**STATE BOARD OF EQUALIZATION**
**STAFF LEGISLATIVE BILL ANALYSIS**

Draft

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| Date Introduced: | **02/19/04** | Bill No: | **AB 2357** |
| Tax: | **Property** | Author: | **Plescia** |
| Board Position: | | Related Bills: | |

## BILL SUMMARY

This bill would increase the amount of the homeowners' exemption from $7,000 to $10,000 for persons 62 years or older.

## ANALYSIS

### Current Law

Article XIII, Section 3(k) of the California Constitution exempts from the property tax the first $7,000 of the assessed value of an owner-occupied principal place of residence. This exemption is commonly referred to as the "homeowners' exemption." The Constitution gives the Legislature the authority to increase the amount of the homeowners' exemption, provided that:

1. any increase is funded by increasing the "rate of State taxes" in an amount sufficient to reimburse local governments for property tax revenue losses; and,
2. benefits to renters, which under current practice are granted through the renters' income tax credit, are increased by a comparable amount.

Additionally, the Constitution provides that the Legislature may deny the exemption if the owner received State or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.

Section 218 of the Revenue and Taxation Code specifies eligibility for the exemption and sets the exemption in the amount of $7,000 of full cash value.

Article XIII, Section 25 of the Constitution requires that the state reimburse local governments for the property tax revenue losses resulting from the homeowners' exemption.

### Proposed Law

This measure would amend Section 218 of the Revenue and Taxation Code to increase the amount of the homeowners' exemption to $10,000 for persons who are 62 years of age or older and would make corresponding amendments to Section 275 which provides for a partial exemption for late-filed claims.

This bill would also state the intent of the Legislature to provide a comparable benefit to qualified renters 62 years or older.

## Background

The homeowners' exemption was created in 1968 via a constitutional amendment adopted by the voters (Proposition 1-A; SCA 1 and SB 8, Stats. 1968). The amount of relief provided was equivalent to $3,000 of full cash value.[1] In 1972, legislation was passed to increase the amount of the exemption commencing in 1974 to its current equivalent level of $7,000 of full cash value [2] (SB 90, Stats.1972).

During the 1960's and 1970's many property tax reform proposals were advocated. Existing law, at that time, provided that property would be reassessed to current market value levels on a cyclical basis. These periodic reassessments resulted in substantial property tax increases due to rapidly escalating real estate values. The homeowners' exemption was created in 1968 to provide some measure of property tax relief. In 1972, legislation passed that increased the exemption, effective in 1974. Numerous bills were introduced in the Legislature between 1972 and 1978 to further increase the amount of the exemption. Apparently, these bills were rejected, in part, because some viewed the use of a homeowners' exemption as a temporary means of providing property tax relief, the benefits of which would erode over time due to inflation. Some argued that one proposal to fundamentally change the taxation system should be sought as a permanent means of containing rapidly increasing property taxes.

Ultimately, Proposition 13 (Article XIIIA of the California Constitution), approved by the voters in November 1978, rolled back real property values to 1975 market value levels and limited annual increases in assessed values thereafter to the rate of inflation, not to exceed 2%. Another key element of Proposition 13 is that it limited the tax rate to 1% of full cash value of the property. Previously, each taxing agency could determine and levy its own rate. The statewide average tax rate at that time was 2.67%.

Under Proposition 13, property is reassessed to its current market value when a change in ownership occurs. The current market value for homes is generally the sales price, and, once again, annual increases to that value are limited to the rate of inflation, not to exceed 2%. Thus, Proposition 13 established a new assessment value standard that requires property to be assessed according to the market value of the property at the time it is acquired by the taxpayer, rather than the value it has in the current real estate market. For property owners, especially homeowners, the primary benefits of this assessment value standard were that future property tax liability would be: (1) determinable; and, (2) future increases limited to a modest amount. One rationale for Proposition 13 was that, if the value of a home substantially increased after its initial purchase, homeowners would not be "taxed" out of their homes because they could no longer afford property taxes based on the properties' current market value, a value that could be realized by homeowners only if they sold their homes.

Thus, for property acquired after 1975, the property tax system was altered to an "acquisition value" basis, resulting in similar properties with disparate assessed values

[1] The actual amount was $750 of assessed value; however, at that time, property was assessed at 25%, rather than 100%, of value.
[2] The actual amount was $1,750 of assessed value.

for property tax purposes. The constitutionality of this acquisition value system was ultimately appealed, and upheld by the U.S. Supreme Court in *Nordlinger* v. *Hahn*, 505 U.S. 1 (1992).

**Related Bills.** Since the enactment of Proposition 13, numerous bills have been introduced in the Legislature to increase the amount of the homeowners' exemption. The proposals have used various methods, including increasing the exemption amount by a flat amount, varying the exemption amount according to the year of purchase, indexing the exemption amount for inflation, and increasing the exemption amount for certain classes of persons. In 2002, the initiative process was used for the first time to attempt to increase the amount of the exemption, and the renters credit, via a direct vote of the people, but insufficient signatures were collected to place the measure on the ballot.

Previous measures to increase the homeowners' exemption are summarized in the following table. Measures specific to seniors are highlighted.

| Bill Number | Legislative Session | Author | Type |
|---|---|---|---|
| **AB 211** | **2003-04** | **Maze** | **Increase to $17,000 for persons over 62, disabled, blind** |
| **AB 82** | **2003-04** | **Dutton** | **Increase to $32,000, plus index for inflation** |
| Initiative | Signature drive ended 11/6/02 | Howard-Jarvis Taxpayers Assoc. & Bill Simon | Increase to $32,000, plus index for inflation |
| **AB 1844** | **2001-2002** | **Mountjoy** | **Increase to $17,000 for persons over 62, disabled, and blind** |
| SB 48 | 2001-2002 | McClintock | Index for inflation by California CPI |
| SB 48 | 2001-2002 | McClintock | Increase to $25,000, plus index for inflation |
| AB 218 | 2000-2001 | Dutra | Increase for 1st time homebuyers |
| AB 2288 | 1999-2000 | Dutra | Increase for 1st time homebuyers |
| **AB 2158** | **1999-2000** | **Strickland** | **Increase to $8,750 for persons over 62** |
| SCA 8 | 1999-2000 | Johannessen | Increase to $20,000; delete renter's credit parity |
| AB 2060 | 1997-1998 | Granlund | Increase to $20,000 |
| ACA 43 | 1997-1998 | Granlund | Increase to $20,000 |
| ACA 5 | 1991-1992 | Elder | Variable, according to assessed value |
| ACA 31 | 1991-1992 | Frizzelle | Index for inflation by California CPI |
| ACA 47 | 1991-1992 | Jones | 25% exemption; no assessed value cap |
| ACA 3 | 1989-1990 | Elder | Variable, depending on year acquired |
| ACA 9 | 1989-1990 | D. Brown | 25% exemption; $250,000 assessed value cap |
| ACA 31 | 1989-1990 | Hannigan | 15% exemption; $150,000 assessed value cap |
| ACA 55 | 1989-1990 | Wright | Increase to $48,000 |
| ACA 1 | 1987-1988 | Elder | Increase to $25,000, plus index for inflation |
| ACA 25 | 1987-1988 | D. Brown | 25% exemption; $250,000 assessed value cap |
| AB 2141 | 1985-1986 | Klehs | 20% exemption; $50,000 exemption cap |
| AB 2496 | 1985-1986 | Cortese | Increase in years with General Fund Reserves |
| AB 3086 | 1985-1986 | Elder | Variable, depending on year acquired |
| AB 3982 | 1985-1986 | La Follette | Increase for 1st time home buyers |
| ACA 49 | 1985-1986 | Elder | Variable, depending on year acquired |
| **Prior to Prop. 13** | | | |
| **SCA 26** | **1973-1974** | **Petris** | **100% exemption for low income persons over 62 and the disabled** |

## COMMENTS

1. **Sponsor and Purpose.** The author is the sponsor of this measure to provide some financial relief to seniors.
2. **Exemption Amount Unchanged Since the Enactment of Proposition 13.** The homeowners' exemption was enacted in 1968 and increased to its current level in 1974. Despite many attempts, the amount of the exemption has not increased in more than 28 years. Arguments against increasing the homeowners' exemption generally focus on the point that Proposition 13 has provided sufficient property tax relief and controls. Opponents of an increase have also expressed concern about the fiscal impact of funding both homeowners' exemption and the renters' credit.
3. **The Constitution Specifies the Minimum Amount of the Exemption.** The $7,000 amount specified in the Constitution is the *minimum* amount of the exemption. The Constitution provides that the homeowners' exemption can be statutorily increased, as long as there is an equivalent increase in the amount of the renters' credit, and any increase is funded by increasing the rate of state taxes sufficiently to reimburse local governments for property tax revenue losses.
4. **Renters' Credit.** Presumably, it could be argued that the amount of the renters' credit for senior citizens would also have to be increased. (The Property Tax Assistance Program for senior homeowners and renters, noted below, has been increased in recent years, but the general renters' credit provided via the state income tax return has not.) The renters' credit for all persons was suspended for income tax years 1993 through 1997 in accordance with budget agreements. It was restored in 1998 by AB 2797, a budget trailer bill. During this suspension period homeowners continued to receive the homeowners' exemption, meaning the constitutional parity provision was not strictly followed for this five-year period.
5. **Two Programs Currently Provide Persons 62 or Older, or Blind or Disabled with Property Tax Relief and/or Assistance.** Both of the following programs have income restrictions limiting participation:
   - The **Property Tax Postponement Program,** administered by the State Controller, www.sco.ca.gov, permits persons to delay all or part of their property taxes until after their deaths. To qualify, total household income can not exceed $24,000. However, if the person applied and qualified for tax postponement for the 1983-84 tax year, income can not exceed $34,000.
   - The **Property Tax Assistance Program**, administered by the Franchise Tax Board, www.ftb.ca.gov, rebates 4% to 96% of property taxes paid. The percentage rebated is determined according to a sliding income scale. The rebate ranges from $19.72 to a maximum of $473. This program also makes assistance payments to renters to rebate property taxes paid indirectly via rent. For the 2002 claim year, persons must have had a total household income of $37,119 or less to qualify.

6. **Other Property Tax Benefits Provided to Seniors.** In addition to the above programs, persons over the age of 55 are permitted to transfer their Proposition 13 assessment if they purchase a new home of equal or lesser value that is located in the same county (Additionally, nine counties[3] permit persons to transfer values from homes located in other counties). This once – in – a - lifetime benefit allows seniors to pay the same level of taxes if they purchase a qualifying new home.

7. **This Bill Would Provide Additional Annual Property Tax Savings of $33 to Qualified Seniors.** The homeowners' exemption, on average, provides annual property tax savings of about $77 ($7,000 x .011). This measure would increase the annual property tax savings, on average, to $110 ($10,000 x .011) for seniors who own homes. This would provide additional tax savings of $33 ($110-$77) per year.

8. **Senior Homeowners Will Need to Take Action to Receive the Higher Exemption Amount.** This bill would likely require a mass refiling by seniors eligible to claim the higher exemption amount since assessors' offices do not maintain any information as to a homeowner's age. Currently, persons file a claim for the homeowners' exemption only once. Those persons eligible for the $10,000 exemption will need to refile with their county assessor's office and provide any necessary documentation for eligibility. Additionally, as other persons reach the age of 62, they also would need to modify their claims with their county assessor's office to receive the proposed higher exemption amount.

9. **The State Subvenes Property Tax Revenue Loss from the Homeowners' Exemption.** The homeowners' exemption is the only property tax exemption for which the state fully reimburses local governments. The state also makes subvention payments to offset property tax reductions for open space and agricultural property that receives preferential assessment treatment under the Williamson Act at the rate of $1 per acre for non-prime land and $5 per acre for prime land.

10. **Suggested Amendment.** For clarity for taxpayers and administrators it would be preferable to clearly state that the age of a person on the lien date (January 1) determines the exemption amount provided for the upcoming fiscal year, which runs from the following July 1 to June 30.

    (2) For any assessment year beginning on or after January 1, 2005, if the assessee for a dwelling that is eligible for the homeowners' property tax exemption is age 62 years or older on or before the lien date, the exemption is in the amount of ten thousand dollars ($10,000) of the full value of the dwelling.

**COST ESTIMATE**

With respect to property taxes, the Board would incur some 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.

[3] Alameda, Kern, Los Angeles, Modoc, Orange, San Diego, San Mateo, Santa Clara, and Ventura

**REVENUE ESTIMATE**

Existing property tax law provides for homeowners' exemption in the amount of $7,000 of the full value of a "dwelling," as specified. The state is required to pay subventions to counties for the homeowners' exemptions to offset the resulting local property tax loss. The state reimbursement to the counties for 2002-03 totaled $414,211,000 on 5.4 million claims.

The total exempt value on these properties was $37,660,115,000. Therefore, the average tax rate for properties receiving the homeowners' exemption is:

$414,211,000 / $37,660,115,000, or 1.100%.

Under this bill, the homeowners' exemption for claimants who are 62 years of age or older would increase by $3,000, from $7,000 to $10,000 for a full exemption. The average increase in the reimbursement, for claimants age 62 years and older, is computed as follows:

$3,000 x 1.100%, or $33.00.

Based on information from the 2000 U.S. Census, staff estimates that there are 1.5 million claimants age 62 and older claiming the homeowners' exemption. The estimated increase in the homeowners' exemption reimbursement is then:

1.5 million x $33.00 = $49.5 million

**Revenue Summary**

This bill would increase the state reimbursement for the homeowners' exemption approximately $49.5 million annually.

This amount will grow over time as the number of qualified claimants increases due to the aging population.

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*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.*