



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

SB-801 Property tax postponement. (2015-2016)

SHARE THIS:  

Senate Bill No. 801

CHAPTER 391

An act to amend Sections 16180, 16182, 16183, 16190, 16191, and 16192 of the Government Code, and to amend Sections 2515, 20505, 20586, 20601, 20602, 20603, 20621, 20622, 20627, 20630, 20630.5, 20638, 20639.2, 20640.2, 20640.3, 20640.4, 20640.6, 20640.7, 20640.8, 20640.9, 20645.5, and 20645.6 of, and to repeal Sections 20633, 20639.3, 20639.4, 20639.5, 20639.6, 20639.7, 20639.8, and 20639.9 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 30, 2015. Filed with Secretary of State September 30, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 801, Committee on Governance and Finance. Property tax postponement.

Existing law, on and after February 20, 2009, prohibited a person from filing a claim for postponement of tax, and prohibited the Controller from accepting applications for postponement of tax, under the Senior Citizens and Disabled Citizens Property Tax Postponement Law. Existing law, as of July 1, 2016, makes inoperative the prohibition against a qualifying person, as specified, filing a claim for postponement and the Controller from accepting applications for postponement under the program and repeals this prohibition on January 1, 2017.

This bill, among other things, would eliminate outdated references to "certificates of eligibility" that were previously used under the postponement law. The bill would permit the Controller to release a lien if there is a foreclosure on an obligation secured by a lien that is senior in recording priority. The bill would standardize the definition of a claimant so that all references include blind and disabled persons, as defined. The bill would eliminate references to certain duties on the part of local tax officials, with respect to lien notices, to conform to the superseding duties of the Controller in preparing and filing the notice of lien for postponed taxes with the county recorder at the time payment is made, and would specify payments by the Controller to the county and the refund by the county of taxes paid when a taxpayer successfully appeals his or her denial of postponement under the law. The bill would clarify that the interest rate on existing loans made prior to the postponement law's suspension will continue to accrue at the rate specified prior to the suspension of the program. The bill would remove references regarding the eligibility of mobilehome properties to participate in the program and would add references specifying that co-op properties are eligible for the program. The bill would also delete and update outdated references and make other technical and conforming changes.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 16180 of the Government Code is amended to read:

16180. (a) There is hereby created in the State Treasury a Senior Citizens and Disabled Citizens Property Tax Postponement Fund. The fund shall be an interest-bearing fund. Subject to subdivision (b) and notwithstanding Section 13340, the fund is continuously appropriated to the Controller, commencing January 1, 2015, for purposes of administering this chapter, including, but not limited to, necessary administrative costs and disbursements relating to the postponement of property taxes pursuant to the Property Tax Postponement Law (Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), and Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code).

(b) The Controller shall do both of the following:

- (1) On June 30, 2017, transfer any moneys in the fund in excess of twenty million dollars (\$20,000,000) to the General Fund.
- (2) On June 30, 2018, and on June 30 each year thereafter, transfer any moneys in the fund in excess of fifteen million dollars (\$15,000,000) to the General Fund.

(c) On or after January 1, 2015, any loan repayments relating to the Senior Citizens and Disabled Citizens Property Tax Postponement Law shall be deposited into the Senior Citizens and Disabled Citizens Property Tax Postponement Fund.

(d) Any funds remaining upon the effective date of this section in an impound account formerly provided for pursuant to this chapter, shall be transferred to the Senior Citizens and Disabled Citizens Property Tax Postponement Fund.

SEC. 2. Section 16182 of the Government Code is amended to read:

16182. (a) All sums paid by the Controller under the provisions of this chapter, together with interest thereon, shall be secured by a lien in favor of the State of California when funds are transferred to the county by the Controller upon the real property for which property taxes have been postponed. In the case of a residential dwelling which is part of a larger parcel taxed as a unit, such as a duplex, farm, or multipurpose or multidwelling building, the lien shall be against the entire tax parcel.

(b) In the case of real property:

(1) The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing pursuant to this chapter, including amounts paid subsequent to the initial payment of postponed taxes on the real property described in the notice of lien.

(2) The notice of lien may bear the facsimile signature of the Controller. Each signature shall be that of the person who shall be in the office at the time of execution of the notice of lien; provided, however, that such notice of lien shall be valid and binding notwithstanding any such person having ceased to hold the office of Controller before the date of recordation.

(3) The form and contents of the notice of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, the following:

(A) The names of all record owners of the real property for which the Controller has advanced funds for the payment of real property taxes.

(B) A description of the real property for which real property taxes have been paid.

(C) The identification number of the notice of lien which has been assigned the lien by the Controller.

(4) Within 14 business days of the transfer of funds and the notice of lien to the county by the Controller, the notice of lien shall be recorded in the office of the county recorder for the county in which the real property subject to the lien is located.

(5) The recorded notice of lien shall be indexed in the Grantor Index to the names of all record owners of the real property and in the Grantee Index to the Controller of the State of California.

(6) After the notice of lien has been duly recorded and indexed, it shall be returned by the county recorder to the office of the Controller. The recorder shall provide the county tax collector with a copy of the notice of lien which has been executed by the Controller.

(7) From the time of recordation of a notice of lien for postponed property taxes, a lien shall attach to the real property described therein and shall have the priority of a judgment lien for all amounts secured thereby, except that the lien shall remain in effect until either of the following occurs:

(A) It is released by the Controller in the manner prescribed by Section 16186.

(B) The foreclosure or sale of an obligation secured by a lien which is senior in recording priority to the lien of the State of California.

(c) In the case of mobilehome loans established prior to February 20, 2009, all of the following shall apply:

(1) The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid owing pursuant to this chapter.

(2) From the time that the Department of Housing and Community Development receives the notice of lien from the Controller, the department shall impose a moratorium on any other amendments to the permanent title record of the mobilehome unit until released by the Controller in the manner prescribed by Section 16186, or an authorization for the amendments is given by the Controller in writing.

(3) From the time of filing a notice of lien, a lien shall attach to the mobilehome for which eligibility for the postponement of property taxes has been granted.

SEC. 3. Section 16183 of the Government Code is amended to read:

16183. (a) From the time a payment is made pursuant to Section 16180, the amount of that payment shall bear interest at a rate (not compounded), determined as follows:

(1) Beginning July 1, 2016, the rate of interest shall be 7 percent per annum.

(2) The Controller shall establish an adjusted rate of interest for the purpose of this subdivision not later than July 15th of any year if the effective annual yield of the Pooled Money Investment Account for the prior fiscal year is at least a full percentage point more or less than the interest rate which is then in effect. The adjusted rate of interest shall be equal per annum to the effective annual yield earned in the prior fiscal year by the Pooled Money Investment Account rounded to the nearest full percent, and shall become effective for new deferrals, beginning on July 1, 1984, and on July 1 of each immediately succeeding year, until June 30, 2016.

(3) For loans made prior to June 30, 2016, the rate of interest provided pursuant to this subdivision for the first fiscal year commencing after payment is made pursuant to Section 16180 shall apply for that fiscal year and each fiscal year thereafter until these postponed property taxes are repaid.

(b) The interest provided for in subdivision (a) shall be applied beginning the first day of the month following the month in which that payment is made and continuing on the first day of each month thereafter until that amount is paid. In the event that any payments are applied, in any month, to reduce the amount paid pursuant to Section 16180, the interest provided for herein shall be applied to the balance of that amount beginning on the first day of the following month.

(c) In computing interest in accordance with this section, fractions of a cent shall be disregarded.

(d) For the purpose of this section, the time a payment is made shall be deemed to be the time an electronic funds transfer is made by the Controller to the tax collector or the delinquency date of the respective tax installment, whichever is later.

(e) The Controller shall include on forms supplied to claimants pursuant to Sections 20621, 20630.5, 20639.9, 20640.9, and 20641 of the Revenue and Taxation Code, a statement of the interest rate which shall apply to amounts postponed for the fiscal year to which the form applies.

SEC. 4. Section 16190 of the Government Code is amended to read:

16190. All amounts owing pursuant to Article 1 (commencing with Section 16180) of this chapter shall become due if any of the following occurs:

(a) The claimant, who is either the sole owner or sole possessory interestholder of the residential dwelling, as defined in Section 20583 or Section 20640 of the Revenue and Taxation Code, or a coowner or copossessory interestholder with a person other than a spouse or other individual eligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of that code, ceases to occupy the premises as his residential dwelling, dies, or sells, conveys, or disposes of the property, or allows any tax or special assessment on the premises described in Section 20583 of such code to become delinquent. If the sole owner or possessory interestholder claimant dies and his or her surviving spouse inherits the premises and continues to own and occupy it as his or her principal place of residence, then the lien amount does not become due and payable unless taxes or special assessments described in the preceding sentence become delinquent, or such surviving spouse dies, or sells, conveys, or disposes of the interest in the property.

(b) The claimant, who is a coowner or copossessory interestholder of the residential dwelling, as defined in Section 20583 or Section 20640.2 of the Revenue and Taxation Code, with a spouse or another individual eligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3

(commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of that code, dies, and the surviving spouse or other surviving eligible individual allows any tax or special assessment on the premises described in Section 20583 of such code to become delinquent or such surviving spouse or other individual ceases to occupy the premises as a residential dwelling, dies, or conveys, or disposes of the interest in the property.

(c) The failure of the claimant to perform those acts the claimant is required to perform where such performance is secured, or will be secured in the event of nonperformance, by a lien which is senior to that of the lien provided by Section 16182.

(d) Postponement was erroneously allowed because eligibility requirements were not met.

(e) The claimant is refinancing the residential dwelling.

(f) The claimant has elected to participate in a reverse mortgage program for the residential dwelling.

SEC. 5. Section 16191 of the Government Code is amended to read:

16191. The amounts paid pursuant to Section 16180 shall continue to draw interest but amounts owing pursuant to Article 1 (commencing with Section 16180) of this chapter shall not become due and payable if any of the following occurs:

(a) The claimant continues to own and occupy or hold the possessory interest and occupy the premises as a residential dwelling, but ceases to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code, and does not allow any tax or assessment against the premises, as described in Section 20583 of such code, to become delinquent.

(b) The surviving spouse of a claimant continues to own and occupy or hold the possessory interest and occupy the premises as a residential dwelling, but is ineligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code, or elects not to postpone such taxes, and does not allow any tax or assessment against the premises, as described in Section 20583 of such code, to become delinquent.

(c) The surviving individual otherwise eligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code continues to own and occupy or hold the possessory interest and occupy the premises as a residential dwelling, but elects not to postpone the property taxes pursuant to such chapter, and does not allow any tax or assessment against the premises, as described in Section 20583 of such code, to become delinquent.

SEC. 6. Section 16192 of the Government Code is amended to read:

16192. If, at any time, a person meeting the requirements of subdivision (a) or (c) of Section 16191 elects, or any surviving spouse described in subdivision (b) of such section becomes eligible, or otherwise elects, to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code, payments made pursuant to Section 16180 shall be added to the amount of the lien existing against the residential dwelling.

SEC. 7. Section 2515 of the Revenue and Taxation Code is amended to read:

2515. (a) Upon receiving a "notice of lien for postponed property taxes" from the Controller, the tax collector or the assessor, whichever is applicable, shall immediately enter on the assessment records applicable to the property, the fact that the taxes on the property have been postponed and the Controller's identification number, and shall, if such record reveals a change in the ownership status of the property subsequent to the date of entry of the postponement information thereon, notify the Controller within 60 days of processing the change in the ownership status in the manner prescribed by the Controller.

(b) From the time of recordation of the notice of lien pursuant to Section 16182 of the Government Code, the lien for postponed property taxes shall be deemed to impart constructive notice of the contents thereof to subsequent purchasers, mortgagees, lessees, and other lienors.

SEC. 8. Section 20505 of the Revenue and Taxation Code is amended to read:

20505. "Claimant" means an individual who—

(a) For purposes of this chapter was either (1) 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) or (c) of Section 20503, whichever is applicable, or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code on the last day of the calendar year or approved fiscal year designated in subdivision (b) of Section 20503, who was a member of the household, and who was either: (1) the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (b) or (c) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503. An individual who qualifies as an owner-claimant may not qualify as a renter-claimant for the same year.

(b) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), and Chapter 3.5 (commencing with Section 20640) was a member of the household and either an owner-occupant, or a tenant stockholder occupant, or a possessory interestholder occupant, or a mobilehome owner-occupant, as the case may be, of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (b) or (c) of Section 20503, and who was (1) 62 years of age or older by December 31 of the fiscal year for which postponement is claimed, or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code, at the time of application or on December 10 of the fiscal year for which postponement is claimed, whichever is earlier.

SEC. 9. Section 20586 of the Revenue and Taxation Code is amended to read:

20586. For the purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), and Chapter 3.5 (commencing with Section 20640), only one claimant per household each year shall be entitled to postponement. When two or more individuals in a household are qualified as claimants, they may determine who the claimant shall be. Such decision is irrevocable. If the individuals are unable to agree, the matter shall be determined by the Controller and his or her decision shall be final.

SEC. 10. Section 20601 of the Revenue and Taxation Code is amended to read:

20601. Subject to the limitations provided in this chapter, a claimant may file with the Controller, pursuant to Article 3 (commencing with Section 20621) of this chapter, a claim for postponement from the State of California of a sum equal to, but not exceeding, the amount of property taxes, as defined in Section 20584, due on the residential dwelling for the fiscal year for which the claim is made.

SEC. 11. Section 20602 of the Revenue and Taxation Code is amended to read:

20602. Upon approval of a claim described in Section 20601, the Controller shall make payments directly to a county tax collector for the property taxes owed on behalf of a qualified claimant. Payments may, upon appropriation by the Legislature, be made out of the amounts appropriated pursuant to Section 16180 of the Government Code that are secured by a secured tax lien and obligation as specified by Article 1 (commencing with Section 16180) of Chapter 5 of Division 4 of the Government Code.

SEC. 12. Section 20603 of the Revenue and Taxation Code is amended to read:

20603. The Controller shall prescribe the manner in which a claimant eligible under this chapter, who for any reason is incapacitated, may appoint his or her spouse or an authorized agent, or have any such person appointed for such claimant, for all purposes of claiming and receiving postponement of property taxes.

SEC. 13. Section 20621 of the Revenue and Taxation Code is amended to read:

20621. Each claimant applying for postponement under Article 2 (commencing with Section 20601) shall file a claim under penalty of perjury with the Controller on a form supplied by the Controller. The claim shall contain all of the following:

(a) Evidence acceptable to the Controller that the person (1) is 62 years of age or older on or before December 31 of the fiscal year for which the postponement is claimed or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code, at the time of application or on December 10 of the fiscal year for which the postponement is claimed, whichever is earlier.

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling in a manner that the Controller may prescribe.

(d) The name of the county in which the residential dwelling is located and the address of the residential dwelling.

(e) The county assessor's parcel number applicable to the property for which the claimant is applying for the postponement of property taxes.

(f) (1) Documentation evidencing the current existence of any abstract of judgment, federal tax lien, or state tax lien filed or recorded against the applicant, and any recorded mortgage or deed of trust that affects the subject residential dwelling, for the purpose of determining that the claimant possesses a 40-percent equity in the subject residential dwelling as required by paragraph (1) of subdivision (b) of Section 20583.

(2) Actual costs, not in excess of fifty dollars (\$50), paid by the claimant to obtain the documentation shall reduce the amount of the lien for the year, but not the face amount of the payment prescribed in Section 16180 of the Government Code.

(g) Other information required by the Controller to establish eligibility.

SEC. 14. Section 20622 of the Revenue and Taxation Code is amended to read:

20622. The claim for postponement shall be filed after October 1 of the fiscal year in which the postponement is claimed and on or before February 10 of that fiscal year; if February 10th falls on Saturday, Sunday, or a legal holiday, the date is extended to the next business day.

SEC. 15. Section 20627 of the Revenue and Taxation Code is amended to read:

20627. A tenant-stockholder claimant (hereinafter referred to as "claimant") is an individual who, on the last day of the calendar year ending immediately prior to the commencement of the fiscal year for which postponement is claimed is: (a) a tenant-stockholder in a cooperative housing corporation (as defined in Section 216(b) of the Internal Revenue Code) and (b) occupies as a principal place of residence a residential unit in the cooperative housing corporation (notwithstanding Section 216(b) of the Internal Revenue Code). For the purposes of this chapter, a claimant must be (1) 62 years of age or older on or before December 31 of the fiscal year for which postponement is claimed or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code, at the time of application or on December 10 of the fiscal year for which the postponement is claimed, whichever is earlier.

SEC. 16. Section 20630 of the Revenue and Taxation Code is amended to read:

20630. (a) A claimant may file with the Controller, a claim for postponement from the State of California of a sum equal to, but not exceeding the amount of property taxes, as defined in Section 20629, for the fiscal year for which the claim is made.

(b) Upon verification of the eligibility requirements set forth in Section 20630.5, the Controller shall mail the claimant a Notice of Election to Postpone which shall be in the form and contain such information as the Controller may prescribe. Accompanying the notice shall be a statement explaining that in order for the claimant to postpone all or part of the property taxes, the Notice of Election to Postpone must be mailed to the Controller with the following:

(1) A statement signed by an authorized officer of the cooperative housing corporation indicating the amount of the claimant's proportionate share of property taxes and the method used to compute such amount.

(2) A recognition agreement signed by the claimant and executed by an officer of the corporation which acknowledges the assignment of the proprietary lease and the pledging of the claimant's shares in the corporation as security for postponement, and sets forth the rights and duties of the state, the corporation and the claimant with respect to such stock and the proprietary lease. The recognition agreement shall be in such form and contain such provisions as the Controller shall prescribe.

(3) Any other additional security interest, created and perfected with respect to the rights of third persons in the manner provided by law for such type of security interest, which the Controller deems necessary to protect the interest of the state with regard to the repayment of postponed amounts by the claimant or a deceased claimant's estate.

(c) When the Controller approves the Notice of Election to Postpone, the Controller shall make payments directly to a county tax collector for the property taxes owed on behalf of the claimant. Payments may, upon appropriation by the Legislature, be made out of the amounts appropriated pursuant to Section 16180 of the Government Code that are secured by a secured tax lien and obligation as specified by Article 1 (commencing with Section 16180) of Chapter 5 of Division 4 of the Government Code.

SEC. 17. Section 20630.5 of the Revenue and Taxation Code is amended to read:

20630.5. Claims made under this chapter shall be filed with the Controller after October 1 of the fiscal year in which postponement is claimed and on or before February 10 of such fiscal year. If February 10th falls on Saturday, Sunday or a legal holiday, the date is extended to the next business day. The claim shall be on a form supplied by the Controller and shall contain:

(a) Evidence acceptable to the Controller that the individual was an eligible claimant.

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling.

(d) Any other information necessary for the Controller to determine eligibility under this chapter.

SEC. 18. Section 20633 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 20638 of the Revenue and Taxation Code is amended to read:

20638. Upon written request of a person who has postponed pursuant to this chapter, or an agent of such person, or an agent of the affected cooperative housing corporation, the Controller shall issue such person a written statement showing the total amount postponed, together with accrued interest. The Controller may establish a reasonable fee, not to exceed thirty dollars (\$30) for the provision of the statement of postponement status provided by this section.

SEC. 20. Section 20639.2 of the Revenue and Taxation Code is amended to read:

20639.2. (a) As used in this part, "mobilehome" means a mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, to which one of the following applies:

(1) It was first sold new on or after July 1, 1980.

(2) It was first sold new on or before June 30, 1980, and with respect to which the license fee required to be paid pursuant to Part 5 (commencing with Section 10701) of Division 2 has been delinquent for 120 days or more.

(3) It was first sold new on or before June 30, 1980, and a request for voluntary transfer to local property taxation was made pursuant to Section 18119 of the Health and Safety Code.

(b) As used in this chapter, "postponement" refers to mobilehome loans established prior to February 20, 2009.

SEC. 21. Section 20639.3 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 20639.4 of the Revenue and Taxation Code is repealed.

SEC. 23. Section 20639.5 of the Revenue and Taxation Code is repealed.

SEC. 24. Section 20639.6 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 20639.7 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 20639.8 of the Revenue and Taxation Code is repealed.

SEC. 27. Section 20639.9 of the Revenue and Taxation Code is repealed.

SEC. 28. Section 20640.2 of the Revenue and Taxation Code is amended to read:

20640.2. For the purposes of this chapter:

(a) "Possessory interest" means (1) possession of, or right to the possession of land located in this state whether or not coupled with ownership of the residential dwelling on the same, or (2) a possessory interest or right of occupancy on tax exempt land;

(b) "Residential dwelling" means a dwelling occupied as the principal place of residence of the claimant, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, located on possessory interest property. It shall include condominiums upon which property taxes, as defined in subdivision (c), are assessed. It also includes part of a multidwelling or multipurpose building and a part of the land upon which it is built.

(c) "Property taxes" means the amount of property tax for which the claimant is personally liable as assessee or is obligated to pay directly to the tax collector pursuant to the terms of the agreement establishing the possessory interest, including all ad valorem property taxes, special assessments, capitalization of leasehold interest, and other charges or user fees which are attributable to the residential dwelling on the county tax bill and the ad valorem property taxes, special assessments, capitalization of leasehold interest, or other charges or user fees appearing on the tax bill of any chartered city which levies and collects its own property taxes.

SEC. 29. Section 20640.3 of the Revenue and Taxation Code is amended to read:

20640.3. A claimant is an individual who:

(a) Holds a right to a possessory interest pursuant to a validly recorded instrument conveying such possessory interest for a term of years no less than 45 years beyond the last day of the calendar year ending immediately prior to the fiscal year for which taxes are initially postponed;

(b) Occupies as a principal place of residence the residential dwelling affixed to such possessory interest real property on the last day of the year designated in Section 20503(c) of this code;

(c) (1) Is 62 years of age or older on or before December 31 of the fiscal year for which postponement is claimed or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code, at the time of application or on December 10 of the fiscal year for which the postponement is claimed, whichever is earlier.

SEC. 30. Section 20640.4 of the Revenue and Taxation Code is amended to read:

20640.4. (a) Subject to the limitations provided in Chapter 1 (commencing with Section 20501), Chapter 2 (commencing with Section 20581), or this chapter, a claimant may file with the Controller, a claim for postponement of a sum equal to, but not exceeding the amount of property taxes, for the fiscal year for which the claim is made.

(b) Upon verification of the eligibility requirements set forth in Section 20640.9 the Controller shall mail the claimant a Notice of Election to Postpone which shall be in the form and contain such information as the Controller may prescribe. Accompanying the notice shall be a statement explaining that in order for the claimant to postpone all or part of the property taxes, the Notice of Election to Postpone must be mailed to the Controller with a copy of the instrument creating the possessory interest, said copy to be certified by the county recorder of the county in which such real property is located. Where a memorandum of lease has been recorded in lieu of such instrument, a certified copy of said memorandum shall accompany the copy of the instrument creating the possessory interest.

(c) Any possessory interest or improvement on which property taxes are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area are delinquent at the time the application for postponement under this chapter is made shall not be eligible for postponement.

SEC. 31. Section 20640.6 of the Revenue and Taxation Code is amended to read:

20640.6. (a) Upon receipt of the information described in Section 20640.4 and Section 20640.5, the Controller shall determine whether the state's interest would be adequately protected if postponement is granted, and if so, the Controller shall make payments directly to a county tax collector, or chartered city that levies and collects its own taxes, for the property taxes owed on behalf of the claimant. Payments may, upon appropriation by the Legislature, be made out of the amounts appropriated pursuant to Section 16180 of the Government Code that are secured by a secured tax lien and obligation as specified by Article 1 (commencing with Section 16180) of Chapter 5 of Division 4 of the Government Code.

(b) The Controller shall cause to be recorded with the county recorder of the county in which the real property is located, a copy of any instrument creating a security interest, which shall include applicable consent forms, in favor of the state. The instrument shall contain a legal description of the real property subject to the possessory interest; and, if the legal description of the possessory interest describes an area less than the entire property ownership, the notice or document shall also contain a reference to the record of the acquisition instrument to the entire parcel from which the possessory interest was created. The priority of the security interest shall be as of the date of recordation.

SEC. 32. Section 20640.7 of the Revenue and Taxation Code is amended to read:

20640.7. The Controller shall prescribe the manner in which a claimant eligible under this chapter, who for any reason is incapacitated, may appoint his or her spouse or an authorized agent, or have any such person appointed for such claimant, for all purposes of claiming and receiving postponement of property taxes.

SEC. 33. Section 20640.8 of the Revenue and Taxation Code is amended to read:

20640.8. The claim for postponement shall be filed after October 1 of the fiscal year in which postponement is claimed and on or before February 10 of such fiscal year. If February 10th falls on Saturday, Sunday or a legal holiday, the date is extended to the next business day.

SEC. 34. Section 20640.9 of the Revenue and Taxation Code is amended to read:

20640.9. Each claimant applying for postponement under this chapter shall file a claim under penalty of perjury with the Controller on a form supplied by the Controller. The claim shall contain:

(a) Evidence acceptable to the Controller that the person was 62 years of age or older, or blind or disabled as described in Section 20640.3.

(b) A statement showing the household income for the period set forth in Section 20503.

(c) A statement describing the residential dwelling in such manner as the Controller may prescribe.

(d) The name of the county in which the residential dwelling is located and the address of the residential dwelling.

(e) The county assessor's parcel number applicable to the property for which the claimant is applying for the postponement of property taxes.

(f) Other information required by the Controller to establish eligibility.

SEC. 35. Section 20645.5 of the Revenue and Taxation Code is amended to read:

20645.5. (a) If a postponement claim under Chapter 2 (commencing with Section 20581), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) is received by the Controller by February 10 for the fiscal year in which postponement is being claimed or by another date set by the Controller pursuant to Section 20622, then any delinquent penalties, costs, fees, and interest accrued for that fiscal year shall be canceled unless the failure to perfect the claim was due to willful neglect on the part of the claimant or representative.

(b) In the event of willful neglect, an electronic funds transfer for that current fiscal year can be used to pay delinquent taxes only if accompanied by sufficient amounts to pay all of the delinquent penalties, costs, fees, and interest. If an amount sufficient to pay all of the delinquent penalties, costs, fees, and interest is not received by the tax collector within 30 days from the date of the electronic funds transfer, the tax collector may return the electronic funds transfer to the Controller to deny the postponement claim.

(c) (1) The Controller shall notify the claimant in writing when the electronic funds transfer has been submitted to the tax collector.

(2) In the event of willful neglect, in addition to the information required pursuant to paragraph (1), the Controller shall also notify the claimant in writing and provide a copy of the notification to the tax collector, that a payment amount sufficient to pay all of the delinquent penalties, costs, fees, and interest must be received by the tax collector within 30 days from the date of the electronic funds transfer, and that if this payment is not received by the tax collector, the tax collector may return the electronic funds transfer to the Controller to deny the postponement claim.

SEC. 36. Section 20645.6 of the Revenue and Taxation Code is amended to read:

20645.6. (a) If the Controller denies a postponement claim under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640), and the denial is reversed after appeal pursuant to Section 20645.1, the Controller shall electronically transfer funds to the county for the amount of the taxes. If the taxes for the fiscal year were previously paid, the county shall refund the overpayment to the taxpayer. If the taxes for the fiscal year are delinquent, any resulting penalties or interest shall be canceled.

(b) The Controller shall notify the claimant in writing when an electronic funds transfer has been made pursuant to subdivision (a).