



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

Date Amended:	Enrolled	Bill No:	<u>SB 1495</u>
Tax:	Property	Author:	Kehoe
Related Bills:		Position:	Support as Sponsor

BILL SUMMARY

This Board-sponsored bill would, for purposes of the disabled veterans’ property tax exemption, provide that a dwelling not occupied because of a misfortune or calamity or a home totally destroyed in a governor-declared disaster will continue to receive the exemption while the home is being reconstructed.

ANALYSIS

CURRENT LAW

Existing law provides for a disabled veterans’ property tax exemption in the amount of \$111,276 or \$166,944, depending on income. Section 279 of the Revenue and Taxation Code provides that, once the disabled veterans’ property tax exemption is granted, it is to remain in continuous effect unless certain specified events occur. Relevant to this bill, one terminating event is that the owner does not occupy the dwelling as his or her principal place of residence on the property tax lien date (January 1). Another terminating event is when the property has been so altered that it is “no longer a dwelling.”

Existing law is silent with respect to the continuity of the disabled veterans’ exemption after an event that damages or destroys a home to the point that it becomes uninhabitable. Given the lack of express statutory direction, the Board has issued administrative guidance to assessors in which the continuity of the exemption depends upon the extent of damage to the dwelling, as noted in the explanation and table below.

Partial Damage. In the case of a home that has been partially damaged and is uninhabitable on the lien date, staff has opined that the exemption need not be cancelled pursuant to Section 279 on the basis that the home is no longer the “principal place of residence.” Rather, staff has opined that if the homeowner intends to return to the home as soon as he or she is able to do so, the situation could be viewed as a temporary absence from the home and still be considered the homeowner’s principal place of residence. This is so even though the owner might be renting a house or apartment in the interim.

Total Destruction. In the case of a home that has been completely destroyed, such as in a wildfire where homes are burned to the foundation, staff has opined that the exemption must be cancelled pursuant to Section 279 because a dwelling no longer exists on the property, and thus, it could not possibly be occupied as a principal place of residence. However, as soon as a home is rebuilt and occupied, the exemption can be restored.

EXTENT OF DAMAGE	EXEMPTION ELIGIBILITY
Partial	Continue
Total Destruction	Cancel, restore when home replaced and occupied.

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.

PROPOSED LAW

Homes Destroyed in Governor-Declared Disasters. This bill would amend Section 279 to allow a person who had been receiving the disabled veterans' exemption, and who subsequently suffers the complete loss of his or her home in a major disaster for which the governor issues a proclamation of a state of emergency, to retain the exemption, provided the person:

- continues to own the property,
- intends to rebuild a home on the property, and
- intends to occupy the home as his or her principal place of residence.

In practical application, this means that the exemption would be applied to the remaining land portion of the assessment. §279(a)(2)(C)

Homes Destroyed in Non-Governor-Declared Disasters. This bill would amend Section 279 to codify the Board's administrative recommendation to assessors when a home has been *destroyed*, and thus, on the lien date no dwelling exists. In this case, the property would not be eligible for the exemption until the structure has been replaced and occupied. §279(a)(2)(B)

Homes Partially Damaged in Any Type of Event. This bill would amend Section 279 to codify the Board's administrative recommendation to assessors in the situation where a home is not occupied on the lien date due to partial damage related to a misfortune or calamity (including damage incurred in a major disaster for which the governor issues a proclamation of a state of emergency). In this case, the dwelling will be deemed to continue to be the person's principal place of residence provided that the absence is temporary and the person intends to return to the home when able to do so. §279(a)(2)(B)

The table below summarizes exemption eligibility after a home receiving the disabled veterans' exemption suffers damage. This bill codifies the Board's administrative recommendations, with the exception of allowing the exemption to be retained on a home totally destroyed in a governor-declared disaster.

EVENT	EXTENT OF DAMAGE	EXEMPTION ELIGIBILITY
Governor Declared	Total	Continue
Non-Governor Declared	Total	Cancel, restore when home replaced and occupied.
Any	Partial	Continue

IN GENERAL

Disabled Veterans' Exemption. Existing law provides for a "disabled veterans' exemption" which reduces the property tax assessed value of homes owned by qualified disabled veterans and, after their death, to the persons' surviving unmarried spouses. The disabled veterans' exemption is also provided to surviving spouses of persons who died on active duty.

The amount of exemption, which is automatically indexed each year, depends upon the claimant's income. For those with a household income below \$49,969 (the "low income exemption"), the amount will be \$166,944 in 2008-09. For all others (the "basic exemption"), the amount will be \$111,296.

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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.

BACKGROUND

Special purpose legislation has been enacted in recent years to provide that dwellings that were destroyed by specific disasters, for which the governor issued a state of emergency proclamation, 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
Zaca Fire – Santa Barbara and Ventura County	2007	Stats. 2007, Ch. 224 (AB 62)
Angora Fire – El Dorado County	2007	Stats. 2007, Ch. 224 (AB 62)
Freeze	2007	Stats. 2007, Ch. 224 (AB 62)
Day and Shekell Fires - Ventura County	2006	Stats. 2007, Ch. 224 (AB 62)
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)

Other Related Legislation. In 2003, AB 322 (Stats. 2003, Ch. 278, Parra) was sponsored by the California Association of County Veteran's Services Officers 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 the residence is not being rented out to a third party. This legislation 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 because it was no longer "the principal place of residence" of the veteran even when a spouse remained living in the home. Oddly, as soon as the veteran died, the home then re-qualified for the exemption since unmarried surviving spouses are eligible for the disabled veterans' exemption.

COMMENTS

1. **Sponsor and Purpose.** The Board of Equalization is sponsoring this measure to codify its administrative recommendations related to exemption eligibility for the disabled veterans' exemption after a misfortune or disaster. In addition, in order to provide parity between the homeowners' and disabled veterans' exemption following a disaster for which the governor issues a proclamation of a state of emergency, this bill will allow disaster victims that suffer the total destruction of their home to continue to receive the disabled veterans' exemption while they rebuild.
2. **Existing law is silent.** The Board's current advice to county assessors, with respect to both the homeowners' exemption and the disabled veterans' exemption, is that *damaged* homes may keep the exemption but *totally destroyed* homes may not. This written advice, found in Letter to Assessors 82/50, is specific to the homeowners' exemption, but can be extended to the administration of the disabled veterans' exemption.
3. **Rationale: A Temporary Absence.** When a home has been damaged to the point that it must be vacated for repairs but it is still standing, then under the rationale that the absence from the home is temporary, the home could still be considered the person's principal place of residence. However, when a dwelling has been totally destroyed, such as a home razed in a wild fire, the property can not be eligible for the exemption as a principal place of residence.
4. **Beginning in 2003, legislation specific to the homeowners' exemption has been enacted for every governor-declared disaster.** More than 4,000 homes were damaged or destroyed in the 2003 Southern California fires. And, of those, more than 60% were owner-occupied homes receiving the homeowners' exemption. Given that so many homes were totally destroyed in the fires, special legislation was enacted regarding the homeowners' exemption that applied to both damaged homes and totally destroyed homes. However, since then, legislation has become a standard practice and is enacted for every governor-declared disaster whether or not it is necessary to the case at hand.

5. **So what about the disabled veterans' exemption?** Given recent legislative activity in this area, tax practitioners have questioned the correctness of the longstanding administrative practice to allow the exemption to continue on a damaged home receiving the disabled veterans' exemption without similar authorizing legislation. Further, with respect to a home that is totally destroyed, disabled veterans would lose their special exemption and would have to pay property taxes on the full assessed value of the property after the disaster – which even after a reassessment to reflect the damage – could result in a net increase in property tax at a moment of personal and financial distress.
6. **This bill would provide parity with provisions provided for the homeowners' exemption but uses general purpose language so that legislation is not necessary for each time a major disaster occurs.** While there are more than five million persons receiving the homeowners' exemption, there are fewer than 30,000 persons receiving the disabled veterans' exemption. Because of the few times a disabled veteran might be affected, it would not be prudent to amend the disabled veterans' exemption laws for each individual governor-declared disaster.

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

This bill would have a minimal revenue impact.

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