

[Assembly Bill 3122](#) (Gallagher)
Date: April 16, 2018 (Amended)
Program: Property Taxes
Sponsor: Author
Revenue and Taxation Code Section 194.1
Effective: January 1, 2019

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Summary: In situations where a property owner has filed for disaster relief and deferral of property taxes, this bill clarifies when property taxes are to be paid.

Purpose: To prevent application of delinquent penalties and interest in situations where a property owner has filed for disaster relief and deferral of property taxes in a disaster situation, but ultimately discovers after the deadline for paying property taxes that the property is ineligible for disaster relief and deferment.

Fiscal Impact Summary: This bill would have no direct revenue impact.

Existing Law: Property taxes may be reduced following a disaster, misfortune, or calamity in those counties where the board of supervisors has adopted an ordinance¹ authorizing the disaster relief provisions of Revenue and Taxation Code² section [170](#). These provisions apply to major disasters affecting many properties, such as an earthquake, flood, or wildfire, as well as a disaster affecting an individual property, such as a home fire. Disaster relief is provided by allowing the county assessor, under specified conditions, to reassess the property after the lien date to recognize the loss in a property's market value. One of these conditions is that the sum of the full cash values of the land, improvements, and personalty before the damage or destruction exceeds the sum of the values after the damage by \$10,000 or more.³

In addition, any property owner whose real property has been substantially damaged or destroyed by an event that resulted in the Governor proclaiming a state of emergency, and who has applied for property tax relief under section 170, may apply to defer payment of property taxes on the next installment of the regular secured roll pursuant to section 194 et seq. To qualify for deferral, property eligible for the homeowners' exemption must have damage amounting to at least 10 percent of its fair market value or \$10,000, whichever is less.⁴ For all other property, the damage must be at least 20 percent of its fair market value immediately preceding the disaster causing the damage. The tax deferral provision does not apply to taxes paid through impound accounts.⁵

When an application is timely filed, the next property tax payment is deferred without penalty or interest until the assessor has reassessed the property pursuant to section 170 and a corrected property tax bill is mailed to the taxpayer. The deferred installment of taxes is due 30 days after the taxpayer receives the corrected bill. If unpaid after the 30 days, the bill becomes delinquent⁶ and is subject to penalty provided by law.⁷ If on reassessment the assessor determines the property was *not* eligible for

¹ 57 of the 58 California counties have adopted a section 170 ordinance; Fresno County has not adopted an ordinance.

² All statutory references are to the Revenue and Taxation Code, unless otherwise provided.

³ Section 170(b).

⁴ Section [194](#)(f).

⁵ Section [194.1](#)(c).

⁶ Section [2610.5](#).

⁷ Section 194.1(a).

disaster relief (and deferral of the tax), a delinquency penalty is levied for the nonpayment of the deferred taxes.⁸

Current law⁹ provides that if the assessor determines that a property owner who applied and was granted a deferral of property taxes did not file the claim in good faith, the owner must be assessed a delinquency penalty for the nonpayment of the deferred taxes.

Proposed Law: Assembly Bill 3122 clarifies when property taxes are due in situations involving a Governor-proclaimed disaster. When a property owner has filed for disaster relief and deferral of the next property tax bill installment, and the assessor has reassessed the property and a corrected tax bill has been sent to the property owner, this bill provides that the current year's taxes are to be paid on either December 10 for the first installment or April 10 for the second installment, or 30 days after the date the bill is mailed or electronically submitted to the property owner, whichever is later.¹⁰

Property Not Eligible For Disaster Relief. When a property owner has filed for disaster relief and deferral of the next property tax bill installment, but the real property is *not* eligible for disaster relief, to avoid a delinquent tax bill penalty, this bill provides that the property tax bill must be paid on the later of either:

- December 10 for the first installment or April 10 for the second installment, or
- Within 30 days of the latter of the date of mailing or postmark date on the county assessor's notice.¹¹

In General: Secured property tax bills are mailed in October and may be paid in two installments. The first installment is due November 1¹² and becomes delinquent if not paid by December 10.¹³ The second installment is due February 1¹⁴ and becomes delinquent if not paid by April 10.¹⁵

In addition to the deferral of the next installment of property taxes, a county board of supervisors may enact an ordinance that allows additional deferral of property taxes for property that has been damaged in a disaster for which the Governor proclaimed a state of emergency:

- Deferral of unpaid non-delinquent current fiscal year supplemental roll taxes on eligible property reassessed for a change in ownership or completion of new construction.¹⁶
- Postponement of the second consecutive installment of taxes of property on the regular secured roll until the next property tax installment payment date.¹⁷

Background: Government Code section [8625](#) authorizes the Governor to proclaim a state of emergency under specified circumstances. Government Code section [8558](#) establishes three conditions under which the Governor may proclaim a state of emergency:

⁸ See Letter To Assessors No. [86/33](#).

⁹ Section 194.1(b).

¹⁰ Proposed section 194.1(b)(1).

¹¹ Proposed section 194.1(b)(2).

¹² Section [2605](#).

¹³ Section [2617](#).

¹⁴ Section [2606](#).

¹⁵ Section [2618](#).

¹⁶ Section [194.9](#).

¹⁷ Section [195.1](#).

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 BOE's formal position.

1. "State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.
2. "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state.
3. "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city.

Generally, major disasters such as earthquakes, firestorms, storm damage, or flooding satisfy the second condition described as a "state of emergency."

In September, October, and December 2017, wildfires burned property resulting in the Governor proclaiming a state of emergency in Butte, Lake, Los Angeles, Madera, Mariposa, Mendocino, Napa, Nevada, Orange, San Diego, Santa Barbara, Solano, Sonoma, Tulare, Ventura, and Yuba Counties.¹⁸

Commentary:

1. **Author's Statement.** "Current law puts people in a position of having to choose between applying for relief and getting charged late fees if they don't qualify, or paying up front. This puts more financial stress on people who are already facing a tough situation. AB 3122 ensures people affected by disasters won't get penalized if they apply for reassessment and deferral and end up not qualifying."
2. **Summary of Amendments.** The **April 2, 2018** amendments clarify that when property taxes have been deferred, the taxes are due the later of (1) the date of the 1st or 2nd installment, or (2) 30 days after either a corrected tax bill has been mailed or the property owner has received a notification of ineligibility for disaster relief. The **April 16, 2018** amendment clarifies that, for property that is not eligible for disaster relief or deferral, property taxes are due on either December 10 for the first installment or April 10 for the second installment, or within 30 days of the latter of the date of mailing or postmark date on the assessor's notice, whichever is later.
3. **Property must be physically damaged to be eligible for disaster relief.** To qualify for disaster relief reassessment, property must be physically damaged and the damage must be at least \$10,000. To qualify for deferment, real property or a manufactured home that is eligible for the homeowners' exemption must have damage amounting to at least 10 percent of its fair market value or \$10,000, whichever is less. For all other property, damage must be at least 20 percent of its fair market value immediately preceding the disaster causing the damage.
4. **Deferral of property taxes is a joint effort between the county assessor and county tax collector.** Claims for property tax disaster relief and deferment of property taxes are filed with the county assessor, while property tax bills are mailed by the county tax collector. The county assessor determines whether property is eligible for disaster relief and deferment of taxes. The county tax collector applies the delinquency penalty if necessary and mails the property tax bills.

¹⁸ See Board of Equalization's [List of Governor-Proclaimed Disasters](#).

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 BOE's formal position.

- 5. Timing of disaster impacts payment of property tax bill.** Issues arose last fall when properties were damaged by wildfires in September, October, and December 2017. The first installment of property taxes was due November 1 and had to be paid by December 10, 2017 to avoid a delinquent payment penalty. Some assessors had difficulty identifying and reassessing damaged property by the December 10 deadline, resulting in some properties not being identified as ineligible for disaster relief until after the December 10 deadline passed. In these instances, property owners received delinquency penalties for nonpayment of property taxes when they did not know they were ineligible for disaster relief and had failed to pay the taxes by the December 10 deadline.
- 6. Notification of ineligibility for disaster relief.** Section 170 requires the county assessor, upon receiving a proper application, to appraise the damaged property and determine the full cash value of land, improvements and personalty immediately before and after the damage or destruction. If the damage exceeds \$10,000, the assessor must reduce the values on the assessment roll by the percentages of damage or destruction. Section 170 also requires the county assessor to notify the applicant of the amount of the proposed reassessment. However, current law is silent on situations where the property owner applies for, but ultimately is not eligible for disaster relief. In addition to its other provisions, this bill requires county assessors to notify property owners when they do not qualify for disaster relief and deferment.

Costs: The State Board of Equalization would incur some minor absorbable costs in informing local county assessors, the public, and staff of the law changes.

Revenue Impact: This bill would have no direct revenue impact.