

Date of Hearing: April 17, 2023

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION

Jacqui Irwin, Chair

AB 1361 (Hoover) – As Introduced February 17, 2023

Majority vote. Fiscal committee.

**SUBJECT:** Property taxation: veteran's exemption: preliminary application

**SUMMARY:** Establishes a process to preliminarily apply for the veteran's property tax exemption or the disabled veteran's property tax exemption. Specifically, **this bill**:

- 1) Authorizes an individual to file a written preliminary application with a county assessor to claim the "veteran's exemption".
- 2) Requires that the preliminary application must:
  - a) Be filed after the individual has entered into a real estate purchase agreement for, but before taking ownership of, the property;
  - b) Be in the form and manner required by the county assessor; and,
  - c) Contain all information necessary to evaluate the property's eligibility for the applicable "veteran's exemption".
- 3) Requires the county assessor, within 15 days of receiving a preliminary application, to send the applicant a written determination stating:
  - a) Whether the application is preliminarily approved or denied;
  - b) If approved, the amount of the tax exemption for the property the applicant intends to purchase; and,
  - c) If denied, the reasons for denial.
- 4) Requires that an applicant receive, and the county assessor process, the "veteran's exemption" upon the applicant receiving ownership of the property if the application is preliminarily approved, and specifies that an applicant shall not need to refile a claim for the exemption.
- 5) Defines a "veteran's exemption" as the veteran's or disabled veteran's property tax exemptions.
- 6) Requires that the state reimburse certain local entities for any costs the Commission on State Mandates determines are mandated by this bill, in accordance with existing law.

**EXISTING LAW:**

- 1) Provides that all property is taxable unless otherwise provided by the California Constitution or the laws of the United States. (California Constitution, Article XIII, Section 1.)
- 2) Limits the maximum amount of *ad valorem* property taxation to 1% of the full cash value of the property. Generally, the Constitution restricts the full cash value of a property to the assessed value upon a change of ownership in, or new construction on, the property. This is referred to as the base year value, which may be adjusted upwards for inflation at no more than 2% annually. (California Constitution, Article XIII, Section 1 and 2.)
- 3) Exempts \$7,000 of the full value of an individual's principal residence from property taxation, unless the residence benefits from another real property tax exemption. This exemption is often referred to as the "homeowner's exemption". (California Constitution, Article XIII, Section 3, Subdivision (k).)
- 4) Authorizes a property tax exemption of \$4,000 for a veteran discharged under honorable conditions from specified armed service branches if that veteran has property valued in the aggregate of less than \$5,000 if single, and \$10,000 if married, commonly referred to as the "veteran's exemption". This exemption may also be claimed by the unmarried spouse of a deceased veteran or the surviving parents, as defined, of a deceased veteran, subject to the same limitation on the value of aggregate ownership in property. (California Constitution, Article XIII, Section 3, Subdivision (o), (p), and (q).)
- 5) Authorizes the Legislature to exempt the home of a disabled veteran, or their eligible surviving spouse, from property taxation. (California Constitution, Article XIII, Section 4.) In implementing this authorization, the Legislature exempts \$100,000 of the value of an eligible disabled veteran's principal residence from property taxation, or \$150,000 if the disabled veteran has a household income of \$40,000, or less. These amounts are all adjusted for inflation beginning on specified dates and this exemption is also known as the "disabled veteran's exemption". A disabled veteran meets the qualifications of the exemption if they are rated by the United States Department of Veteran's Affairs (USDVA) as 100% disabled or unemployable as a result of a service connected injury or disease. (Revenue and Taxation Code (R&TC) Section 205.5.)

**FISCAL EFFECT:** The State Board of Equalization (BOE), in its analysis of this bill, states that this bill would have no impact on General Fund revenues.

**COMMENTS:**

- 1) The author has submitted the following statement in support of this bill:

Our disabled veterans have not only fought and served our country, but have made a huge sacrifice as well. That's why this Legislature has made policies that promote their success and ensure that they receive the benefits that they deserve. This bill just streamlines the home buying process by allowing 100% permanent and total disabled veterans to apply for their real estate tax exemption after going under contract on a home, but before taking ownership. This simple change would allow veterans [to] be approved for their tax exempt status before closing on a mortgage, potentially saving veterans

thousands of dollars that they would otherwise have to pay, just to get reimbursed at a later date.

2) United Wholesale Mortgage, writing in support of this bill, states, in part:

California law already grants veterans and disabled veterans a tax exemption on their homes, but the current process for securing that exemption requires a veteran to wait until after they have purchased the home to file the necessary paperwork. Unfortunately, even when the veteran knows that they will qualify, mortgage underwriters are unable to account for the expected savings without the written determination of the county assessor. AB 1361 will help veterans to secure this determination earlier in the process of buying a home, which means their purchasing power will go further. Having this written determination may allow veterans to purchase the home that has the extra square footage they need, or even buy a home at all. With California home prices as high as they are, the application process AB 1361 creates will help our veterans select the best home for them and their families.

3) The California Assessors' Association (CAA), writing in opposition to this bill, states, in part:

AB 1361 proposes a new process that would require the assessor to "pre-approve" an exemption for a property that is not owned by the applicant. Purchase agreements are not equivalent to contracts of sale or recorded deeds transferring title. Pre-approval of [these] exemptions is contrary to existing law that requires legal ownership of property as a primary residence for exemption qualification purposes [...]

Unfortunately, AB 1361's requirement for the pre-approval of this exemption prior to ownership and within 15 days of application is not administratively feasible and therefore could lead to frustration by the public when a timely and accurate response cannot be provided.

4) Committee Staff Comments:

- a) *The veteran's exemption:* Prescribed specifically in the Constitution, amounts exempt pursuant to the veteran's exemption are not adjusted for inflation. As such, today's value of the veteran's exemption remains the same, along with the limitations on the maximum total value of property owned by the veteran to remain eligible for the exemption. This limitation includes both real and personal property. Therefore, the number of veterans claiming this exemption is minimal, and the BOE notes that their most recent data indicate zero applications for this exemption. Moreover, the homeowner's property tax exemption is nearly twice the amount of the veteran's exemption. Both exemptions prohibit application of the other exemption if a veteran avails themselves of one of those exemptions. In other words, it is extremely unlikely that a veteran property owner would claim the veteran's exemption, and the veteran's exemption is essentially obsolete.
- b) *The disabled veteran's exemption:* Similar to the veteran's exemption, the disabled veteran's exemption is authorized in the state Constitution. However, the Constitution does not stipulate the specific amounts that may be exempt, nor does the Constitution prescribe any income or asset limitations. Rather, the Constitution only specifies the types of disabilities from which a veteran must suffer in order to qualify for the

exemption. When implementing this authorization, the Legislature tied the exempt amounts and the income threshold to inflation. Today, these amounts equal \$161,083 for the basic exemption, \$241,627 for the low-income exemption, and \$72,335 for the low-income threshold. While the standard disabled veteran's exemption does not need an annual reapplication, disabled veterans must annually refile for the low-income exemption, as annual certification of income is required.

- c) *Underwriting process for mortgages:* When purchasing a home, individuals generally finance the purchase with a mortgage. As part of the process to evaluate the appropriate amount an individual may borrow through a mortgage, underwriters will examine a number of factors that apply to the borrower, including the debt-to-income ratio of the borrower. In addition, mortgages insured by the Federal Housing Authority, which are designed primarily for low- or moderate-income borrowers, are required to have an escrow account, which is used to pay property taxes among other costs. While the USDVA, which backs home loans to veterans, does not require the lender to establish escrow accounts for the payment of property taxes, it is a lender's responsibility to ensure that these amounts are paid when due. Thus, property taxes can have an impact on the amount an individual may borrow and considering property tax exemptions in the underwriting process could increase the total amount a veteran could borrow.
- d) *This bill and potential conflicts with existing law:* In essence, this bill would advance the period for determining the veteran's and disabled veteran's exemptions before an eligible veteran takes ownership of the property, but after an eligible veteran enters into a real estate purchase agreement. The author notes that this bill is intended to allow eligible veterans to have the exemption included in the process for determining the amount the veteran may borrow through their mortgage. Indeed, any amount of the exemption considered when underwriting a mortgage could result in a reduced amount of tax liability that the veteran would owe, and a corresponding increase in the amount they could borrow. The overall impact of considering these exemptions, however, may be limited. When considering amounts exempt under the disabled veteran's exemption, the actual reduction in property tax liability would be no more than \$1,611, or \$2,416 for the low-income exemption. These amounts correspond to a monthly reduction of approximately \$135 or \$201, respectively.

Pursuant to the state Constitution and implementing statute, an eligible veteran must take ownership of the property in order to receive the disabled veteran's exemption. This bill, however, would authorize an application to be filed before the veteran takes ownership of the home, and requires that an assessor make a determination within 15 days of receiving an application. A purchase agreement does not confer the legal status of ownership, unlike contracts of sale or recorded deeds transferring title to property. The sale of the property could go uncompleted, which would potentially result in wasted resources by the county. Pre-approval of these exemptions, as this bill proposes, would be contrary to existing law and may violate the Constitution.

Moreover, assessors must have an appraised value of the property before a reassessment can be made. The state Constitution requires that a property be reassessed upon a change in ownership. In order for an assessor to make a final determination on the reassessed value of a property, the assessor must know the appraised value. Pursuant to Property Tax Rule 2, the Value Concept, it has been the interpretation of the BOE since 1967 that

the rebuttably presumed value of real property is the price for which it was bought. Thus, the sales price itself has legal weight in the assessment process, and a final appraised value is generally required to determine a final sale price. Final appraisals occur after a purchase agreement is entered into, and this bill would require that assessors make a determination on exemption eligibility before a final appraisal.

Before a property tax exemption can be applied, assessors generally consider other exclusions for which the property may be eligible. These exclusions can include base year value transfers that are authorized by the Constitution and implemented in statute. A property cannot receive an exemption in excess of the value of that property. If a property were assessed at a value below the maximum exemption amount, then the amount exempt is the total assessed value, not the maximum amount eligible to be exempt under law. Thus, assessors may be unable to determine the exact amount of a disabled veteran's exemption, as this bill requires, because there could be other exclusions that impact the final value of the property and, subsequently, the exempt amount. This bill would require that assessors make a determination on the value of the disabled veteran's exemption before being able to consider these other factors.

- e) *Protracted determination period:* This bill requires assessors to make a determination on an application within 15 days of receipt, which may not be administratively feasible. Applications for the disabled veteran's exemption are processed on a first-come, first-served basis. As noted in its letter of opposition, the CAA states that the estimated time to make such determinations is approximately six to nine months. Could providing that determinations be made on certain applications in advance of applications by other taxpayers not submitted according to this bill's provisions be unfair?
- f) *Standardized forms:* As currently drafted, this bill would require that the preliminary application be in a form and manner as determined by the county assessor. Under existing practice, the BOE provides a standard form to apply for the disabled veteran's exemption, Form BOE-261-G. Should this bill be enacted, this could result in the publication of 58 different claim forms for the 58 different counties. The author and Committee may wish to consider directing the BOE to develop a standard form for this bill's claims process.
- g) *Filing requirements:* Existing law requires claims for the veteran's exemption to be filed annually. This bill could be construed to be in conflict with existing law and may cause confusion as to administration of this exemption. Additionally, the low-income disabled veteran's exemption must be filed each year to certify income eligibility. This bill provides that, once a preliminary application is approved, the veteran is not required to file another claim for the exemption, which may run counter to existing law and practice.
- h) *Eligible applicants:* This bill allows any person to file a preliminary application; this presents two issues. First, a preliminary application may allow filings by individuals who are not qualified for the exemption or fraudulent filings. Second, the Legislature passed SB 667 (Roth), Chapter 430, Statutes of 2021, which authorized the executor, administrator, or personal legal representative of a claimant's estate, or the trustee of a deceased claimant's trust assets, to file a claim for the disabled veteran's exemption with the county assessor. Given this bill could expand the group of individuals that can file for this exemption, this bill could conflict with existing law and may cause confusion as

to administration in conjunction with existing law. The author and Committee may wish to clarify who qualifies as an eligible applicant.

i) *Related legislation:*

- i) SB 82 (Seyarto) provides that a county assessor shall accept an electronically generated letter of service-connected disability, in lieu of an original letter of service-connected disability at the discretion of the claimant, for purposes of verifying eligibility for an exemption. SB 82 is pending hearing by the Senate Committee on Military and Veteran Affairs.
- ii) SB 726 (Archuleta) would add another disabled veteran's property tax exemption in lieu of the existing exemption. SB 726 is hearing by the Senate Committee on Military and Veteran Affairs.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Association of Realtors  
United Wholesale Mortgage, LLC  
Veteran Strong, USA

**Opposition**

California Assessors' Association

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