

Amend Revenue and Taxation Code Section 279 to (1) expressly address the continuity of the disabled veterans' exemption on a home that had been receiving the exemption but temporarily uninhabitable due to damage and (2) provide that in governor-proclaimed disasters in which a home is completely destroyed, the veteran may retain the exemption on the property while rebuilding.

Source: Property and Special Taxes Department

Existing Law

Existing law provides a "disabled veterans' exemption" to reduce the property tax assessed value of the home of a qualified veteran or their surviving unmarried spouse. The disabled veterans' exemption is also available to the surviving spouse of a person who has died as a result of a service connected injury or death while on active duty in military service.

The amount of the exemption depends upon the claimant's income:

- The basic exemption amount is \$100,000 with annual increases for inflation. For 2008, the exemption is \$111,296.
- The low-income exemption is \$150,000 with annual increases for inflation. For 2008, the exemption is \$166,944 for those with a household income below \$49,969.

Section 205.5 of the Revenue and Taxation Code details the qualifications for the disabled veterans' exemption. A claim must be filed with the local county assessor to receive the exemption. If filing for the basic exemption, a claim need only be applied for once, while the low-income exemption requires a claim to be filed each year to verify income eligibility. Eligibility for the basic exemption is generally continuous once granted. However, if a property is no longer owner-occupied or is vacant on the lien date (January 1), the property is not eligible for the exemption for the upcoming tax year.

Disabled Veterans' Exemption after a Disaster. Existing law is silent as to the continuity of the disabled veterans' exemption on homes that are uninhabitable on the lien date due to a disaster. Special purpose legislation has been enacted in recent years to expressly provide that homes damaged or destroyed by specific governor-declared disasters will continue to receive the homeowners' exemption while the homeowner is in the process of rebuilding. Given the frequency of this type of legislation, questions have arisen by tax practitioners as to the application of the disabled veterans' exemption in similar situations.

Board staff has opined that a temporary absence from a dwelling because of damage to the home, such as from a flood or kitchen fire, will not result in the loss of the disabled veterans' exemption for homes temporarily vacated for repairs. However, when a dwelling has been totally destroyed, such as in wildfires where homes are burned to the foundation, staff has opined that because no dwelling exists, there is no occupancy or possibility of occupancy on the lien date and the property is not be eligible for the exemption.

This Proposal

This proposal would add consistency between the homeowners' and disabled veterans' exemption after a disaster. Additionally, with respect to homes that suffer complete destruction in a governor-declared disaster, it provides parity with provisions provided for the homeowners' exemption but uses general purpose language so that legislation is not necessary for each disaster.

Specifically, this proposal would amend Section 279 to:

- Codify the staff's administrative recommendation to assessors regarding the continuity of the disabled veterans' exemption to homes are inhabitable on the lien date due to damage related to a misfortune or calamity.
- Provide that in governor-proclaimed disasters when a home is completely destroyed, the veteran may retain exemption on the property. In practical application, this means that the land value would benefit up to the amount of the exemption.

Section 279 of the Revenue and Taxation Code is amended to read:

279. (a) A claim for the disabled veterans' property tax exemption described in Section 205.5 filed by the owner of a dwelling, once granted, shall remain in continuous effect unless any of the following occurs:

(1) Title to the property changes.

(2) The owner does not occupy the dwelling as his or her principal place of residence on the lien date.

(A) For purposes of this paragraph, if a veteran is, on the lien date, confined to a hospital or other care facility but principally resided at a dwelling immediately prior to that confinement, the veteran will be deemed to occupy that same dwelling as his or her principal place of residence on the lien date, provided that the dwelling has not been rented or leased as described in Section 205.5.

(B) For purposes of this paragraph, if a person receiving the disabled veterans' exemption is not occupying the dwelling on the lien date because it was damaged in a misfortune or calamity, the person will be deemed to occupy that same dwelling as his or her principal place of residence on the lien date, provided the person's absence from the dwelling is temporary and the person intends to return to the dwelling when possible to do so. However, except as provided in subparagraph (C), when a dwelling has been totally destroyed, and thus no dwelling exists on the lien date, the exemption is not applicable until the structure has been replaced and is occupied as a dwelling.

(C) A dwelling that was totally destroyed in a disaster for which the Governor proclaimed a state emergency, which qualified for the disabled veterans' exemption prior to the disaster and which has not changed ownership since the disaster, will be deemed to be occupied by that person on the lien date provided the person intends to reconstruct a dwelling on the property and the occupy the new dwelling as his or her principal place of residence when it is possible to do so.

(3) The property is altered so that it is no longer a dwelling.

(4) The veteran is no longer disabled as defined in Section 205.5.

(b) The assessor of each county shall verify the continued eligibility of each person receiving a disabled veterans' exemption, and shall provide for a periodic audit of, and establish a control system to monitor, disabled veterans' exemption claims.