



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced: **01/19/05**

Bill No: **AB 164**

Tax: **Property**

Author: **Nava**

Related Bills:

BILL SUMMARY

This bill would, in part, allow persons whose homes were damaged or destroyed in severe rainstorms and related flooding and mudslides during December 2004 and January 2005 to retain the homeowners' exemption while they are in the process of rebuilding.

This analysis is limited to the homeowners' exemption portion of this bill.

ANALYSIS

Current Law

Article XIII, Section 3(k) of the California Constitution exempts from the property tax the first \$7,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence. This exemption is commonly referred to as the "homeowners' exemption."

Section 218 of the Revenue and Taxation Code details the qualifications for the homeowners' exemption authorized by the constitution. Eligibility is generally continuous once granted. However, if a property is no longer owner-occupied or becomes vacant or is under construction on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Relevant to this bill, homes that are totally destroyed on January 1, 2005 are not eligible for the homeowners' exemption for the 2005-06 fiscal year. A home destroyed after that date would be eligible. However if the home has not been rebuilt and occupied by the following lien date, January 1, 2006, it would not be eligible for the exemption for the 2006-07 fiscal year.

Proposed Law

This bill would, in part, amend Section 218 of the Revenue and Taxation Code to provide that dwellings qualified for the homeowners' exemption prior to December 28, 2004 and that were damaged or destroyed by flood, mudslides, the accumulation of debris, or washed out and damaged roads in the Governor declared disaster of January 2005 will not be disqualified as a "dwelling" or be denied the homeowners' exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

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 Board's formal position.

Background

In prior disasters, legislation has been enacted to extend the homeowners’ exemption to temporarily damaged or destroyed homes.

Disaster	Year	Legislation
San Joaquin levee break	2004	Stats. 2004, Ch. 792 (SB 1147)
San Simeon earthquake	2003	Stats. 2004, Ch. 792 (SB 1147)
Southern California wildfires	2003	Stats. 2004, Ch. 792 (SB 1147)
Oakland/Berkeley Hills fire	1992	Stats. 1992, Ch. 1180 (SB 1639)
Los Angeles civil riots	1991	Stats. 1992, Ch. 17X (AB 38 X)

COMMENTS

- 1. Sponsor and Purpose.** The author is the sponsor of this measure. Its purpose is to provide some financial relief to persons whose homes were damaged or destroyed in the severe winter storms and mudslides.
- 2. This bill would allow homeowners whose residences were damaged or destroyed as a result of the winter storms and mudslides to retain the exemption on their property while they are in the process of rebuilding their homes.** Homes that are uninhabitable on the lien date (January 1, 2005) are technically ineligible for the exemption for the upcoming fiscal year under current law. Last year legislation was introduced to extend the homeowners’ exemption to homes destroyed in the Southern California fires where thousands of homes were totally destroyed in October and November of 2004 and could not have been rebuilt and occupied by January 1, 2005. This bill was later amended to include two other governor declared disasters.
- 3. Homeowners’ Exemption – Disaster Impact.** The Board staff has opined that a temporary absence from a dwelling because of a natural disaster, such as a flood or fire, will not result in the loss of the homeowners’ exemption for those properties temporarily vacated for repairs. However, when a dwelling has been totally destroyed, staff has opined that because no dwelling exists there is no occupancy or possibility of occupancy on the lien date and the property would not be eligible for the exemption even if the property was under construction. (See Property Tax Annotation 505.0019 “Homeowners’ Exemption – Disaster Impact” available at www.boe.ca.gov)
- 4. Affected counties.** On January 12, 2005 the Governor proclaimed the County of Ventura to be in a state of emergency as a result of a series of severe rainstorms in that area that commenced on January 6, 2005. Subsequently, on January 15, 2005 the Governor additionally proclaimed the Counties of Riverside, Santa Barbara, Los Angeles, Kern, San Bernardino, Orange and San Diego to be in a state of emergency as a result of storms that began on December 28, 2004. On February 4, 2005, the President declared a major disaster for California. After the declaration, residents and businesses in the counties of Los Angeles and Ventura that suffered damages and losses may be eligible for federal aid.

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5. **Most of the damage took place after January 1.** In this particular instance, it appears that homes were not damaged and destroyed until *after* the lien date. Consequently, it appears that these property owners will not lose the homeowners' exemption on their property tax bill for the 2005-06 fiscal year. However, this bill would apply to any home that was not rebuilt and occupied by the next lien date – i.e., January 1, 2006, for the 2006-07 fiscal year.
6. **Suggested Amendments.** A dwelling may not be physically "damaged or destroyed" by washed out or damaged roads, but may be temporarily uninhabited because of restricted access, the following language is suggested to better reflect this condition.

(g) Any dwelling that qualified for an exemption under this section prior to December 28, 2004, that was damaged or destroyed by severe storms, floods, mudslides, or the accumulation of debris, or washed out and damaged roads in a disaster, as declared by the Governor during January 2005, and that has not changed ownership since December 28, 2004, shall not be disqualified as a "dwelling" or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed, ~~or~~ was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to flood, mudslides, the accumulation of debris, or washed out and damaged roads.

COST ESTIMATE

With respect to administration, the Board would incur insignificant costs in informing and advising local county assessors, the public, and staff of the law changes. These costs are estimated to be under \$10,000.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Existing property tax law provides for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined. This bill would provide that any dwelling that qualified for the exemption prior to December 28 that was damaged or destroyed as a result of the severe storms may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

Based on information from the Office of Emergency Services, we estimate that no more than 44 homes were totally destroyed as a result of the winter storms as noted below. This bill would have no revenue impact for the 2005-06 fiscal year since these homes were not destroyed until after the lien date. If all of these homes are not rebuilt and occupied by the next lien date, January 1, 2006, then the revenue loss for the 2006-07 fiscal year would be approximately \$3,400.

County	Destroyed Homes	Exemption	Exempt (# x \$7,000)	County Average Tax Rate	2005-06	2006-07 Continued Subvention
Kern	0	N/A				0
Los Angeles	14	\$7,000	\$98,000	1.091%	No Impact*	\$1,069
Orange	2	\$7,000	\$14,000	1.038%	No Impact	\$ 146
Riverside	1	\$7,000	\$ 7,000	1.096%	No Impact	\$ 77
San Bernardino	8	\$7,000	\$56,000	1.106%	No Impact	\$ 619
San Diego	1	\$7,000	\$ 7,000	1.067%	No Impact	\$ 75
Santa Barbara	0	N/A				0
Ventura	18	\$7,000	\$126,000	1.088%	No Impact	\$1,371
Totals	44		\$308,000			\$3,357

*Disaster Damage is post lien date – property retains exemption for 2005-06 fiscal year under existing administration of the homeowners’ exemption.

Revenue Summary

The local jurisdictions are reimbursed by the state for their losses due to the homeowners’ exemption. This bill would require the state to continue to subvene these amounts. Based on the calculations above, we estimate the revenue impact to be about \$3,400 annually in 2006-07. The impact will decrease over time as these homes are rebuilt and the owners are once again eligible for the homeowners' exemption under existing law.

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