

ASSEMBLY BILL

No. 968

Introduced by Assembly Member Walters

February 22, 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 968, as introduced, Walters. Taxation: homeowners' property exemption: renters' credit.

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. The California Constitution authorizes the Legislature to increase the amount of this exemption, and conditions the effectiveness of any legislative increase on the provision of comparable benefits to renters.

This bill would, in the case of a first-time homebuyer, increase the amount of this exemption to 25% of the dwelling's purchase price.

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

This bill would adjust the credit for inflation for taxable years beginning on or after January 1, 2008, and would make a technical, nonsubstantive change in that provision.

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:

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

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

(1) *Twenty-five percent of the purchase price of the dwelling in the case of a first-time homebuyer.*

(2) *Seven thousand dollars (\$7,000) of the full value of the dwelling in all other cases.*

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

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

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

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

(B) "Dwelling" includes the following:

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

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

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

(iv) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in

1 subdivision (i) of Section 61, as his or her principal place of
2 residence on the lien date. Each exemption allowed pursuant to
3 this subdivision shall be deducted from the total assessed valuation
4 of the cooperative housing corporation. The exemption shall be
5 taken into account in apportioning property taxes among owners
6 of share or membership interests in the cooperative housing
7 corporations so as to benefit those owners who qualify for the
8 exemption.

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

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

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

32 (g) Any dwelling that qualified for an exemption under this
33 section prior to August 11, 2004, that was damaged or destroyed
34 by the wildfires and any other related casualty that occurred in
35 Shasta County in a disaster, as declared by the Governor, during
36 August 2004, and that has not changed ownership since August
37 11, 2004, shall not be disqualified as a “dwelling” or be denied an
38 exemption under this section solely on the basis that the dwelling
39 was temporarily damaged or destroyed or was being reconstructed
40 by the owner.

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

(i) Any dwelling that qualified for an exemption under this section prior to December 19, 2005, that was damaged or destroyed by severe rainstorms, floods, mudslides, or the accumulation of debris in a disaster, as declared by the Governor in January 2006, April 2006, May 2006, or June 2006, and that has not changed ownership since December 19, 2005, shall not be disqualified as a “dwelling” or be denied an exemption under this section solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to floods, mudslides, the accumulation of debris, or washed-out or damaged roads.

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

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

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

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

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

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

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

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (e).

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

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

(c) For purposes of this section, a "qualified renter" means an individual who:

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

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

(d) The term "qualified renter" does not include any of the following:

(1) An individual who for more than 50 percent of the taxable year rented and occupied premises that were exempt from property taxes, except that an individual, otherwise qualified, is deemed a qualified renter if he or she or his or her landlord pays possessory

1 interest taxes, or the owner of those premises makes payments in
2 lieu of property taxes that are substantially equivalent to property
3 taxes paid on properties of comparable market value.

4 (2) An individual whose principal place of residence for more
5 than 50 percent of the taxable year is with any other person who
6 claimed ~~such~~ *the* individual as a dependent for income tax
7 purposes.

8 (3) An individual who has been granted or whose spouse has
9 been granted the homeowners' property tax exemption during the
10 taxable year. This paragraph does not apply to an individual whose
11 spouse has been granted the homeowners' property tax exemption
12 if each spouse maintained a separate residence for the entire taxable
13 year.

14 (e) Any otherwise qualified renter who is a nonresident for any
15 portion of the taxable year shall claim the credits set forth in
16 subdivision (a) at the rate of one-twelfth of those credits for each
17 full month that individual resided within this state during the
18 taxable year.

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

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

26 (h) For the purposes of this section, the term "premises" means
27 a house or a dwelling unit used to provide living accommodations
28 in a building or structure and the land incidental thereto, but does
29 not include land only, unless the dwelling unit is a mobilehome.
30 The credit is not allowed for any taxable year for the rental of land
31 upon which a mobilehome is located if the mobilehome has been
32 granted a homeowners' exemption under Section 218 in that year.

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

35 (j) For each taxable year beginning on or after January 1, 1999,
36 the Franchise Tax Board shall recompute the adjusted gross income
37 amounts set forth in subdivision (a). ~~That computation~~ *For each*
38 *taxable year beginning on or after January 1, 2008, the Franchise*
39 *Tax Board shall also recompute the amount of the credit set forth*
40 *in subdivision (a). These computations shall be made as follows:*

1 (1) The ~~California~~ Department of Industrial Relations shall
2 transmit annually to the Franchise Tax Board the percentage change
3 in the California Consumer Price Index for all items from June of
4 the prior calendar year to June of the current year, no later than
5 August 1 of the current calendar year.

6 (2) The Franchise Tax Board shall compute an inflation
7 adjustment factor by adding 100 percent to that portion of the
8 percentage change figure ~~which~~ *that* is furnished pursuant to
9 paragraph (1) and dividing the result by 100.

10 (3) The Franchise Tax Board shall multiply the amount in
11 ~~subparagraph (B) of paragraph (1) of subdivision (d)~~ *(a)* for the
12 preceding taxable year by the inflation adjustment factor
13 determined in paragraph (2), and round off the resulting products
14 to the nearest one dollar (\$1).

15 (4) In computing the amounts pursuant to this subdivision, the
16 amounts provided in subparagraph (A) of paragraph (1) of
17 subdivision (a) shall be twice the amount provided in subparagraph
18 (B) of paragraph (1) of subdivision (a).

19 SEC. 3. This act provides for a tax levy within the meaning of
20 Article IV of the Constitution and shall go into immediate effect.