

INITIAL STATEMENT OF REASONS  
FOR THE ADOPTION OF REGULATION § 20561

As required by Section 11346.2 of the Government Code, the Franchise Tax Board (the "Board") sets forth below the reasons for the adoption of Section 20561 of Title 18 of the California Code of Regulations (18 C.C.R. § 20561).

Under existing federal law, specifically, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("PRWORA") (P.L. 104-193, 8 U.S.C. Section 1621, et seq.), only specified aliens may receive public benefits, as defined, from an agency of a state. For purposes of PRWORA, public benefits include homeowners and renters property tax assistance provided under Part 10.5 of the Revenue and Taxation Code.

On August 27, 1996, Governor Pete Wilson signed Executive Order W-135-96, which directed state agencies, departments, boards and commissions to implement the relevant provisions of PRWORA to prohibit the granting of public benefits to individuals who are not eligible to receive these benefits under PRWORA.

In order to comply with Executive Order W-135-96, the Board adopted as an emergency regulation Section 20561 in Title 18, California Code of Regulations, which became operative on April 1, 1998. This statement concerns the permanent adoption of Section 20561 in Title 18, California Code of Regulations, which contains the same provisions as the emergency regulation.

SPECIFIC PURPOSE OF THE REGULATION

In general, Section 20561 prohibits an individual from receiving homeowners and renters property tax assistance if the individual is not eligible to receive the public benefit under PRWORA. Subsection (a) is needed to provide that the regulation will not be administered in a nondiscriminatory manner. Subsection (b) is needed to clarify the type of assistance that may be denied to individual applicants and to provide the individual applicants with notice of the application of the federal PRWORA. Subsections (c) and (d) are needed to identify eligible aliens for state public benefits under PRWORA. Subsection (e) is needed to clarify and make specific the eligibility requirements for homeowners and renters property tax assistance. Subsection (f) is needed to specify the procedures for reporting certain information pursuant to federal law. Finally, subsection (g) is needed to clarify the hearing rights of individual applicants.

In addition, Section 20561 will require individuals to

provide a declaration of citizenship, alienage, and immigration status, as specified, when applying for homeowners and renters property tax assistance. The information specified in the declaration will enable the Board to determine an applicant's eligibility for homeowners and renters property tax assistance pursuant to PRWORA.

#### NECESSITY

These regulations are necessary for the disbursement of homeowners and renters property tax assistance monies in accordance with federal law. PRWORA was enacted on August 22, 1996. Section 411 of PRWORA took effect immediately and requires the immediate termination of state or local government-funded public benefits for certain aliens identified in PRWORA. Congress has determined that there is "a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits." (Subsection (6) of Section 400 of Title IV of PRWORA.) California must abide by that congressional determination in implementing the termination of benefits as required by federal law, effective immediately.

Pursuant to Section 20642 of the Revenue and Taxation Code, the Board is generally charged with the administration and enforcement of Part 10.5 of the Revenue and Taxation Code, which is entitled the "Senior Citizens Property Tax Assistance and Postponement Law." Section 20641 of the Revenue and Taxation Code authorizes the Board to specify the information required and to prescribe any forms that a claimant must file to receive benefits under Part 10.5 of the Revenue and Taxation Code.

These regulations will implement the eligibility requirements found in PRWORA by eliminating State-funded homeowners and renters property tax assistance to aliens who are not described in federal law.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

#### ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR SMALL BUSINESS.

The Board has determined that there were no alternatives considered which would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons or small businesses than the proposed regulation.

ADVERSE ECONOMIC IMPACT ON BUSINESS

The Economic and Statistical Research Bureau of the Board has reviewed the relevant provisions of PRWORA, including Section 411 of PRWORA, and the accompanying proposed regulations, and has determined in an analysis dated April 6, 1998, that the regulation will not have a significant adverse economic impact on business.