

Assembly Bill No. 188

Passed the Assembly August 15, 2011

Chief Clerk of the Assembly

Passed the Senate July 14, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 205.5 and 279 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 188, Block. Property tax exemption: principal residence: veterans and their unmarried surviving spouses.

Existing property tax law provides, pursuant to the authorization of the California Constitution, for the exemption from property taxation of the principal residence of a disabled veteran, a veteran's spouse, and the unmarried surviving spouse, in the case in which the veteran has, as a result of a service-connected disease or injury, died while on active duty in military service. Existing property tax law specifies that property is a veteran's principal residence if the veteran would principally reside at that property if not for his or her confinement to a hospital or other care facility.

This bill would, beginning with the lien date for the 2012–13 fiscal year and for each fiscal year thereafter, specify that property is an unmarried surviving spouse's principal residence if the unmarried surviving spouse would principally reside at that property if not for his or her confinement to a hospital or other care facility. This bill would also correct an erroneous cross-reference in this provision. This bill would additionally make technical, nonsubstantive changes that would consolidate the provisions relating to the date when property becomes eligible for the disabled veterans' exemption, and would make other conforming changes. This bill would also make other clarifying changes, including clarifying that the exemption terminates for an unmarried surviving spouse of a disabled veteran when that surviving spouse remarries.

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

SECTION 1. Section 205.5 of the Revenue and Taxation Code is amended to read:

205.5. (a) Property that constitutes the principal place of residence of a veteran, that is owned by the veteran, the veteran's

spouse, or the veteran and the veteran's spouse jointly, is exempted from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars (\$100,000), as adjusted for the relevant assessment year as provided in subdivision (h), if the veteran is blind in both eyes, has lost the use of two or more limbs, or if the veteran is totally disabled as a result of injury or disease incurred in military service. The one hundred thousand dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000), as adjusted for the relevant assessment year as provided in subdivision (h), in the case of an eligible veteran whose household income does not exceed the amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(b) (1) For purposes of this section, "veteran" means either of the following:

(A) A veteran as specified in subdivision (o) of Section 3 of Article XIII of the California Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(B) Any person who would qualify as a veteran pursuant to paragraph (1) except that he or she has, as a result of a service-connected injury or disease, died while on active duty in military service. The United States Department of Veterans Affairs shall determine whether an injury or disease is service connected.

(2) For purposes of this section, property is deemed to be the principal place of residence of a veteran, disabled as described in subdivision (a), who is confined to a hospital or other care facility, if that property would be that veteran's principal place of residence were it not for his or her confinement to a hospital or other care facility, provided that the residence is not rented or leased to a third party. A family member that resides at the residence is not considered to be a third party.

(c) (1) Property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a deceased veteran is exempt from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars (\$100,000), as adjusted for the relevant assessment year as provided in subdivision (h), in the case of a veteran who was blind in both eyes, had lost the use of two or more limbs, or was totally disabled provided that either of the following conditions is met:

(A) The deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977.

(B) The veteran died from a disease that was service connected as determined by the United States Department of Veterans Affairs.

The one hundred thousand dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000), as adjusted for the relevant assessment year as provided in subdivision (h), in the case of an eligible unmarried surviving spouse whose household income does not exceed the amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(2) Commencing with the 1994–95 fiscal year, property that is owned by, and that constitutes the principal place of residence of, the unmarried surviving spouse of a veteran as described in subparagraph (B) of paragraph (1) of subdivision (b) is exempt from taxation on that part of the full value of the residence that does not exceed one hundred thousand dollars (\$100,000), as adjusted for the relevant assessment year as provided in subdivision (h). The one hundred thousand dollar (\$100,000) exemption shall be one hundred fifty thousand dollars (\$150,000), as adjusted for the relevant assessment year as provided in subdivision (h), in the case of an eligible unmarried surviving spouse whose household income does not exceed the amount of forty thousand dollars (\$40,000), as adjusted for the relevant assessment year as provided in subdivision (g).

(3) Beginning with the 2012–13 fiscal year and for each fiscal year thereafter, property is deemed to be the principal place of residence of the unmarried surviving spouse of a deceased veteran, who is confined to a hospital or other care facility, if that property would be the unmarried surviving spouse’s principal place of residence were it not for his or her confinement to a hospital or other care facility, provided that the residence is not rented or leased to a third party. For purposes of this paragraph, a family member who resides at the residence is not considered to be a third party.

(d) As used in this section, “property that is owned by a veteran” or “property that is owned by the veteran’s unmarried surviving spouse” includes all of the following:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common, or as community property.

(2) Property owned by the veteran or the veteran's spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse.

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(e) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less, or concentric contraction of the visual field to 5 degrees or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Department of Veterans Affairs or the military service from which the veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(f) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the California Constitution and any other real property tax exemption to which the claimant may be entitled. No other real

property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section coown a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

(g) Commencing on January 1, 2002, and for each assessment year thereafter, the household income limit shall be compounded annually by an inflation factor that is the annual percentage change, measured from February to February of the two previous assessment years, rounded to the nearest one-thousandth of 1 percent, in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

(h) Commencing on January 1, 2006, and for each assessment year thereafter, the exemption amounts set forth in subdivisions (a) and (c) shall be compounded annually by an inflation factor that is the annual percentage change, measured from February to February of the two previous assessment years, rounded to the nearest one-thousandth of 1 percent, in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

SEC. 2. Section 279 of the Revenue and Taxation Code is amended to read:

279. (a) Subject to the provisions regarding cancellations and the limitation periods on refunds, property becomes eligible for the disabled veterans' property tax exemption, as described in Section 205.5, as of:

(1) The effective date of a disability rating, as determined by the United States Department of Veterans Affairs, that qualifies the claimant for the exemption.

(2) The date a qualified claimant purchases a property that constitutes the principal place of residence, provided residency is established within 90 days of purchase.

(3) The date a qualified claimant establishes residency at a property owned by the claimant or the spouse, as specified in subdivision (a) of Section 205.5.

(4) The date the veteran died, as a result of a service-connected injury or disease, in the case where the unmarried surviving spouse is the claimant.

(b) A claim for the disabled veterans' property tax exemption filed by a qualified claimant, once granted, shall remain in continuous effect unless any of the following occurs:

(1) Title to the property changes.

(2) The owner does not occupy the dwelling as his or her principal place of residence.

(A) If the claimant is confined to a hospital or other care facility but principally resided at a dwelling immediately prior to that confinement, the claimant will be deemed to occupy that same dwelling as his or her principal place of residence on the lien date, provided that the dwelling has not been rented or leased as described in Section 205.5.

(B) If a person receiving the disabled veterans' exemption is not occupying the dwelling because the dwelling was damaged in a misfortune or calamity, the person will be deemed to occupy that same dwelling as his or her principal place of residence, provided the person's absence from the dwelling is temporary and the person intends to return to the dwelling when possible to do so. Except as provided in subparagraph (C), when a dwelling has been totally destroyed, and thus no dwelling exists, the exemption provided by Section 205.5 is not applicable until the structure has been replaced and is occupied as a dwelling.

(C) A dwelling that was totally destroyed in a disaster for which the Governor proclaimed a state of emergency, that qualified for the exemption provided by Section 205.5 and has not changed ownership since the disaster, will be deemed occupied by the person receiving a disabled veterans' exemption provided the person intends to reconstruct a dwelling on the property and occupy the dwelling as his or her principal place of residence when it is possible to do so.

(3) The property is altered so that it is no longer a dwelling.

(4) The veteran is no longer disabled as defined in Section 205.5.

(5) The unmarried surviving spouse claimant remarries.

(c) The assessor of each county shall verify the continued eligibility of each person receiving a disabled veterans' exemption, and shall provide for a periodic audit of, and establish a control system to monitor, disabled veterans' exemption claims.

Approved _____, 2011

Governor