

AMENDED IN ASSEMBLY MAY 21, 2009
AMENDED IN ASSEMBLY APRIL 13, 2009
AMENDED IN ASSEMBLY MARCH 25, 2009
AMENDED IN ASSEMBLY FEBRUARY 18, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 79

**Introduced by Assembly Member Duvall
(Principal coauthor: Assembly Member Miller)
(Coauthors: Assembly Members Anderson, DeVore, Hagman,
Harkey, Silva, and Tran)**

December 19, 2008

An act to amend Sections 218, 17207, and 24347.5 of, and to add Sections 195.152, 195.153, and 195.154 to, the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 79, as amended, Duvall. Disaster relief.

(1) Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessee, by a major misfortune or calamity, upon the application of the assessee or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of emergency as a result of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues resulting

in certain fiscal years from reassessments under those ordinances. Existing law also continuously appropriates, without regard to fiscal years, moneys in the Special Fund for Economic Uncertainties for purposes of funding these state allocations.

This bill would provide for similar state allocations with respect to property tax revenue reductions resulting from a reassessment for damages incurred within the Counties of Orange, Riverside, and San Bernardino, which were declared by the Governor to be in a state of emergency due to the wildfires that commenced in November 2008.

By requiring moneys continuously appropriated from the Special Fund for Economic Uncertainties to be allocated for the new purpose of reimbursing the Counties of Orange, Riverside, and San Bernardino for these property tax revenue reductions, this bill would make an appropriation.

(2) 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 also provide that any dwelling that qualified for the exemption prior to the commencement dates of the wildfires listed in the Governor's disaster proclamations of November 15, 2008, and November 17, 2008, that was damaged or destroyed by the wildfires in the Counties of Orange and Riverside, as declared by the Governor in November 2008, and that has not changed ownership since the commencement dates of these disasters as listed in the proclamations, 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, or was temporarily uninhabited as a result of restricted access to the property due to wildfires.

The California Constitution requires the Legislature, in each fiscal year, to reimburse local governments for the revenue losses incurred by those governments in that fiscal year as a result of the homeowners' property tax exemption.

This bill would state the intent of the Legislature to make this required reimbursement in the annual Budget Act. By requiring local tax officials to implement new exemption criteria, 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.

(3) 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 emergency.

This bill would extend these provisions to losses sustained in the Counties of Orange, Riverside, and San Bernardino as a result of the wildfires that commenced in November 2008. This bill would authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 195.152 is added to the Revenue and
2 Taxation Code, to read:
3 195.152. (a) By October 30, 2009, the auditors of the Counties
4 of Orange, Riverside, and San Bernardino, which were the subject
5 of the Governor's proclamations of a state of emergency for
6 wildfires that commenced on November 15, 2008, or November
7 16, 2008, shall certify to the Director of Finance an estimate of
8 the total amount of the reduction in property tax revenues on both
9 the regular secured roll and the supplemental roll for the 2008–09
10 fiscal year resulting from the reassessment by the county assessor
11 pursuant to paragraph (1) of subdivision (a) of Section 170 of those
12 properties that are eligible properties as a result of those disasters,
13 except that the amount certified shall not include any estimated
14 property tax revenue reductions to school districts, other than basic
15 state aid school districts, and county offices of education.
16 (b) For purposes of this section, "basic state aid school district"
17 means any school district that does not receive a state
18 apportionment pursuant to subdivision (h) of Section 42238 of the

1 Education Code, but receives from the state only a basic
2 apportionment pursuant to Section 6 of Article IX of the California
3 Constitution.

4 SEC. 2. Section 195.153 is added to the Revenue and Taxation
5 Code, to read:

6 195.153. After the county auditor of the eligible county, as
7 described in Section 195.152, has made the applicable certification
8 to the Director of Finance pursuant to that section, the director
9 shall within 30 days after verification of the county auditor's
10 estimate, certify this amount to the Controller for allocation to the
11 county. Upon receipt of certification from the Director of Finance,
12 the Controller shall make the appropriate allocation to the county
13 within 10 working days.

14 SEC. 3. Section 195.154 is added to the Revenue and Taxation
15 Code, to read:

16 195.154. (a) On or before June 30, 2010, an eligible county,
17 as described in Section 195.152, shall compute and remit to the
18 Controller for deposit in the General Fund an amount equal to the
19 amount allocated to it by the Controller pursuant to Section
20 195.153, less the actual amount of its property tax revenue lost on
21 the regular secured and supplemental rolls with respect to those
22 eligible properties described in Section 195.152 as a result of the
23 reassessment of those properties pursuant to paragraph (1) of
24 subdivision (a) of Section 170, excluding any property tax revenue
25 lost by school districts, other than basic state aid school districts,
26 and county offices of education. If the actual amount of property
27 tax revenue lost by an eligible county in the immediately preceding
28 fiscal year, as described and limited in the preceding sentence,
29 exceeds the amount allocated by the Controller to that county
30 pursuant to Section 195.153, the Controller shall allocate the
31 amount of that excess to that eligible county.

32 (b) For purposes of this section, "basic state aid school district"
33 means any school district that does not receive a state
34 apportionment pursuant to subdivision (h) of Section 42238 of the
35 Education Code, but receives from the state only a basic
36 apportionment pursuant to Section 6 of Article IX of the California
37 Constitution.

38 SEC. 4. Section 218 of the Revenue and Taxation Code is
39 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 amount of seven thousand dollars (\$7,000) of the full value of the dwelling.

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

(d) Any dwelling that qualified for an exemption under this section prior to October 20, 1991, that was damaged or destroyed by fire in a disaster, as declared by the Governor, occurring on or after October 20, 1991, and before November 1, 1991, and that has not changed ownership since October 20, 1991, shall not be

1 disqualified as a “dwelling” or be denied an exemption under this
2 section solely on the basis that the dwelling was temporarily
3 damaged or destroyed or was being reconstructed by the owner.

4 (e) Any dwelling that qualified for an exemption under this
5 section prior to October 15, 2003, that was damaged or destroyed
6 by fire or earthquake in a disaster, as declared by the Governor,
7 during October, November, or December 2003, and that has not
8 changed ownership since October 15, 2003, shall not be
9 disqualified as a “dwelling” or be denied an exemption under this
10 section solely on the basis that the dwelling was temporarily
11 damaged or destroyed or was being reconstructed by the owner.

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

19 (g) Any dwelling that qualified for an exemption under this
20 section prior to August 11, 2004, that was damaged or destroyed
21 by the wildfires and any other related casualty that occurred in
22 Shasta County in a disaster, as declared by the Governor, during
23 August 2004, and that has not changed ownership since August
24 11, 2004, shall not be disqualified as a “dwelling” or be denied an
25 exemption under this section solely on the basis that the dwelling
26 was temporarily damaged or destroyed or was being reconstructed
27 by the owner.

28 (h) Any dwelling that qualified for an exemption under this
29 section prior to December 28, 2004, that was damaged or destroyed
30 by severe rainstorms, floods, mudslides, or the accumulation of
31 debris in a disaster, as declared by the Governor, during December
32 2004, January 2005, February 2005, March 2005, or June 2005,
33 and that has not changed ownership since December 28, 2004,
34 shall not be disqualified as a “dwelling” or be denied an exemption
35 under this section solely on the basis that the dwelling was
36 temporarily damaged or destroyed or was being reconstructed by
37 the owner, or was temporarily uninhabited as a result of restricted
38 access to the property due to floods, mudslides, the accumulation
39 of debris, or washed-out or damaged roads.

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

13 (j) Any dwelling that qualified for an exemption under this
14 section prior to July 9, 2006, that was damaged or destroyed by
15 the wildfires and any other related casualty that occurred in the
16 County of San Bernardino, as declared by the Governor in July
17 2006, and that has not changed ownership since July 9, 2006, shall
18 not be disqualified as a “dwelling” or be denied an exemption
19 under this section solely on the basis that the dwelling was
20 temporarily damaged or destroyed or was being reconstructed by
21 the owner, or was temporarily uninhabited as a result of restricted
22 access to the property due to the wildfires.

23 (k) Any dwelling that qualified for an exemption under this
24 section prior to the commencement dates of the wildfires listed in
25 the Governor’s proclamations of 2006 that was damaged or
26 destroyed by the wildfires and any other related casualty that
27 occurred in the Counties of Riverside and Ventura, and that has
28 not changed ownership since the commencement dates of these
29 disasters as listed in the Governor’s proclamations of 2006 shall
30 not be disqualified as a “dwelling” or be denied an exemption
31 under this section solely on the basis that the dwelling was
32 temporarily damaged or destroyed or was being reconstructed by
33 the owner, or was temporarily uninhabited as a result of restricted
34 access to the property due to the wildfires.

35 (l) Any dwelling that qualified for an exemption under this
36 section prior to January 11, 2007, that was damaged or destroyed
37 by severe freezing conditions, commencing January 11, 2007, and
38 any other related casualty that occurred in the Counties of El
39 Dorado, Fresno, Imperial, Kern, Kings, Madera, Merced, Monterey,
40 Riverside, San Bernardino, San Diego, San Luis Obispo, Santa

1 Barbara, Santa Clara, Stanislaus, Tulare, Ventura, and Yuba as a
2 result of a disaster as declared by the Governor, and that has not
3 changed ownership since January 11, 2007, shall not be disqualified
4 as a “dwelling” or be denied an exemption under this section solely
5 on the basis that the dwelling was temporarily damaged or
6 destroyed or was being reconstructed by the owner, or was
7 temporarily uninhabited as a result of restricted access to the
8 property due to severe freezing conditions.

9 (m) Any dwelling that qualified for an exemption under this
10 section prior to June 24, 2007, that was damaged or destroyed by
11 the wildfires and any other related casualty that occurred as a result
12 of this disaster in the County of El Dorado, as declared by the
13 Governor in June 2007, and that has not changed ownership since
14 June 24, 2007, shall not be disqualified as a “dwelling” or be denied
15 an exemption under this section solely on the basis that the
16 dwelling was temporarily damaged or destroyed or was being
17 reconstructed by the owner, or was temporarily uninhabited as a
18 result of restricted access to the property due to the wildfires.

19 (n) Any dwelling that qualified for an exemption under this
20 section prior to July 4, 2007, that was damaged or destroyed by
21 the Zaca Fire and any other related casualty that occurred as a
22 result of this disaster in the Counties of Santa Barbara and Ventura,
23 as declared by the Governor in August 2007, and that has not
24 changed ownership since July 4, 2007, may not be denied an
25 exemption solely on the basis that the dwelling was temporarily
26 damaged or destroyed or was being reconstructed by the owner,
27 or was temporarily uninhabited as a result of restricted access to
28 the property due to the Zaca Fire.

29 (o) Any dwelling that qualified for an exemption under this
30 section prior to July 6, 2007, that was damaged or destroyed by
31 the wildfires and any other related casualty that occurred as a result
32 of this disaster in the County of Inyo, as declared by the Governor
33 in July 2007, and that has not changed ownership since July 6,
34 2007, may not be denied an exemption solely on the basis that the
35 dwelling was temporarily damaged or destroyed or was being
36 reconstructed by the owner, or was temporarily uninhabited as a
37 result of restricted access to the property due to the wildfires.

38 (p) Any dwelling that qualified for an exemption under this
39 section prior to the commencement dates of the wildfires listed in
40 the Governor’s disaster proclamations of September 15, 2007, and

1 October 21, 2007, that was damaged or destroyed by the wildfires
2 and any other related casualty that occurred in the Counties of Los
3 Angeles, Orange, Riverside, San Bernardino, San Diego, Santa
4 Barbara, and Ventura, and that has not changed ownership since
5 the commencement dates of these disasters as listed in the
6 proclamations shall not be disqualified as a “dwelling” or be denied
7 an exemption under this section solely on the basis that the
8 dwelling was temporarily damaged or destroyed or was being
9 reconstructed by the owner, or was temporarily uninhabited as a
10 result of restricted access to the property due to the wildfires.

11 (q) Any dwelling that qualified for an exemption under this
12 section prior to October 20, 2007, that was damaged or destroyed
13 by the extremely strong and damaging winds and any other related
14 casualty that occurred as a result of this disaster in the County of
15 Riverside, as declared by the Governor in November 2007, and
16 that has not changed ownership since October 20, 2007, shall not
17 be disqualified as a “dwelling” or be denied an exemption under
18 this section solely on the basis that the dwelling was temporarily
19 damaged or destroyed or was being reconstructed by the owner,
20 or was temporarily uninhabited as a result of restricted access to
21 the property due to the extremely strong and damaging winds.

22 (r) Any dwelling that qualified for an exemption under this
23 section prior to the commencement dates of the wildfires listed in
24 the Governor’s disaster proclamations of May, June, or July 2008,
25 that was damaged or destroyed by the wildfires and any other
26 related casualty that occurred in the Counties of Butte, Kern,
27 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
28 Shasta, and Trinity and that has not changed ownership since the
29 commencement dates of these disasters as listed in the
30 proclamations shall not be disqualified as a “dwelling” or be denied
31 an exemption under this section solely on the basis that the
32 dwelling was temporarily damaged or destroyed or was being
33 reconstructed by the owner, or was temporarily uninhabited as a
34 result of restricted access to the property due to the wildfires.

35 (s) Any dwelling that qualified for an exemption under this
36 section prior to July 1, 2008, that was damaged or destroyed by
37 the wildfires and any other related casualty that occurred as a result
38 of this disaster in the County of Santa Barbara, as declared by the
39 Governor in July 2008, and that has not changed ownership since
40 July 1, 2008, may not be denied an exemption solely on the basis

1 that the dwelling was temporarily damaged or destroyed or was
2 being reconstructed by the owner, or was temporarily uninhabited
3 as a result of restricted access to the property due to the wildfires.

4 (t) Any dwelling that qualified for an exemption under this
5 section prior to July 12, 2008, that was damaged or destroyed by
6 severe rainstorms, floods, landslides, or the accumulation of debris
7 in a disaster, as declared by the Governor, in July 2008, and that
8 has not changed ownership since July 12, 2008, shall not be
9 disqualified as a “dwelling” or be denied an exemption under this
10 section solely on the basis that the dwelling was temporarily
11 damaged or destroyed or was being reconstructed by the owner,
12 or was temporarily uninhabited as a result of restricted access to
13 the property due to floods, landslides, the accumulation of debris,
14 or washed-out or damaged roads.

15 (u) Any dwelling that qualified for an exemption under this
16 section prior to May 22, 2008, that was damaged or destroyed by
17 the wildfires and any other related casualty that occurred as a result
18 of this disaster in the County of Humboldt, as declared by the
19 Governor in August 2008, and that has not changed ownership
20 since May 22, 2008, may not be denied an exemption solely on
21 the basis that the dwelling was temporarily damaged or destroyed
22 or was being reconstructed by the owner, or was temporarily
23 uninhabited as a result of restricted access to the property due to
24 the wildfires.

25 (v) Any dwelling that qualified for an exemption under this
26 section prior to the commencement dates of the wildfires listed in
27 the Governor’s disaster proclamations of November 15, 2008, and
28 November 17, 2008, that was damaged or destroyed by the
29 wildfires and any other related casualty that occurred as a result
30 of this disaster in the Counties of Orange, Riverside, and San
31 Bernardino, as declared by the Governor in November 2008, and
32 that has not changed ownership since the commencement dates of
33 these disasters as listed in the proclamations, shall not be
34 disqualified as a “dwelling” or be denied an exemption under this
35 section solely on the basis that the dwelling was temporarily
36 damaged or destroyed or was being reconstructed by the owner,
37 or was temporarily uninhabited as a result of restricted access to
38 the property due to the wildfires.

39 (w) The exemption provided for in subdivision (k) of Section
40 3 of Article XIII of the Constitution shall first be applied to the

1 building, structure, or other shelter and the excess, if any, shall be
2 applied to any land on which it may be located.

3 SEC. 5. Section 17207 of the Revenue and Taxation Code is
4 amended to read:

5 17207. (a) An excess disaster loss, as defined in subdivision
6 (c), shall be carried to other taxable years as provided in
7 subdivision (b), with respect to losses resulting from any of the
8 following disasters:

9 (1) Forest fire or any other related casualty occurring in 1985
10 in California.

11 (2) Storm, flooding, or any other related casualty occurring in
12 1986 in California.

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

15 (4) Earthquake, aftershock, or any other related casualty
16 occurring in 1987 in California.

17 (5) Earthquake, aftershock, or any other related casualty
18 occurring in 1989 in California.

19 (6) Any loss sustained during 1990 as a result of fire or any
20 other related casualty in California.

21 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
22 of 1991, or any other related casualty.

23 (8) Any loss sustained as a result of storm, flooding, or any
24 other related casualty occurring in February 1992 in California.

25 (9) Earthquake, aftershock, or any other related casualty
26 occurring in April 1992 in the County of Humboldt.

27 (10) Riots, arson, or any other related casualty occurring in
28 April or May 1992 in California.

29 (11) Any loss sustained as a result of the earthquakes that
30 occurred in the County of San Bernardino in June and July of 1992,
31 or any other related casualty.

32 (12) Any loss sustained as a result of the Fountain Fire that
33 occurred in the County of Shasta, or as a result of either of the
34 fires in the Counties of Calaveras and Trinity that occurred in
35 August 1992, or any other related casualty.

36 (13) Any loss sustained as a result of storm, flooding, or any
37 other related casualty that occurred in the Counties of Alpine,
38 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
39 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
40 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,

1 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
2 Fillmore in January 1993.

3 (14) Any loss sustained as a result of a fire that occurred in the
4 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
5 Diego, and Ventura, during October or November of 1993, or any
6 other related casualty.

7 (15) Any loss sustained as a result of the earthquake, aftershocks,
8 or any other related casualty that occurred in the Counties of Los
9 Angeles, Orange, and Ventura on or after January 17, 1994.

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

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

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

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

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

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

32 (22) Any loss sustained as a result of the Middle River levee
33 break in San Joaquin County occurring in June 2004.

34 (23) Any losses sustained as a result of the fires that occurred
35 in the Counties of Los Angeles, Riverside, San Bernardino, San
36 Diego, and Ventura in October and November 2003, or as a result
37 of floods, mudflows, and debris flows, directly related to fires.

38 (24) Any losses sustained in the Counties of Santa Barbara and
39 San Luis Obispo as a result of the San Simeon earthquake,
40 aftershocks, and any other related casualties.

1 (25) Any losses sustained as a result of the wildfires that
2 occurred in Shasta County, commencing August 11, 2004, and
3 any other related casualty.

4 (26) Any loss sustained in the Counties of Kern, Los Angeles,
5 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
6 and Ventura as a result of the severe rainstorms, related flooding
7 and slides, and any other related casualties, that occurred in
8 December 2004, January 2005, February 2005, March 2005, or
9 June 2005.

10 (27) Any loss sustained in the Counties of Alameda, Alpine,
11 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
12 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
13 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
14 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
15 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
16 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
17 the severe rainstorms, related flooding and slides, and any other
18 related casualties, that occurred in December 2005, January 2006,
19 March 2006, or April 2006.

20 (28) Any loss sustained in the County of San Bernardino as a
21 result of the wildfires that occurred in July 2006.

22 (29) Any loss sustained in the Counties of Riverside and Ventura
23 as a result of wildfires that occurred during the 2006 calendar year.

24 (30) Any loss sustained in the Counties of El Dorado, Fresno,
25 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
26 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
27 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
28 of the Governor's proclamations of a state of emergency for the
29 severe freezing conditions that occurred in January 2007.

30 (31) Any loss sustained in the County of El Dorado as a result
31 of wildfires that occurred in June 2007.

32 (32) Any loss sustained in the Counties of Santa Barbara and
33 Ventura as a result of the Zaca Fire that occurred during the 2007
34 calendar year.

35 (33) Any loss sustained in the County of Inyo as a result of
36 wildfires that commenced in July 2007.

37 (34) Any loss sustained in the Counties of Los Angeles, Orange,
38 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
39 as a result of wildfires that occurred during the 2007 calendar year

1 that were the subject of the Governor's disaster proclamations of
2 September 15, 2007, and October 21, 2007.

3 (35) Any loss sustained in the County of Riverside as a result
4 of extremely strong and damaging winds that occurred in October
5 2007.

6 (36) Any loss sustained in the Counties of Butte, Kern,
7 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
8 Shasta, and Trinity as a result of wildfires that occurred in May or
9 June 2008 that were the subject of the Governor's proclamations
10 of a state of emergency.

11 (37) Any loss sustained in the County of Santa Barbara as a
12 result of wildfires that occurred in July 2008.

13 (38) Any loss sustained in the County of Inyo as a result of the
14 severe rainstorms, related flooding and landslides, and any other
15 related casualties, that occurred in July 2008.

16 (39) Any loss sustained in the County of Humboldt as a result
17 of wildfires that commenced in May 2008.

18 (40) Any loss sustained in the Counties of Orange, Riverside,
19 and San Bernardino as a result of wildfires that commenced in
20 November 2008.

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

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

38 (c) "Excess disaster loss" means a disaster loss computed
39 pursuant to Section 165 of the Internal Revenue Code which
40 exceeds the adjusted taxable income of the year of loss or, if the

1 election under Section 165(i) of the Internal Revenue Code is
2 made, the adjusted taxable income of the year preceding the loss.

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

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

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

12 (g) For losses described in paragraphs (15) to (40), inclusive,
13 of subdivision (a), the election under Section 165(i) of the Internal
14 Revenue Code may be made on a return or amended return filed
15 on or before the due date of the return (determined with regard to
16 extension) for the taxable year in which the disaster occurred.

17 SEC. 6. Section 24347.5 of the Revenue and Taxation Code
18 is amended to read:

19 24347.5. (a) An excess disaster loss, as defined in subdivision
20 (c), shall be carried to other taxable years as provided in
21 subdivision (b), with respect to losses resulting from any of the
22 following disasters:

23 (1) Forest fire or any other related casualty occurring in 1985
24 in California.

25 (2) Storm, flooding, or any other related casualty occurring in
26 1986 in California.

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

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

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

33 (6) Any loss sustained during 1990 as a result of fire or any
34 other related casualty in California.

35 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
36 of 1991, or any other related casualty.

37 (8) Any loss sustained as a result of storm, flooding, or any
38 other related casualty occurring in February 1992 in California.

39 (9) Earthquake, aftershock, or any other related casualty
40 occurring in April 1992 in the County of Humboldt.

1 (10) Riots, arson, or any other related casualty occurring in
2 April or May 1992 in California.

3 (11) Any loss sustained as a result of the earthquakes or any
4 other related casualty that occurred in the County of San
5 Bernardino in June and July of 1992.

6 (12) Any loss sustained as a result of the Fountain Fire that
7 occurred in the County of Shasta, or as a result of either of the
8 fires in the Counties of Calaveras and Trinity that occurred in
9 August 1992, or any other related casualty.

10 (13) Any loss sustained as a result of storm, flooding, or any
11 other related casualty that occurred in the Counties of Alpine,
12 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
13 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
14 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
15 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
16 Fillmore in January 1993.

17 (14) Any loss sustained as a result of a fire that occurred in the
18 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
19 Diego, and Ventura, during October or November of 1993, or any
20 other related casualty.

21 (15) Any loss sustained as a result of the earthquake, aftershocks,
22 or any other related casualty that occurred in the Counties of Los
23 Angeles, Orange, and Ventura on or after January 17, 1994.

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

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

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

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

39 (20) Any loss sustained as a result of a freeze occurring in the
40 winter of 1998–99, or any related casualty, sustained in any county

1 of this state subject to a disaster declaration with respect to the
2 freeze.

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

6 (22) Any loss sustained as a result of the Middle River levee
7 break in San Joaquin County occurring in June 2004.

8 (23) Any losses sustained as a result of the fires that occurred
9 in the Counties of Los Angeles, Riverside, San Bernardino, San
10 Diego, and Ventura in October and November 2003, or as a result
11 of floods, mudflows, and debris flows, directly related to fires.

12 (24) Any losses sustained in the Counties of Santa Barbara and
13 San Luis Obispo as a result of the San Simeon earthquake,
14 aftershocks, and any other related casualties.

15 (25) Any losses sustained as a result of the wildfires that
16 occurred in Shasta County, commencing August 11, 2004, and
17 any other related casualty.

18 (26) Any loss sustained in the Counties of Kern, Los Angeles,
19 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
20 and Ventura as a result of the severe rainstorms, related flooding
21 and slides, and any other related casualties, that occurred in
22 December 2004, January 2005, February 2005, March 2005, or
23 June 2005.

24 (27) Any loss sustained in the Counties of Alameda, Alpine,
25 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
26 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
27 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
28 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
29 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
30 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
31 the severe rainstorms, related flooding and slides, and any other
32 related casualties, that occurred in December 2005, January 2006,
33 March 2006, or April 2006.

34 (28) Any loss sustained in the County of San Bernardino as a
35 result of the wildfires that occurred in July 2006.

36 (29) Any loss sustained in the Counties of Riverside and Ventura
37 as a result of wildfires that occurred during the 2006 calendar year.

38 (30) Any loss sustained in the Counties of El Dorado, Fresno,
39 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
40 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa

1 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
2 of the Governor's proclamations of a state of emergency for the
3 severe freezing conditions that occurred in January 2007.

4 (31) Any loss sustained in the County of El Dorado as a result
5 of wildfires that occurred in June 2007.

6 (32) Any loss sustained in the Counties of Santa Barbara and
7 Ventura as a result of the Zaca Fire that occurred during the 2007
8 calendar year.

9 (33) Any loss sustained in the County of Inyo as a result of
10 wildfires that commenced in July 2007.

11 (34) Any loss sustained in the Counties of Los Angeles, Orange,
12 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
13 as a result of wildfires that occurred during the 2007 calendar year
14 that were the subject of the Governor's disaster proclamations of
15 September 15, 2007, and October 21, 2007.

16 (35) Any loss sustained in the County of Riverside as a result
17 of extremely strong and damaging winds that occurred in October
18 2007.

19 (36) Any loss sustained in the Counties of Butte, Kern,
20 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
21 Shasta, and Trinity as a result of wildfires that occurred in May or
22 June 2008 that were the subject of the Governor's proclamations
23 of a state of emergency.

24 (37) Any loss sustained in the County of Santa Barbara as a
25 result of wildfires that occurred in July 2008.

26 (38) Any loss sustained in the County of Inyo as a result of the
27 severe rainstorms, related flooding and landslides, and any other
28 related casualties, that occurred in July 2008.

29 (39) Any loss sustained in the County of Humboldt as a result
30 of wildfires that commenced in May 2008.

31 (40) Any loss sustained in the Counties of Orange, Riverside,
32 and San Bernardino as a result of wildfires that commenced in
33 November 2008.

34 (b) (1) In the case of any loss allowed under Section 165 of the
35 Internal Revenue Code, relating to losses, any excess disaster loss
36 shall be carried forward to each of the five taxable years following
37 the taxable year for which the loss is claimed. However, if there
38 is any excess disaster loss remaining after the five-year period,
39 then the applicable percentage, as set forth in paragraph (1) of

1 subdivision (b) of Section 24416, of that excess disaster loss shall
2 be carried forward to each of the next 10 taxable years.

3 (2) The entire amount of any excess disaster loss as defined in
4 subdivision (c) shall be carried to the earliest of the taxable years
5 to which, by reason of subdivision (b), the loss may be carried.
6 The portion of the loss which shall be carried to each of the other
7 taxable years shall be the excess, if any, of the amount of excess
8 disaster loss over the sum of the net income for each of the prior
9 taxable years to which that excess disaster loss is carried.

10 (c) "Excess disaster loss" means a disaster loss computed
11 pursuant to Section 165 of the Internal Revenue Code, which
12 exceeds the net income of the year of loss or, if the election under
13 Section 165(i) of the Internal Revenue Code is made, the net
14 income of the year preceding the loss.

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

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

24 (f) Losses allowable under this section may not be taken into
25 account in computing a net operating loss deduction under Section
26 172 of the Internal Revenue Code.

27 (g) For losses described in paragraphs (15) to (40), inclusive,
28 of subdivision (a), the election under Section 165(i) of the Internal
29 Revenue Code may be made on a return or amended return filed
30 on or before the due date of the return (determined with regard to
31 extension) for the taxable year in which the disaster occurred.

32 SEC. 7. It is the intent of the Legislature to provide in the
33 annual Budget Act those additional reimbursements to local
34 governments that, as a result of Section 4 of this act, are required
35 by Section 25 of Article XIII of the California Constitution.

36 SEC. 8. The Legislature finds and declares that this act fulfills
37 a statewide public purpose because of all of the following:

38 (a) The Governor of California has officially proclaimed a state
39 of emergency declaring that the wildfires that occurred within the
40 Counties of Orange, Riverside, and San Bernardino, commencing

1 in November 2008, constitute conditions of extreme peril to public
2 health and safety to persons and property within ~~that county~~ *those*
3 *counties*, thus qualifying affected persons for various forms of
4 governmental assistance and relief.

5 (b) This act is consistent with, and supplements, the proclaimed
6 disaster assistance and relief by providing necessary fiscal
7 assistance and tax relief to affected jurisdictions and persons to
8 allow them to maintain essential basic services and repair damage
9 to, and restore, their homes and businesses.

10 SEC. 9. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.

15 SEC. 10. This act is an urgency statute necessary for the
16 immediate preservation of the public peace, health, or safety within
17 the meaning of Article IV of the Constitution and shall go into
18 immediate effect. The facts constituting the necessity are:

19 In order to timely provide essential relief to those persons and
20 jurisdictions that have suffered damage or loss as a result of the
21 wildfires that occurred within the Counties of Orange, Riverside,
22 and San Bernardino, commencing in November 2008, that were
23 the subject of the Governor's proclamations of a state of
24 emergency, it is necessary that this act take effect immediately.