Assembly Bill 2388 (Gipson)
Date: Introduced
Program: Property Taxes
Sponsor: Author
Government Code Section 50295
Effective: Upon enactment

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This analysis is limited in scope to the duties imposed on the county assessor.

Summary: Creates the "Pathway to Home Ownership" mortgage program and requires the county assessor to value any property purchased through the program.

Purpose: To allow the tenants of single-family homes owned by local government agencies to buy the rental property.

Fiscal Impact Summary: No direct impact.

Existing Law: Occasionally, the law requires the county assessor to value property for purposes unrelated to the imposition of the property tax. Typically, the law imposes the appraisal requirement on the county assessor when the appraisal relates to a cancellation fee imposed when property owners terminate their participation in preferential property tax assessment programs. This includes open space and agricultural property under Williamson Act[1] contracts or Solar-Use Easements[2] and historical property under Mills Act[3] contracts.

Proposed Law: This bill requires local government agencies to create a mortgage program, as specified, that allocates 10% of single family residences that the local agency owns to become eligible for purchase by the tenants presently occupying the property.

With respect to the county assessor, the bill requires the assessor to value any property being purchased through the program.[4]

In General: Rental property owned by local governments and rented to low-income persons is usually exempt from property tax. The Board of Equalization (BOE) has consistently opined that possessory interest assessments should not be made against the occupants of low-income housing, since to do so would defeat the purpose of providing affordable low-cost housing. In one of the earliest cases involving low cost housing projects, *The Housing Authority of the County of Los Angeles* v. *Dockweiler*, 14 Cal. 2d 437 (1939), the California Supreme Court dismissed a constitutional challenge to statutes creating and empowering local housing authorities to own and operate local housing projects specifically for the purpose of slum clearance and providing safe and sanitary low-rent dwellings for low income persons. The Court concluded, among other things, that public housing projects for low income families have public uses and purposes. Based on this premise, the BOE has opined that these tenants should not be subject to possessory interest assessments. Decisions in subsequent cases involving properties qualifying for the welfare exemption and possessory interest assessments are consistent with the BOE opinion.[5] While past, albeit limited, case authority tends to support a conclusion that no taxable possessory interests exist in the use of government-owned housing by low-income persons residing therein, to date neither the courts nor the Legislature have directly addressed the issue.

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[1] Government Code Sections 51203 and 51283.
[2] Government Code Section 51192.2.
[3] Government Code Section 50286.
[4] Proposed Government Code Section 50295(b)(4).
[5] *John Tenant Memorial Homes, Inc.* v. *City of Pacific Grove*, 27 Cal. App.3d 372 (1972), *English* v. *County of Alameda*, et. al. (1977), 70 Cal. App.3d 226.

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.

In 2010, AB 1178 (Torres) would have expressly provided that a low-income tenant that resides in publicly-owned low-income housing does not have a taxable possessory interest, as specified. At that time, one county levied possessory interests associated with single-family homes rented by public housing authorities. That county discontinued the practice and the bill's provisions were amended out of the bill.

Commentary:

1. **These single-family residences, as defined, likely are exempt from property tax.** Single-family residences owned by local governments and rented to low-income tenants are generally tax exempt. As discussed above, the BOE has opined that low-income tenants do not have a taxable possessory interest in these homes.
2. **These residences would become taxable if sold to the current tenant.** Assessors would have to appraise the property for property tax purposes if the low-income tenant purchase transaction is completed and the property changes ownership.
3. **This bill would impose a workload on county assessors to value properties prior to the purchase.** However, as noted above, the assessor would have to appraise the property as of the purchase date for change in ownership purposes.

Administrative Costs: BOE would not incur costs.

Revenue Impact: This bill has no direct revenue impact.

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