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No. 2008/082

TO COUNTY ASSESSORS:

DISASTER RELIEF – DISABLED VETERANS' EXEMPTION

Effective January 1, 2009, Senate Bill 1495 (Stats. 2008, Ch. 594) amends Revenue and Taxation Code¹ section 279 to allow the disabled veterans' exemption to remain in effect if a home is totally destroyed in a disaster for which the Governor proclaimed a state of emergency. These provisions allow a disaster victim to continue to receive the disabled veterans' exemption on the property while in the process of rebuilding the home. This legislation serves to provide parity with similar provisions that are typically enacted for persons receiving the homeowners' exemption after each individual disaster for which the Governor issues a proclamation. Chapter 594 also codified existing administrative procedures detailing the continuity of the disabled veterans' exemption in other situations where a home is damaged or destroyed.

Existing law provides for a disabled veterans' property tax exemption on a qualified person's principal place of residence in two different amounts, depending on income. Section 279 provides that once the disabled veterans' exemption is granted it remains in effect unless specified events occur. Relevant to this bill, terminating events include if the owner is not occupying the dwelling as his or her principal place of residence on the property tax lien date (January 1) and if the property is altered such that it is no longer a dwelling.

Chapter 594 amends section 279 to expressly address exemption eligibility in three situations as noted below. Continued exemption eligibility depends on the extent of the damage and whether the event causing the damaged resulted in a Governor's proclamation.

Home Partially Damaged (Any Type of Event). If a person receiving the disabled veterans' exemption is not occupying the dwelling on the lien date because the dwelling was damaged in a misfortune or calamity, the exemption will remain in effect provided the person intends to return to the home. This applies to any misfortune or calamity regardless of whether the event resulted in the Governor issuing a proclamation of a state of emergency. The Court of Appeal in *T.L. Enterprises, Inc. v. County of Los Angeles* (1989)² defined the phrase "misfortune or calamity" as a sudden, distinct, and unexpected occurrence that damaged or destroyed the property. Chapter 594 added subparagraph (B) to section 279(a)(2) and specifies that the damaged dwelling will be deemed to be the person's principal place of residence if the absence is temporary and the person intends to return to the home when possible to do so.

¹ All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

² 215 Cal.App.3d 876.

Home Destroyed (Non-Governor-Declared Disasters). When a home has been totally destroyed by a misfortune or calamity, no dwelling exists. If a home that was receiving the disabled veterans' exemption home is totally destroyed in a misfortune or calamity for which the Governor did *not* proclaim a state of emergency, the property is not eligible for the exemption because no dwelling exists as of the lien date. However, if a displaced person purchases and occupies another dwelling as his or her principal residence while the destroyed dwelling is under construction, that person can claim the disabled veterans' exemption for the interim dwelling. When the destroyed structure has been replaced and occupied, it will once again be eligible for the exemption. Newly added subparagraph (B) of section 279(a)(2) specifies that these provisions do not apply in the case of an event for which a proclamation was issued.

Home Destroyed in Governor-Declared Disasters. If a home is totally destroyed in a disaster for which the Governor issues a proclamation of a state of emergency, the exemption will remain in effect, 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.

These provisions are outlined in newly added subparagraph (C) of section 279(a)(2). In practical application, this generally means that the exemption would be applied to the remaining land portion of the assessment when a dwelling no longer exists on the property.

A list of disasters for which the Governor has issued a proclamation of a state of emergency is posted on the Board of Equalization's website at www.boe.ca.gov/proptaxes/pdf/Disasterlist.pdf.

A copy of amended section 279 is enclosed. If you have any questions, please contact our Assessment Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

Revenue and Taxation Code Section 279 as amended by Chapter 594 of the Statutes of 2008:

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. ~~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.~~

(A) 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) If a person receiving the disabled veterans' exemption is not occupying the dwelling on the lien date because the dwelling 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. Except as provided in subparagraph (C), when a dwelling has been totally destroyed, and thus no dwelling exists on the lien date, the exemption provided by Section 205.5 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 of emergency, that qualified for the exemption provided by Section 205.5 and has not changed ownership since the disaster, will be deemed occupied by the person receiving a disabled veterans' exemption on the lien date provided the person intends to reconstruct a dwelling on the property and occupy the 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.