STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**01/25/11**	Bill No:	**Assembly Bill 188**
Tax Program:	**Property**	Author:	**Block**
Sponsor:	**Board of Equalization**	Code Sections:	**RTC 205.5 & 279**
Related Bills:		Effective Date:	**Enactment**

BILL SUMMARY

This bill ensures that an unmarried surviving spouse that is receiving the disabled veterans' exemption will continue to receive the exemption if he or she is confined to a hospital or care facility.

ANALYSIS

CURRENT LAW

Article XIII, Section 4 of the California Constitution provides that the Legislature may exempt from property tax, in whole or in part, the home of a person or a person's spouse, if the person, because of injury or disease incurred in military service, is totally disabled. This exemption is commonly referred to as the "disabled veterans' exemption." The disabled veterans' exemption is also available to the unmarried surviving spouse of a person who dies while on active military duty or to the unmarried surviving spouse of a veteran who may or may not have already been receiving the exemption but later dies as a result of a service connected injury or disease.

Revenue and Taxation Code Section 205.5 is the implementing statute. It provides that "totally disabled" means a veteran who has a disability rating from the USDVA or the military service from which the veteran was discharged at 100 percent or has a disability compensation rating at 100 percent because he or she is unable to secure or follow a substantially gainful occupation. The exemption, which is compounded annually by an inflation factor, has two tiers, depending upon the claimant's income.

For the 2011-12 fiscal year, the disabled veterans' exemption amount will be $175,269 of assessed value for those with a household income below $52,470 (the "low income exemption"). For all others, the disabled veteran's exemption amount will be $116,845 (the "basic exemption").

QUALIFICATION	BASIC	LOW INCOME
VETERAN Disability Rating = 100% Disability Compensation = 100% Blind Loss of Two or More Limbs **SPOUSE OF QUALIFIED VETERAN** Surviving Spouse of Disabled Veteran Surviving Spouse of Person Who Died on Active Duty Surviving Spouse of Person Who Dies of a Service-Connected Injury or Disease	**$116,845*** *$100,000 as adjusted for inflation	**$175,269*** *$150,000 as adjusted for inflation **Household Income less than $52,470

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.

Existing law provides that a property is not eligible for the disabled veterans' property tax exemption if the owner does not occupy the property as his or her principal place of residence on the lien date. An exception is made in Section 205.5(b)(2) to provide that property is "deemed" to be the principal place of residence of a disabled veteran who is confined to a hospital or other care facility, if that property would be that veteran's principal place of residence were it not for his or her confinement to a hospital or other care facility, provided that the residence is not rented or leased to a third party. A family member that resides at the residence is not considered to be a third party.

Revenue and Taxation Code Section 279 provides that a claim for the disabled veterans' property tax exemption, once granted, shall remain in effect until:

- title to the property changes,
- the owner does not occupy the home as his or her principal place of residence on the lien date, unless:
  - the veteran is, on the lien date, confined to a hospital or other care facility but principally resided at the dwelling immediately prior to that confinement (provided the property is not rented or leased to a third party).
  - the dwelling is not occupied on the lien date because it was damaged in a misfortunate or calamity.
- the veteran is no longer disabled as defined in Section 205.5, or
- the property is altered so that it is no longer a residence.

With respect to this bill, while existing law addresses the case of a *disabled veteran* who is confined to a hospital or other care facility it is silent in the case of an unmarried surviving spouse.

PROPOSED LAW

This bill would amend Section 205.5 of the Revenue and Taxation Code to expressly provide that property is deemed to be the principal place of residence of the unmarried surviving spouse of a deceased veteran who is confined to a hospital or other care facility if that property would be the unmarried surviving spouse's principal place of residence were it not for his or her confinement to a hospital or other care facility. This will allow the spouse to continue to receive the disabled veterans' property tax exemption.

In addition, this bill would make corresponding amendments to Section 279 which provides that the disabled veterans' exemption, once granted, will remain in continuous effect.

BACKGROUND

AB 322 (Parra, Stats. 2003, Ch. 278) WAS sponsored by the California Association of County Veteran's Services Officers to ensure that a disabled veteran who enters a rest home will continue to receive the exemption on his or her home. The practice of some counties is to disqualify the property from receiving the exemption in this situation.

AB 322 included a statement of intent providing that the Legislature finds and declares the following:

- There are many disabled veterans who own property that qualifies for the disabled veterans' property tax exemption, but due to the fact that these disabled veterans are confined to hospitals or other medical institutions they are unable to occupy that property as their principal places of residence. In many cases the spouses of these disabled veterans continue to occupy the property as their principal places of residence.
- It is the intent of the Legislature in enacting this act to amend the Revenue and Taxation Code to conform with the California Constitution to further extend the disabled veterans' property tax exemption to property owned by the spouse of a living disabled veteran while that disabled veteran is confined to a hospital or other care facility and to extend the disabled veterans' property tax exemption to an otherwise qualifying veteran who is unable to occupy that property as his or her principal place of residence because he or she is confined to a hospital or other care facility, provided that the property is not rented or leased to a third party.

AB 322 codified the existing practices of many, but not all, counties in the situation where a disabled veteran enters a rest home and a spouse continues to reside in the home. Many counties allowed the exemption to remain on the property under the rationale that the absence from the home is temporary. However, a few counties considered the home to be ineligible for the exemption due to the technicality that it is no longer "the principal place of residence" of the veteran even when a spouse is residing in the home. In these counties, if the veteran were to subsequently die, the home would requalify for the exemption since unmarried surviving spouses are eligible for the disabled veterans' exemption.

Prior to AB 322, existing law and regulations were silent on this issue. However, there was BOE guidance on this subject as it relates to the homeowners' exemption. Letter to Assessors 82/50 advises that a homeowner's "temporary absence" from a home would not disqualify the home from the homeowners' exemption provided the home is not rented or leased to others on the lien date. With respect to the situation where a parent is confined to a rest home and an adult child resides in the home, BOE has advised that if the parent is expected to return and rent is not charged, the homeowners' exemption may continue. However, an absence of more than one year might raise questions as to whether the home is still the parent's principal residence. Some counties had extended this written advice to the disabled veterans' exemption prior to the enactment of AB 322.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the Board of Equalization its purpose is to ensure that an unmarried surviving spouse who is receiving the disabled veterans' exemption will continue to receive the exemption if he or she is confined to a hospital or care facility.
2. **Issue.** The original legislation AB 322 (Parra, Stats. 2003, Ch. 278) neglected to include unmarried surviving spouses. The inequity of revoking the exemption where

a person must enter an assisted living facility was corrected in 2003, but unmarried surviving spouses were not expressly extended the same benefit. This bill would remedy this inadvertent oversight.

COST ESTIMATE

Absorbable.

REVENUE ESTIMATE

Negligible.

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