

Amend Revenue and Taxation Code Sections 69, 69.3, 170, 171, 172, and 194 to replace references to a Governor declared “disaster” with “emergency.” (Housekeeping)

Source: Property and Special Taxes Department and Legal Department

Existing Law:

Section 2 of Article XIII A of the California Constitution and the Revenue and Taxation Code authorizes property tax relief for property damaged in a Governor declared disaster. This includes a base year value transfer to a property acquired to replace the damaged property or a new construction exclusion once the property is rebuilt or repaired. Additionally, other sections of the Revenue and Taxation Code provide property tax relief in the form of assessment reduction or deferral of property tax payments in the event that property damage or destruction results from a Governor declared disaster.

Government Code Section 8625 authorizes the Governor to proclaim a state of emergency under specified circumstances. Government Code section 8558 establishes three conditions under which the Governor may proclaim a state of emergency:

- "State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.
- "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state.
- "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city.

Generally, major disasters such as earthquake, firestorms, storm damage, or flooding satisfy the second condition described as a "state of emergency." While property tax laws refer to Governor declared disasters, in practice the formal document issued by the Governor is a proclamation of a state of emergency consistent with the Government Code. Because the terminology is not consistent, after a major event there can be confusion over whether the Governor's proclamation of a "state of emergency" is the same as a "Governor declared disaster" or if perhaps the "state of emergency" is some level below that of a "disaster."

This Proposal:

To provide clarity and certainty to tax administrators, these amendments would conform the Revenue and Taxation Code to the language in the Government Code and the

actual document issued by the Governor regarding the proclamation of a state of emergency which authorizes assessment officials to proceed with granting property tax relief to affected property owners.

Section 69 of the Revenue and Taxation Code is amended to read:

69. (a) Notwithstanding any other provision of law, pursuant to Section 2 of Article XIII A of the Constitution, the base year value of property which is substantially damaged or destroyed by a disaster, as ~~declared~~ proclaimed by the Governor, may be transferred to comparable property within the same county which is acquired or newly constructed within three years after the disaster, or five years in the case of the Northridge earthquake, as a replacement for the substantially damaged or destroyed property. At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property, the substantially damaged or destroyed property shall be reassessed at its full cash value; however, the substantially damaged or destroyed property shall retain its base year value notwithstanding the transfer authorized by this section. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

* * *

(c) ... (3) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of ~~disaster~~ emergency as a result of the misfortune or calamity.

Section 69.3 of the Revenue and Taxation Code is amended to read:

69.3. (b) For purposes of this section:

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(5) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of ~~disaster~~ emergency as a result of the misfortune or calamity.

Section 170 of the Revenue and Taxation Code is amended to read:

170. (a) Notwithstanding any provision of law to the contrary, the board of supervisors may, by ordinance, provide that every assessee of any taxable property, or any person liable for the taxes thereon, whose property was damaged or destroyed without his or her fault, may apply for reassessment of that property as provided herein. The ordinance may also specify that the assessor may initiate the reassessment where the assessor determines that within the preceding 12 months taxable property located in the county was damaged or destroyed. To be eligible for

reassessment the damage or destruction to the property shall have been caused by any of the following:

(1) A major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of ~~disaster~~ emergency, if that property was damaged or destroyed by the major misfortune or calamity that caused the Governor to proclaim the area or region to be in a state of ~~disaster~~ emergency. As used in this paragraph, "damage" includes a diminution in the value of property as a result of restricted access to the property where that restricted access was caused by the major misfortune or calamity.

Section 172 of the Revenue and Taxation Code is amended to read:

172. Whenever a manufactured home is destroyed on or after January 1, 1982, as the result of a ~~disaster declared by major misfortune or calamity that caused the Governor to proclaim the area or region to be in a state of emergency~~, the owner shall be entitled to relief from local property taxation or vehicle license fees in accordance with the provisions of this chapter.

Section 172.1 of the Revenue and Taxation Code is amended to read:

172.1. (a) To claim tax relief in accordance with the provisions of this chapter, the owner shall execute a declaration under penalty of perjury that the replaced manufactured home was destroyed by a major misfortune or calamity that caused the Governor to proclaim the area or region to be in a state of emergency and shall furnish with that declaration any other information, prescribed by the Department of Housing and Community Development after consultation with the California Assessors' Association, as is necessary to establish eligibility for relief under this chapter.

Section 194 of the Revenue and Taxation Code is amended to read:

194. As used in this chapter:

(a) "Eligible county" means a county that meets both of the following requirements:

(1) Has been proclaimed by the Governor to be in a state of emergency.

(2) Has adopted an ordinance providing property tax relief for disaster victims as provided in Section 170.

(b) "Eligible property" means real property and any manufactured home, including any new construction that was completed or any change in ownership that occurred prior to the date of the disaster that meets both of the following requirements:

(1) Is located in an eligible county.

(2) Has sustained substantial disaster damage and the disaster resulted in the issuance of a state of emergency proclamation by the Governor. "Eligible property" does not include any real property or any manufactured home, whether or not it otherwise qualifies as eligible property, if that real property or manufactured home

was purchased or otherwise acquired by a claimant for relief under this chapter after the last date on which the disaster occurred.

(c) "Fair market value" means "full cash value" or "fair market value" as defined in Section 110.

(d) "Next property tax installment payment date" means December 10 or April 10, whichever date occurs first after the last date on which the eligible property was damaged.

(e) "Property tax deferral claim" means a claim filed by the owner of eligible property in conjunction with, or in addition to, the filing of an application for reassessment of that property pursuant to Section 170, that enables the owner to defer payment of the next installment of taxes on property on the regular secured roll for the current fiscal year, as provided in Section 194.1 or to defer payment of taxes on property on the supplemental roll for the current fiscal year, as provided in Section 194.9.

(f) "Substantial disaster damage," as to real property located in a county ~~declared~~ proclaimed to be a ~~disaster~~ in a state of emergency by the Governor, means, with respect to real property and any manufactured home that has received the homeowners' exemption or is eligible for the exemption as of the most recent lien date, damage amounting to at least 10 percent of its fair market value or ten thousand dollars (\$10,000), whichever is less; and, with respect to other property, damage to the parcel of at least 20 percent of its fair market value immediately preceding the disaster causing the damage.