certain purposes, including charitable purposes, and the property must be used exclusively for those purposes. The R&TC does not provide a definition for the term "used exclusively," and property tax administrators have taken a narrow view of the exemption. The California Supreme Court has interpreted the term more broadly, holding that the term includes property used for any activity that is incidental to, and reasonably necessary for, the accomplishment of the exempt purpose¹. The R&TC does, however, limit the use of the property to the welfare exempt purpose, and prohibits any profit from inuring to the benefit of any owner or operator through the distribution of profits, or similar dividends².
- d) *Low-income rental housing is considered a charitable purpose*: Under existing law, renting units to low-income households is considered a charitable purpose. To qualify, the unit must be offered at rents that are restricted based on the tenant's income so as to ensure the tenant is not overly burdened by the cost of rent. Thus, it is this act of providing low-income rental housing itself that constitutes a charitable activity and qualifies as a community benefit that must be demonstrated by the nonprofit for the given property to be eligible for the welfare exemption.
- e) *Requirements of assessors*: An assessor must consider the impact to the value of a property when that property is subject to certain enforceable restrictions, such as zoning, easements, environmental restrictions, and recorded contracts with governmental agencies. Generally, however, private parties cannot reduce the taxable value of their property by imposing private restrictions on that property. An assessor may only consider enforceable government restrictions stipulated in statute³.
- f) *CLT model*: A CLT is a type of affordable housing model that differs from the traditional low-income rental welfare exemption. Under the typical exemption, an eligible nonprofit owning the property and leasing residential units to qualifying households is eligible for a property tax exemption equal to the percentage of qualifying units. In other words, if one-third of the units on the property are leased in an eligible manner, the nonprofit owner is exempt from property taxation on one-third of the property's value. In a CLT, however, the eligible trust retains ownership of the underlying land, while the household "purchases" the improvements and fixtures from the CLT. When the household chooses to move from the property, they sell the improvements and fixtures back to the CLT,

¹ *Cedars of Lebanon Hospital v. County of Los Angeles* (1950) 35 Cal.2d 729 [221 P.2d 31].

² R&TC Section 214.

³ Assessors Handbook Section 502, *Advanced Appraisal*, BOE, December 1998, reprinted January 2015, page 6.

thereby retaining the value of the equity built in those improvements and fixtures. The CLT, in turn, then finds another household to repeat this process. In this transitory period, the CLT is technically not using the property for the exempt purpose of providing low-income rental housing, and would arguably make the CLT's retention of the property without the property being leased ineligible for the welfare exemption. The Legislature acted to ensure this inconsistency did not penalize CLTs that would otherwise be eligible for the low-income rental welfare exemption by requiring assessors to consider the value of contracts that restrict the land for the purposes of the CLT model. Through the CLT model, low-income households may build wealth, while the underlying affordability of the property is maintained. Ultimately, though, this consideration was in the furtherance of a generally exempt purpose, specifically, the furnishing of affordable housing to low-income households at affordable prices consistent with the existing low-income rental welfare exemption.

- g) *Property tax exemptions for eligible entities leasing property:* As noted above, qualifying nonprofits are entitled to certain property tax exemptions based on the primary purpose of the nonprofit, and qualifying use of the property. To qualify, however, the nonprofit must own the property. If a qualifying nonprofit otherwise using a property in an exempt-eligible manner is leasing that property from a non-qualifying owner, the qualifying nonprofit cannot qualify for a property tax exemption. Similarly, a qualifying nonprofit leasing a property, or portion thereof, to a non-qualifying entity is not eligible for the welfare exemption on that portion of the property that is leased to the non-qualifying entity⁴.
- h) *This bill:* As currently drafted, this bill would require an assessor to consider the impact to a property's assessed value if that property is owned by a 501(c)(3) nonprofit organization and is leased to a nonprofit with 20 or fewer employees, a restaurant with fewer than 10 employees, or a microenterprise, as defined. The terms of the lease must provide that the property be rented to those eligible entities at below fair market value, when compared to similar property, in order to qualify for consideration by the assessor. The lease must have been found by certain local officials to serve the public interest. Thus, this bill poses the following two questions: should the Legislature provide a mechanism to extend property tax exemptions to otherwise eligible entities that are leasing the property from another, eligible nonprofit; and, should the Legislature authorize the subsidization of certain microenterprises and restaurants through the property tax system?
- i) *Never break the chain:* As noted above, nonprofit entities that are otherwise eligible for the welfare exemption may not apply that exemption if the organization does not outright own the property for which they are seeking exemption. In turn, nonprofit organizations leasing the property they use for their exempt purpose have no mechanism by which they can realize the tax benefit otherwise available. This bill would, thereby, provide a mechanism for certain nonprofits leasing commercial space at below market rates to other specified entities to still maintain a property tax benefit.

⁴ Assessors Handbook Section 267, *Welfare, Church, and Religious Exemptions*, BOE, October 2004, reprinted January 2015, page 14.

- j) *A link too far?* As previously stated, an otherwise exempt nonprofit organization leasing their property to a nonexempt tenant is not eligible for the welfare exemption on that property. The California Constitution and existing statute require that welfare exempt property must be owned and operated by an exempt nonprofit. While the owning and operating entity do not need to be one in the same, they must still be generally eligible under the welfare exemption. Thus, the operation of the property in an ineligible manner, namely, the operation of the property for a profit-making endeavor, nulls the welfare exemption. The Committee may wish to consider whether authorizing local governments to subsidize for-profit entities through the property tax system is an appropriate precedent.
- k) *Anchors aweigh:* The CLT model was included on the list of enforceable restrictions an assessor must consider when valuing property because the CLT's use of the property in the transitory period when turning over the property between households would have been an ineligible use. The Legislature, however, found that the CLT's transitory use of these types of property qualified for its generally exempt purpose of providing affordable rental housing. This legislative authorization was in furtherance of an already exempt purpose. While the low-income rental welfare exemption is also not explicitly authorized in the Constitution, its purpose is considered exempt because of the charitable nature of providing below market rate housing to low-income households. One might question whether the lease of commercial space to a private businesses entity constitutionally qualifies as charitable. The Committee may wish to consider whether requiring assessors to consider certain enforceable restrictions' effects on value for a non-exempt purpose is appropriate.
- l) *Committee's tax expenditure policy:* SB 1335 (Leno), Chapter 845, Statutes of 2014, added R&TC Section 41, which recognized that the Legislature should apply the same level of review used for government spending programs to tax credits introduced on or after January 1, 2015. AB 263 (Burke), Chapter 743, Statutes of 2019, extended the requirements in R&TC Section 41 to all tax expenditure measures under the Personal Income Tax Law, the Corporation Tax Law, and the Sales and Use Tax Law introduced on or after January 1, 2020. While existing statute does not require that property tax expenditures be subject to the same treatment, this Committee's policy requires application of R&TC Section 41 to property tax expenditures. A tax expenditure proposal must outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote⁵. Sunsets are required because eliminating a tax expenditure generally requires a 2/3 vote. These requirements must be satisfied before a bill can receive a vote in this Committee. This bill complies with the requirements of R&TC Section 41, but does not contain an appropriate five-year sunset.

⁵ An "appropriate sunset provision" shall mean five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" shall mean 10 years.

- m) *Previous legislation:* AB 2818 (Chiu), Chapter 701, Statutes of 2016, added the CLT model to the type of enforceable restrictions that an assessor must consider when valuing a property.

REGISTERED SUPPORT / OPPOSITION:**Support**

CAMEO Network
Century Housing Corporation
Community Vision Capital and Consulting
Genesis LA
LISC Bay Area
Little Tokyo Service Center
National Coalition for Asian Pacific Community Development, The
Our Neighborhoods Capital Fund
TMC Community Capital
Tonalli Studio

Opposition

None on file

Analysis Prepared by: Harrison Bowlby / REV. & TAX. / (916) 319-2098