

[Assembly Bill 115](#) (Committee on Budget)

Program: Property Tax

Sponsor: Author

Government Code Section 54238.8

Effective: Upon enactment.

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This analysis is limited to Government Code 54238.8.

Summary: Requires California Department of Transportation (Caltrans)-owned homes in Los Angeles County sold under the State Route 710 Affordable Sales Program to specified buyers to be assessed at the sales price paid.

Purpose: To authorize the assessor to use the sales price to value these homes and make the home more affordable for existing tenants.

Fiscal Impact Summary: Indeterminable.

Existing Law: Purchase price presumption. Existing law requires the assessor to assess property at its fair market value when sold (i.e., a "change in ownership"). The law provides a rebuttable presumption that the purchase price paid in the transaction is the property's "fair market value" if the sale was an open market transaction, as specified.¹

Enforceable restrictions. When determining fair market value, the law requires the assessor to factor in the negative impact of government-imposed use restrictions and resale restrictions that limit equity.² Additionally, the law bars the assessor from using the comparable sales of other properties to determine market value unless those properties are subject to similar limitations.³

Roberti Act.⁴ Existing law and regulations require Caltrans to sell certain surplus residential property related to the State Route (SR) 710 corridor. Under the law, Caltrans must offer these properties for sale to potential buyers in a [prioritized order](#) at a [specified price](#) that depends on the buyer.

Relevant to this bill, income-qualified residents who live in SR 710 homes can buy the home at a specified "affordable price." Public or private affordable housing-related entities that will use these properties for affordable housing can buy at a specified "reasonable price." Housing sold at these prices is subject to use and resale restrictions imposed by Caltrans.

The selling price for these properties will vary as follows:

- **Affordable price buyers.** An affordable price means the maximum price at which the housing cost paid by the buyer does not exceed affordable costs for that buyer. Low or moderate income⁵ tenant-occupants who have lived in the home for 2 or more years qualify. Income limits are raised to no more than 150% of area median income for tenants who lived in the home for 5 or more years. For lower income buyers, the price shall not exceed a monthly payment price in accordance with Section 8 of the US Housing Act of 1937.
- **Reasonable price buyers.** A reasonable price means the price that is best suited to the economically feasible use of the property as decent, safe, and sanitary housing at affordable rents and affordable prices. Affordable housing entities that will make the housing affordable to present tenants and households of low or moderate income qualify. If feasible, the entity

¹ Revenue and Taxation Code (RTC) §110(b).

² RTC [Section 110\(a\)](#) and RTC §402.1(a).

³ RTC § 402.5.

⁴ Gov. Code, §§ [54235 - 54238.7](#) [Surplus Residential Property, known as the "Roberti Act"]; Cal. Code Regs., tit. 21, §§ [1475-1491](#) [Affordable Sales Program].

⁵ As defined in Health and Safety Code §50093.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

must first rehabilitate and develop the property as limited-equity cooperative housing offered for sale to existing tenants. Otherwise, the entity must use the property for low and moderate rental or owner-occupied housing.

- **Fair market value: Other priority buyers:** A licensed appraiser will determine fair market value in accordance with the Uniform Standards of Professional Appraisal Practice. Caltrans will review and approve the appraiser's value determination. Current tenants who once owned the property, current income-qualified tenants who prefer to buy without any use or resale restrictions, current non-income qualified tenants, and former tenants qualify.
- **Auction price: Non-priority buyers.** Properties not purchased by persons or entities given priority-purchase rights would be offered at auction.

The Legislature has issued findings and declarations that selling these properties serve an important public purpose to preserve, upgrade, and expand the housing supply available to persons and families of low and moderate income.

Proposed Law: This bill requires the assessor to use the purchase price paid to establish a property's new base year value after a change in ownership of any surplus residential property sold at an "affordable price" or "reasonable price" pursuant to the Roberti Act and related regulations. These provisions only apply to surplus residential properties for State Route 710 in Los Angeles County.

This bill is effective immediately.

In General: Fair Market Value of Enforceably Restricted Property. Existing law requires the assessor to reassess property to its fair market value when sold (i.e., "change in ownership"). The law provides that the property's "purchase price" is rebuttably presumed to be its "fair market value."⁶ It also provides that "purchase price" means the total consideration provided by the purchaser or on the purchaser's behalf, valued in money, whether paid in money or otherwise.

After determining the purchase price paid, the law requires the assessor to consider the effect of any government-imposed restrictions and certain restrictions imposed by non-profit organizations. Specifically, the assessor exercises his or her judgment under RTC Section 402.1 to determine whether the property's value is equal to, or more or less than, the purchase price as a result of enforceable restrictions.

Non-profit Imposed Restrictions. In the case of non-profit-organization imposed restrictions, the law limits the assessor's ability to factor in its value impact. The law allows the assessor to consider these restrictions on:

- Homes on land with a 30-year use restriction as owner-occupied housing available at affordable cost that are sold at cost to low income families by qualifying nonprofit organizations⁷ with no-interest financing when part of the mortgage is forgivable (i.e., "silent seconds").⁸
- Homes sold to low and moderate income buyers sited on leased land from a non-profit Community Land Trust with resale price restrictions that limit equity.⁹

Background. The Senate Transportation and Housing Committee's legislative analysis of this bill explains the history of SR-710 properties:

For decades, Caltrans has proposed extending SR 710 to close a roughly 4.5 mile unconstructed gap in the freeway between SR 10 in Los Angeles and SR 710 in Pasadena. This

⁶ RTC §110(b).

⁷ RTC [§214.15](#). Added in 1999 by AB 1559.

⁸ RTC §402.1(a)(10). Added in 2015. Health and Safety Code (HSC) [§50052.5](#) defines "affordable housing cost."

⁹ RTC §402.1(a)(11). Added in 2016.

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gap affects the cities of Alhambra, Pasadena, South Pasadena, and a portion of Los Angeles. The project has been in the planning stage since 1953 for a variety of reasons related to the federal environmental review process. Caltrans currently owns over 460 homes within the original surface route corridor, 97 of which are declared to be of federal or state historical significance. More than 400 homes are occupied by tenants for whom Caltrans serves as landlord.

Commentary:

1. **Effect of bill.** This bill allows the assessor to set the value of these specified properties at purchase price if sold at the statutorily required "affordable" or "reasonable" price. This bill relieves the assessor of the requirement to undertake an analysis of a nominal sales price paid that appears below market value. Such analysis requires exercising independent appraisal judgment to estimate the property's market value, taking into consideration use and resale restrictions that limit equity. This value is compared to the nominal sales price paid, and the assessor must decide whether to accept, reject, or modify the nominal sales price. This task is further complicated because the law generally requires the assessor to disregard other homes sold in the area that are not similarly restricted when using the comparable sales approach to value.
2. **Affordability and Certainty.** The author states many of the SR 710 homes and properties always were intended to be sold to existing tenants at an affordable price. This bill furthers that purpose by ensuring that the associated property taxes are affordable as well as allowing the assessor to expeditiously handle these home sales. Property tax certainty allows prospective homebuyers to more accurately budget the property tax obligations they will incur when evaluating the cost of homeownership.
3. **These homes have use and resale restrictions that limit equity.** Caltrans has adopted detailed [Regulations 1475 through 1491](#) of Title 21 of the California Code of Regulations. These government imposed restrictions will be recorded against the property.
4. **For-sale affordable housing administrative challenges.** In recent years, administering the property tax on below-market home sales made available through government and non-profit affordable housing programs has become increasingly complex. As explained previously, existing law is not designed to efficiently address the assessment of these homes. Strategies to create affordable housing stock for sale to households of low and moderate income continuously evolve, resulting in new fact patterns. Consequently, the assessor must expend limited resources to delve into the contractual enforceable restrictions of each program on a case-by-case basis.
5. **Purchase-price based assessments.** Affordable housing proponents generally advocate for purchase-price based property tax assessments to improve affordability and provide tax certainty. However, the overarching legal requirement to assess property at fair market value after a change in ownership constrains the assessor's ability to assess these properties at the below-market purchase price without further analysis. Purchase price based assessments are administratively expedient, but layers of law complicate assessment.
6. **Legislative and BOE response.** In the last two years, legislation¹⁰ has been enacted to allow assessors to consider the negative value impact of certain non-profit imposed enforceable restrictions when setting assessed value. Additionally, the BOE issued a [legal opinion](#) outlining an assessment approach for homes purchased with silent second mortgages through government-related programs. Due to its complexity, for-sale affordable housing property tax assessments will likely continue to pose practical administrative challenges prompting further legislation.

¹⁰ In 2016, AB 2818 and in 2015, AB 668.

7. **Prior BOE related Roberti Act Guidance.** In 1981, the BOE issued [Letter to Assessors 81/74](#) related to the Roberti Act. The BOE reviewed the *Right to Purchase Agreement Between Caltrans and Buyer* under consideration at that time and concluded that these properties should be assessed at purchase price.
8. **Related Legislation.** This provision is identical to [SB 275](#) (Portantino).

Costs: The BOE will not incur any costs related to this bill.

Revenue Impact: This bill's revenue impact depends on (1) the number of properties ultimately purchased by a person or entity qualified to buy at the "affordable" or "reasonable" price and (2) the differential, if any, between the statutorily required price and the assessor determined fair market value after considering the use and resale restrictions and the limited applicability of market comparable sales in this case.

There are 460 properties (330 single family homes and 103 multifamily homes) related to the SR-710 project. In the first phase, 42 homes are being offered for sale (39 single family residences and 3 multifamily residences). First phase homes are in the initial offering stage and none have been sold. It is not known how many tenants will opt to purchase their rental home.

Since it is not known how many properties will be ultimately purchased by a qualified buyer at below market prices pursuant to the Affordable Sales Program, nor if the assessor would assess these properties at other than the purchase price paid, the revenue impact is indeterminable.