

AMENDED IN ASSEMBLY JUNE 14, 2006

AMENDED IN SENATE APRIL 6, 2006

**SENATE BILL**

**No. 1607**

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**Introduced by Senator Machado**

February 24, 2006

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An act to amend Sections ~~69.5, 214, 214.8, 218, 254.5, 254.6, and 1840~~ of, and to add Section ~~218.05~~ to, of the Revenue and Taxation Code, and to amend Section 2 of Chapter 48 of the Statutes of 1987, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1607, as amended, Machado. Property taxation.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution and existing property tax law exclude from a "change in ownership" specified property transfers between parents and their children and grandparents and their grandchildren. Existing law states the intent of the Legislature that the statute excluding from a "change in ownership" property transfers between parents and their children be liberally construed, as specified.

This bill would state the intent of the Legislature that the statute excluding from a "change in ownership" property transfers between grandparents and their grandchildren also be liberally construed, as specified.

~~(2) Existing property tax law authorizes a person aged 55 years or older or who is severely and permanently disabled to transfer the base year value, as defined, of his or her principal residence to a comparable replacement dwelling, as specified, if, among other conditions, the person files a claim for this transfer within 3 years from the date the replacement dwelling was purchased or newly constructed.~~

~~This bill would authorize a person to file a claim to transfer a base year value to a comparable replacement dwelling after the 3-year period required under existing law, but would preclude a refund or cancellation of taxes for prior years for which the claim was not filed, as provided.~~

~~(3)~~

~~(2) Existing property tax law, in accordance with the California Constitution, provides for a “welfare exemption” for property that is used exclusively for religious, hospital, or charitable purposes if certain conditions are met. Existing law specifies that exempt property does not lose that status under the welfare exemption because another organization also uses the property, if the other organization meets certain conditions, including a condition that the other organization’s owner submit an organizational clearance certificate with the county assessor, as specified.~~

~~This bill would instead require either the owner of the exempt property or the other organization that uses the exempt property to submit to the assessor a letter or ruling from the Franchise Tax Board or the Internal Revenue Service regarding the tax-exempt status of the organization under state or federal income tax laws, as provided.~~

~~(4)~~

~~(3) Existing law specifies that the property of a limited liability company may qualify for the welfare exemption if that company and its property meet all of the requirements set forth for that exemption.~~

~~This bill would clarify that a limited liability company that has a governmental entity or a nonprofit organization as a member may qualify as an exempt entity. This bill would also specify that each nonprofit tax-exempt member of a limited liability company is to submit to the State Board of Equalization a letter or ruling from the Franchise Tax Board or the Internal Revenue Service regarding the tax-exempt status of the member under state or federal income tax laws, as provided. This bill would also make technical changes regarding limited liability companies and the welfare exemption.~~

~~(5) Existing property tax law provides, pursuant to a specified provision of the California Constitution, 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 a qualified dwelling, as defined, that is damaged or destroyed is not disqualified from receiving the homeowners' exemption if certain conditions are met. This bill would also specify that a dwelling that does not exist on the lien date because it has been totally destroyed in a disaster is disqualified from receiving the homeowner's exemption until the structure has been replaced and is occupied as a dwelling.~~

~~(6)~~

~~(4) Existing law establishes a veterans' organization property tax exemption. Existing law prohibits the county assessor from approving a claim for the veterans' organization exemption or welfare exemption until the claimant has received an organizational clearance certificate, as specified, from the State Board of Equalization. Existing law requires board staff to issue an organizational clearance certificate to an entity that qualifies for the property tax welfare exemption, but does not expressly require the board staff to issue an organizational clearance certificate to an organization that seeks the veterans' organization exemption.~~

~~This bill would similarly require board staff to issue an organizational clearance certificate to an entity that qualifies for the veterans' organization exemption. This bill also would make conforming changes to related provisions.~~

~~(7)~~

~~(5) The California Constitution generally exempts property that is owned by a local government from property taxation, except in certain instances. Existing law authorizes a county, city and county, or municipal corporation that owns taxable property to apply to the State Board of Equalization for a review, equalization, or adjustment of a property tax assessment relating to this property. Existing law requires that this application be submitted to the board on or before the later of either the 3rd Monday in July or within 2 weeks of the date upon which a county assessor delivers that assessment to the county auditor.~~

~~This bill would instead require that this application be submitted to the board on or before the later of either July 20 or within 2 weeks of the date upon which a county assessor delivers the assessment to the county auditor.~~

~~(8) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.~~

~~This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them to the bill.~~

~~(9)~~

~~(6) By changing the manner in which county officials process claims for transferring base year values to comparable replacement properties, the veterans' organization exemption, and the homeowners' exemption, this bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 69.5 of the Revenue and Taxation Code~~  
 2     ~~is amended to read:~~  
 3     ~~69.5. (a) (1) Notwithstanding any other provision of law,~~  
 4     ~~pursuant to subdivision (a) of Section 2 of Article XIII A of the~~  
 5     ~~California Constitution, any person over the age of 55 years, or~~  
 6     ~~any severely and permanently disabled person, who resides in~~  
 7     ~~property that is eligible for the homeowners' exemption under~~  
 8     ~~subdivision (k) of Section 3 of Article XIII of the California~~  
 9     ~~Constitution and Section 218 may transfer, subject to the~~  
 10    ~~conditions and limitations provided in this section, the base year~~  
 11    ~~value of that property to any replacement dwelling of equal or~~  
 12    ~~lesser value that is located within the same county and is~~  
 13    ~~purchased or newly constructed by that person as his or her~~

1 principal residence within two years of the sale by that person of  
2 the original property, provided that the base year value of the  
3 original property shall not be transferred to the replacement  
4 dwelling until the original property is sold.

5 (2) Notwithstanding the limitation in paragraph (1) requiring  
6 that the original property and the replacement dwelling be  
7 located in the same county, this limitation shall not apply in any  
8 county in which the county board of supervisors, after  
9 consultation with local affected agencies within the boundaries of  
10 the county, adopts an ordinance making the provisions of  
11 paragraph (1) also applicable to situations in which replacement  
12 dwellings are located in that county and the original properties  
13 are located in another county within this state. The authorization  
14 contained in this paragraph shall be applicable in a county only if  
15 the ordinance adopted by the board of supervisors complies with  
16 all of the following requirements:

17 (A) It is adopted only after consultation between the board of  
18 supervisors and all other local affected agencies within the  
19 county's boundaries.

20 (B) It requires that all claims for transfers of base year value  
21 from original property located in another county be granted if the  
22 claims meet the applicable requirements of both subdivision (a)  
23 of Section 2 of Article XIII A of the California Constitution and  
24 this section.

25 (C) It requires that all base year valuations of original property  
26 located in another county and determined by its assessor be  
27 accepted in connection with the granting of claims for transfers  
28 of base year value.

29 (D) It provides that its provisions are operative for a period of  
30 not less than five years.

31 (E) The ordinance specifies the date on and after which its  
32 provisions shall be applicable. However, the date specified shall  
33 not be earlier than November 9, 1988. The specified applicable  
34 date may be a date earlier than the date the county adopts the  
35 ordinance.

36 (b) In addition to meeting the requirements of subdivision (a),  
37 any person claiming the property tax relief provided by this  
38 section shall be eligible for that relief only if the following  
39 conditions are met:

1     ~~(1) The claimant is an owner and a resident of the original~~  
2 ~~property either at the time of its sale, or at the time when the~~  
3 ~~original property was substantially damaged or destroyed by~~  
4 ~~misfortune or calamity, or within two years of the purchase or~~  
5 ~~new construction of the replacement dwelling.~~

6     ~~(2) The original property is eligible for the homeowners'~~  
7 ~~exemption, as the result of the claimant's ownership and~~  
8 ~~occupation of the property as his or her principal residence, either~~  
9 ~~at the time of its sale, or at the time when the original property~~  
10 ~~was substantially damaged or destroyed by misfortune or~~  
11 ~~calamity, or within two years of the purchase or new construction~~  
12 ~~of the replacement dwelling.~~

13     ~~(3) At the time of the sale of the original property, the~~  
14 ~~claimant or the claimant's spouse who resides with the claimant~~  
15 ~~is at least 55 years of age, or is severely and permanently~~  
16 ~~disabled.~~

17     ~~(4) At the time of claiming the property tax relief provided by~~  
18 ~~subdivision (a), the claimant is an owner of a replacement~~  
19 ~~dwelling and occupies it as his or her principal place of residence~~  
20 ~~and, as a result thereof, the property is currently eligible for the~~  
21 ~~homeowners' exemption or would be eligible for the exemption~~  
22 ~~except that the property is already receiving the exemption~~  
23 ~~because of an exemption claim filed by the previous owner.~~

24     ~~(5) The original property of the claimant is sold by him or her~~  
25 ~~within two years of the purchase or new construction of the~~  
26 ~~replacement dwelling. For purposes of this paragraph, the~~  
27 ~~purchase or new construction of the replacement dwelling~~  
28 ~~includes the purchase of that portion of land on which the~~  
29 ~~replacement building, structure, or other shelter constituting a~~  
30 ~~place of abode of the claimant will be situated and that, pursuant~~  
31 ~~to paragraph (3) of subdivision (g), constitutes a part of the~~  
32 ~~replacement dwelling.~~

33     ~~(6) The replacement dwelling, including that portion of land~~  
34 ~~on which it is situated that is specified in paragraph (5), is located~~  
35 ~~entirely within the same county as the claimant's original~~  
36 ~~property.~~

37     ~~(7) The claimant has not previously been granted, as a~~  
38 ~~claimant, the property tax relief provided by this section, except~~  
39 ~~that this paragraph shall not apply to any person who becomes~~  
40 ~~severely and permanently disabled subsequent to being granted,~~

1 as a claimant, the property tax relief provided by this section for  
2 any person over the age of 55 years. In order to prevent  
3 duplication of claims under this section within this state, county  
4 assessors shall report quarterly to the State Board of Equalization  
5 that information from claims filed in accordance with subdivision  
6 (f) and from county records as is specified by the board necessary  
7 to identify fully all claims under this section allowed by assessors  
8 and all claimants who have thereby received relief. The board  
9 may specify that the information include all or a part of the  
10 names and social security numbers of claimants and their spouses  
11 and the identity and location of the replacement dwelling to  
12 which the claim applies. The information may be required in the  
13 form of data processing media or other media and in a format  
14 that is compatible with the recordkeeping processes of the  
15 counties and the auditing procedures of the state.

16 (e) The property tax relief provided by this section shall be  
17 available if the original property or the replacement dwelling, or  
18 both, of the claimant includes, but is not limited to, either of the  
19 following:

20 (1) A unit or lot within a cooperative housing corporation, a  
21 community apartment project, a condominium project, or a  
22 planned unit development. If the unit or lot constitutes the  
23 original property of the claimant, the assessor shall transfer to the  
24 claimant's replacement dwelling only the base year value of the  
25 claimant's unit or lot and his or her share in any common area  
26 reserved as an appurtenance of that unit or lot. If the unit or lot  
27 constitutes the replacement dwelling of the claimant, the assessor  
28 shall transfer the base year value of the claimant's original  
29 property only to the unit or lot of the claimant and any share of  
30 the claimant in any common area reserved as an appurtenance of  
31 that unit or lot.

32 (2) A manufactured home or a manufactured home and any  
33 land owned by the claimant on which the manufactured home is  
34 situated. For purposes of this paragraph, "land owned by the  
35 claimant" includes a pro rata interest in a resident-owned  
36 mobilehome park that is assessed pursuant to subdivision (b) of  
37 Section 62.1.

38 (A) If the manufactured home or the manufactured home and  
39 the land on which it is situated constitutes the claimant's original  
40 property, the assessor shall transfer to the claimant's replacement

1 dwelling either the base year value of the manufactured home or  
2 the base year value of the manufactured home and the land on  
3 which it is situated, as appropriate. If the manufactured home  
4 dwelling that constitutes the original property of the claimant  
5 includes an interest in a resident-owned mobilehome park, the  
6 assessor shall transfer to the claimant's replacement dwelling the  
7 base year value of the claimant's manufactured home and his or  
8 her pro rata portion of the real property of the park. No transfer  
9 of base year value shall be made by the assessor of that portion of  
10 land that does not constitute a part of the original property, as  
11 provided in paragraph (4) of subdivision (g).

12 ~~(B) If the manufactured home or the manufactured home and~~  
13 ~~the land on which it is situated constitutes the claimant's~~  
14 ~~replacement dwelling, the assessor shall transfer the base year~~  
15 ~~value of the claimant's original property either to the~~  
16 ~~manufactured home or the manufactured home and the land on~~  
17 ~~which it is situated, as appropriate. If the manufactured home~~  
18 ~~dwelling that constitutes the replacement dwelling of the~~  
19 ~~claimant includes an interest in a resident-owned mobilehome~~  
20 ~~park, the assessor shall transfer the base year value of the~~  
21 ~~claimant's original property to the manufactured home of the~~  
22 ~~claimant and his or her pro rata portion of the park. No transfer~~  
23 ~~of base year value shall be made by the assessor to that portion of~~  
24 ~~land that does not constitute a part of the replacement dwelling,~~  
25 ~~as provided in paragraph (3) of subdivision (g).~~

26 This subdivision shall be subject to the limitations specified in  
27 subdivision (d).

28 (d) The property tax relief provided by this section shall be  
29 available to a claimant who is the coowner of the original  
30 property, as a joint tenant, a tenant in common, or a community  
31 property owner, subject to the following limitations:

32 (1) If a single replacement dwelling is purchased or newly  
33 constructed by all of the coowners and each coowner retains an  
34 interest in the replacement dwelling, the claimant shall be  
35 eligible under this section whether or not any or all of the  
36 remaining coowners would otherwise be eligible claimants.

37 (2) If two or more replacement dwellings are separately  
38 purchased or newly constructed by two or more coowners and  
39 more than one coowner would otherwise be an eligible claimant,  
40 only one coowner shall be eligible under this section. These

1 ~~coowners shall determine by mutual agreement which one of~~  
2 ~~them shall be deemed eligible.~~

3 ~~(3) If two or more replacement dwellings are separately~~  
4 ~~purchased or newly constructed by two coowners who held the~~  
5 ~~original property as community property, only the coowner who~~  
6 ~~has attained the age of 55 years, or is severely and permanently~~  
7 ~~disabled, shall be eligible under this section. If both spouses are~~  
8 ~~over 55 years of age, they shall determine by mutual agreement~~  
9 ~~which one of them is eligible.~~

10 ~~In the case of coowners whose original property is a multiunit~~  
11 ~~dwelling, the limitations imposed by paragraphs (2) and (3) shall~~  
12 ~~only apply to coowners who occupied the same dwelling unit~~  
13 ~~within the original property at the time specified in paragraph (2)~~  
14 ~~of subdivision (b).~~

15 ~~(e) Upon the sale of original property, the assessor shall~~  
16 ~~determine a new base year value for that property in accordance~~  
17 ~~with subdivision (a) of Section 2 of Article XIII A of the~~  
18 ~~California Constitution and Section 110.1, whether or not a~~  
19 ~~replacement dwelling is subsequently purchased or newly~~  
20 ~~constructed by the former owner or owners of the original~~  
21 ~~property.~~

22 ~~This section shall not apply unless the transfer of the original~~  
23 ~~property is a change in ownership that either (1) subjects that~~  
24 ~~property to reappraisal at its current fair market value in~~  
25 ~~accordance with Section 110.1 or 5803 or (2) results in a base~~  
26 ~~year value determined in accordance with this section, Section~~  
27 ~~69, or Section 69.3 because the property qualifies under this~~  
28 ~~section, Section 69, or Section 69.3 as a replacement dwelling or~~  
29 ~~property.~~

30 ~~(f) A claimant shall not be eligible for the property tax relief~~  
31 ~~provided by this section unless the claimant provides to the~~  
32 ~~assessor, on a form that the assessor shall make available upon~~  
33 ~~request, the following information:~~

34 ~~(1) The name and social security number of each claimant and~~  
35 ~~of any spouse of the claimant who is a record owner of the~~  
36 ~~replacement dwelling.~~

37 ~~(2) Proof that the claimant or the claimant's spouse who~~  
38 ~~resided on the original property with the claimant was, at the~~  
39 ~~time of its sale, at least 55 years of age, or severely and~~  
40 ~~permanently disabled. Proof of severe and permanent disability~~

1 shall be considered a certification, signed by a licensed physician  
2 and surgeon of appropriate specialty, attesting to the claimant's  
3 severely and permanently disabled condition. In the absence of  
4 available proof that a person is over 55 years of age, the claimant  
5 shall certify under penalty of perjury that the age requirement is  
6 met. In the case of a severely and permanently disabled claimant  
7 either of the following shall be submitted:

8 (A) A certification, signed by a licensed physician or surgeon  
9 of appropriate specialty that identifies specific reasons why the  
10 disability necessitates a move to the replacement dwelling and  
11 the disability-related requirements, including any locational  
12 requirements, of a replacement dwelling. The claimant shall  
13 substantiate that the replacement dwelling meets  
14 disability-related requirements so identified and that the primary  
15 reason for the move to the replacement dwelling is to satisfy  
16 those requirements. If the claimant, or the claimant's spouse or  
17 guardian, so declares under penalty of perjury, it shall be  
18 rebuttably presumed that the primary purpose of the move to the  
19 replacement dwelling is to satisfy identified disability-related  
20 requirements.

21 (B) The claimant's substantiation that the primary purpose of  
22 the move to the replacement dwelling is to alleviate financial  
23 burdens caused by the disability. If the claimant, or the  
24 claimant's spouse or guardian, so declares under penalty of  
25 perjury, it shall be rebuttably presumed that the primary purpose  
26 of the move is to alleviate the financial burdens caused by the  
27 disability.

28 (3) The address and, if known, the assessor's parcel number of  
29 the original property.

30 (4) The date of the claimant's sale of the original property and  
31 the date of the claimant's purchase or new construction of a  
32 replacement dwelling.

33 (5) A statement by the claimant that he or she occupied the  
34 replacement dwelling as his or her principal place of residence on  
35 the date of the filing of his or her claim.

36 The State Board of Equalization shall design the form for  
37 claiming eligibility.

38 Any claim under this section shall be filed within three years of  
39 the date the replacement dwelling was purchased or the new

1 construction of the replacement dwelling was completed subject  
2 to subdivision (k) or (m):

3 (g) For purposes of this section:

4 (1) “Person over the age of 55 years” means any person or the  
5 spouse of any person who has attained the age of 55 years or  
6 older at the time of the sale of the original property.

7 (2) “Base year value of the original property” means its base  
8 year value, as determined in accordance with Section 110.1, with  
9 the adjustments permitted by subdivision (b) of Section 2 of  
10 Article XIII A of the California Constitution and subdivision (f)  
11 of Section 110.1, determined as of the date immediately prior to  
12 the date that the original property is sold by the claimant, or in  
13 the case where the original property has been substantially  
14 damaged or destroyed by misfortune or calamity and the owner  
15 does not rebuild on the original property, determined as of the  
16 date immediately prior to the misfortune or calamity.

17 If the replacement dwelling is purchased or newly constructed  
18 after the transfer of the original property, “base year value of the  
19 original property” also includes any inflation factor adjustments  
20 permitted by subdivision (f) of Section 110.1 for the period  
21 subsequent to the sale of the original property. The base year or  
22 years used to compute the “base year value of the original  
23 property” shall be deemed to be the base year or years of any  
24 property to which that base year value is transferred pursuant to  
25 this section.

26 (3) “Replacement dwelling” means a building, structure, or  
27 other shelter constituting a place of abode, whether real property  
28 or personal property, that is owned and occupied by a claimant as  
29 his or her principal place of residence, and any land owned by the  
30 claimant on which the building, structure, or other shelter is  
31 situated. For purposes of this paragraph, land constituting a part  
32 of a replacement dwelling includes only that area of reasonable  
33 size that is used as a site for a residence, and “land owned by the  
34 claimant” includes land for which the claimant either holds a  
35 leasehold interest described in subdivision (c) of Section 61 or a  
36 land purchase contract. Each unit of a multiunit dwelling shall be  
37 considered a separate replacement dwelling. For purposes of this  
38 paragraph, “area of reasonable size that is used as a site for a  
39 residence” includes all land if any nonresidential uses of the  
40 property are only incidental to the use of the property as a

1 residential site. For purposes of this paragraph, “land owned by  
2 the claimant” includes an ownership interest in a resident-owned  
3 mobilehome park that is assessed pursuant to subdivision (b) of  
4 Section 62.1.

5 (4) “Original property” means a building, structure, or other  
6 shelter constituting a place of abode, whether real property or  
7 personal property, that is owned and occupied by a claimant as  
8 his or her principal place of residence, and any land owned by the  
9 claimant on which the building, structure, or other shelter is  
10 situated. For purposes of this paragraph, land constituting a part  
11 of the original property includes only that area of reasonable size  
12 that is used as a site for a residence, and “land owned by the  
13 claimant” includes land for which the claimant either holds a  
14 leasehold interest described in subdivision (e) of Section 61 or a  
15 land purchase contract. Each unit of a multiunit dwelling shall be  
16 considered a separate original property. For purposes of this  
17 paragraph, “area of reasonable size that is used as a site for a  
18 residence” includes all land if any nonresidential uses of the  
19 property are only incidental to the use of the property as a  
20 residential site. For purposes of this paragraph, “land owned by  
21 the claimant” includes an ownership interest in a resident-owned  
22 mobilehome park that is assessed pursuant to subdivision (b) of  
23 Section 62.1.

24 (5) “Equal or lesser value” means that the amount of the full  
25 cash value of a replacement dwelling does not exceed one of the  
26 following:

27 (A) One hundred percent of the amount of the full cash value  
28 of the original property if the replacement dwelling is purchased  
29 or newly constructed prior to the date of the sale of the original  
30 property.

31 (B) One hundred and five percent of the amount of the full  
32 cash value of the original property if the replacement dwelling is  
33 purchased or newly constructed within the first year following  
34 the date of the sale of the original property.

35 (C) One hundred and ten percent of the amount of the full cash  
36 value of the original property if the replacement dwelling is  
37 purchased or newly constructed within the second year following  
38 the date of the sale of the original property.

39 For the purposes of this paragraph, except as otherwise  
40 provided in paragraph (4) of subdivision (h), if the replacement

1 dwelling is, in part, purchased and, in part, newly constructed,  
2 the date the “replacement dwelling is purchased or newly  
3 constructed” is the date of purchase or the date of completion of  
4 construction, whichever is later.

5 (6) “Full cash value of the replacement dwelling” means its  
6 full cash value, determined in accordance with Section 110.1, as  
7 of the date on which it was purchased or new construction was  
8 completed, and after the purchase or the completion of new  
9 construction.

10 (7) “Full cash value of the original property” means, either:

11 (A) Its new base year value, determined in accordance with  
12 subdivision (e), without the application of subdivision (h) of  
13 Section 2 of Article XIII A of the California Constitution, plus  
14 the adjustments permitted by subdivision (b) of Section 2 of  
15 Article XIII A and subdivision (f) of Section 110.1 for the period  
16 from the date of its sale by the claimant to the date on which the  
17 replacement property was purchased or new construction was  
18 completed.

19 (B) In the case where the original property has been  
20 substantially damaged or destroyed by misfortune or calamity  
21 and the owner does not rebuild on the original property, its full  
22 cash value, as determined in accordance with Section 110,  
23 immediately prior to its substantial damage or destruction by  
24 misfortune or calamity, as determined by the county assessor of  
25 the county in which the property is located, without the  
26 application of subdivision (h) of Section 2 of Article XIII A of  
27 the California Constitution, plus the adjustments permitted by  
28 subdivision (b) of Section 2 of Article XIII A and subdivision (f)  
29 of Section 110.1, for the period from the date of its sale by the  
30 claimant to the date on which the replacement property was  
31 purchased or new construction was completed.

32 (8) “Sale” means any change in ownership of the original  
33 property for consideration.

34 (9) “Claimant” means any person claiming the property tax  
35 relief provided by this section. If a spouse of that person is a  
36 record owner of the replacement dwelling, the spouse is also a  
37 claimant for purposes of determining whether in any future claim  
38 filed by the spouse under this section the condition of eligibility  
39 specified in paragraph (7) of subdivision (b) has been met.

1 (10) ~~“Property that is eligible for the homeowners’ exemption”~~  
2 ~~includes property that is the principal place of residence of its~~  
3 ~~owner and is entitled to exemption pursuant to Section 205.5.~~

4 (11) ~~“Person” means any individual, but does not include any~~  
5 ~~firm, partnership, association, corporation, company, or other~~  
6 ~~legal entity or organization of any kind.~~

7 (12) ~~“Severely and permanently disabled” means any person~~  
8 ~~described in subdivision (b) of Section 74.3.~~

9 (13) ~~For the purposes of this section property is “substantially~~  
10 ~~damaged or destroyed by misfortune or calamity” if it sustains~~  
11 ~~physical damage amounting to more than 50 percent of its full~~  
12 ~~cash value immediately prior to the misfortune or calamity.~~  
13 ~~Damage includes a diminution in the value of property as a result~~  
14 ~~of restricted access to the property where the restricted access~~  
15 ~~was caused by the misfortune or calamity and is permanent in~~  
16 ~~nature.~~

17 (h) (1) ~~Upon the timely filing of a claim, the assessor shall~~  
18 ~~adjust the new base year value of the replacement dwelling in~~  
19 ~~conformity with this section. This adjustment shall be made as of~~  
20 ~~the latest of the following dates:~~

- 21 (A) ~~The date the original property is sold.~~
- 22 (B) ~~The date the replacement dwelling is purchased.~~
- 23 (C) ~~The date the new construction of the replacement dwelling~~  
24 ~~is completed.~~

25 (2) ~~Any taxes that were levied on the replacement dwelling~~  
26 ~~prior to the filing of the claim on the basis of the replacement~~  
27 ~~dwelling’s new base year value, and any allowable annual~~  
28 ~~adjustments thereto, shall be canceled or refunded to the claimant~~  
29 ~~to the extent that the taxes exceed the amount that would be due~~  
30 ~~when determined on the basis of the adjusted new base year~~  
31 ~~value.~~

32 (3) ~~Notwithstanding Section 75.10, Chapter 3.5 (commencing~~  
33 ~~with Section 75) shall be utilized for purposes of implementing~~  
34 ~~this subdivision, including adjustments of the new base year~~  
35 ~~value of replacement dwellings acquired prior to the sale of the~~  
36 ~~original property.~~

37 (4) ~~In the case where a claim under this section has been~~  
38 ~~timely filed and granted, and new construction is performed upon~~  
39 ~~the replacement dwelling subsequent to the transfer of base year~~  
40 ~~value, the property tax relief provided by this section also shall~~

1 apply to the replacement dwelling, as improved, and thus there  
2 shall be no reassessment upon completion of the new  
3 construction if both of the following conditions are met:

4 (A) The new construction is completed within two years of the  
5 date of the sale of the original property and the owner notifies the  
6 assessor in writing of completion of the new construction within  
7 30 days after completion.

8 (B) The fair market value of the new construction on the date  
9 of completion, plus the full cash value of the replacement  
10 dwelling on the date of acquisition, is not more than the full cash  
11 value of the original property as determined pursuant to  
12 paragraph (7) of subdivision (g) for purposes of granting the  
13 original claim.

14 (i) Any claimant may rescind a claim for the property tax  
15 relief provided by this section and shall not be considered to have  
16 received that relief for purposes of paragraph (7) of subdivision  
17 (b), and the assessor shall grant the rescission, if a written notice  
18 of rescission is delivered to the office of the assessor as follows:

19 (1) A written notice of rescission signed by the original filing  
20 claimant or claimants is delivered to the office of the assessor in  
21 which the original claim was filed.

22 (2) (A) Except as otherwise provided in this paragraph, the  
23 notice of rescission is delivered to the office of the assessor  
24 before the date that the county first issues, as a result of relief  
25 granted under this section, a refund check for property taxes  
26 imposed upon the replacement dwelling. If granting relief will  
27 not result in a refund of property taxes, then the notice shall be  
28 delivered before payment is first made of any property taxes, or  
29 any portion thereof, imposed upon the replacement dwelling  
30 consistent with relief granted under this section. If payment of  
31 the taxes is not made, then notice shall be delivered before the  
32 first date that those property taxes, or any portion thereof,  
33 imposed upon the replacement dwelling, consistent with relief  
34 granted under this section, are delinquent.

35 (B) Notwithstanding any other provision in this division, any  
36 time the notice of rescission is delivered to the office of the  
37 assessor within six years after relief was granted, provided that  
38 the replacement property has been vacated as the claimant's  
39 principal place of residence within 90 days after the original  
40 claim was filed, regardless of whether the property continues to

1 receive the homeowners' exemption. If the rescission increases  
2 the base year value of a property, or the homeowners' exemption  
3 has been incorrectly allowed, appropriate escape assessments or  
4 supplemental assessments, including interest as provided in  
5 Section 506, shall be imposed. The limitations periods for any  
6 escape assessments or supplemental assessments shall not  
7 commence until July 1 of the assessment year in which the notice  
8 of rescission is delivered to the office of the assessor.

9 (3) The notice is accompanied by the payment of a fee as the  
10 assessor may require, provided that the fee shall not exceed an  
11 amount reasonably related to the estimated cost of processing a  
12 rescission claim, including both direct costs and developmental  
13 and indirect costs, such as costs for overhead, personnel,  
14 supplies, materials, office space, and computers.

15 (j) (1) With respect to the transfer of base year value of  
16 original properties to replacement dwellings located in the same  
17 county, this section, except as provided in paragraph (3) or (4),  
18 shall apply to any replacement dwelling that is purchased or  
19 newly constructed on or after November 6, 1986.

20 (2) With respect to the transfer of base year value of original  
21 properties to replacement dwellings located in different counties,  
22 except as provided in paragraph (4), this section shall apply to  
23 any replacement dwelling that is purchased or newly constructed  
24 on or after the date specified in accordance with subparagraph  
25 (E) of paragraph (2) of subdivision (a) in the ordinance of the  
26 county in which the replacement dwelling is located, but shall not  
27 apply to any replacement dwelling which was purchased or  
28 newly constructed before November 9, 1988.

29 (3) With respect to the transfer of base year value by a  
30 severely and permanently disabled person, this section shall  
31 apply only to replacement dwellings that are purchased or newly  
32 constructed on or after June 6, 1990.

33 (4) The amendments made to subdivision (e) by the act adding  
34 this paragraph shall apply only to replacement dwellings under  
35 Section 69 that are acquired or newly constructed on or after  
36 October 20, 1991, and shall apply commencing with the 1991-92  
37 fiscal year.

38 (k) (1) In the case in which a county adopts an ordinance  
39 pursuant to paragraph (2) of subdivision (a) that establishes an  
40 applicable date which is more than three years prior to the date of

1 adoption of the ordinance, those potential claimants who  
2 purchased or constructed replacement dwellings more than three  
3 years prior to the date of adoption of the ordinance and who  
4 would, therefore, be precluded from filing a timely claim, shall  
5 be deemed to have timely filed a claim if the claim is filed within  
6 three years after the date that the ordinance is adopted. This  
7 paragraph may not be construed as a waiver of any other  
8 requirement of this section.

9 (2) In the case in which a county assessor corrects a base year  
10 value to reflect a pro rata change in ownership of a  
11 resident-owned mobilehome park that occurred between January  
12 1, 1989, and January 1, 2002, pursuant to paragraph (4) of  
13 subdivision (b) of Section 62.1, those claimants who purchased  
14 or constructed replacement dwellings more than three years prior  
15 to the correction and who would, therefore, be precluded from  
16 filing a timely claim, shall be deemed to have timely filed a claim  
17 if the claim is filed within three years of the date of notice of the  
18 correction of the base year value to reflect the pro rata change in  
19 ownership. This paragraph may not be construed as a waiver of  
20 any other requirement of this section.

21 (3) This subdivision does not apply to a claimant who has  
22 transferred his or her replacement dwelling prior to filing a claim.

23 (4) The property tax relief provided by this section, but filed  
24 under this subdivision, shall apply prospectively only,  
25 commencing with the lien date of the assessment year in which  
26 the claim is filed. There shall be no refund or cancellation of  
27 taxes prior to the date that the claim is filed.

28 (f) No escape assessment may be levied if a transfer of base  
29 year value under this section has been erroneously granted by the  
30 assessor pursuant to an expired ordinance authorizing intercounty  
31 transfers of base year value.

32 (m) (1) The amendments made to subdivisions (b) and (g) of  
33 this section by Chapter 613 of the Statutes of 2001 shall apply:

34 (A) With respect to the transfer of base year value of original  
35 properties to replacement dwellings located in the same county,  
36 to any replacement dwelling that is purchased or newly  
37 constructed on or after November 6, 1986.

38 (B) With respect to the transfer of base year value of original  
39 properties to replacement dwellings located in different counties,  
40 to any replacement dwelling that is purchased or newly

1 constructed on or after the date specified in accordance with  
2 subparagraph (E) of paragraph (2) of subdivision (a) in the  
3 ordinance of the county in which the replacement dwelling is  
4 located, but not to any replacement dwelling that was purchased  
5 or newly constructed before November 9, 1988.

6 ~~(C) With respect to the transfer of base year value by a~~  
7 ~~severely and permanently disabled person, to replacement~~  
8 ~~dwellings that are purchased or newly constructed on or after~~  
9 ~~June 6, 1990.~~

10 ~~(2) The property tax relief provided by this section in~~  
11 ~~accordance with this subdivision shall apply prospectively only~~  
12 ~~commencing with the lien date of the assessment year in which~~  
13 ~~the claim is filed. There shall be no refund or cancellation of~~  
14 ~~taxes prior to the date that the claim is filed. Notwithstanding~~  
15 ~~subdivision (f), a claim shall be deemed to be timely filed if it is~~  
16 ~~filed within four years after the operative date of the act adding~~  
17 ~~this paragraph.~~

18 ~~(n) A claim filed under this section is not a public document~~  
19 ~~and is not subject to public inspection, except that a claim shall~~  
20 ~~be available for inspection by the transferee and the transferor or~~  
21 ~~their respective spouse, the transferee's legal representative, the~~  
22 ~~transferor's legal representative, and the executor or~~  
23 ~~administrator of the transferee's or transferor's estate.~~

24 ~~(o) With respect to property to which a transfer of base year~~  
25 ~~value was available, but for which a timely claim was not filed, a~~  
26 ~~transfer of base year value may be granted prospectively under~~  
27 ~~this subdivision.~~

28 ~~(1) For transfers of base year value that were not timely~~  
29 ~~claimed, any property tax relief applies prospectively only,~~  
30 ~~commencing with the lien date following the assessment year in~~  
31 ~~which the claim is filed. There shall be no refund or cancellation~~  
32 ~~of taxes that accrued prior to the date that the claim is filed.~~

33 ~~(2) For any claim that was not timely filed prior to January 1,~~  
34 ~~2007, the claimant may refile a claim with the assessor.~~

35 ~~SEC. 2.~~

36 *SECTION 1.* Section 214 of the Revenue and Taxation Code  
37 is amended to read:

38 214. (a) Property used exclusively for religious, hospital,  
39 scientific, or charitable purposes owned and operated by  
40 community chests, funds, foundations, limited liability

1 companies, or corporations organized and operated for religious,  
2 hospital, scientific, or charitable purposes is exempt from  
3 taxation, including ad valorem taxes to pay the interest and  
4 redemption charges on any indebtedness approved by the voters  
5 prior to July 1, 1978, or any bonded indebtedness for the  
6 acquisition or improvement of real property approved on or after  
7 July 1, 1978, by two-thirds of the votes cast by the voters voting  
8 on the proposition, if:

9 (1) The owner is not organized or operated for profit.  
10 However, in the case of hospitals, the organization shall not be  
11 deemed to be organized or operated for profit if, during the  
12 immediately preceding fiscal year, operating revenues, exclusive  
13 of gifts, endowments and grants-in-aid, did not exceed operating  
14 expenses by an amount equivalent to 10 percent of those  
15 operating expenses. As used herein, operating expenses include  
16 depreciation based on cost of replacement and amortization of,  
17 and interest on, indebtedness.

18 (2) No part of the net earnings of the owner inures to the  
19 benefit of any private shareholder or individual.

20 (3) The property is used for the actual operation of the exempt  
21 activity, and does not exceed an amount of property reasonably  
22 necessary to the accomplishment of the exempt purpose.

23 (A) For the purposes of determining whether the property is  
24 used for the actual operation of the exempt activity, consideration  
25 shall not be given to use of the property for either or both of the  
26 following described activities if that use is occasional:

27 (i) The owner conducts fundraising activities on the property  
28 and the proceeds derived from those activities are not unrelated  
29 business taxable income, as defined in Section 512 of the Internal  
30 Revenue Code, of the owner and are used to further the exempt  
31 activity of the owner.

32 (ii) The owner permits any other organization that meets all of  
33 the requirements of this subdivision, other than ownership of the  
34 property, to conduct fundraising activities on the property and the  
35 proceeds derived from those activities are not unrelated business  
36 taxable income, as defined in Section 512 of the Internal  
37 Revenue Code, of the organization, are not subject to the tax on  
38 unrelated business taxable income that is imposed by Section 511  
39 of the Internal Revenue Code, and are used to further the exempt  
40 activity of the organization.

1 (B) For purposes of subparagraph (A):

2 (i) “Occasional use” means use of the property on an irregular  
3 or intermittent basis by the qualifying owner or any other  
4 qualifying organization described in clause (ii) of subparagraph  
5 (A) that is incidental to the primary activities of the owner or the  
6 other organization.

7 (ii) “Fundraising activities” means both activities involving  
8 the direct solicitation of money or other property and the  
9 anticipated exchange of goods or services for money between the  
10 soliciting organization and the organization or person solicited.

11 (C) Subparagraph (A) shall have no application in determining  
12 whether paragraph (3) has been satisfied unless the owner of the  
13 property and any other organization using the property as  
14 provided in subparagraph (A) have filed with the assessor a valid  
15 organizational clearance certificate issued pursuant to Section  
16 254.6.

17 (D) For the purposes of determining whether the property is  
18 used for the actual operation of the exempt activity, consideration  
19 shall not be given to the use of the property for meetings  
20 conducted by any other organization if the meetings are  
21 incidental to the other organization’s primary activities, are not  
22 fundraising meetings or activities as defined in subparagraph (B),  
23 are held no more than once per week, and the other organization  
24 and its use of the property meet all other requirements of  
25 paragraphs (1) to (5), inclusive, of this subdivision. The owner or  
26 the other organization also shall file with the assessor a copy of a  
27 valid, unrevoked letter or ruling from the Internal Revenue  
28 Service or the Franchise Tax Board stating that the other  
29 organization, or the national organization of which it is a local  
30 chapter or affiliate, qualifies as an exempt organization under  
31 Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code or  
32 Section 23701d, 23701f, or 23701w.

33 (E) Nothing in subparagraph (A), (B), (C), or (D) shall be  
34 construed to either enlarge or restrict the exemption provided for  
35 in subdivision (b) of Section 4 and Section 5 of Article XIII of  
36 the California Constitution and this section.

37 (4) The property is not used or operated by the owner or by  
38 any other person so as to benefit any officer, trustee, director,  
39 shareholder, member, employee, contributor, or bondholder of  
40 the owner or operator, or any other person, through the

1 distribution of profits, payment of excessive charges or  
2 compensations, or the more advantageous pursuit of their  
3 business or profession.

4 (5) The property is not used by the owner or members thereof  
5 for fraternal or lodge purposes, or for social club purposes except  
6 where that use is clearly incidental to a primary religious,  
7 hospital, scientific, or charitable purpose.

8 (6) The property is irrevocably dedicated to religious,  
9 charitable, scientific, or hospital purposes and upon the  
10 liquidation, dissolution, or abandonment of the owner will not  
11 inure to the benefit of any private person except a fund,  
12 foundation, or corporation organized and operated for religious,  
13 hospital, scientific, or charitable purposes.

14 (7) The property, if used exclusively for scientific purposes, is  
15 used by a foundation or institution that, in addition to complying  
16 with the foregoing requirements for the exemption of charitable  
17 organizations in general, has been chartered by the Congress of  
18 the United States (except that this requirement shall not apply  
19 when the scientific purposes are medical research), and whose  
20 objects are the encouragement or conduct of scientific  
21 investigation, research, and discovery for the benefit of the  
22 community at large.

23 The exemption provided for herein shall be known as the  
24 “welfare exemption.” This exemption shall be in addition to any  
25 other exemption now provided by law, and the existence of the  
26 exemption provision in paragraph (2) of subdivision (a) of  
27 Section 202 shall not preclude the exemption under this section  
28 for museum or library property. Except as provided in  
29 subdivision (e), this section shall not be construed to enlarge the  
30 college exemption.

31 (b) Property used exclusively for school purposes of less than  
32 collegiate grade and owned and operated by religious, hospital,  
33 or charitable funds, foundations, limited liability companies, or  
34 corporations, which property and funds, foundations, limited  
35 liability companies, or corporations meet all of the requirements  
36 of subdivision (a), shall be deemed to be within the exemption  
37 provided for in subdivision (b) of Section 4 and Section 5 of  
38 Article XIII of the California Constitution and this section.

39 (c) Property used exclusively for nursery school purposes and  
40 owned and operated by religious, hospital, or charitable funds,

1 foundations, limited liability companies, or corporations, which  
2 property and funds, foundations, limited liability companies, or  
3 corporations meet all the requirements of subdivision (a), shall be  
4 deemed to be within the exemption provided for in subdivision  
5 (b) of Section 4 and Section 5 of Article XIII of the California  
6 Constitution and this section.

7 (d) Property used exclusively for a noncommercial educational  
8 FM broadcast station or an educational television station, and  
9 owned and operated by religious, hospital, scientific, or  
10 charitable funds, foundations, limited liability companies, or  
11 corporations meeting all of the requirements of subdivision (a),  
12 shall be deemed to be within the exemption provided for in  
13 subdivision (b) of Section 4 and Section 5 of Article XIII of the  
14 California Constitution and this section.

15 (e) Property used exclusively for religious, charitable,  
16 scientific, or hospital purposes and owned and operated by  
17 religious, hospital, scientific, or charitable funds, foundations,  
18 limited liability companies, or corporations or educational  
19 institutions of collegiate grade, as defined in Section 203, which  
20 property and funds, foundations, limited liability companies,  
21 corporations, or educational institutions meet all of the  
22 requirements of subdivision (a), shall be deemed to be within the  
23 exemption provided for in subdivision (b) of Section 4 and  
24 Section 5 of Article XIII of the California Constitution and this  
25 section. As to educational institutions of collegiate grade, as  
26 defined in Section 203, the requirements of paragraph (6) of  
27 subdivision (a) shall be deemed to be met if both of the following  
28 are met:

29 (1) The property of the educational institution is irrevocably  
30 dedicated in its articles of incorporation to charitable and  
31 educational purposes, to religious and educational purposes, or to  
32 educational purposes.

33 (2) The articles of incorporation of the educational institution  
34 provide for distribution of its property upon its liquidation,  
35 dissolution, or abandonment to a fund, foundation, or corporation  
36 organized and operated for religious, hospital, scientific,  
37 charitable, or educational purposes meeting the requirements for  
38 exemption provided by Section 203 or this section.

39 (f) Property used exclusively for housing and related facilities  
40 for elderly or handicapped families and financed by, including,

1 but not limited to, the federal government pursuant to Section  
2 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended,  
3 Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v),  
4 Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or  
5 Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), and  
6 owned and operated by religious, hospital, scientific, or  
7 charitable funds, foundations, limited liability companies, or  
8 corporations meeting all of the requirements of this section shall  
9 be deemed to be within the exemption provided for in  
10 subdivision (b) of Section 4 and Section 5 of Article XIII of the  
11 California Constitution and this section.

12 The amendment of this paragraph made by Chapter 1102 of the  
13 Statutes of 1984 does not constitute a change in, but is  
14 declaratory of, existing law. However, no refund of property  
15 taxes shall be required as a result of this amendment for any  
16 fiscal year prior to the fiscal year in which the amendment takes  
17 effect.

18 Property used exclusively for housing and related facilities for  
19 elderly or handicapped families at which supplemental care or  
20 services designed to meet the special needs of elderly or  
21 handicapped residents are not provided, or that is not financed by  
22 the federal government pursuant to Section 202 of Public Law  
23 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of  
24 Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of  
25 Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of  
26 Public Law 101-625 (42 U.S.C. Sec. 8013), shall not be entitled  
27 to exemption pursuant to this subdivision unless the property is  
28 used for housing and related facilities for low- and  
29 moderate-income elderly or handicapped families. Property that  
30 would otherwise be exempt pursuant to this subdivision, except  
31 that it includes some housing and related facilities for other than  
32 low- or moderate-income elderly or handicapped families, shall  
33 be entitled to a partial exemption. The partial exemption shall be  
34 equal to that percentage of the value of the property that is equal  
35 to the percentage that the number of low- and moderate-income  
36 elderly and handicapped families occupying the property  
37 represents of the total number of families occupying the property.

38 As used in this subdivision, “low and moderate income” has  
39 the same meaning as the term “persons and families of low or

1 moderate income” as defined by Section 50093 of the Health and  
2 Safety Code.

3 (g) (1) Property used exclusively for rental housing and  
4 related facilities and owned and operated by religious, hospital,  
5 scientific, or charitable funds, foundations, limited liability  
6 companies, or corporations, including limited partnerships in  
7 which the managing general partner is an eligible nonprofit  
8 corporation or eligible limited liability company, meeting all of  
9 the requirements of this section, or by veterans’ organizations, as  
10 described in Section 215.1, meeting all the requirements of  
11 paragraphs (1) to (7), inclusive, of subdivision (a), shall be  
12 deemed to be within the exemption provided for in subdivision  
13 (b) of Section 4 and Section 5 of Article XIII of the California  
14 Constitution and this section and shall be entitled to a partial  
15 exemption equal to that percentage of the value of the property  
16 that the portion of the property serving lower income households  
17 represents of the total property in any year in which either of the  
18 following criteria applies:

19 (A) The acquisition, rehabilitation, development, or operation  
20 of the property, or any combination of these factors, is financed  
21 with tax-exempt mortgage revenue bonds or general obligation  
22 bonds, or is financed by local, state, or federal loans or grants and  
23 the rents of the occupants who are lower income households do  
24 not exceed those prescribed by deed restrictions or regulatory  
25 agreements pursuant to the terms of the financing or financial  
26 assistance.

27 (B) The owner of the property is eligible for and receives  
28 low-income housing tax credits pursuant to Section 42 of the  
29 Internal Revenue Code of 1986, as added by Public Law 99-514.

30 (C) In the case of a claim, other than a claim with respect to  
31 property owned by a limited partnership in which the managing  
32 general partner is an eligible nonprofit corporation, that is filed  
33 for the 2000–01 fiscal year or any fiscal year thereafter, 90  
34 percent or more of the occupants of the property are lower  
35 income households whose rent does not exceed the rent  
36 prescribed by Section 50053 of the Health and Safety Code. The  
37 total exemption amount allowed under this subdivision to a  
38 taxpayer, with respect to a single property or multiple properties  
39 for any fiscal year on the sole basis of the application of this

1 subparagraph, may not exceed twenty thousand dollars (\$20,000)  
2 of tax.

3 (2) In order to be eligible for the exemption provided by this  
4 subdivision, the owner of the property shall do both of the  
5 following:

6 (A) (i) For any claim filed for the 2000–01 fiscal year or any  
7 fiscal year thereafter, certify and ensure, subject to the limitation  
8 in clause (ii), that there is an enforceable and verifiable  
9 agreement with a public agency, a recorded deed restriction, or  
10 other legal document that restricts the project’s usage and that  
11 provides that the units designated for use by lower income  
12 households are continuously available to or occupied by lower  
13 income households at rents that do not exceed those prescribed  
14 by Section 50053 of the Health and Safety Code, or, to the extent  
15 that the terms of federal, state, or local financing or financial  
16 assistance conflicts with Section 50053, rents that do not exceed  
17 those prescribed by the terms of the financing or financial  
18 assistance.

19 (ii) In the case of a limited partnership in which the managing  
20 general partner is an eligible nonprofit corporation, the restriction  
21 and provision specified in clause (i) shall be contained in an  
22 enforceable and verifiable agreement with a public agency, or in  
23 a recorded deed restriction to which the limited partnership  
24 certifies.

25 (B) Certify that the funds that would have been necessary to  
26 pay property taxes are used to maintain the affordability of, or  
27 reduce rents otherwise necessary for, the units occupied by lower  
28 income households.

29 (3) As used in this subdivision, “lower income households”  
30 has the same meaning as the term “lower income households” as  
31 defined by Section 50079.5 of the Health and Safety Code.

32 (h) Property used exclusively for an emergency or temporary  
33 shelter and related facilities for homeless persons and families  
34 and owned and operated by religious, hospital, scientific, or  
35 charitable funds, foundations, limited liability companies, or  
36 corporations meeting all of the requirements of this section shall  
37 be deemed to be within the exemption provided for in  
38 subdivision (b) of Section 4 and Section 5 of Article XIII of the  
39 California Constitution and this section. Property that otherwise  
40 would be exempt pursuant to this subdivision, except that it

1 includes housing and related facilities for other than an  
2 emergency or temporary shelter, shall be entitled to a partial  
3 exemption.

4 As used in this subdivision, “emergency or temporary shelter”  
5 means a facility that would be eligible for funding pursuant to  
6 Chapter 11 (commencing with Section 50800) of Part 2 of  
7 Division 31 of the Health and Safety Code.

8 (i) Property used exclusively for housing and related facilities  
9 for employees of religious, charitable, scientific, or hospital  
10 organizations that meet all the requirements of subdivision (a)  
11 and owned and operated by funds, foundations, limited liability  
12 companies, or corporations that meet all the requirements of  
13 subdivision (a) shall be deemed to be within the exemption  
14 provided for in subdivision (b) of Section 4 and Section 5 of  
15 Article XIII of the California Constitution and this section to the  
16 extent the residential use of the property is institutionally  
17 necessary for the operation of the organization.

18 (j) For purposes of this section, charitable purposes include  
19 educational purposes. For purposes of this subdivision,  
20 “educational purposes” means those educational purposes and  
21 activities for the benefit of the community as a whole or an  
22 unascertainable and indefinite portion thereof, and do not include  
23 those educational purposes and activities that are primarily for  
24 the benefit of an organization’s shareholders. Educational  
25 activities include the study of relevant information, the  
26 dissemination of that information to interested members of the  
27 general public, and the participation of interested members of the  
28 general public.

29 (k) In the case of property used exclusively for the exempt  
30 purposes specified in this section, owned and operated by limited  
31 liability companies that are organized and operated for those  
32 purposes, the State Board of Equalization shall adopt regulations  
33 to specify the ownership, organizational, and operational  
34 requirements for those companies to qualify for the exemption  
35 provided by this section.

36 (l) The amendments made by Chapter 354 of the Statutes of  
37 2004 shall apply with respect to lien dates occurring on and after  
38 January 1, 2005.

1     ~~SEC. 3.~~

2     *SEC. 2.* Section 214.8 of the Revenue and Taxation Code is  
3 amended to read:

4     214.8. (a) Except as provided in Sections 213.7 and 231, and  
5 as provided in subdivision (g) of Section 214 with respect to  
6 veterans' organizations, the "welfare exemption" shall not be  
7 granted to any organization unless it is qualified as an exempt  
8 organization under either Section 23701d of this code or Section  
9 501(c)(3) of the Internal Revenue Code. This section shall not be  
10 construed to enlarge the "welfare exemption" to apply to  
11 organizations qualified under Section 501(c)(3) of the Internal  
12 Revenue Code of 1954 but not otherwise qualified for the  
13 "welfare exemption" under other provisions of this code.

14     The exemption for veterans' organizations shall not be granted  
15 to any organization unless it is qualified as an exempt  
16 organization under either Section 23701f or 23701w of this code  
17 or under Section 501(c)(4) or 501(c)(19) of the Internal Revenue  
18 Code. This section shall not be construed to enlarge the  
19 "veterans' organization exemption" to apply to organizations  
20 qualified under Section 501(c)(4) or 501(c)(19) of the Internal  
21 Revenue Code but not otherwise qualified for the "veterans'  
22 organization exemption" under other provisions of this code.

23     (b) For purposes of subdivision (a), an organization shall not  
24 be deemed to be qualified as an exempt organization unless the  
25 organization files with the assessor a valid organizational  
26 clearance certificate issued pursuant to Section 254.6.

27     (c) (1) For purposes of subdivision (a), a limited liability  
28 company wholly owned by one or more qualifying organizations,  
29 which may include governmental entities and nonprofit  
30 organizations, that are exempt under Section 23701d or under  
31 Section 501(c)(3) of the Internal Revenue Code shall qualify as  
32 an exempt organization.

33     (2) In the case of a limited liability company that does not  
34 have a valid unrevoked letter from the Franchise Tax Board or  
35 the Internal Revenue Service, the limited liability company may  
36 not be deemed to be qualified as an exempt organization unless  
37 each nonprofit tax-exempt member of the limited liability  
38 company files with the board a copy of a valid, unrevoked letter  
39 or ruling from either the Franchise Tax Board or the Internal  
40 Revenue Service that states that the organization qualifies as an

1 exempt organization under the appropriate provisions of the  
2 Revenue and Taxation Code or the Internal Revenue Code.

3 (d) The amendments made by the act adding this subdivision  
4 shall apply with respect to lien dates occurring on and after  
5 January 1, 2005.

6 ~~SEC. 4. Section 218 of the Revenue and Taxation Code is~~  
7 ~~amended to read:~~

8 ~~218. (a) The homeowners' property tax exemption is in the~~  
9 ~~amount of the assessed value of the dwelling specified in this~~  
10 ~~section, as authorized by subdivision (k) of Section 3 of Article~~  
11 ~~XIII of the Constitution. That exemption shall be in the amount~~  
12 ~~of seven thousand dollars (\$7,000) of the full value of the~~  
13 ~~dwelling.~~

14 ~~(b) The exemption does not extend to property that is rented,~~  
15 ~~vacant, under construction on the lien date, or that is a vacation~~  
16 ~~or secondary home of the owner or owners, nor does it apply to~~  
17 ~~property on which an owner receives the veteran's exemption.~~

18 ~~(c) For purposes of this section, all of the following apply:~~

19 ~~(1) "Owner" includes a person purchasing the dwelling under~~  
20 ~~a contract of sale or who holds shares or membership in a~~  
21 ~~cooperative housing corporation, which holding is a requisite to~~  
22 ~~the exclusive right of occupancy of a dwelling.~~

23 ~~(2) (A) "Dwelling" means a building, structure, or other~~  
24 ~~shelter constituting a place of abode, whether real property or~~  
25 ~~personal property, and any land on which it may be situated. A~~  
26 ~~two-dwelling unit shall be considered as two separate~~  
27 ~~single-family dwellings.~~

28 ~~(B) "Dwelling" includes the following:~~

29 ~~(i) A single-family dwelling occupied by an owner thereof as~~  
30 ~~his or her principal place of residence on the lien date.~~

31 ~~(ii) A multiple-dwelling unit occupied by an owner thereof on~~  
32 ~~the lien date as his or her principal place of residence.~~

33 ~~(iii) A condominium occupied by an owner thereof as his or~~  
34 ~~her principal place of residence on the lien date.~~

35 ~~(iv) Premises occupied by the owner of shares or a~~  
36 ~~membership interest in a cooperative housing corporation, as~~  
37 ~~defined in subdivision (i) of Section 61, as his or her principal~~  
38 ~~place of residence on the lien date. Each exemption allowed~~  
39 ~~pursuant to this subdivision shall be deducted from the total~~  
40 ~~assessed valuation of the cooperative housing corporation. The~~

1 exemption shall be taken into account in apportioning property  
2 taxes among owners of share or membership interests in the  
3 cooperative housing corporations so as to benefit those owners  
4 who qualify for the exemption.

5 (d) ~~The exemption provided for in subdivision (k) of Section 3~~  
6 ~~of Article XIII of the Constitution shall first be applied to the~~  
7 ~~building, structure, or other shelter and the excess, if any, shall be~~  
8 ~~applied to any land on which it may be located.~~

9 ~~SEC. 5. Section 218.05 is added to the Revenue and Taxation~~  
10 ~~Code, to read:~~

11 ~~218.05. (a) A qualified dwelling is not disqualified from~~  
12 ~~receiving the homeowners' exemption if both of the following~~  
13 ~~are true:~~

14 ~~(1) The owner's absence from the qualified dwelling is~~  
15 ~~temporary.~~

16 ~~(2) The owner intends to return to the qualified dwelling when~~  
17 ~~possible to do so.~~

18 ~~(b) "Qualified dwelling" means both of the following:~~

19 ~~(1) A dwelling that is vacant on the lien date because it was~~  
20 ~~partially destroyed or damaged in a disaster, including, but not~~  
21 ~~limited to, a fire or flood.~~

22 ~~(2) A dwelling that has been totally destroyed in a~~  
23 ~~Governor-declared disaster and that qualified for the~~  
24 ~~homeowners' exemption prior to that disaster.~~

25 ~~(c) A dwelling that does not exist on the lien date because the~~  
26 ~~dwelling has been totally destroyed in a disaster is disqualified~~  
27 ~~from receiving the homeowner's exemption until the structure~~  
28 ~~has been replaced and is occupied as a dwelling.~~

29 ~~SEC. 6.~~

30 ~~SEC. 3. Section 254.5 of the Revenue and Taxation Code is~~  
31 ~~amended to read:~~

32 ~~254.5. (a) Claims for the welfare exemption and the~~  
33 ~~veterans' organization exemption shall be filed on or before~~  
34 ~~February 15 of each year with the assessor.~~

35 ~~The assessor may not approve a property tax exemption claim~~  
36 ~~until the claimant has been issued a valid organizational~~  
37 ~~clearance certificate pursuant to Section 254.6. Financial~~  
38 ~~statements shall be submitted only if requested in writing by the~~  
39 ~~assessor.~~

1 (b) (1) The assessor shall review all claims for the welfare  
2 exemption to ascertain whether the property on which the  
3 exemption is claimed meets the requirements of Section 214. The  
4 assessor shall also review all claims for the veterans'  
5 organization exemption to ascertain whether the property on  
6 which the exemption is claimed meets the requirements of  
7 Section 215.1. In this connection, the assessor shall consider,  
8 among other matters, whether:

9 (A) Any capital investment of the owner or operator for  
10 expansion of a physical plant is justified by the contemplated  
11 return thereon, and required to serve the interests of the  
12 community.

13 (B) The property on which the exemption is claimed is used  
14 for the actual operation of an exempt activity and does not  
15 exceed an amount of property reasonably necessary to the  
16 accomplishment of the exempt purpose.

17 (2) The assessor may institute an audit or verification of the  
18 operations of the owner or operator of the applicant's property to  
19 ascertain whether both the owner and operator meet the  
20 requirements of Section 214.

21 (c) (1) The assessor may deny a claim for the welfare  
22 exemption on a property, notwithstanding that the claimant has  
23 been granted an organizational clearance certificate by the board.

24 (2) If the assessor finds that the claimant's property is  
25 ineligible for the welfare exemption or the veterans' organization  
26 exemption, the assessor shall notify the claimant in writing of all  
27 of the following:

28 (A) That the property is ineligible for the exemption.

29 (B) That the claimant may seek a refund of property taxes paid  
30 by filing a refund claim with the county.

31 (C) That if the claimant's refund claim with the county is  
32 denied, the claimant may file a refund action in superior court.

33 (d) Notwithstanding subdivision (a), an applicant, granted a  
34 welfare exemption and owning any property exempted pursuant  
35 to Section 214.15 or Section 231, shall not be required to reapply  
36 for the welfare exemption in any subsequent year in which there  
37 has been no transfer of, or other change in title to, the exempted  
38 property and the property is used exclusively by a governmental  
39 entity or by a nonprofit corporation described in Section 214.15  
40 for its interest and benefit. The applicant shall notify the assessor

1 on or before February 15 if, on or before the preceding lien date,  
2 the applicant became ineligible for the welfare exemption or if,  
3 on or before that lien date, the property was no longer owned by  
4 the applicant or otherwise failed to meet all requirements for the  
5 welfare exemption.

6 Prior to the lien date, the assessor shall annually mail a notice  
7 to every applicant relieved of the requirement of filing an annual  
8 application by this subdivision.

9 The notice shall be in a form and contain that information that  
10 the board may prescribe, and shall set forth the circumstances  
11 under which the property may no longer be eligible for  
12 exemption, and advise the applicant of the duty to inform the  
13 assessor if the property is no longer eligible for exemption.

14 The notice shall include a card that is to be returned to the  
15 assessor by any applicant desiring to maintain eligibility for the  
16 welfare exemption under Section 214.15 or Section 231. The  
17 card shall be in the following form:

18  
19 To all persons who have received a welfare exemption under  
20 Section 214.15 or Section 231 of the Revenue and Taxation  
21 Code for the \_\_\_\_ fiscal year.

22 Question: Will the property to which the exemption applies in  
23 the \_\_\_\_ fiscal year continue to be used exclusively by  
24 government or by an organization as described in Section  
25 214.15 for its interest and benefit in the \_\_\_\_ fiscal year?

26  
27 YES \_\_\_\_ NO \_\_\_\_

28  
29 Signature: \_\_\_\_\_  
30 Title: \_\_\_\_\_

31 Failure to return this card does not of itself constitute a waiver  
32 of exemption as called for by the California Constitution, but  
33 may result in onsite inspection to verify exempt activity.

34  
35 (e) Upon any indication that a welfare exemption or veterans'  
36 organization exemption on the property has been incorrectly  
37 granted, the assessor shall redetermine eligibility for the  
38 exemption. If the assessor determines that the property, or any  
39 portion thereof, is no longer eligible for the exemption, he or she

1 shall immediately cancel the exemption on so much of the  
2 property as is no longer eligible for the exemption.

3 (f) If a welfare exemption or veterans’ organization exemption  
4 on the property has been incorrectly allowed, an escape  
5 assessment as provided by Article 4 (commencing with Section  
6 531) of Chapter 3 in the amount of the exemption, with interest  
7 as provided in Section 506, shall be made, and a penalty shall be  
8 assessed for any failure to notify the assessor as required by this  
9 section in an amount equaling 10 percent of the escape  
10 assessment, but may not exceed two hundred fifty dollars (\$250).

11 (g) Pursuant to Section 15640 of the Government Code, the  
12 board shall review the assessor’s administration of the welfare  
13 exemption and the veterans’ organization exemption as part of  
14 the board’s survey of the county assessment roll to ensure the  
15 proper administration of the exemption.

16 ~~SEC. 7.~~

17 *SEC. 4.* Section 254.6 of the Revenue and Taxation Code is  
18 amended to read:

19 254.6. (a) An organization that intends to claim the welfare  
20 exemption or veterans’ organization exemption shall file with the  
21 State Board of Equalization a claim for an organizational  
22 clearance certificate.

23 (b) The board staff shall review each claim for an  
24 organizational clearance certificate for the welfare exemption to  
25 ascertain whether the organization meets the requirements of  
26 Section 214 and shall issue a certificate to a claimant that meets  
27 these requirements. The board staff shall also review each claim  
28 for an organizational clearance certificate for the veterans’  
29 organization exemption to ascertain whether the organization  
30 meets the requirements of Section 215.1 and shall issue a  
31 certificate to a claimant that meets these requirements. In this  
32 connection, the board staff shall consider, among other matters,  
33 whether:

34 (1) The services and expenses of the owner or operator  
35 (including salaries) are excessive, based upon like services and  
36 salaries in comparable public or private institutions.

37 (2) The operations of the owner or operator, either directly or  
38 indirectly, materially enhance the private gain of any individual  
39 or individuals.

1 (c) Any claim of any organization that files for an  
2 organizational clearance certificate for the first time shall be  
3 accompanied by the claimant's corporate identification number,  
4 mailing address, and all of the following documents:

5 (1) A certified copy of the financial statements of the  
6 organization.

7 (2) A certified copy of the articles of incorporation and any  
8 amendments thereto, or in the case of any noncorporate fund or  
9 foundation, its bylaws, articles of association, constitution, or  
10 regulations and any amendments thereto.

11 (3) A copy of a valid, unrevoked letter or ruling from either  
12 the Franchise Tax Board or, in the alternative, the Internal  
13 Revenue Service, that states that the organization qualifies as an  
14 exempt organization under the appropriate provisions of the  
15 Bank and Corporation Tax Law or the Internal Revenue Code.

16 (d) (1) If the board staff determines that a claimant is not  
17 eligible for an organizational clearance certificate, the board shall  
18 notify the claimant of the ineligibility.

19 (2) The claimant may file an appeal of the board staff's  
20 finding of ineligibility with the board within 60 days of the date  
21 of mailing of the notice of ineligibility. The appeal of the board  
22 staff's finding shall be in writing and shall state the specific  
23 grounds upon which the appeal is founded.

24 (3) The board shall conduct a hearing on the appeal in  
25 accordance with any rules of notice, procedure, and briefing as  
26 the board shall prescribe. The parties to the hearing or proceeding  
27 shall be the board staff and the claimant appealing the finding of  
28 ineligibility. The board staff and the claimant may agree in  
29 writing to submit the matter to the board for a decision without a  
30 hearing. The board shall provide written findings and conclusions  
31 or a written decision to support its decision.

32 (e) (1) Once granted, an organizational clearance certificate  
33 for the welfare exemption remains valid until the board staff  
34 determines that the organization no longer meets the  
35 requirements of Section 214. Once granted, an organizational  
36 clearance certificate for the veterans' organization exemption  
37 remains valid until the board staff determines that the  
38 organization no longer meets the requirements of Section 215.1.

39 (2) If the board staff determines that the organization no  
40 longer meets the requirements for an organizational clearance

1 certificate, the board staff shall revoke the certificate and notify  
2 the claimant and each county assessor of the revocation.

3 (3) The organization may file an appeal of the board staff's  
4 revocation with the board within 60 days of the date of mailing  
5 of the notice revocation. The appeal of the revocation shall be in  
6 writing and shall state the specific grounds upon which the  
7 appeal is founded.

8 (4) The board shall conduct a hearing on the appeal in  
9 accordance with any rules of notice, procedure, and briefing as  
10 the board shall prescribe. The parties to the hearing or proceeding  
11 shall be the board staff and the claimant appealing the finding of  
12 ineligibility. The board staff and the claimant may agree in  
13 writing to submit the matter to the board for decision without  
14 hearing. The board shall provide written findings and conclusions  
15 or a written decision to support its decision.

16 (f) Pursuant to Section 15618 of the Government Code, the  
17 board may institute an audit or verification of an organization to  
18 ascertain whether the organization meets the requirements of  
19 Section 214.

20 ~~SEC. 8:~~

21 *SEC. 5.* Section 1840 of the Revenue and Taxation Code is  
22 amended to read:

23 1840. If any county, city and county, or municipal  
24 corporation desires to secure a review, equalization, or  
25 adjustment of the assessment of its property by the board  
26 pursuant to subdivision (g) of Section 11 of Article XIII of the  
27 California Constitution, it shall apply to the board therefor in  
28 writing on or before July 20, or within two weeks after the  
29 completion and delivery by the assessor of the local roll  
30 containing the assessment to the auditor as provided in Section  
31 617, whichever is the later. If the assessment objected to is one  
32 made outside the regular period for such assessments, the  
33 application for review shall be filed with the board within 60  
34 days from the date the tax bill is mailed to the assessee.

35 Every application shall show the facts claimed to require action  
36 of the board, and a copy thereof shall be filed with the assessor  
37 whose assessment is questioned. Upon receipt of a timely  
38 application, the board shall afford the applicant notice and a  
39 hearing in accordance with such rules and regulations as the  
40 board may prescribe. The failure to file a timely application shall

1 bar the applicant from relief under subdivision (g) of Section 11  
2 of Article XIII or this section.

3 ~~SEC. 9.~~

4 *SEC. 6.* Section 2 of Chapter 48 of the Statutes of 1987 is  
5 amended to read:

6 Sec. 2. (a) It is the intent of the Legislature that the  
7 provisions of Section 63.1 of the Revenue and Taxation Code  
8 shall be liberally construed in order to carry out the intent of both  
9 of the following:

10 (1) Proposition 58 on the November 4, 1986, general election  
11 ballot to exclude from change in ownership purchases or  
12 transfers between parents and their children described therein.

13 (2) Proposition 193 on the March 26, 1996, primary election  
14 ballot to exclude from change in ownership purchases or  
15 transfers between grandparents and their grandchildren described  
16 therein.

17 (b) Specifically, transfers of real property from a corporation,  
18 partnership, trust, or other legal entity to an eligible transferor or  
19 transferors, where the latter are the sole owner or owners of the  
20 entity or are the sole beneficial owner or owners of the property,  
21 shall be fully recognized and shall not be ignored or given less  
22 than full recognition under a substance-over-form or  
23 step-transaction doctrine, where the sole purpose of the transfer  
24 is to permit an immediate retransfer from an eligible transferor or  
25 transferors to an eligible transferee or transferees which qualifies  
26 for the exclusion from change in ownership provided by Section  
27 63.1. Further, transfers of real property between eligible  
28 transferors and eligible transferees shall also be fully recognized  
29 when the transfers are immediately followed by a transfer from  
30 the eligible transferee or eligible transferees to a corporation,  
31 partnership, trust, or other legal entity where the transferee or  
32 transferees are the sole owner or owners of the entity or are the  
33 sole beneficial owner or owners of the property, if the transfer  
34 between eligible transferors and eligible transferees satisfies the  
35 requirements of Section 63.1.

36 (c) Except as provided herein, this section shall not be  
37 construed as an expression of intent on the part of the Legislature  
38 disapproving in principle the appropriate application of the  
39 substance-over-form or step-transaction doctrine.

1     ~~SEC. 10.~~ Notwithstanding ~~Section 2229~~ of the Revenue and  
2     Taxation Code, no appropriation is made by this act and the state  
3     shall not reimburse any local agency for any property tax  
4     revenues lost by it pursuant to this act.  
5     ~~SEC. 11.~~  
6     SEC. 7. If the Commission on State Mandates determines that  
7     this act contains costs mandated by the state, reimbursement to  
8     local agencies and school districts for those costs shall be made  
9     pursuant to Part 7 (commencing with Section 17500) of Division  
10    4 of Title 2 of the Government Code.