



STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Bradford

Sponsor:

Bill Number: SB 1013

Related Bills: See Legislative
History

Amended: March 20, 2024,
April 18, 2024, and
April 30, 2024

SUBJECT

Property Tax Assistance for Descendants of Enslaved Persons

SUMMARY

This bill would, under the Revenue and Taxation Code (RTC), create the Property Tax Assistance for Descendants of Enslaved Persons Program.

RECOMMENDATION

No position—The Franchise Tax Board (FTB) has not formally voted or taken a position on this bill.

SUMMARY OF AMENDMENTS

The March 20, 2024, amendments removed provisions of the bill relating to the Health and Safety Code and replaced them with the provisions discussed in this analysis.

The April 18, 2024, amendments added requirements for claimants and added a limit to the assistance that may be provided.

The April 30, 2024, amendments added several definitions, expanded defined terms to include renters and modified the method for the FTB to use to determine the assistance amount.

This is the FTB's first analysis of the bill.

REASON FOR THE BILL

The reason for this bill is to provide property tax assistance to descendants of enslaved persons.

ANALYSIS

Under the RTC, this bill would create the Property Tax Assistance for Descendants of Enslaved Persons Program (property tax assistance program), to be developed and administered by the FTB.

The bill defines the following terms:

“Claimant” means a person who satisfies all of the following requirements:

- Is a descendant of an African American chattel enslaved person in the United States or descendants of a free Black person who lived in the United States prior to the end of the 19th century.
- Their status as a descendant, has been confirmed by the California American Freedmen Affairs Agency.
- Is either of the following:
 - An owner and occupant of a residential dwelling that is the person’s principal residence during the calendar year for which assistance is claimed.
 - A person who rents and occupies a residential dwelling as their principal place of residence during the calendar year for which assistance is claimed.
- Submits a complete claim to the FTB within the deadline set by the FTB.
- If requested by the FTB, submits the following:
 - If the person is requesting assistance related to property taxes on a residential dwelling purchased pursuant to an unrecorded contract of sale, a copy of the contract or other evidence to establish the fact of the purchase or change of ownership.
 - If the residential dwelling is owned by the person on property owned by a nonprofit incorporated association, an affidavit, under penalty of perjury, containing sufficient evidence to support such ownership and the person’s obligation to pay a pro rata share of the property tax levied against the nonprofit incorporated association’s property.

“Floating home” means a floating structure which is all of the following:

- Is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling.
- Has no mode of power on its own.
- Is dependent for utilities upon a continuous utility linkage to a source originating on shore.
- Has a permanent continuous hookup to a shoreside sewage system.

“Household” includes the claimant and all other persons whose principal place of residence is the residential dwelling of the claimant. For purposes of this subdivision, “other persons” shall exclude bona fide renters, minors, or students.

“Principal place of residence” has the same meaning as “principal residence,” as that term is used in determining eligibility for the property tax homeowner’s exemption.

“Program” means the Property Tax Assistance for Descendants of Enslaved Person Program.

“Property tax” means all taxes, exclusive of interest, penalties, and principal payments on improvement bonds and charges for service, levied against a claimant’s residential dwelling by any taxing agency for payment with respect to property tax lien dates occurring on or after January 1, 2025. License fees imposed by Part 5 (commencing with Section 10701), if the fee is imposed on land owned or rented by the claimant, is also included in the definition.

“Residential dwelling” means a dwelling used as a principal place of residence by the claimant and the land surrounding the dwelling as is reasonably necessary for use of the dwelling as a home. Residential dwelling includes the following:

- A dwelling that is owned by a claimant, that is subject to property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1, or the license fee imposed by Part 5 (commencing with Section 10701) of Division 2, and that is located on land owned or rented by the claimant.
- A dwelling that is rented by the claimant, that is subject to property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 or to the license fee imposed by Part 5 (commencing with Section 10701) of Division 2, and that is located on land rented by the claimant or the owner of the dwelling.
- A floating home owned or rented by a claimant.

A “residential dwelling” does not include a dwelling that is exempt from ad valorem real property taxation and for which the owner of the dwelling is not liable for possessory interest taxes; a dwelling that is not located in the state; and land without a dwelling on the land.

“Taxing agency” includes the State, county, and city. It also includes every district that assesses property for taxation purposes and levies taxes or assessments on the property so assessed.

Upon appropriation from the Legislature, the FTB would be required to develop and administer the property tax assistance program, consistent with its requirements, and provide assistance to claimants who are selected to receive assistance. The FTB would be required to adopt any rules and regulations necessary for the administration of the property tax assistance program.

The FTB may provide assistance to claimants who are eligible for the property tax assistance program in an amount equal to the total amount of property taxes paid on the residential dwelling or \$4000, whichever is less. Assistance must be in accordance with the following:

- Assistance is provided only for property taxes for the calendar year in which the claim for assistance is made under the property tax assistance program.
- A claimant's pro rata share of property taxes paid during the calendar year for which the assistance is claimed. The claimant's pro rata share is to be calculated based on:
 - The number of persons who paid rent, or owned and occupied the residential dwelling in the calendar year for which assistance is claimed.
 - The number of months each claimant has paid rent, or owned or occupied the residential dwelling in the calendar year for which assistance is claimed.
 - In the case where a residential dwelling is owned by two or more persons as joint tenants or tenants in common and one or more of those persons is not a member of the claimant's household, the claimant may only receive property tax assistance for their percentage of ownership. The proration would not apply if the joint owner is the claimants spouse or domestic partner, or the parents, natural or adopted children, or grandchildren of the claimant, or the claimant's spouse or domestic partner.
 - The spouse or domestic partner of any person listed in the bullet directly above.

Assistance would be provided for any property taxes properly claimed and already paid. No assistance would be provided for any claims that are less than five dollars. Additionally, when a claimant is the owner and occupant of the residential dwelling, only one owner-claimant form from each household may receive assistance from the property tax assistance program each calendar year. In case of any disagreements in the case where two or more persons in a household may claim assistance, the matter would be referred to the FTB, and a final decision would be made by the FTB.

The bill provides that no reimbursement to local agencies for the property tax assistance program would be required.

Effective/Operative Date

This bill would be effective January 1, 2025, and operative as of that date. Moneys would only be distributed under this program upon appropriation by the Legislature.

*Federal/State Law**Federal Law*

No comparable provision in federal law.

State Law

No comparable provision in state law.

Implementation Considerations

The FTB has identified the following implementation considerations and is available to work with the author's office to resolve these and other considerations that may be identified.

This bill would require a claimant to have their status as a descendant confirmed by the California American Freedman Affairs Agency, however this agency is currently not in statute. The agency would be added by the enactment of SB 1403. The author may wish to add language to make this bill contingent on the passage of SB 1403. With the absence of contingency language, the FTB would not be able to determine the status of a descendant if SB 1403 is not enacted.

This bill is silent on administrative details needed to properly implement and administer the program. The author must amend the bill to allow for administration. For example, the author may wish to add language that details the following:

- Whether assistance payments would be excluded from gross income for income tax purposes.
- Whether any overpayment of assistance payments would be subject to recapture.
- Whether assistance payments would be offset against income tax liabilities or other outstanding obligations under any law administered by the FTB.
- Whether assistance payments would first be applied to any delinquent property taxes secured by a lien.
- Data sharing rules between the administering entity and the California American Freedom Affairs Agency.

Because the bill does not specify otherwise, the FTB would be subject to the rulemaking procedures required under the Administrative Procedure Act (APA) (Government Code section 11340 et seq.). Following these procedures may delay the immediate implementation of the bill. To prevent delays, it is recommended that the author add a provision exempting the FTB from the APA when the FTB is prescribing regulations, rules, guidelines, or procedures necessary to carry out the bill's purpose. It is also recommended to authorize FTB not to require FTB to develop rules and regulations.

The bill is silent on the process for a claimant if the FTB denies assistance. The author should amend the bill to specify whether the FTB's determination is final or if it can be appealed to the Office of Tax Appeals or subject to a claim with the superior court.

It's not clear how the assistance would work if a renter of a motor home slip is also the owner of the motor home. Would the claimant get a pro rata share of their vehicle license fee if they are renting the slip or would the assistance only apply with respect to ownership and property taxes?

Technical Considerations

For consistency, "Division 1" should be replaced with the "Division 2" in (g)(2)(A) and (g)(2)(B) of Section 21101.

Policy Considerations

FTB administers income and franchise taxes. FTB does not administer property taxes. Because the amount of the property tax assistance is a portion of the person's property taxes on their residential dwelling, it may ease administration to have a state department that implements property taxes administer this program.

LEGISLATIVE HISTORY

SB 825 (Committee on Governance & Finance, Chapter 607, Statutes of 2013) among other things, suspended the FTB's obligation to prepare a notice regarding the Senior Citizens Homeowners and Renters Property Tax Assistance and Property Tax Postponement programs, until these programs receive funding.

AB 1781 (Laird, Chapter 268, Statutes of 2008) eliminated funding for the Homeowners and Renters Assistance program by line-item veto.

AB 492 (Nazarian, 2019/2020) would have, under the RTC, expanded eligibility for the Homeowners and Renters Property Tax Assistance program. AB 492 did not pass out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

The Senior Citizens Homeowners and Renters Property Tax Assistance (Assistance) Law program provided a direct grant to qualifying seniors and disabled individuals who owned or rented a residence. The program was administered by the FTB and established in 1967 to provide direct property tax relief to seniors living on a fixed income. It was later expanded to include renters who met the income requirement, and to homeowners who were blind or disabled, regardless of their age.

Unlike the Assistance program that refunded a percentage of property taxes paid, the postponement program allowed eligible homeowners to defer payment of all, or a portion, of the property taxes on their residence. The program was enacted in 1977, after the passage of a constitutional amendment authorizing the postponement of property taxes (California Constitution, Article 13, Section 8) and was administered by the State Controller's Office. The constitutional amendment was in response to concerns that senior homeowners on fixed incomes could lose their homes because of the inability to pay raising property tax bills. Originally designed for individuals over 62 years of age, the program was made available to eligible blind and disabled persons, regardless of age.

State funding for the Assistance program was eliminated with the 2007-2008 Budget. On February 20, 2009, the postponement program was indefinitely suspended as part of the budget reductions to the state's General Fund programs. (SB 8 Ducheny, Chapter 4, Statutes of 2009). The funding of the program was eliminated, and the Controller was prohibited from accepting new applications after February 20, 2009.

OTHER STATES' INFORMATION

None noted.

FISCAL IMPACT

The FTB's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be determined. Depending on the final program parameters, costs are expected to be significant.

Additionally, the financial outlook for future fiscal year budgets continues to be reported on as challenging. If budget reductions are proposed that impact FTB operations, a prioritization of current ongoing work that will need to be stopped or delayed as a result of a budget reduction should be compared against any new work that is requested.

ECONOMIC IMPACT

Revenue Estimate

This bill as amended on April 30, 2024, may result in an impact on the general fund. However, the provisions of this bill do not change the way income or franchise tax is calculated under the RTC, and therefore, do not fall within the scope of FTB's revenue estimates.

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Senate Revenue and Taxation Committee Analysis 04-19-2024

Support:

Alliance for Reparations, Reconciliation, and Truth; Black Equity Collective; California Association of County Treasurers and Tax Collectors; California Black Power Network; California Housing Partnership Corporation; California Reparations Task Force Members Dr. Cheryl Grills, Lisa Holder, and Don Tamaki; Catalyst California; Contra Costa County; Equal Justice Society; Livefree California; 2 Individuals.

Opposition:

None submitted.

ARGUMENTS

Proponents: None on file

Opponents: None on file

LEGISLATIVE CONTACT

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