

DISASTER RELIEF AUTHORITATIVE CITATIONS

The following provides the authoritative citations for the Disaster Relief Survey Topic. In general, citations include Constitutional provisions, sections of the Revenue and Taxation Code, other applicable statutes, court cases, Property Tax Rules, *Assessors' Handbook Sections*, Letters To Assessors, and legal annotations pertaining to the topic.

CITATION	DESCRIPTION
California Constitution	
Article XIII, §15	The Legislature may authorize local government to provide for post-lien date tax relief for property stricken by disaster.
Article XIII A, §2(a)	For purposes of "Proposition 13" limitations on value, real property reconstructed to a comparable market value after a Governor-declared disaster is not considered new construction.
Article XIII A, §2(b)	The full cash value of real property may be indexed up to 2 percent per year or may be reduced to reflect damage or destruction or other losses in value.
Article XIII A, §2(e)	The Legislature may provide that, after July 1, 1985, the base year value of property stricken by Governor-declared disaster may be transferred to comparable replacement property located within the same county. The Legislature may also provide for intercounty transfers of base year value for such property damaged on or after October 20, 1991.
Revenue and Taxation Code	
§51	In relevant provisions, states that the taxable value of real property shall reflect reductions in value due to damage or destruction. If, the county has no disaster relief ordinance pursuant to §170, the taxable value of damaged property is the sum of the land and improvement values each enrolled at the lower of current market or factored base year value. If the county has a disaster relief ordinance, the §170 value shall be enrolled.
§69	Provides a mechanism to allow taxpayers, under specified conditions, to transfer the base year values of their properties damaged or destroyed by a Governor-declared disaster to comparable replacement properties within the same county. Implements article XIII A, §2(e) – see above.
§69.3	Allows a county board of supervisors to adopt an ordinance allowing a property owner to transfer the base year value of a damaged property in one county to a comparable replacement property located in another county.

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§166	A taxpayer's claim or affidavit required by law will be considered timely if postmarked on or before the final date for the filing.
§170	Allows a county board of supervisors to adopt an ordinance to provide property tax relief to assesses whose property has been damaged or destroyed, through no fault of their own, by misfortune or calamity. Specific conditions are prescribed for contents of application for disaster relief, minimum damage amount, period for filing claims, and assessment procedures for partial and full restoration of property. The ordinance may also specify that the assessor may initiate the reassessment where the assessor determines that within the preceding 12 months taxable property located in the county was damaged or destroyed.
§172	Manufactured homes destroyed on or after 1/1/82 in a Governor-declared disaster, are eligible for special disaster relief.
§172.1	Owners of such destroyed manufactured homes shall file a claim for relief. The assessor will ensure that a taxable replacement manufactured home is assessed at the same taxable value as a destroyed taxable manufactured home or, in the case of a destroyed manufactured home subject to vehicle license fee, at a value that produces taxes equal to the license fee of the destroyed unit. The tax relief may not be transferred to a new ineligible owner.
§211(a)(4)-(5)	Orchards and vineyards damaged in the Governor-declared fire and windstorm of October 2007, and subsequently pruned shall be considered a new planting and granted a new exemption period.
§218	Effective January 1, 2011, this section provides that each time there is a Governor-proclaimed disaster, a property that has been destroyed by the disaster will continue to be eligible to receive the homeowners' exemption. Amendments to section 218 expressly address exemption eligibility in three situations which are described in LTA 2011/004.
§218.2	Effective September 29, 2010, Assembly Bill 1690 added this section to allow persons whose homes were damaged or destroyed in the January 2010 earthquake in Humboldt County to retain the homeowners' exemption on their property while they are in the process of rebuilding. These provisions also apply to homes that are temporarily uninhabited as a result of restricted access to the property due to the earthquake.
§218.3	Effective September 29, 2010, Assembly Bill 2136 added this section to allow persons whose homes were damaged or destroyed in the April 2010 earthquake in Imperial County to retain the homeowners' exemption on their property while they are in the process of rebuilding. These provisions also apply to homes that are temporarily uninhabited as a result of restricted access to the property due to

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	the earthquake.
§218.4	<p>Effective September 29, 2010, Assembly Bill 1662 added this section to allow persons whose homes were damaged or destroyed in the following specified disasters to retain the homeowners' exemption on their property while they are in the process of rebuilding:</p> <ul style="list-style-type: none"> • August 2009 wildfires in Los Angeles and Monterey Counties. • August 2009 wildfires in Placer County. • January 2010 severe winter storms affecting Calaveras, Imperial, Los Angeles, Orange, Riverside, San Francisco, San Bernardino, and Siskiyou Counties. • July 2010 wildfires in Kern County. <p>These provisions also apply to homes that are temporarily uninhabited as a result of restricted access to the property due to the wildfires.</p>
§218.6	<p>Effective October 19, 2010, Assembly Bill 11 of the 2009-10 Sixth Extraordinary Session added this section to allow persons whose homes were damaged or destroyed in the September 2010 San Bruno explosion and fire in San Mateo County to retain homeowners' exemption on their property while they are in the process of rebuilding. These provisions also apply to homes that are temporarily uninhabited as a result of restricted access to the property due to the explosion and resulting fire.</p>
§279(a)(2)	<p>The disabled veterans' exemption shall be granted to an otherwise qualifying disabled veteran who could not occupy his or her home on the lien date due to damage or destruction caused by a disaster, whether Governor-declared or not.</p>
Letters to Assessors	
81/123	<p>Chapter 377, Statutes of 1981, amended §51 and §170. Section 51 provided alternate valuation procedures for counties not having disaster relief ordinances. Section 170 required the property owner to file a claim for disaster relief within six months of the date of the event, and required that the value of the property in its damaged state was to be annually indexed by the inflation factor until restoration was complete.</p>
82/12	<p>Certain valuation procedures outlined in LTA 81/123 were corrected, specifically the application of the inflation index after damage occurs and the restoration of value based on the condition of the damaged portion and not the entire property.</p>
82/139	<p>Chapter 1465, Statutes of 1982, added §172 and 172.1 to allow manufactured</p>

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	homes to receive relief from vehicle license fee (VLF) or local property taxation (LPT) for damage sustained in a Governor-declared disaster.
85/75 Q & A #2	A property subject to supplemental assessment that is damaged by misfortune or calamity can receive §170 relief on both the regular (§601) and the supplemental tax rolls.
87/23	SUPERSEDED BY LTA NO. 2010/010.
88/72	Manufactured homes destroyed in Governor-declared disasters in counties having disaster relief ordinances may seek relief under either §170 or §172, depending on whether the manufactured home was subject to VLF or LPT.
92/09	Chapter 1034, Statutes of 1991, prescribed a new exemption period for orchards and vineyards that were damaged by the December 1990 freeze and as a result required pruning to the trunk or bud union to create a new shoot
92/45	For purposes of transferring base year values per §69, to the extent that replacement property is used or is intended to be used for a purpose substantially different than the use made of the replaced property, the replacement property is not similar in utility and hence is not eligible for relief.
95/16	In November 1993, the voters approved a Constitutional amendment allowing the Legislature to provide for transfers of base year values of property damaged in one county in a Governor-declared disaster to comparable replacement property located in another county. Statutes of 1994, added Chapter 72 and Statutes 1994, Chapter 1222 amended §69.3.
95/31	Amendments to §170 allow assessors to use supplemental assessment procedures to enroll the taxable value of property fully repaired, restored, or reconstructed after a qualifying disaster or calamity.
96/59	To qualify for relief under §170, a calamity or disaster must not be attributable to fault of the owner. For purposes of this section, "fault" includes both an intentional act (e.g., throwing a lit cigarette into flammable material) and willful negligence (e.g., deliberately smoking near an open container of gasoline and thus causing a fire).
97/58	Chapter 353, Statutes of 1997, extended from three to five years the period within which replacement property must be acquired to replace property damaged in the Northridge (Los Angeles County) earthquake. Such replacement property would still be eligible for transfer of base year value per §69.
99/52	Chapter 291, Statutes of 1999, extended a new four-year exemption period to orchards severely damaged in the 1998 freeze. "Severely damaged" means that

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	the existing orchard required pruning to the trunk or bud union to establish a new shoot as a replacement.
99/87, Q & A. 10 & 11	A manufactured home in a resident-owned park is eligible for disaster relief under both §69 and §170.
2000/066	A list of Governor-declared disasters that have occurred in California since October 20, 1991
2002/040	Chapter 407, Statutes of 2001, amended §170 to change the assessment appeals filing period from 14 days to 6 months for property that has sustained a misfortune or calamity. Also increased damage threshold to \$10,000 or more. Extended the time requirement that the property owner may file a claim for disaster relief from 60 days to 12 months from the date of the event.
2005/073	Any dwelling that qualified for a homeowners' exemption prior to its being damaged or destroyed by misfortune or calamity in the following governor-declared disasters, shall not be denied an exemption solely on the basis that the dwelling was temporarily damaged due to the referenced disaster: wildfires in Shasta County during August 2004, and severe rainstorms, floods, mudslides, or accumulation of debris in December 2004 and January, February, March, and June 2005. See §218(g) and (h).
2008/063	Residences stricken by Governor-declared disasters that occurred in California during 2007 and 2008 may continue to receive the homeowners' exemption, notwithstanding that the residence was temporarily vacant as a result of restricted access, damage, or destruction resulting from the disaster.
2008/082	The disabled veterans' exemption is still available in situations where: (1) a veteran is confined to a hospital on lien date but had resided in the residence previously, and the house is not rented out; (2) the residence is damaged in a disaster and the disabled veteran is thus unable to occupy it on the lien date; or (3) a residence is totally destroyed in a Governor-declared disaster and is thus not in existence on the lien date, but the veteran intends to return to it when possible.
2008/084	The three- or four-year exemption period is re-started for orchards and vineyards which, as a result of the strong winds or wildfires that occurred in October 2007 in southern California, required pruning to the trunk or bud union to establish a new shoot.
2009/008	Nine counties have enacted ordinances implementing intercounty transfer of base year values for properties damaged or destroyed by disaster: Contra Costa, Los Angeles, Modoc, Orange, San Francisco, Santa Clara, Solano, Sutter, and Ventura.

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2009/053	Amends section 218 of the Revenue and Taxation Code to extend the homeowners' exemption to homes that were damaged or destroyed in recent disasters for which the Governor proclaimed a state of emergency.
2010/010	<p>Superseded by 2012/012. Effective January 1, 2010, Senate Bill 824 (Stats, Ch 67), in part, amends section 69 and 69.3 of the Revenue and Taxation code, which allow base year value transfers for properties substantially damaged or destroyed by disasters for which the governor proclaims a state of emergency. These amendments apply to disasters that occur on or after January 1, 2010.</p> <p>Prior to January 1, 2010, the phrase "substantially damaged or destroyed" meant that the damaged or destroyed property must have sustained physical damage amounting to more than 50 percent of its current market value immediately prior to the damage. "Property" was viewed as an appraisal unit, which means that assessors considered land and improvements together as a single appraisal unit in calculating whether more than 50 percent of the property had been damaged or destroyed. Problems in recent years have occurred where, even though the home was completely destroyed, the land value was so high that the difference in the market value of the property before and after the disaster did not meet the 50 percent test.</p> <p>These amendments allow land and improvements to be treated as separate appraisal units in meeting the "substantially damaged or destroyed" threshold of more than 50 percent for purposes of qualifying for disaster relief. Thus, this LTA supersedes the advice contained in LTA No. 87/23.</p> <p>Senate Bill 824 amends section 69(c)(1) to read, in part:</p> <p>Property is substantially damaged if the land or the improvements sustain physical damage amounting to more than 50 percent of its full cash value immediately prior to the disaster.</p> <p>Senate Bill 824 also amends section 69.3(b)(12) to read, in part:</p> <p>"Substantially damaged or destroyed" means property where either the land or the improvements sustain physical damage amounting to more than 50 percent of its full cash value immediately prior to the disaster.</p>
2011/004	<p>Disaster Relief – Homeowners' Exemption. In 2010, five bills were enacted that amend the Revenue and Taxation Code to extend the homeowners' exemption to homes that were damaged or destroyed by a misfortune or calamity.</p> <p>Section 218 was amended by Senate Bill 1494 and adds general purpose</p>

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	<p>language for any misfortune or calamity, including Governor-proclaimed disasters. These amendments go into effect January 1, 2011.</p> <p>Section 218.2 was added per Assembly Bill 1690 and allows persons whose homes were damaged or destroyed in the January 2010 earthquake in Humboldt County to retain the homeowners' exemption while they are rebuilding. This section goes into effect September 29, 2010.</p> <p>Section 218.3 was added per Assembly Bill 2136 and allows persons whose homes were damaged or destroyed in the April 2010 earthquake in Imperial County to retain the homeowners' exemption while they are rebuilding. This section goes into effect September 29, 2010.</p> <p>Section 218.4 was added per Assembly Bill 1662 and goes into effect September 29, 2010. This section allows persons whose homes were damaged or destroyed in the following specified disasters to retain the homeowners' exemption while they are rebuilding:</p> <ul style="list-style-type: none"> • August 2009 wildfires in Los Angeles and Monterey Counties. • August 2009 wildfires in Placer County. • January 2010 severe winter storms affecting Calaveras, Imperial, Los Angeles, Orange, Riverside, San Francisco, San Bernardino, and Siskiyou Counties. • July 2010 wildfires in Kern County. <p>Section 218.6 was added per Assembly Bill 11 of the 2009-10 Sixth Extraordinary Session and allows persons whose homes were damaged or destroyed in the September 2010 San Bruno explosion and fire in San Mateo County to retain the homeowners' exemption while they are rebuilding. This section goes into effect October 19, 2010.</p>
2012/012	<p>Effective January 1, 2012, Senate Bill 947 (Stats. 2011, Ch. 351), in part, amends sections 69, 69.3, and 69.5 of the Revenue and Taxation Code to clarify the definition of "substantially damaged or destroyed." Sections 69 and 69.3 allow base year value transfers for properties substantially damaged or destroyed by disasters for which the Governor proclaims a state of emergency. Section 69.5 allows base year value transfers for homeowners age 55 and older or disabled under specific circumstances, including situations where the original property was substantially damaged or destroyed by any misfortune or calamity and sold in its damaged state. These three sections are separately discussed in the LTA as each has different qualifications for property tax relief</p>
Annotations	
200.0402	§69 extends disaster relief only to properties damaged or destroyed in a

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	Governor-declared disaster).
200.0420	New construction added to replacement property qualifying for base year value transfer may be assessed, subject to its meeting the time and value limits of §69.
200.0431	<i>Reconstruction</i> of a portion of a fire-damaged residence would qualify for relief under both §70 and §170; however, <i>replacement</i> with a newly constructed residence would only be eligible for tax relief under §69.
360.0001	§51 allows property owners to seek disaster relief either through its own decline in value provisions or through a §170 ordinance.
360.0002	The separate appraisal unit provision in Rule 461(d) applies only until disaster-stricken property is restored; thereafter, subdivision (e) applies.
360.0004	"Repair," as applied to land stricken by disaster, may mean simply preventive measures to prevent further damage, e. g., constructing a rock wall to prevent further erosion of storm-damaged beach front properties.
360.0010	See LTA 82/12.
360.0015	§170 does not dictate how an assessor may learn of a disaster, nor does it prohibit the assessor from mailing an application for disaster relief to property owners where they informed the assessor of the disaster.
360.0016	A salmon drought inflicting economic hardship on owners of commercial fishing vessels is not a disaster within the meaning of §170.
360.0019	See LTA 96/59 and Attorney General Opinion OAG 74/257.
360.0021	A hailstorm damaging a taxable orchard qualifies as a disaster for purposes of §170, but such damage to growing crops does not, since growing crops are not taxable property.
360.0025	A helicopter completely destroyed in a crash resulting from mechanical failure qualifies for disaster relief.
360.0026	A dwelling totally destroyed in a disaster may not receive the homeowners' exemption until the structure has been replaced and is otherwise qualified.
360.0030	For purposes of both §51(c) and §170, "misfortune or calamity" requires a sudden, distinct occurrence of damage or destruction
360.0032	The new construction exclusion for property damaged or destroyed by misfortune or calamity is available to persons who owned the property when it was damaged or destroyed. If the damaged property is transferred to an eligible transferee for purposes of the parent-child exclusion, no new base year value will be established as a result of the parent-child transfer. However, if the child rebuilds the damaged house, the child will not receive the new construction exclusion. Thus, the new construction will be reassessed upon its completion

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	pursuant to §71 and §110.1(a)(2)(B).
360.0034	Temporary fencing around homes near a landslide area, where residents still had access to their homes, does not qualify for disaster relief
360.0040	The disaster relief provisions of §170 are not applicable to state assessed property.
360.0045	Property stolen but not recovered is not physically damaged or destroyed by a calamity and hence does not qualify for disaster relief.
360.0050	Sections 51 and 170 are to be harmonized in providing alternatives for relief to taxpayers whose property is stricken by disaster. If the property does not qualify under §170, it may nonetheless qualify under the decline in value provisions of §51.