

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1743 (Bloom) – As Introduced February 22, 2019

SUBJECT: Local government: community facilities districts: special taxes: exemption.

SUMMARY: Exempts specified affordable housing properties receiving a welfare exemption from a special tax imposed by a Mello-Roos community facilities district (CFD) if the tax is imposed on or after January 1, 2020.

EXISTING LAW:

- 1) Authorizes, under the Mello-Roos Community Facilities Act of 1982, a local agency to establish a CFD to finance public facilities and certain public services through the imposition of special taxes and the issuance of bonds.
- 2) Authorizes a CFD to finance the purchase, construction, expansion, improvement, or rehabilitation of certain facilities, including, among others, child care facilities, undergrounding of water transmission and distribution facilities, and the cleanup of hazardous materials.
- 3) Specifies the requirements for the establishment of a CFD, including, among other things, a petition, a hearing, establishment of the boundaries of the CFD, and an election on the question of establishment.
- 4) Specifies that properties or entities of the state, federal, or local governments shall be exempt, unless otherwise specified, from the special tax. No other properties or entities are exempt from the special tax, unless the properties or entities are expressly exempted in the resolution of formation to establish a district or in a resolution to impose a new tax.

FISCAL EFFECT: None

COMMENTS:

- 1) **Mello-Roos.** The Mello-Roos Community Facilities Act allows counties, cities, special districts, and school districts to levy special taxes (parcel taxes) to finance a wide variety of public works, including parks, recreation centers, schools, libraries, child care facilities, and utility infrastructure. A Mello-Roos CFD issues bonds against these special taxes to finance the public works projects.

Mello-Roos is an important feature of the local fiscal landscape, providing local officials with a key tool for accumulating the public capital needed to pay for the public works projects that make new residential development possible. In addition to financing public works, such as park, school, and library facilities, CFDs can pay for improvements on privately owned buildings or real property. For example, CFDs may pay for work deemed necessary to bring buildings or real property, whether privately or publicly owned, into compliance with seismic safety standard and regulations.

To initiate the formation of a CFD, a local agency's legislative body must adopt a resolution of intention to establish the district, which must do all of the following: describe the district's boundaries; describe the facilities and services proposed to be financed; state that a special tax, secured by a lien against real property, will be annually levied; specify, in detail, the rate, method of apportionment, and manner of collections of the special tax; and, fix a time and place for public hearing. After holding the hearing and considering protests, the legislative body, to establish the CFD, must adopt a resolution of formation containing all of the information provided in the resolution of intention; and, if a special tax is to be levied, include additional information about the tax levy.

- 2) **Welfare Exemption.** The California Constitution provides that all property is taxable, unless explicitly exempted by the Constitution or federal law, but also allows the Legislature to exempt property used for charitable purposes, and owned by nonprofit entities organized and operated for charitable purposes, such as universities, hospitals, and libraries. The Legislature enacted an exemption, commonly known as the “welfare exemption.”

The welfare exemption includes property used exclusively for rental housing, if:

- a) Tax-exempt mortgage revenue bonds; general obligation bonds; federal, state, or local grants; or federal low-income housing tax credits finance the housing;
 - b) The property is restricted for low-income housing, and rents do not exceed those prescribed in deed restrictions; and,
 - c) The property owner certifies that funds that would have been used to pay property taxes are used to maintain the affordability of the units or reduce rents.
- 3) **Bill Summary and Author’s Statement.** This bill exempts certain affordable housing properties that receive a welfare exemption from paying a special tax imposed by a Mello-Roos CFD. This bill only applies to taxes imposed on or after January 1, 2020. The California Housing Consortium is the sponsor of this bill.

According to the author, “California needs 1.8 million more affordable rental homes to meet the needs of low-income households. Renters need to earn 3.5 times the state minimum wage to afford the average monthly asking rent of \$2,004. California’s lowest-income renters spend 66% of income on rent, leaving little left for food, transportation, healthcare, and other essentials. The lack of affordable housing directly contributes to the increased homelessness seen across the state. Even with important changes in land use policy to remove barriers and constraints to development, there is a huge gap between what affordable housing costs to build and maintain and the rents charged to lower-income households. Without the help of local, state, and federal resources for creating, preserving, and operating affordable apartments, building these homes would be impossible. This is why the Legislature has passed many crucial policies to help finance affordable housing and remove barriers and constraints to development. Although exempt from paying property taxes, some affordable housing developments continue to be assessed Mello-Roos special taxes. These taxes make affordable housing development more expensive to build, and limit how much rents can be reduced for low-income households. AB 1743 will help reduce the cost of building affordable housing and allow rents to be affordable to our lowest income households.”

- 4) **Policy Consideration.** California is currently facing an affordable housing crisis and efforts to combat the crisis are being made at every level of government. However, CFDs are utilized in order to fund many of the public improvements that make new developments possible. By reducing the amount of taxes a CFD can collect, it may negatively affect the ability of a local agency to fund necessary projects. Additionally, CFD law allows a local agency to exempt certain properties from a tax at the time of formation of the CFD or at the time of the imposition of a new tax. The Committee may wish to consider if exempting these properties should be mandatory or if the decision should be left to the local agency.
- 5) **Arguments in Support.** According to the sponsors, “Affordable housing is exempt from paying property taxes in order to reduce the annual operating costs of low-income housing. This exemption is crucial for low-income housing to remain financially feasible. Most recently, in 2014, the Legislature reasserted the underlying purpose of the welfare exemption by prohibiting a local agency from assessing affordable housing developments with Payments in Lieu of Taxation (or PILOT fees). Similarly, AB 1743 extends this exemption to new Mello-Roos Community Facility District special taxes, which will help reduce the cost of building affordable housing and allow rents to be affordable to our lowest income households.”
- 6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Housing Consortium [SPONSOR]
Affirmed Housing
C&C Development
Eden Housing
Palm Communities
TELACU
The Pacific Companies
Wakeland Housing and Development Corporation

Opposition

None on file

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