

February 22, 1999

BILL ANALYSIS

TO: Members, Committee on Economic Development, Housing, and Trade

FROM: Jean Ann Quinn, Counsel (786-7310)

RE: **HB 2109 - Authorizing tax, levy, and execution exemptions for properties of Indian housing authorities for low-income housing programs.**

Brief Summary of Bill

- Exempts the property of a tribal government, tribal housing authority, or intertribal housing authority from taxes.
- Permits the tribal government, tribal housing authority, or intertribal housing authority to make payments in lieu of taxes for services provided by the local governing body to the benefit of a tribal housing project.
- Exempts, generally, the real property of a tribal government from executions sales and liens.

BACKGROUND:

Property in the state is subject to the property tax each year based on the property's value, unless specifically exempted by law. Property owned by the United States, the state, its counties, school districts, and other municipal corporations, is exempt from tax by the state Constitution, as is land held in trust by the United States for Indian tribes. The state Constitution also permits the Legislature to exempt other property from taxation.

The Legislature has exempted the property of housing authorities from state and local taxes

and special assessments. A housing authority may, however, agree to make payments in lieu of taxes to any such governing authority for improvements, services, and facilities furnished by the authority for the benefit of the housing authority. The payments may not exceed the amount of the property tax that had been levied on the property prior to its acquisition by the housing authority. The real property of a housing authority is exempt from levy of execution and, generally, no lien can be placed upon its real property.

The federal Native American Housing Assistance and Self-Determination Act of 1996 provides grants on behalf of Indian tribes to carry out affordable housing activities. In addition to other grant eligibility requirements, the affordable housing assisted with the grant moneys must be exempt from all real and personal property taxes imposed by a state, tribe, or local government and the tribe must pay user of user fees to compensate the local governing body for the cost of providing government services, such as police and fire protection, roads, and water, sewerage, and utilities systems, unless the local governing body agrees to waive the user fees or payments in lieu of taxes. A grant recipient that does not meet this tax exempt requirement can still be eligible for a grant under the Act, but only if the local governing body in which the affordable housing development is located contributes, in the form of cash or tax remission, the amount by which the taxes paid with respect to the development exceed the user fees.

SUMMARY:

Property of a tribal government, tribal housing authority, or intertribal housing authority is exempted from all state and local taxes and special assessments. However, if improvements, services, or facilities are furnished by a city, county, or other political subdivision for the benefit of a tribal housing project, the tribal government or housing authority may agree to reimburse the governing authority for its fair share of the costs of the services. The amount paid must not exceed the amount of tax imposed upon the property prior to its acquisition by the tribal government or authority. Payments also must not exceed payments made by other low-income users for the same services.

The real property of a tribal government or tribal housing authority is exempt from levy of execution and, generally, no lien can be placed upon its real property. This does not limit the right of a creditor to enforce the terms of a mortgage or the right of a creditor to pursue remedies to enforce a pledge or lien given to it by the tribal government or tribal housing authority on its rents, fees, or revenues.

Appropriation: None.

Fiscal Note: Requested February 22, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.