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Vacancy Tax on Commercial Property Proposed in California

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A recent bill introduced in the California State Senate would impose a tax on commercial buildings that have prolonged vacancies. Authored by California State Senator Caroline Menjivar, SB 789 is intended to discourage prolonged vacancies while generating revenue for the California Dream for All Program that provides down payment assistance for first-time homebuyers. However, opponents of the bill say that it ignores market realities and would pose serious unintended consequences for property owners, small businesses, and local governments.

If passed, starting July 1, 2028, SB 789 would impose an annual tax of \$5.00 per square foot on commercial properties with parcels that have been vacant for 182 days or more, whether consecutive or nonconsecutive, within a calendar year. The tax would apply to all commercial buildings, including office, retail, industrial and warehouse/distribution facilities, but would not apply to residential spaces within multi-use commercial properties.

The proposed tax also would not apply in the following situations: (1) the vacant portion of the property is being actively renovated by the owner, including obtaining building permits, with work ongoing for at least 90 consecutive days; (2) legal or regulatory barriers, including litigation, environmental reviews, or permitting delays, are preventing occupancy of the vacant portion of the property; or (3) the property has been affected by a natural disaster that prevents occupancy, including properties deemed uninhabitable by state or local authorities.

If passed, SB 789 could face legal challenges, as a vacancy tax passed at the local level in San Francisco was found by a trial court to violate the Takings Clause of the U.S. Constitution. The City of San Francisco is currently appealing that ruling. The next action to be taken on SB 789 is a hearing before the Senate Revenue and Taxation Committee on April 23, 2025. If the bill is approved by the Senate Revenue and Taxation Committee, it would still need to be approved by the full California State Senate and the California State Assembly before being signed into law.

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