

Senate Bill No. 1637

Passed the Senate August 24, 2006

Secretary of the Senate

Passed the Assembly August 17, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 75.21, 276.1, 276.2, 277, and 408 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1637, Committee on Veterans Affairs. Property taxation.

(1) Existing law, with respect to supplemental property tax assessments, specifies various limitation periods for assessments on the supplemental tax roll. Existing law provides for the application of property tax exemptions to those supplemental assessments provided, among other things, that an assessee file an exemption application within a specified time. Existing property tax law allows taxes, penalties, and interest imposed for late filings of property tax exemption applications for the supplemental roll that exceed \$250 in total to be reduced by 85% or 90%, as applicable, in the case of the exemption for a college, cemetery, church, religious, exhibition, or veterans' organization, as specified. In the case of the property tax exemption for disabled veterans, existing property tax law reduces by 80% the taxes, penalties, and interest imposed for certain late filings of these exemption applications. If the late filing was because the person had not yet received a disability rating from the United States Department of Veterans Affairs (USDVA) or because the property was acquired after the lien date or was not occupied as the principal residence of the veteran, existing law reduces all taxes, penalties, and interest imposed for the late filing.

This bill would additionally authorize an 85% or 90%, as applicable, reduction in the taxes, penalties, and interest imposed for late filings of property tax exemption applications for the supplemental roll in the case of the disabled veterans' exemption, regardless of whether those amounts exceed \$250. This bill would also specify that this exemption applies beginning on the date that the claimant receives a disability rating from the United States Department of Veterans Affairs and applies to all property taxes on the property that serve as a lien against that property, as specified. This bill would also specify the manner in which the exemption is to be prorated in the case of the property becoming

eligible for the disabled veterans' exemption after the lien date, as specified.

This bill would also require that claims for the disabled veterans' exemption contain the claimant's social security number or other personal identifying number. This bill also would, pursuant to legislative findings, specify that these claim forms are not public documents open to public inspection.

By changing the manner in which local officials process claims for the disabled veterans' property tax exemption, this bill would impose a state-mandated local program.

(2) 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 pursuant to the bill.

(3) 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.

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

SECTION 1. Section 75.21 of the Revenue and Taxation Code is amended to read:

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), that the assessee is eligible for the exemption, and that, in those instances in which the provisions of this division require the filing of a claim for the exemption, the assessee makes a claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and, in those instances in which the provisions of this division require the filing of a claim for the exemption, the assessee makes a claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) In those instances in which the provisions of this division require the filing of a claim for the exemption, except as provided in subdivision (d), (e), or (f), any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file a claim or an amendment to a current claim, in that form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment, in order to receive a 100-percent exemption.

(1) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption was available, but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars (\$250) in total amount, whichever is greater, for each supplemental assessment, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eighty-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars (\$250) in total amount, whichever is greater, for each supplemental assessment, if an appropriate application for exemption is thereafter filed.

(2) With respect to property as to which the welfare exemption or veterans' organization exemption was available, all provisions of Section 254.5, other than the specified dates for the filing of affidavits and other acts, are applicable to this section.

(3) With respect to property as to which the veterans' or homeowners' exemption was available, but for which a timely application for exemption was not filed, that portion of tax

attributable to 80 percent of the amount of exemption available shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(4) With respect to property as to which the disabled veterans' exemption was available, but for which a timely application for exemption was not filed, that portion of tax attributable to 90 percent of the amount of exemption available shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52. If an appropriate application for exemption is thereafter filed, 85 percent of the amount of the exemption available shall be canceled or refunded.

(5) With respect to property as to which any other exemption was available, but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eighty-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars (\$250) in total amount, whichever is greater, for each supplemental assessment, if an appropriate application for exemption is thereafter filed.

Other provisions of this division pertaining to the late filing of claims for exemption do not apply to assessments made pursuant to this chapter.

(d) For purposes of this section, any claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption previously filed by the owner of a dwelling, granted and in effect, constitutes the claim or claims for that exemption required in this section. In the event that a claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption is not in effect, a claim for any of those exemptions for a single supplemental assessment for a change in

ownership or new construction occurring on or after June 1, up to and including December 31, shall apply to that assessment; a claim for any of those exemptions for the two supplemental assessments for a change in ownership or new construction occurring on or after January 1, up to and including May 31, one for the current fiscal year and one for the following fiscal year, shall apply to those assessments. In either case, if granted, the claim shall remain in effect until title to the property changes, the owner does not occupy the home as his or her principal place of residence on the lien date, or the property is otherwise ineligible pursuant to Section 205, 205.5, or 218.

(e) Notwithstanding subdivision (c), an additional exemption claim may not be required to be filed until the next succeeding lien date in the case in which a supplemental assessment results from the completion of new construction on property that has previously been granted exemption on either the current roll or the roll being prepared.

(f) (1) Notwithstanding subdivision (c), an additional exemption claim is not required to be filed in the instance where a supplemental assessment results from a change in ownership of property where the purchaser of the property owns and uses or uses, as the case may be, other property that has been granted the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption on either the current roll or the roll being prepared and the property purchased is put to the same use.

(2) In all other instances where a supplemental assessment results from a change in ownership of property, an application for exemption shall be filed pursuant to the provisions of subdivision (c).

SEC. 2. Section 276.1 of the Revenue and Taxation Code is amended to read:

276.1. (a) For property for which the disabled veterans' exemption described in Section 205.5 would have been available but for the taxpayer's failure to receive a timely disability rating from the United States Department of Veterans Affairs (USDVA), there shall be canceled or refunded the amount of any taxes, including any interest and penalties thereon, subject to the provisions regarding cancellations in Article 1 (commencing with Section 4985) of Chapter 4 and the limitations periods on refunds

as described in Article 1 (commencing with Section 5096) of Chapter 5, levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate claim, provided that the claimant meets both of the following conditions:

(1) The claimant had an application pending with the USDVA for a disability rating and subsequently received a rating that qualifies the claimant for the disabled veterans' exemption described in Section 205.5.

(2) The claimant subsequently files an appropriate claim for the disabled veterans' exemption described in Section 205.5 the later of 30 days of receipt of the disability rating from the USDVA or on or before the next following lien date.

(b) Subject to the provisions regarding cancellations and the limitations periods on refunds, the disabled veterans' exemption applies beginning on the effective date, as determined by the USDVA, of a disability rating that qualifies the claimant for the exemption.

SEC. 3. Section 276.2 of the Revenue and Taxation Code is amended to read:

276.2. (a) If property becomes eligible for the disabled veterans' exemption as described in Section 205.5 after the lien date, and an appropriate application for that exemption is filed on or before the lien date in the calendar year next following the calendar year in which the property became eligible, there shall be canceled or refunded the amount of any taxes, including any interest and penalties thereon, levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate application.

(b) The entire amount of the exemption applies to any property tax assessment, including a supplemental and escape assessment, that was made and that served as a lien against the property. The exemption amount shall be appropriately prorated from the date the property became eligible for the exemption.

SEC. 4. Section 277 of the Revenue and Taxation Code is amended to read:

277. Any person claiming the disabled veterans' property tax exemption shall file a claim with the assessor giving any information required by the board. This information shall include, but shall not be limited to, the name of the person

claiming the exemption, the person's social security number or another personal identifying number, the address of the property, and a statement to the effect that the claimant owned and occupied the property as his or her principal place of residence on the lien date, or that he or she intends to own and occupy the property as his or her principal place of residence on the next succeeding lien date, and proof of disability as defined by Section 205.5.

SEC. 5. Section 408 of the Revenue and Taxation Code is amended to read:

408. (a) Except as otherwise provided in subdivisions (b), (c), (d), and (e), any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, disabled veterans' exemption claims, and homeowners' exemption claims, are not public documents and shall not be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county.

The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees, or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, employees of the Controller for property tax postponement purposes, probate referees, employees of the Franchise Tax Board for tax administration purposes only, staff appraisers of the Department of Financial Institutions, the Department of Transportation, the Department of General Services, the State Board of Equalization, the State Lands Commission, the State Department of Social Services, the Department of Child Support Services, the Department of Water Resources, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records. Whenever the assessor discloses information, furnishes abstracts, or permits access to records in his or her office to staff

appraisers of the Department of Financial Institutions, the Department of Transportation, the Department of General Services, the State Lands Commission, or the Department of Water Resources pursuant to this section, the department shall reimburse the assessor for any costs incurred as a result thereof.

(c) Upon the request of the tax collector, the assessor shall disclose and provide to the tax collector information used in the preparation of that portion of the unsecured roll for which the taxes thereon are delinquent. The tax collector shall certify to the assessor that he or she needs the information requested for the enforcement of the tax lien in collecting those delinquent taxes. Information requested by the tax collector may include social security numbers, and the assessor shall recover from the tax collector his or her actual and reasonable costs for providing the information. The tax collector shall add the costs described in the preceding sentence to the assessee's delinquent tax lien and collect those costs subject to subdivision (e) of Section 2922.

(d) The assessor shall, upon the request of an assessee or his or her designated representative, permit the assessee or representative to inspect or copy any market data in the assessor's possession. For purposes of this subdivision, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise. However, for purposes of providing market data, the assessor may not display any document relating to the business affairs or property of another.

(e) (1) With respect to information, documents, and records, other than market data as defined in subdivision (d), the assessor shall, upon request of an assessee of property, or his or her designated representative, permit the assessee or representative to inspect or copy all information, documents, and records, including auditors' narrations and workpapers, whether or not required to be kept or prepared by the assessor, relating to the

appraisal and the assessment of the assessee's property, and any penalties and interest thereon.

(2) After enrolling an assessment, the assessor shall respond to a written request for information supporting the assessment, including, but not limited to, any appraisal and other data requested by the assessee.

(3) Except as provided in Section 408.1, an assessee, or his or her designated representative, may not be permitted to inspect or copy information and records that also relate to the property or business affairs of another, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of the assessment of his or her property.

(f) (1) Permission for the inspection or copying requested pursuant to subdivision (d) or (e) shall be granted as soon as reasonably possible to the assessee or his or her designated representative.

(2) If the assessee, or his or her designated representative, requests the assessor to make copies of any of the requested records, the assessee shall reimburse the assessor for the reasonable costs incurred in reproducing and providing the copies.

(3) If the assessor fails to permit the inspection or copying of materials or information as requested pursuant to subdivision (d) or (e) and the assessor introduces any requested materials or information at any assessment appeals board hearing, the assessee or his or her representative may request and shall be granted a continuance for a reasonable period of time. The continuance shall extend the two-year period specified in subdivision (c) of Section 1604 for a period of time equal to the period of continuance.

SEC. 6. The Legislature finds and declares that Section 5 of this act, which amends Section 408 of the Revenue and Taxation Code, imposes limitations on the public's right of access to the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(a) Claims filed for the disabled veterans' exemption contain taxpayer sensitive personal information, including social security

numbers and home addresses. Notwithstanding Section 3 of Article I of the California Constitution, county assessors have a responsibility and an obligation to safeguard from public access a taxpayer's personal information with which it has been entrusted.

(b) The right to privacy is a personal and fundamental right protected by Section 1 of Article I of the California Constitution and by the United States Constitution. All individuals have a right of privacy in information pertaining to them.

(c) This state has previously recognized, in Sections 63.1, 69.5, and 408.2 of the Revenue and Taxation Code, the importance of protecting the confidentiality and privacy of an individual's personal and financial information contained in homeowners' exemption claims, property statements, change in ownership exclusion applications, and change of ownership statements filed with county assessors for property tax purposes.

(d) In addition to the right of privacy, there is a need to protect from public disclosure personal information due to the growing prevalence and debilitating nature of identity theft.

SEC. 7. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 8. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2006

Governor