

ASSEMBLY BILL

No. 388

Introduced by Assembly Member Gaines

February 15, 2007

An act to amend Sections 218 and 17053.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 388, as introduced, Gaines. Taxation: homeowners' property tax exemption and qualified renters income tax credit.

(1) Existing property tax law provides, pursuant to the authority of a specified provision of the California Constitution, for a homeowners' exemption in the amount of \$7,000 of the full value of a "dwelling," as defined, and authorizes the Legislature to increase the amount of this exemption.

This bill would, beginning with the lien date for the 2008–09 fiscal year, increase the homeowners' exemption from \$7,000 to \$25,000 of the full value of a dwelling.

(2) The California Constitution requires the Legislature, whenever it increases the homeowners' property tax exemption, to provide a comparable increase in benefits to qualified renters.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a credit for qualified renters in the amount of \$120 for married couples filing joint returns, heads of household, and surviving spouses if adjusted gross income is \$50,000 or less, and in the amount of \$60 for other individuals if adjusted gross income is \$25,000 or less. The adjusted gross income amounts are adjusted annually for inflation by the Franchise Tax Board.

This bill would, for taxable years beginning on and after January 1, 2008, increase this credit for a qualified renter to \$430 for married couples filing joint returns, heads of household, and surviving spouses if adjusted gross income is \$50,000 or less, as adjusted for inflation, and to \$215 for other individuals if adjusted gross income is \$25,000 or less, as adjusted for inflation.

(3) By requiring county officials to implement a new amount for the property tax 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.

(4) This bill would take effect immediately as a tax levy.

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 218 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 218. (a) 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~~ *is* in the amount
- 7 ~~of seven~~ *following amounts:*
- 8 (1) Seven thousand dollars (\$7,000) of the full value of the
- 9 dwelling *through the 2007–08 fiscal year.*
- 10 (2) *Beginning with the lien date for the 2008–09 fiscal year,*
- 11 *twenty-five thousand dollars (\$25,000) of the full value of the*
- 12 *dwelling.*
- 13 (b) The exemption does not extend to property that is rented,
- 14 vacant, under construction on the lien date, or that is a vacation or
- 15 secondary home of the owner or owners, nor does it apply to
- 16 property on which an owner receives the veteran’s exemption.
- 17 (c) For purposes of this section, all of the following apply:

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

5 (2) (A) "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. A two-dwelling
8 unit shall be considered as two separate single-family dwellings.

9 (B) "Dwelling" includes the following:

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

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

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

16 (iv) Premises occupied by the owner of shares or a membership
17 interest in a cooperative housing corporation, as defined in
18 subdivision (i) of Section 61, as his or her principal place of
19 residence on the lien date. Each exemption allowed pursuant to
20 this subdivision shall be deducted from the total assessed valuation
21 of the cooperative housing corporation. The exemption shall be
22 taken into account in apportioning property taxes among owners
23 of share or membership interests in the cooperative housing
24 corporations so as to benefit those owners who qualify for the
25 exemption.

26 (d) Any dwelling that qualified for an exemption under this
27 section prior to October 20, 1991, that was damaged or destroyed
28 by fire in a disaster, as declared by the Governor, occurring on or
29 after October 20, 1991, and before November 1, 1991, and that
30 has not changed ownership since October 20, 1991, shall not be
31 disqualified as a "dwelling" or be denied an exemption under this
32 section solely on the basis that the dwelling was temporarily
33 damaged or destroyed or was being reconstructed by the owner.

34 (e) Any dwelling that qualified for an exemption under this
35 section prior to October 15, 2003, that was damaged or destroyed
36 by fire or earthquake in a disaster, as declared by the Governor,
37 during October, November, or December 2003, and that has not
38 changed ownership since October 15, 2003, shall not be
39 disqualified as a "dwelling" or be denied an exemption under this

1 section solely on the basis that the dwelling was temporarily
2 damaged or destroyed or was being reconstructed by the owner.

3 (f) Any dwelling that qualified for an exemption under this
4 section prior to June 3, 2004, that was damaged or destroyed by
5 flood in a disaster, as declared by the Governor, during June 2004,
6 and that has not changed ownership since June 3, 2004, shall not
7 be disqualified as a “dwelling” or be denied an exemption under
8 this section solely on the basis that the dwelling was temporarily
9 damaged or destroyed or was being reconstructed by the owner.

10 (g) Any dwelling that qualified for an exemption under this
11 section prior to August 11, 2004, that was damaged or destroyed
12 by the wildfires and any other related casualty that occurred in
13 Shasta County in a disaster, as declared by the Governor, during
14 August 2004, and that has not changed ownership since August
15 11, 2004, shall not be disqualified as a “dwelling” or be denied an
16 exemption under this section solely on the basis that the dwelling
17 was temporarily damaged or destroyed or was being reconstructed
18 by the owner.

19 (h) Any dwelling that qualified for an exemption under this
20 section prior to December 28, 2004, that was damaged or destroyed
21 by severe rainstorms, floods, mudslides, or the accumulation of
22 debris in a disaster, as declared by the Governor, during December
23 2004, January 2005, February 2005, March 2005, or June 2005,
24 and that has not changed ownership since December 28, 2004,
25 shall not be disqualified as a “dwelling” or be denied an exemption
26 under this section solely on the basis that the dwelling was
27 temporarily damaged or destroyed or was being reconstructed by
28 the owner, or was temporarily uninhabited as a result of restricted
29 access to the property due to floods, mudslides, the accumulation
30 of debris, or washed-out or damaged roads.

31 (i) Any dwelling that qualified for an exemption under this
32 section prior to December 19, 2005, that was damaged or destroyed
33 by severe rainstorms, floods, mudslides, or the accumulation of
34 debris in a disaster, as declared by the Governor in January 2006,
35 April 2006, May 2006, or June 2006, and that has not changed
36 ownership since December 19, 2005, shall not be disqualified as
37 a “dwelling” or be denied an exemption under this section solely
38 on the basis that the dwelling was temporarily damaged or
39 destroyed or was being reconstructed by the owner, or was
40 temporarily uninhabited as a result of restricted access to the

1 property due to floods, mudslides, the accumulation of debris, or
2 washed-out or damaged roads.

3 (j) Any dwelling that qualified for an exemption under this
4 section prior to July 9, 2006, that was damaged or destroyed by
5 the wildfires and any other related casualty that occurred in the
6 County of San Bernardino, as declared by the Governor in July
7 2006, and that has not changed ownership since July 9, 2006, shall
8 not be disqualified as a “dwelling” or be denied an exemption
9 under this section solely on the basis that the dwelling was
10 temporarily damaged or destroyed or was being reconstructed by
11 the owner, or was temporarily uninhabited as a result of restricted
12 access to the property due to the wildfires.

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

17 SEC. 2. Section 17053.5 of the Revenue and Taxation Code
18 is amended to read:

19 17053.5. (a) (1) For a qualified renter, there shall be allowed
20 a credit against his or her “net tax”(as defined in Section 17039).
21 The amount of the credit shall be as follows:

22 (A) (i) For married couples filing joint returns, heads of
23 household, and surviving spouses (as defined in Section 17046)
24 the credit shall be equal to one hundred twenty dollars (\$120) if
25 adjusted gross income is fifty thousand dollars (\$50,000) or less.

26 (ii) *For taxable years beginning on and after January 1, 2008,*
27 *the credit amount shall be equal to four hundred thirty dollars*
28 *(\$430) for taxpayers described in clause (i).*

29 (B) (i) For other individuals, the credit shall be equal to sixty
30 dollars (\$60) if adjusted gross income is twenty-five thousand
31 dollars (\$25,000) or less.

32 (ii) *For taxable years beginning on and after January 1, 2008,*
33 *the credit amount shall be equal to two hundred fifteen dollars*
34 *(\$215) for taxpayers described in clause (i).*

35 (2) Except as provided in subdivision (b), a husband and wife
36 shall receive but one credit under this section. If the husband and
37 wife file separate returns, the credit may be taken by either or
38 equally divided between them, except as follows:

39 (A) If one spouse was a resident for the entire taxable year and
40 the other spouse was a nonresident for part or all of the taxable

1 year, the resident spouse shall be allowed one-half the credit
 2 allowed to married persons and the nonresident spouse shall be
 3 permitted one-half the credit allowed to married persons, prorated
 4 as provided in subdivision (e).

5 (B) If both spouses were nonresidents for part of the taxable
 6 year, the credit allowed to married persons shall be divided equally
 7 between them subject to the proration provided in subdivision (e).

8 (b) For a husband and wife, if each spouse maintained a separate
 9 place of residence and resided in this state during the entire taxable
 10 year, each spouse will be allowed one-half the full credit allowed
 11 to married persons provided in subdivision (a).

12 (c) For purposes of this section, a “qualified renter” means an
 13 individual who:

14 (1) Was a resident of this state, as defined in Section 17014,
 15 and

16 (2) Rented and occupied premises in this state which constituted
 17 his or her principal place of residence during at least 50 percent
 18 of the taxable year.

19 (d) The term “qualified renter” does not include any of the
 20 following:

21 (1) An individual who for more than 50 percent of the taxable
 22 year rented and occupied premises that were exempt from property
 23 taxes, except that an individual, otherwise qualified, is deemed a
 24 qualified renter if he or she or his or her landlord pays possessory
 25 interest taxes, or the owner of those premises makes payments in
 26 lieu of property taxes that are substantially equivalent to property
 27 taxes paid on properties of comparable market value.

28 (2) An individual whose principal place of residence for more
 29 than 50 percent of the taxable year is with any other person who
 30 claimed such individual as a dependent for income tax purposes.

31 (3) An individual who has been granted or whose spouse has
 32 been granted the homeowners’ property tax exemption during the
 33 taxable year. This paragraph does not apply to an individual whose
 34 spouse has been granted the homeowners’ property tax exemption
 35 if each spouse maintained a separate residence for the entire taxable
 36 year.

37 (e) Any otherwise qualified renter who is a nonresident for any
 38 portion of the taxable year shall claim the credits set forth in
 39 subdivision (a) at the rate of one-twelfth of those credits for each

1 full month that individual resided within this state during the
2 taxable year.

3 (f) Every person claiming the credit provided in this section
4 shall, as part of that claim, and under penalty of perjury, furnish
5 that information as the Franchise Tax Board prescribes on a form
6 supplied by the board.

7 (g) The credit provided in this section shall be claimed on returns
8 in the form as the Franchise Tax Board may from time to time
9 prescribe.

10 (h) For the purposes of this section, the term “premises” means
11 a house or a dwelling unit used to provide living accommodations
12 in a building or structure and the land incidental thereto, but does
13 not include land only, unless the dwelling unit is a mobilehome.
14 The credit is not allowed for any taxable year for the rental of land
15 upon which a mobilehome is located if the mobilehome has been
16 granted a homeowners’ exemption under Section 218 in that year.

17 (i) This section shall become operative on January 1, 1998, and
18 applies to any taxable year beginning on or after January 1, 1998.

19 (j) For each taxable year beginning on or after January 1, 1999,
20 the Franchise Tax Board shall recompute the adjusted gross income
21 amounts set forth in subdivision (a). That computation shall be
22 made as follows:

23 (1) The California Department of Industrial Relations shall
24 transmit annually to the Franchise Tax Board the percentage change
25 in the California Consumer Price Index for all items from June of
26 the prior calendar year to June of the current year, no later than
27 August 1 of the current calendar year.

28 (2) The Franchise Tax Board shall compute an inflation
29 adjustment factor by adding 100 percent to that portion of the
30 percentage change figure which is furnished pursuant to paragraph
31 (1) and dividing the result by 100.

32 (3) The Franchise Tax Board shall multiply the amount in
33 subparagraph (B) of paragraph (1) of subdivision (d) for the
34 preceding taxable year by the inflation adjustment factor
35 determined in paragraph (2), and round off the resulting products
36 to the nearest one dollar (\$1).

37 (4) In computing the amounts pursuant to this subdivision, the
38 amounts provided in subparagraph (A) of paragraph (1) of
39 subdivision (a) shall be twice the amount provided in subparagraph
40 (B) of paragraph (1) of subdivision (a).

1 SEC. 3. If the Commission on State Mandates determines
2 that this act contains costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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

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