



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

**DRAFT**

Date Amended:	<b>4/20/06</b>	Bill No:	<b>AB 1798</b>
Tax:	<b>Property</b>	Author:	<b>Berg</b>
Related Bills:	<b>AB 2735 (Nava) AB 3039 (Houston) SB 1607 (Machado)</b>		

**BILL SUMMARY**

This bill would, among other things, allow persons whose homes were damaged or destroyed as a result of severe rainstorms and related flooding and mudslides in specified counties to retain the homeowners' exemption on their property while they are in the process of rebuilding.

**SUMMARY OF AMENDMENTS**

The amendments since the previous analysis limit certain provisions of this bill to counties that were proclaimed to be in a state of emergency on January 2, 2006. The counties deleted would be covered by a similar bill, AB 2735 (Nava).

**ANALYSIS**

**Current Law**

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 upcoming tax year.

Relevant to this bill, homes that are totally destroyed on the lien date for a particular fiscal year (that is January 1 for the forthcoming fiscal year that begins July 1) are not eligible for the homeowners' exemption. For example, a home destroyed on or before January 1, 2006 is not eligible for the homeowners' exemption on the 2006-07 property tax bill.<sup>1</sup>

**Proposed Law**

This bill would, among other things, add subdivision (i) to Section 218 of the Revenue and Taxation Code to provide that a dwelling qualified for the homeowners' exemption prior to December 17, 2005, and subsequently damaged or destroyed in a specified disaster, will continue to be eligible for the homeowners' exemption. With respect to a

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<sup>1</sup>A home destroyed after January 1, 2006, would continue to be eligible for the exemption on the 2006-07 property tax bill. However, if the home has not been rebuilt and occupied by the next lien date, January 1, 2007, it would not be eligible for the homeowners' exemption on the 2007-08 property tax bill.

dwelling that was not destroyed but was temporarily uninhabited on the lien date because of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out or damaged roads, that dwelling would also continue to be eligible for the homeowners' exemption.

### 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
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

- Sponsor and Purpose.** The author is sponsoring this measure to provide some financial relief to persons whose homes were damaged or destroyed as a result of severe rainstorms and related flooding and mudslides.
- Key Amendments.** The **April 20 amendments** modify the date of first eligibility from December 19 to December 17 and limit other provisions of this bill unrelated to the homeowners' exemption to the 7 counties that were declared to be in state of emergency on January 2. The counties that have been deleted will be covered by another bill, AB 2735 (Nava). The **February 14 amendments** modified the dates of eligibility.
- In January 2006 the Governor issued three proclamations declaring a total of 34 counties to be in a state of emergency (i.e., a disaster declared by the Governor).**
  - January 2: Del Norte, Humboldt, Mendocino, Napa, Sacramento, Sonoma, and Trinity. ( 7 counties)
  - January 3: Butte, El Dorado, Lake, Lassen, Marin, Nevada, Placer, Plumas, San Joaquin, San Mateo, Sierra, Siskiyou, Solano, Sutter, Yolo, and Yuba. (16 counties)
  - January 12: Alameda, Alpine, Amador, Colusa, Contra Costa, Fresno, Kings, San Luis Obispo, Santa Cruz, Shasta, and Tulare. (11 counties)

**In April 2006 the Governor issued two more proclamations due to rains that started on March 29.**

- April 10: Amador, Calaveras, Fresno, Merced, San Joaquin, San Mateo, and Stanislaus. (7 counties)
  - April 13: Alameda, El Dorado, Kings, Marin, Santa Cruz, Sonoma, Tulare, and Tuolumne. (9 counties)
4. **Suggested Amendments:** The provisions for retaining the exemption appear to be inadvertently limited to restricted access situations. On page 9, line 16 it is suggested that after the word “dwelling” the phrase “was temporarily damaged or destroyed or was being reconstructed by the owner, or” be added.
  5. **This bill would allow homeowners whose residences were damaged or destroyed as a result of the disasters 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.
  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](http://www.boe.ca.gov) select “Property Tax.”
  7. **Governor’s Signing Message on Special Purpose Legislation.** The Governor included a signing message in last year’s AB 18 (Ch. 624, Stats. 2005) requesting that standard purpose legislation be enacted to avoid the need to introduce special purpose legislation each year.
  8. **Related Bills.** AB 2735 (Nava) would also amend Section 218 to provide similar relief for specified disasters. AB 1798 includes only January 2006 proclamations whereas AB 2735 includes both the January and April 2006 proclamations. AB 3039 (Houston) and SB 1607 (Machado) also propose to amend Section 218 to make these provisions standard for all Governor declared disasters without the need for special purpose legislation. In addition, AB 1922 (Waters) and AB 2738 (Wyland) propose unrelated amendments to Section 218 to increase the amount of the homeowners’ exemption.

## **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 homeowners' exemption portion of the bill.***

**Background, Methodology, and Assumptions**

Existing property tax law provides for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined. This bill would provide that any dwelling that qualified for the exemption prior to December 17, 2005, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor, in January 2006, and that has not changed ownership since December 17, 2005, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out and damaged roads.

With respect to the homeowners' exemption provisions, this bill would extend its provisions to losses in all 34 counties: Alameda, Alpine, Amador, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Marin, Mendocino, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Trinity, Tulare, Yolo, and Yuba.

Other provisions of this bill, unrelated to the homeowners' exemption, are limited to 7 of the 34 counties. These seven counties are the ones covered by the January 2 proclamation: Del Norte, Humboldt, Mendocino, Napa, Sacramento, Sonoma, and Trinity.

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. Therefore, damaged properties were not factored into the revenue estimate.

Based on the information from the Office of Emergency Services (OES) and from selected counties, that were not included in the OES reports, we estimate that approximately 53 homes were totally destroyed.

County	Damaged Homes	Destroyed Homes	Exempt (# x \$7,000)	Average Tax Rate	2006-07 Subvention
Alameda		*		1.149%	
Alpine		*		1.000%	
Amador		*		1.012%	
Butte		*		1.057%	
Colusa		*		1.045%	
Contra Costa	657			1.086%	
Del Norte	22	20	140,000	1.001%	1,402
El Dorado	78	8	56,000	1.026%	575
Fresno		*		1.194%	
Humboldt	384			1.032%	
Kings		*		1.067%	
Lake	33			1.025%	
Lassen	208			1.016%	
Marin	1603	3	21,000	1.075%	226
Mendocino	216	2	14,000	1.068%	150
Napa	675	4	28,000	1.069%	299
Nevada	46			1.021%	
Placer		*		1.050%	
Plumas		*		1.027%	
Sacramento	114	1	7,000	1.071%	75
San Joaquin		*		1.028%	
San Luis Obispo	37	1	7,000	1.054%	74
San Mateo		*		1.057%	
Santa Cruz		*		1.100%	
Shasta County	63			1.096%	
Sierra	30			1.039%	
Siskiyou	66	2	14,000	1.007%	141
Solano	932	1	7,000	1.108%	78
Sonoma	913	10	70,000	1.110%	777
Sutter		*		1.030%	
Trinity		1	7,000	1.008%	71
Tulare		*		1.057%	
Yolo		*		1.055%	
Yuba	34			1.005%	
<b>TOTALS</b>	<b>6,111</b>	<b>53</b>	<b>\$371,000</b>		<b>\$3,868</b>

**Revenue Summary**

The local jurisdictions are reimbursed by the state for their losses due to the homeowners' exemption. This bill would require the state to continue to subvene these amounts. Assuming that the 53 homes were destroyed prior to January 1, 2006 and will not be rebuilt by January 1, 2007, and based on the calculations above, we estimate the revenue impact to be about \$3,868 for fiscal year 2006-07. The impact will decrease over time as these homes are rebuilt and the owners can reoccupy them.

Analysis prepared by:	Rose Marie Kinnee	916-445-6777	06/05/06
Revenue by:	Bill Benson Jr.	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	

*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.*