



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

Draft

Date Amended:	Enrolled	Bill No:	SB 114
Tax:	Property	Author:	Florez, et al
Related Bills:	AB 62 (Nava) AB 297 (Maze) SB 38 (Battin) SB 148 (Hollingsworth)	Position:	Support

BILL SUMMARY

This bill would, among other things, allow persons whose homes were damaged or destroyed as a result of severe freezing conditions that occurred in January 2007 to retain the homeowners' exemption on their property while they are in the process of repairing or rebuilding.

This bill also provides one-year state reimbursement to backfill any property tax revenue loss resulting from assessment reductions to counties that the Governor declared to be in a state of emergency as a result of the severe freeze.

ANALYSIS

CURRENT LAW

Homeowners' Exemption. Article XIII, Section 3(k) of the California Constitution exempts from property tax the first \$7,000 of the full value of a dwelling 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, is vacant, or is under construction on the lien date (January 1), the property is not eligible for the exemption for the forthcoming fiscal year (July 1 – June 30). For example, if a home receiving the homeowners' exemption burns down in a fire in 2006 and has not been rebuilt and occupied by the next lien date (January 1, 2007) it does not qualify for the homeowners' exemption on the 2007-08 regular property tax bill.

Disaster Relief - Property Reassessment for Property Owners. Section 170 of the Revenue and Taxation Code provides that property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance authorizing these provisions. These provisions apply to both governor declared disasters and site specific disasters such as a home fire. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property as of the date of the disaster to recognize the loss in a property's market value. The loss in value must be at least \$10,000. The prior assessed value of the damaged property is reduced in proportion to the loss in market value; the new reduced value is used to calculate a pro-rata reduction in taxes. The affected property retains its lower value, with reduced taxes, until it is restored, repaired, or reconstructed. Generally, taxpayers have up to 12 months to file a request for reassessment.

Disaster Relief - Property Tax Deferral for Governor Declared Disasters. Section 194.1 of the Revenue and Taxation Code allows property owners who file a claim for

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reassessment under Section 170 to defer the payment of their next property tax installment. If a disaster results in the issuance of a state of emergency proclamation by the Governor, affected property owners may have their next property tax installment payment deferred, without penalty or interest, until the assessor has completed the reassessment of the damaged property pursuant to the provisions of Section 170. Deferred taxes are due 30 days after a receipt of the corrected tax bill. However, property owners whose taxes are paid through impound accounts are not eligible for these deferment provisions. Existing Sections 194.2 through 194.5 outlines a process for counties to obtain a bridge loan from the state to cover the loss of revenues due to taxpayers that requested a deferral of their property taxes.

Disaster Relief - State Reimbursement for Local Governments. Additionally, legislation is frequently enacted to fully reimburse local governments for one year's property tax revenue loss associated with Section 170 reductions in assessment.

Growing Crops are Exempt from Property Tax. Section 170 provides relief for damaged or destroyed taxable property. The State Constitution expressly exempts growing crops from property taxation (Article XIII, Section 3(h)). Consequently, since growing crops are not taxable property, the loss of growing crops as a result of the extreme cold (or any other cause) is not cause for reassessment under Section 170. In order for orchards or vineyards to qualify for relief, there must be damage to the trees or vines themselves.

Trees Less than Five Years Old are Exempt from Property Tax. Section 3(i) of Article XIII of the California Constitution and Revenue and Taxation Code Section 211 provide a property tax exemption for fruit and nut bearing trees until four years after the season they are planted in orchard form. Grapevines are exempt until three years after the season they are planted in vineyard form. Additionally, with respect to individual trees, Property Tax Rule 131 provides that these exemption periods restart when (1) a tree is newly planted within an existing orchard (i.e., a replacement tree) or (2) a tree that had reached commercial production requires grafting causing another non-producing period before it will bear fruit or nuts.

PROPOSED LAW

Homeowners' Exemption. This bill would, among other things, add subdivision (k) to Section 218 of the Revenue and Taxation Code to provide that a dwelling qualified for the homeowners' exemption prior to January 11, 2007 and subsequently damaged or destroyed by severe freezing conditions and any other related casualty will continue to be eligible for the homeowners' exemption.

State Reimbursement for Local Governments. This bill would also add provisions to the Revenue and Taxation Code to outline the process for counties and affected state agencies obtaining state reimbursement for any property tax revenue reduction granted under Section 170.

BACKGROUND

Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters, as noted in the table below, 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.

Disaster	Year	Legislation
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 396 (AB 1798)
Northern California Storms, Floods & Mudslides	2006	Stats. 2006, Ch. 897 (AB 2735)
Shasta Wildfires	2005	Stats. 2005, Ch. 623 (AB 164)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 624 (AB 18)
Southern California Storms, Floods & Mudslides	2005	Stats. 2005, Ch. 622 (SB 457)
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.** Related to the property tax elements of this bill, the author is sponsoring this measure to provide some financial relief to persons whose homes were damaged or destroyed as a result of the freeze as well as provide local government with revenues to backfill any property tax losses associated with assessment reductions related to the freeze.
2. **Key Amendments.** The **August 31** amendments made conforming amendments to the triple join provisions of the bill to reflect amendments made to AB 62 and SB 38. The **July 3, 2007** amendments triple joined this bill with AB 62 and SB 38. The **March 7, 2007** amendments made nonsubstantive changes and add coauthors.
3. **Proclamations.** In January of 2007, the Governor issued four proclamations of a state of emergency for a total of 18 counties related to the severe freezing weather as follows:
 - January 16: Fresno, Kern, Kings, Madera, Merced, Monterey, San Luis Obispo, Santa Barbara, Tulare and Ventura counties
 - January 19: Imperial, San Bernardino, San Diego, Santa Clara, Riverside, and Yuba counties
 - January 20: Stanislaus County
 - January 26: El Dorado County
4. **Agricultural Property.** There are two points about disaster relief as it applies to agricultural property worth noting:

First, because growing crops are not subject to tax there is no property tax relief available if they are damaged. However, if the trees themselves are damaged, then property tax reductions are possible. Specifically, Section 170 provides relief for damaged or destroyed taxable property. The State Constitution expressly exempts growing crops from property taxation (Article XIII, Section 3(h)). Consequently, since growing crops are not taxable property, the loss of growing crops as a result of the extreme cold (or any other cause) is not cause for reassessment under Section 170. Therefore, in order for orchards or vineyards to qualify for relief under Section 170, there must be damage to the trees or vines themselves.

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Additionally, any tree or vine that is damaged and must be replaced or pruned will receive a new four year exemption under Property Tax Rule 131. On a related note, newly planted trees and vines in orchard form that are still in their exemption period would not be eligible under Section 170 since they are already exempt from tax under the constitution and Section 211.

5. **This bill would allow homeowners whose residences were damaged or destroyed as a result of severe freezing conditions and any other related casualty 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) are technically ineligible for the exemption for the upcoming fiscal year under current law. This disaster occurred after the lien date. A home damaged or destroyed after January 1, 2007, such as any home damaged or destroyed by the freeze which commenced on January 11, would continue to be eligible for the exemption on the 2007-08 regular property tax bill. However, if such a home is not rebuilt and occupied by the next lien date, January 1, 2008, then it is not eligible for the exemption on the 2008-09 regular property tax bill.
6. **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. (See Letter To Assessors 82/50, Question G16) 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") Referenced documents available at www.boe.ca.gov select "Property Tax."
7. **Related Legislation - Four Year Exemption for Damaged Trees and Property Tax Deferral.** SB 148 (Hollingsworth) and AB 297 (Maze) propose an amendment to Section 211 to restart the four year exemption for newly planted fruit and nut trees that must be pruned back to the trunk or bud union related to the 2007 freeze. Similar legislation was enacted for damaged trees and grapevines damaged in the 1990 and 1998 severe freezes. SB 148 also allows taxpayers that lost at least 60% of their annual income due to the freeze to defer the December 10, 2007 property tax installment payment for one year without interest or penalty.
8. **Related Legislation – Homeowners' Exemption.** AB 62 (Nava) makes similar amendments to Section 218 related to various disasters: (1) fires occurring in Ventura County in 2006, (2) fires occurring in El Dorado County in June of 2007, and (3) the Zaca fire occurring in Santa Barbara and Ventura counties in 2007. In addition, SB 38 (Battin) makes amendments to Section 218 for fires occurring in Riverside County. Both bills are also enrolled.

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

The revenue estimate is limited to the property tax provisions of this bill.

Property Tax Reimbursement for property tax losses: unknown, but likely minimal. The long term tree damage is currently unknown and property owners have 12 months to apply for a reassessment reduction. But there is likely minimal revenue loss as trees eventually recover and young trees, those most likely to have been killed in the freeze, are not currently subject to property tax because they are under a four year exemption for newly planted trees. While growing crops suffered substantial damage in the freeze, they are not subject to property tax.

Property Tax Reimbursement Homeowner's Exemption: Likely no revenue loss. In practical application given that the freeze occurred after this year's lien date (January 1, 2007), a home would have to still be destroyed or damaged and uninhabited due to the freeze by next year, January 1, 2008. Any possibly affected home would have likely been repaired by that date.

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