



Kate Harrison  
Councilmember District 4

CONSENT CALENDAR

April 20, 2021

To: Honorable Mayor and Members of the City Council

From: Councilmember Harrison

Subject: Support for AB 1199: Homes for Families and Corporate Monopoly Transparency Excise Tax

RECOMMENDATION

Adopt a resolution proclaiming support for AB 1199, including support for the legislation in the 2020-2021 State Legislative Program, and sending copies of a letter to Assemblymember Mike Gipson, Senator Nancy Skinner, and Assemblymember Buffy Wicks in support of Assembly Bill 1199, which would create a database of rental properties, levy a tax on the rental profits of some people or entities holding many properties, and use the funds to support services for tenants and small landlords.

BACKGROUND

This bill, AB 1199, consists of two main parts. First, it creates a reporting requirement and a database for certain property owners. Specifically, AB 1199 would:

- Require any person or entity, not including qualified non-profit organizations, that owns rental property to report annually to the Secretary of State.
- Require the Secretary of State to create a searchable database, updated annually, with the information collected through AB 1199.

The information collected by AB 1199 would include both the identity of the beneficial owner of each property and the number of units at each property that were offered for rent or lease. This portion is similar to the database created by Berkeley's Measure MM, which collects more information about rental properties.

Next, with this information collected, the State would be able to collect a tax and place the receipts in a fund. This is the "Homes for Families and Corporate Monopoly

Transparency Excise Tax Law” section of the bill. Here AB 1199 would:

- Impose an unspecified annual excise tax upon any person, LLC, or LP, owning 10 or more units of rental housing with some exclusions, including income-restricted affordable housing units.
- Create a Homes for Families Fund that would receive the taxes collected from AB 1199.

The percentage amount of the tax is currently blank in the most recent form of AB 1199. The new “Homes for Families Fund” would be charged with supporting:

- Rental assistance and relief for tenants,
- Tenant legal services,
- Services and programs for persons experiencing homelessness,
- Protection of existing housing,
- Production of new affordable housing,
- Housing counseling services for tenants, and
- Landlords that own fewer than 10 properties and have lost rental income from tenants due to COVID-19

It is in the public interest for the City of Berkeley to support Assembly Bill 1199 because this legislation will provide a database of statewide information that will inform local discussions of the housing market as the City revisits the housing element over the next few years and for discussions of housing policy in the future.

Additionally, this new tax to support various programs to support tenants and small landlords is in line with Berkeley values. Berkeley voters have a long history of supporting tenant protections and low-income housing, including the passing of Measures O and P to levy new taxes in support of the construction of affordable housing and services for those experiencing homelessness as well as the recent passing of Measure MM, which has similar elements to AB 1199 in that it creates a database of rental properties.

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental impacts associated with this action.

#### FISCAL IMPACTS OF RECOMMENDATION

Clerk time will be necessary to send the letters.

#### CONTACT PERSON

Councilmember Kate Harrison  
510-981-7140

Attachments:

1: Resolution

2: Letter

3: Bill text: [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB1199](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1199)

RESOLUTION NO. ##,##-N.S.

RESOLUTION IN SUPPORT OF AB 1199: HOMES FOR FAMILIES AND  
CORPORATE MONOPOLY TRANSPARENCY EXCISE TAX

WHEREAS, Assembly Bill 1199 (Gipson), The Homes for Families and Corporate Monopoly Transparency Excise Tax Law would create a database of rental properties, levy a tax on the rental profits of some people or entities holding many properties, and use the funds to support services for tenants and small landlords; and

WHEREAS, the voters of the City of Berkeley have supported similar local efforts to create a database of rental housing for the better understanding of the rental market to inform policy discussions and decisions with reliable data; and

WHEREAS, a better understanding of the housing stock dedicated to serving tenants will only aid in making important state-level policy decisions and conducting research,

WHEREAS, The City of Berkeley is increasingly concerned about the financialization of the housing market and the consolidation of rental properties to fewer and fewer owners, which is often in conflict with an understanding of housing as a human right, and,

WHEREAS, new programs will be needed to support tenants and small landlords long after the COVID State of Emergency is lifted, and

WHEREAS, dedicated funding streams for social support programs support their success;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Berkeley proclaims its support for AB 1199 (Gipson).

BE IT FURTHER RESOLVED, that by the adoption of this Resolution, the City of Berkeley hereby includes in its 2020-2021 State Legislative Program SUPPORT for AB 1199 (Gipson), which would create a database of rental properties, levy a tax on the rental profits of some people or entities holding many properties, and use the funds to support services for tenants and small landlords.

BE IT FURTHER AND FINALLY RESOLVED that copies of this Resolution Clerk will be sent to Senator Nancy Skinner, Assemblymember Buffy Wicks, Assemblymember Gipson, whichever other legislative committees will be conducting hearings on the legislation, no later than the deadline for filing position letters to each committee.

April 20, 2021

The Honorable Mike Gipson  
Assemblymember, 64th District  
State Capitol, Room 3173  
Sacramento, CA 95814

**RE: City of Berkeley's Support for Assembly Bill 1199**

Dear Assemblymember Mike Gipson,

The Berkeley City Council would like to convey our full support for Assembly Bill 1199, which would make progress towards understanding the California rental market, creating a useful database for future research, and providing a source of funding to necessary programs for supporting tenants and small landlords.

Berkeley took similar steps when voters supported Measure MM last fall, requiring the registration of many rental units and allowing for a more informed discussion of the rental market while making important local policy decisions. The "Homes for Families Fund" would be another needed source of assistance not only for the many tenants who will continue to face the challenges of COVID long after the emergency is over, but also to the many small landlords who felt similar impacts from the pandemic.

The Berkeley City Council supports AB 1199 and thanks you for taking the lead on this important issue.

Sincerely,

The Berkeley City Council

CC: | Senator Nancy Skinner  
Assemblymember Buffy Wicks



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**AB-1199 Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements. (2021-2022)**

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Date Published: 02/18/2021 09:00 PM

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

**ASSEMBLY BILL**

**NO. 1199**

**Introduced by Assembly Member Gipson**

**February 18, 2021**

An act to add Article 8 (commencing with Section 12280) to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, and to add Part 6.8 (commencing with Section 11951) to Division 2 of the Revenue and Taxation Code, relating to landlords, and declaring the urgency thereof, to take effect immediately.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1199, as introduced, Gipson. Homes for Families and Corporate Monopoly Transparency Excise Tax: qualified property: reporting requirements.

Existing law requires the Secretary of State to perform various duties relating to business entities.

This bill would require a qualified entity, as defined, that owns qualified property, as defined, to report annually to the Secretary of State specified information regarding the qualified property owned by the qualified entity. The bill would require the Secretary of State to create a searchable database, updated annually, on the Secretary of State's internet website, with the information provided by the qualified entity.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose an annual excise tax upon a qualified taxpayer, as defined, for the privilege of renting or leasing out qualified property, as defined, in this state at an unspecified rate based on the gross receipts of the qualified taxpayer that are derived from rental income. The bill would require the California Department of Tax

and Fee Administration to collect the tax pursuant to the Fee Collection Procedures Law and would require all amounts collected, less refunds and administrative costs, to be deposited in the Homes for Families Fund, which the bill would create. Upon appropriation, the bill would require that moneys in the fund be used for specified purposes relating to rental assistance, homelessness, affordable housing, and housing counseling services.

Because the bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Article 8 (commencing with Section 12280) is added to Chapter 3 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

### Article 8. Reporting Requirements for Qualified Entities

**12280.** (a) On or before February 1, 2023, and on or before February 1 each year thereafter, a qualified entity that owns qualified property shall report the following information to the Secretary of State in the form and manner as required by the Secretary of State:

(1) The identity of the beneficial owner of each qualified property owned by the qualified entity in the previous calendar year.

(2) The number of units for each qualified property owned by the qualified entity in the previous calendar year that were offered for rent or lease.

(b) The Secretary of State shall create a searchable database, updated annually, on the Secretary of State's internet website, with the information provided by the qualified entity in subdivision (a).

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

(1) "Qualified entity" means a limited liability company or a limited partnership.

(2) "Qualified property" has the same meaning as that term is defined in Section 11952 of the Revenue and Taxation Code.

**SEC. 2.** Part 6.8 (commencing with Section 11951) is added to Division 2 of the Revenue and Taxation Code, to read:

### PART 6.8. Homes for Families and Corporate Monopoly Transparency Excise Tax

**11951.** This part shall be known, and may be cited, as the Homes for Families and Corporate Monopoly Transparency Excise Tax Law.

**11952.** For purposes of this part:

(a) "Affordable housing unit" means a housing unit where rents are legally restricted to reflect no more than 30 percent of the household income for persons and families of low or moderate income.

- (b) "Department" means the California Department of Tax and Fee Administration.
- (c) "Fund" means the Homes for Families Fund created pursuant to Section 11960.
- (d) "Multifamily dwelling" means a residential structure with five or more dwelling units.
- (e) "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.
- (f) (1) "Qualified property" means real property that is offered for rent or lease and that is either of the following:
  - (A) A single-family dwelling.
  - (B) A multifamily dwelling.
- (2) "Qualified property" does not include property where 50 percent or more of the units are affordable housing units.
- (g) (1) "Qualified taxpayer" means a person or entity that owns 10 or more qualified properties in this state during the calendar year.
- (2) "Qualified taxpayer" does not include any of the following:
  - (A) An eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable rental housing.
  - (B) A limited partnership in which the managing general partner is an eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable housing.
  - (C) A limited liability company in which the managing member is an eligible nonprofit corporation based in California whose primary activity is the development and preservation of affordable rental housing.
  - (D) A community land trust as defined in Section 402.1.
  - (E) A limited-equity housing cooperative as defined in Section 817 of the Civil Code.
  - (F) The state, the Regents of the University of California, a county, city, district, public authority, or public agency, and any other political subdivision or public corporation in the state.
- (h) "Single family dwelling" means a residential structure with less than five dwelling units.

**11955.** (a) An annual excise tax is hereby imposed upon a qualified taxpayer for the privilege of renting or leasing out qualified property in this state at a rate of \_\_\_ percent of the gross receipts of the qualified taxpayer that are derived from rental income.

(b) It is the intent of the Legislature to enact legislation that would increase the rate specified in subdivision (a) if the qualified taxpayer receives a certain number of code violations issued by the building department or health department of a city or county.

**11957.** (a) The department shall administer and collect the excise tax imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part and references to "feepayer" shall include any person or entity liable for the payment of the tax imposed by this part.

(b) The department may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, provisions governing collections, reporting, refunds, and appeals.

(c) The department may prescribe, adopt, and enforce emergency regulations relating to the administration



and enforcement of this part. Any emergency regulations prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

**11958.** The tax imposed by this part shall not be passed through to tenants by way of higher rents.

**11960.** (a) The Homes for Families Fund is hereby created in the State Treasury.

(b) All taxes, interest, penalties, and other amounts collected pursuant to this part, less refunds and costs of administration, shall be deposited in the fund.

(c) Upon appropriation, moneys in the fund shall be used for the following purposes:

(1) Rental assistance and relief for California tenants.

(2) Support for legal services to prevent evictions, harassment, and violations of law by landlords.

(3) Providing services and programs for persons experiencing homelessness in this state.

(4) Supporting the protection of existing, and the production of new, housing with an affordable housing cost or affordable rent, as defined in Sections 50052.5 and 50053, respectively, of the Health and Safety Code.

(5) Housing counseling services to promote home ownership, job training apprenticeship programs, and support for landlords that own fewer than 10 properties and have lost rental income from tenants due to COVID-19.

**SEC. 3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

**SEC. 4.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to discourage landlords from raising rents and displacing tenants, to provide relief to tenants facing evictions, and to provide support for home ownership during a health and economic crisis, it is necessary that this act take effect immediately.

