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No. 2020/013

February 21, 2020

TO COUNTY ASSESSORS:

### **PROPERTY OWNED BY A COMMUNITY LAND TRUST**

Effective January 1, 2020, Senate Bill (SB) 196 (Stats. 2019, ch. 669) adds Revenue and Taxation Code<sup>1</sup>section 214.18, and amends sections 75.11, 402.1, and 532 relating to property owned by a community land trust (CLT). Specifically, SB 196 adds section 214.18 and amends sections 75.11 and 532, relating to the welfare exemption for property owned by a CLT. In addition, SB 196 amends section 402.1 regarding the assessment of property owned by a CLT.

#### **Welfare Exemption**

Effective as of lien date January 1, 2020, SB 196 provides that property owned by a CLT qualifies for the welfare exemption if all of the following conditions are met:

- The property is being or will be developed or rehabilitated as an owner-occupied single-family dwelling, an owner-occupied unit in a multifamily dwelling, a member-occupied unit in a limited equity housing cooperative, or a rental housing development;
- Improvements are or will be available for use and ownership by qualified persons; and
- A deed restriction or other instrument serving as an enforceable restriction on the sale or resale value of owner-occupied units or the affordability of rental units is recorded.<sup>2</sup>

SB 196 requires the State Board of Equalization to annually collect data from County Assessors to quantify the amount of assessed value exempted and the number of owner-occupied dwelling units or rental units, or both, created by CLTs granted this exemption. SB 196 also requires CLTs to provide information to County Assessors about the additional housing created.

#### **Enforceable Deed Restrictions on Use under Section 402.1**

SB 196 amends section 402.1(a)(11) to create a rebuttable presumption that the sale or resale price of the dwelling or unit includes both the dwelling or unit and the land leased from a CLT on which

<sup>1</sup> All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

<sup>2</sup> Section 214.18(a)(1) through (3).

the dwelling or unit is situated.<sup>3</sup> This presumption may be overcome if the Assessor has evidence which indicates that all or a portion of the value of the leased land is not reflected in the sale or resale price of the dwelling or unit.

These provisions are retroactive back to the lien date following September 27, 2016 (January 1, 2017 lien date), which is the date that section 402.1 was amended to require the assessor to consider recorded restrictions imposed by a community land trust that negatively impact property value.<sup>4</sup> SB 196 provides that any corrections of base year values or declines in value resulting from the application of this rebuttable presumption apply to all lien dates occurring after September 27, 2016.

Enclosed are copies of amended sections 75.11, 402.1, and 532, and new section 214.18, with the changes in strikeout/italics format. If you have any questions regarding the provisions of SB 196, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung  
Deputy Director  
Property Tax Department

DY:gs  
Enclosure

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<sup>3</sup> Section 402.1(a)(11)(B).

<sup>4</sup> Section 402.1(a)(11)(B)(ii).

**Section 75.11(d) of the Revenue and Taxation Code is amended to read:**

(d) No supplemental assessment authorized by this section shall be valid, or have any force or effect, unless it is placed on the supplemental roll on or before the applicable date specified in paragraph (1), (2), ~~or (3)~~, or (4), as follows:

(1) The fourth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred.

(2) The eighth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred, if the penalty provided for in Section 504 is added to the assessment.

(3) The eighth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred, if the change in ownership was unrecorded and a change in ownership statement required by Section 480 or preliminary change in ownership report, as required by Section 480.3, was not timely filed.

*(4) Notwithstanding any other law, in the case where property that is owned by a community land trust and was previously exempt pursuant to Section 214.18 becomes subject to taxation pursuant to subdivision (d) of that section, any assessment made in the amount of an exemption, or that portion of the exemption, previously allowed pursuant to Section 214.18 shall be made within five years of the lien date following the date on which the property becomes subject to taxation.*

(5) Notwithstanding paragraphs (1), (2), ~~and (3)~~, and (4), there shall be no limitation period on making a supplemental assessment, if the penalty provided for in Section 503 is added to the assessment.

For the purposes of this subdivision, "assessment year" means the period beginning annually as of 12:01 a.m. on the first day of January and ending immediately prior to the succeeding first day of January.

**Section 214.18 is added to the Revenue and Taxation Code:**

*(a) Property is within the exemption provided by Sections 4 and 5 of Article XIII of the California Constitution if the property is owned by a community land trust, otherwise qualifying for exemption under Section 214, and all of the following conditions are met:*

*(1) The property is being or will be developed or rehabilitated as any of the following:*

*(A) An owner-occupied single-family dwelling.*

*(B) As an owner-occupied unit in a multifamily dwelling.*

*(C) As a member-occupied unit in a limited equity housing cooperative.*

*(D) As a rental housing development.*

*(2) Improvements on the property are or will be available for use and ownership or for rent by qualified persons.*

*(3) (A) A deed restriction or other instrument, requiring a contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units or on the affordability of rental units is recorded on or before the lien date following the acquisition of the property by the community land trust.*

*(B) For purposes of this section, "a contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units or on the affordability of rental units" means a contract described in paragraph (11) of subdivision (a) of Section 402.1.*

*(C) A copy of the deed restriction or other instrument shall be provided to the assessor.*

*(b) (1) Subject to subdivision (d), the exemption provided by subdivision (a) shall not be denied to a property on the basis that the property does not currently contain a single-family dwelling, a unit in a multifamily dwelling, a unit in a limited equity housing cooperative, or a rental housing development that is in the course of construction.*

*(2) Once property that is a rental housing development is in the course of construction, the property shall be deemed to qualify for the exemption provided under Section 214 and on subsequent lien dates the property shall qualify for exemption pursuant to Section 214.*

*(c) For purposes of this section, all of the following definitions shall apply:*

*(1) "Community land trust" has the same meaning as that term is defined in clause (ii) of subparagraph (B) paragraph (11) of subdivision (a) of Section 402.1.*

*(2) "Course of construction" has the same meaning as the term "facilities in the course of construction," as used and defined in Sections 214.1 and 214.2.*

*(3) "Limited equity housing cooperative" has the same meaning as that term is defined in Section 817 of the Civil Code.*

*(4) "Persons and families of low income" has the same meaning as the term "lower income households," as defined in Section 50079.5 of the Health and Safety Code.*

*(5) "Persons and families of low or moderate income" has the same meaning as that term is defined in Section 50093 of the Health and Safety Code.*

*(6) "Qualified persons" means the following:*

*(A) In the case of property developed for owner-occupied housing, as described in subparagraphs (A), (B), and (C) of paragraph (1) of subdivision (a), persons and families of low or moderate income, including persons and families of low or moderate income that own a dwelling or unit collectively as member occupants or resident shareholders of a limited equity housing cooperative.*

*(B) In the case of property developed for rental housing, as described in subparagraph (D) of paragraph (1) of subdivision (a), persons and families of low income.*

*(7) "Rental housing development" means a rental housing development in which all of the residential units in the development, other than units provided to property managers, are required to be rented to, and occupied by, persons and families of low or moderate income, at rents that do not exceed an affordable rent as described in Section 50053 of the Health and Safety Code.*

*(d) (1) Notwithstanding any other law, the community land trust shall be liable for property tax for the years for which the property was exempt from taxation pursuant to this section if the property was not developed or rehabilitated, or if the development or rehabilitation is not in the course of construction, in accordance with paragraph (1) of subdivision (a) as follows:*

*(A) In the case of property acquired by the community land trust before January 1, 2020, by January 1, 2025.*

*(B) In the case of property acquired by the community land trust on and after January 1, 2020, and before January 1, 2025, within five years of the lien date following the acquisition of the property by the community land trust.*

*(2) The community land trust shall notify the assessor of the county in which the property is located if property owned by the community land trust granted an exemption pursuant to this section is not in the course of construction by the dates specified in paragraph (1).*

*(e) Property shall be eligible for exemption pursuant to this section as follows:*

*(1) In the case of property acquired by the community land trust before January 1, 2020, for lien dates occurring on and after January 1, 2020, and before January 1, 2025.*

*(2) (A) In the case of property acquired by the community land trust on and after January 1, 2020, and before January 1, 2025, for the first five lien dates following the acquisition of the property by the community land trust.*

*(B) Property shall be eligible for exemption for the lien dates specified in subparagraph (A) regardless of the repeal of this section.*

*(f) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.*

**Section 402.1(a)(11) of the Revenue and Taxation Code is amended to read:**

(a) In the assessment of land, the assessor shall consider the effect upon value of any enforceable restrictions to which the use of the land may be subjected. These restrictions shall include, but are not limited to, all of the following:

(11) (A) A contract where the following apply:

(i) The contract is a renewable 99-year ground lease between a community land trust and the qualified owner of an owner-occupied single-family dwelling or an owner-occupied unit in a multifamily dwelling.

(ii) The contract subjects a single-family dwelling or unit in a multifamily dwelling, and the land on which the dwelling or unit is situated that is leased to the qualified owner by a community land trust for the convenient occupation and use of that dwelling or unit, to affordability restrictions.

(iii) One of the following public agencies or officials has made a finding 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:

(I) The director of the local housing authority or equivalent agency.

(II) The county counsel.

(III) The director of a county housing department.

(IV) The city attorney.

(V) The director of a city housing department.

(VI) The contract is recorded and is provided to the assessor.

*(B) (i) For purposes of this paragraph, the sale or resale price of the dwelling or unit is rebuttably presumed to include both the dwelling or unit and the leased land on which the dwelling or unit is situated. This presumption may be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of the leased land is not reflected in the sale or resale price of the dwelling or unit.*

*(ii) Notwithstanding any other law, corrections of base year values and declines in value owing to the restrictions on properties assessed under this subparagraph shall apply to all lien dates occurring after September 27, 2016.*

~~(B)~~(C) For purposes of this paragraph, all of the following definitions shall apply:

(i) "Affordability restrictions" mean that all of the following conditions are met:

- (I) The dwelling or unit can only be sold or resold to a qualified owner to be occupied as a principal place of residence.
- (II) The sale or resale price of the dwelling or unit is determined by a formula that ensures the dwelling or unit has a purchase price that is affordable to qualified owners.
- (III) There is a purchase option for the dwelling or unit in favor of a community land trust intended to preserve the dwelling or unit as affordable to qualified owners.
- (IV) The dwelling or unit is to remain affordable to qualified owners by a renewable 99-year ground lease.

(ii) "Community land trust" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that satisfies all of the following:

- (I) Has as its primary purposes the creation and maintenance of permanently affordable single-family or multifamily residences.
- (II) All dwellings and units located on the land owned by the nonprofit corporation are sold to a qualified owner to be occupied as the qualified owner's primary residence or rented to persons and families of low or moderate income.
- (III) The land owned by the nonprofit corporation, on which a dwelling or unit sold to a qualified owner is situated, is leased by the nonprofit corporation to the qualified owner for the convenient occupation and use of that dwelling or unit for a renewable term of 99 years.

(iii) "Limited equity housing cooperative" has the same meaning as that term is defined in Section 817 of the Civil Code.

(iv) "Persons and families of low or moderate income" has the same meaning as that term is defined in Section 50093 of the Health and Safety Code.

(v) "Qualified owner" means persons and families of low or moderate income, including persons and families of low or moderate income that own a dwelling or unit collectively as member occupants or resident shareholders of a limited equity housing cooperative.

**Section 532 of the Revenue and Taxation Code is amended to read:**

(a) Except as provided in subdivision (b), any assessment made pursuant to either Article 3 (commencing with Section 501) or this article shall be made within four years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(b) (1) Any assessment to which the penalty provided for in Section 504 must be added shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed.

(2) Any assessment resulting from an unrecorded change in ownership for which either a change in ownership statement, as required by Section 480 or a preliminary change in ownership report, as required by Section 480.3, is not timely filed with respect to the event giving rise to the escape assessment or underassessment shall be made within eight years after July 1 of the assessment year in which the property escaped taxation or was underassessed. For purposes of this paragraph, an "unrecorded change in ownership" means a deed or other document evidencing a change in ownership that was not filed with the county recorder's office at the time the event took place.

(3) Notwithstanding paragraphs (1) and (2), in the case where property has escaped taxation, in whole or in part, or has been underassessed, following a change in ownership or change in control and either the penalty provided for in Section 503 must be added or a change in ownership statement, as required by Section 480.1 or 480.2 was not filed with respect to the event giving rise to the escape assessment or underassessment, an escape assessment shall be made for each year in which the property escaped taxation or was underassessed.

*(4) Notwithstanding any other law, in the case where property that is owned by a community land trust and was previously exempt pursuant to Section 214.18 becomes subject to taxation pursuant to subdivision (d) of that section, any assessment made in the amount of an exemption, or that portion of the exemption, previously allowed pursuant to Section 214.18 shall be made within five years of the lien date following the date on which the property becomes subject to taxation.*

(c) For purposes of this section, "assessment year" means the period defined in Section 118.