

Introduced by Senator Hollingsworth

(Principal coauthors: Senators Alpert, Battin, Ducheny, and Morrow)

(Principal coauthors: Assembly Members Bates, Kehoe, La Suer, Mountjoy, Plescia, and Wyland)

(Coauthors: Senators Ackerman, Ashburn, and Denham)

(Coauthors: Assembly Members Benoit, Cogdill, Cox, Shirley Horton, Maddox, Maze, Pacheco, Runner, Samuelian, and Spitzer)

January 26, 2004

An act to amend Sections 218, 17207, and 24347.5 of the Revenue and Taxation Code, relating to disaster relief, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1147, as introduced, Hollingsworth. Disaster relief.

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 clarify that any dwelling that qualified for the exemption prior to October 15, 2003, that was damaged or destroyed by fire in a disaster, as specified, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner.

The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified

federal assistance, or proclaimed by the Governor to be in a state of disaster.

This bill would extend these provisions to losses sustained as a result of the fires that occurred in the Counties of Los Angeles, Riverside, San Bernardino, San Diego, and Ventura in October and November 2003. This bill would also authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

This bill would take effect immediately as a tax levy.

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

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

1 SECTION 1. Section 218 of the Revenue and Taxation Code
2 is amended to read:

3 218. The homeowners' property tax exemption is in the
4 amount of the assessed value of the dwelling specified in this
5 section, as authorized by subdivision (k) of Section 3 of Article
6 XIII of the Constitution. That exemption shall be in the amount of
7 seven thousand dollars (\$7,000) of the full value of the dwelling.

8 The exemption does not extend to property which is rented,
9 vacant, under construction on the lien date, or which is a vacation
10 or secondary home of the owner or owners, nor does it apply to
11 property on which an owner receives the veteran's exemption.
12 "Owner" includes a person purchasing the dwelling under a
13 contract of sale or who holds shares or membership in a
14 cooperative housing corporation, which holding is a requisite to
15 the exclusive right of occupancy of a dwelling. As used in this
16 section, "dwelling" shall include:

17 (a) A single-family dwelling occupied by an owner thereof as
18 his or her principal place of residence on the lien date.

19 (b) A multiple-dwelling unit occupied by an owner thereof on
20 the lien date as his or her principal place of residence.

21 (c) A condominium occupied by an owner thereof as his or her
22 principal place of residence on the lien date.

23 (d) Premises occupied by the owner of shares or a membership
24 interest in a cooperative housing corporation, as defined in
25 subdivision (h) of Section 61, as his or her principal place of
26 residence on the lien date. Each exemption allowed pursuant to this
27 subdivision shall be deducted from the total assessed valuation of



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

5 “Dwelling” means a building, structure or other shelter
6 constituting a place of abode, whether real property or personal
7 property, and any land on which it may be situated. For purposes
8 of this section a two-dwelling unit shall be considered as two
9 separate single-family dwellings.

10 Any dwelling that qualified for an exemption under this section
11 prior to October 20, 1991, that was damaged or destroyed by fire
12 in a disaster, as declared by the Governor, occurring on or after
13 October 20, 1991, and before November 1, 1991, and that has not
14 changed ownership since October 20, 1991, shall not be
15 disqualified as a “dwelling” or be denied an exemption under this
16 section solely on the basis that the dwelling was temporarily
17 damaged or destroyed or was being reconstructed by the owner.

18 *Any dwelling that qualified for an exemption under this section*
19 *prior to October 15, 2003, that was damaged or destroyed by fire*
20 *in a disaster, as declared by the Governor, during October or*
21 *November 2003, and that has not changed ownership since*
22 *October 15, 2003, shall not be disqualified as a “dwelling” or be*
23 *denied an exemption under this section solely on the basis that the*
24 *dwelling was temporarily damaged or destroyed or was being*
25 *reconstructed by the owner.*

26 The exemption provided for in subdivision (k) of Section 3 of
27 Article XIII of the Constitution shall first be applied to the
28 building, structure or other shelter and the excess, if any, shall be
29 applied to any land on which it may be located.

30 SEC. 2. Section 17207 of the Revenue and Taxation Code is
31 amended to read:

32 17207. (a) An excess disaster loss, as defined in subdivision
33 (c), shall be carried to other taxable years as provided in
34 subdivision (b), with respect to losses resulting from any of the
35 following disasters:

36 (1) Forest fire or any other related casualty occurring in 1985
37 in California.

38 (2) Storm, flooding, or any other related casualty occurring in
39 1986 in California.



- 1 (3) Any loss sustained during 1987 as a result of a forest fire or
2 any other related casualty.
- 3 (4) Earthquake, aftershock, or any other related casualty
4 occurring in 1987 in California.
- 5 (5) Earthquake, aftershock, or any other related casualty
6 occurring in 1989 in California.
- 7 (6) Any loss sustained during 1990 as a result of fire or any
8 other related casualty in California.
- 9 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
10 of 1991, or any other related casualty.
- 11 (8) Any loss sustained as a result of storm, flooding, or any
12 other related casualty occurring in February 1992 in California.
- 13 (9) Earthquake, aftershock, or any other related casualty
14 occurring in April 1992 in the County of Humboldt.
- 15 (10) Riots, arson, or any other related casualty occurring in
16 April or May 1992 in California.
- 17 (11) Any loss sustained as a result of the earthquakes that
18 occurred in the County of San Bernardino in June and July of 1992,
19 or any other related casualty.
- 20 (12) Any loss sustained as a result of the Fountain Fire that
21 occurred in the County of Shasta, or as a result of either of the fires
22 in the Counties of Calaveras and Trinity that occurred in August
23 1992, or any other related casualty.
- 24 (13) Any loss sustained as a result of storm, flooding, or any
25 other related casualty that occurred in the Counties of Alpine,
26 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
27 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
28 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
29 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
30 Fillmore in January 1993.
- 31 (14) Any loss sustained as a result of a fire that occurred in the
32 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
33 Diego, and Ventura, during October or November of 1993, or any
34 other related casualty.
- 35 (15) Any loss sustained as a result of the earthquake,
36 aftershocks, or any other related casualty that occurred in the
37 Counties of Los Angeles, Orange, and Ventura on or after January
38 17, 1994.



1 (16) Any loss sustained as a result of a fire that occurred in the
2 County of San Luis Obispo during August of 1994, or any other
3 related casualty.

4 (17) Any loss sustained as a result of the storms or flooding
5 occurring in 1995, or any other related casualty, sustained in any
6 county of this state subject to a disaster declaration with respect to
7 the storms and flooding.

8 (18) Any loss sustained as a result of the storms or flooding
9 occurring in December 1996 or January 1997, or any related
10 casualty, sustained in any county of this state subject to a disaster
11 declaration with respect to the storms or flooding.

12 (19) Any loss sustained as a result of the storms or flooding
13 occurring in February 1998, or any related casualty, sustained in
14 any county of this state subject to a disaster declaration with
15 respect to the storms or flooding.

16 (20) Any loss sustained as a result of a freeze occurring in the
17 winter of 1998–99, or any related casualty, sustained in any county
18 of this state subject to a disaster declaration with respect to the
19 freeze.

20 (21) Any loss sustained as a result of an earthquake occurring
21 in September 2000, that was included in the Governor’s
22 proclamation of a state emergency for the County of Napa.

23 (22) *Any loss sustained as a result of the fires that occurred in*
24 *the Counties of Los Angeles, Riverside, San Bernardino, San*
25 *Diego, and Ventura in October and November 2003.*

26 (b) (1) In the case of any loss allowed under Section 165(c) of
27 the Internal Revenue Code, relating to limitation of losses of
28 individuals, any excess disaster loss shall be carried forward to
29 each of the five taxable years following the taxable year for which
30 the loss is claimed. However, if there is any excess disaster loss
31 remaining after the five-year period, then the applicable
32 percentage, as set forth in paragraph (1) of subdivision (b) of
33 Section 17276, of that excess disaster loss shall be carried forward
34 to each of the next 10 taxable years.

35 (2) The entire amount of any excess disaster loss as defined in
36 subdivision (c) shall be carried to the earliest of the taxable years
37 to which, by reason of subdivision (b), the loss may be carried. The
38 portion of the loss which shall be carried to each of the other
39 taxable years shall be the excess, if any, of the amount of excess
40 disaster loss over the sum of the adjusted taxable income for each



1 of the prior taxable years to which that excess disaster loss is
2 carried.

3 (c) “Excess disaster loss” means a disaster loss computed
4 pursuant to Section 165 of the Internal Revenue Code which
5 exceeds the adjusted taxable income of the year of loss or, if the
6 election under Section 165(i) of the Internal Revenue Code is
7 made, the adjusted taxable income of the year preceding the loss.

8 (d) The provisions of this section and Section 165(i) of the
9 Internal Revenue Code shall be applicable to any of the losses
10 listed in subdivision (a) sustained in any county or city in this state
11 which was proclaimed by the Governor to be in a state of disaster.

12 (e) Losses allowable under this section may not be taken into
13 account in computing a net operating loss deduction under Section
14 172 of the Internal Revenue Code.

15 (f) For purposes of this section, “adjusted taxable income”
16 shall be defined by Section 1212(b)(2)(B) of the Internal Revenue
17 Code.

18 (g) For losses described in paragraphs ~~(15), (16), (17), (18),~~
19 ~~(19), (20), and (21)~~ (15) to (22), *inclusive*, of subdivision (a), the
20 election under Section 165(i) of the Internal Revenue Code may
21 be made on a return or amended return filed on or before the due
22 date of the return (determined with regard to extension) for the
23 taxable year in which the disaster occurred.

24 SEC. 3. Section 24347.5 of the Revenue and Taxation Code
25 is amended to read:

26 24347.5. (a) An excess disaster loss, as defined in
27 subdivision (c), shall be carried to other taxable years as provided
28 in subdivision (b), with respect to losses resulting from any of the
29 following disasters:

30 (1) Forest fire or any other related casualty occurring in 1985
31 in California.

32 (2) Storm, flooding, or any other related casualty occurring in
33 1986 in California.

34 (3) Any loss sustained during 1987 as a result of a forest fire or
35 any other related casualty.

36 (4) Earthquake, aftershock, or any other related casualty
37 occurring in October 1987 in California.

38 (5) Earthquake, aftershock, or any other related casualty
39 occurring in October 1989 in California.



- 1 (6) Any loss sustained during 1990 as a result of fire or any
2 other related casualty in California.
- 3 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
4 of 1991, or any other related casualty.
- 5 (8) Any loss sustained as a result of storm, flooding, or any
6 other related casualty occurring in February 1992 in California.
- 7 (9) Earthquake, aftershock, or any other related casualty
8 occurring in April 1992 in the County of Humboldt.
- 9 (10) Riots, arson, or any other related casualty occurring in
10 April or May 1992 in California.
- 11 (11) Any loss sustained as a result of the earthquakes or any
12 other related casualty that occurred in the County of San
13 Bernardino in June and July of 1992.
- 14 (12) Any loss sustained as a result of the Fountain Fire that
15 occurred in the County of Shasta, or as a result of either of the fires
16 in the Counties of Calaveras and Trinity that occurred in August
17 1992, or any other related casualty.
- 18 (13) Any loss sustained as a result of storm, flooding, or any
19 other related casualty that occurred in the Counties of Alpine,
20 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
21 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
22 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
23 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
24 Fillmore in January 1993.
- 25 (14) Any loss sustained as a result of a fire that occurred in the
26 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
27 Diego, and Ventura, during October or November of 1993, or any
28 other related casualty.
- 29 (15) Any loss sustained as a result of the earthquake,
30 aftershocks, or any other related casualty that occurred in the
31 Counties of Los Angeles, Orange, and Ventura on or after January
32 17, 1994.
- 33 (16) Any loss sustained as a result of a fire that occurred in the
34 County of San Luis Obispo during August of 1994, or any other
35 related casualty.
- 36 (17) Any loss sustained as a result of the storms or flooding
37 occurring in 1995, or any other related casualty, sustained in any
38 county of this state subject to a disaster declaration with respect to
39 the storms and flooding.



1 (18) Any loss sustained as a result of the storms or flooding
2 occurring in December 1996 or January 1997, or any related
3 casualty, sustained in any county of this state subject to a disaster
4 declaration with respect to the storms or flooding.

5 (19) Any loss sustained as a result of the storms or flooding
6 occurring in February 1998, or any related casualty, sustained in
7 any county of this state subject to a disaster declaration with
8 respect to the storms or flooding.

9 (20) Any loss sustained as a result of a freeze occurring in the
10 winter of 1998–99, or any related casualty, sustained in any county
11 of this state subject to a disaster declaration with respect to the
12 freeze.

13 (21) Any loss sustained as a result of an earthquake occurring
14 in September 2000, that was included in the Governor’s
15 proclamation of a state of emergency for the County of Napa.

16 (22) *Any loss sustained as a result of the fires that occurred in*
17 *the Counties of Los Angeles, Riverside, San Bernardino, San*
18 *Diego, and Ventura in October and November 2003.*

19 (b) (1) In the case of any loss allowed under Section 165 of the
20 Internal Revenue Code, relating to losses, any excess disaster loss
21 shall be carried forward to each of the five taxable years following
22 the taxable year for which the loss is claimed. However, if there is
23 any excess disaster loss remaining after the five-year period, then
24 the applicable percentage, as set forth in paragraph (1) of
25 subdivision (b) of Section 24416, of that excess disaster loss shall
26 be carried forward to each of the next 10 taxable years.

27 (2) The entire amount of any excess disaster loss as defined in
28 subdivision (c) shall be carried to the earliest of the taxable years
29 to which, by reason of subdivision (b), the loss may be carried. The
30 portion of the loss which shall be carried to each of the other
31 taxable years shall be the excess, if any, of the amount of excess
32 disaster loss over the sum of the net income for each of the prior
33 taxable years to which that excess disaster loss is carried.

34 (c) “Excess disaster loss” means a disaster loss computed
35 pursuant to Section 165 of the Internal Revenue Code, which
36 exceeds the net income of the year of loss or, if the election under
37 Section 165(i) of the Internal Revenue Code is made, the net
38 income of the year preceding the loss.

39 (d) The provisions of this section and Section 165(i) of the
40 Internal Revenue Code shall be applicable to any of the losses



1 listed in subdivision (a) sustained in any county or city in this state
2 which was proclaimed by the Governor to be in a state of disaster.

3 (e) Any corporation subject to the provisions of Section 25101
4 or 25101.15 that has disaster losses pursuant to this section, shall
5 determine the excess disaster loss to be carried to other taxable
6 years under the principles specified in Section 25108 relating to
7 net operating losses.

8 (f) Losses allowable under this section may not be taken into
9 account in computing a net operating loss deduction under Section
10 172 of the Internal Revenue Code.

11 (g) For losses described in paragraphs ~~(15), (16), (17), (18),~~
12 ~~(19), (20), and (21)~~ (15) to (22), *inclusive*, of subdivision (a), the
13 election under Section 165(i) of the Internal Revenue Code may
14 be made on a return or amended return filed on or before the due
15 date of the return (determined with regard to extension) for the
16 taxable year in which the disaster occurred.

17 SEC. 4. This act provides for a tax levy within the meaning of
18 Article IV of the Constitution and shall go into immediate effect.

