

LAW SUMMARY HOMEOWNER AND RENTER ASSISTANCE

Homeowner and Renter Assistance is a once-a-year payment from the State of California based on part of the property taxes assessed and paid on claimants' homes or on part of the property taxes that claimants pay indirectly through their rent.

1. Qualifications

Claimants must be United States citizens, designated aliens, or qualified aliens, **and must have either** reached the age 62 or older, or be blind or disabled. (Revenue and Taxation Code section 20505.)

By law, assistance shall not be allowed to claimants whose Gross Household Income **or** whose Total Household Income was more than the amounts specified in Revenue and Taxation Code sections 20514, 20543, and 20544. Also see sections 10 and 12 of this Law Summary.

2. Citizenship

Generally, claimants must be citizens of the United States. If claimants are not United States citizens, they may file a claim for homeowner or renter assistance only if they are one of the following when the claim is filed: (1) A qualified alien, or (2) A designated alien: (a) A nonimmigrant alien under the Immigration and Nationality Act (INA), or (b) An alien paroled into the United States under section 212(d)(5) of the INA for less than one year. (Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law No. 104-193 (PRWORA).)

Undocumented aliens do not qualify for most public benefits including homeowner and renter assistance.

3. Claimants

Claimants are defined as individuals who are any one of the following: (1) 62 years of age or older, (2) Blind or disabled. (California Revenue and Taxation Code section 20505(a) and (b).)

(a) 62 Years of Age or Older

Proof of Age - Claimants must be 62 years of age or older on the last day of the calendar year that ends within the fiscal year for which the assistance is claimed. If claimants do not receive Supplemental Security Income (SSI), they must send a proof of age document such as a copy (not an original) of their birth certificate, California driver's license, California Senior Citizens Identification Card, Medi-Cal Benefits Identification Card, hospital birth record, church baptismal record, or Social Security award letter that states their age.

Proof of age is only required the first year the claim for assistance is filed.

(b) Blind or Disabled Adults (18 Years or Older)

1) The Revenue and Taxation Code requires that claimants be blind or disabled as defined in section 12050 of the Welfare and Institutions Code on the last day of the calendar year. Section 12050 of the Welfare and Institution Code provides that an individual shall be considered blind or disabled as defined in section 1614 of Part A of Title XVI of the Social Security Act.

Proof of Blindness – Claimants are considered to be blind if they have a statement from a doctor that verifies they have sharpness of vision of 20/200 or less in the better eye with the use of a correcting lens, or they have tunnel vision, which is a limited visual field of no more than 20 degrees. Proof of blindness is only required the first year the claim for assistance is filed.

Proof of Disability – Claimants are considered to be disabled if they are unable to engage in any substantial gainful activity because of a physical or mental impairment that is expected to last for a continuous period of 12 months or longer. Claimants are considered to be disabled only if the physical or mental impairment is so severe that they are not only unable to do their previous type of work, but also cannot do any kind of substantial gainful work considering age, education and work experience.

The following documents are acceptable as proof of disability under the definition for HRA, the following documents:

- A Medicare Card, if the claimant received Social Security or Supplemental Security Income benefits because the claimant was disabled.
- A Social Security Award letter, notifying the claimant that he/she qualified for Social Security or Supplemental Security Income benefits because the claimant was disabled.
- A Supplemental Security Income (SSI) decision.
- A physician's statement signed by the claimant's physician under penalty of perjury stating the claimant was disabled pursuant to the applicable legal definition for disability pursuant to the HRA program (as defined in section 1614 of Part A of Title XVI of the Social Security Act).

In addition, acceptable proof of disability will include an SSI decision or documentation accepted by a local, state, or federal agency to support its determination of disability, as defined in Welfare and Institutions Code section 12050

Veterans: a claimant shall be considered disabled if he or she establishes that he/she is a recipient of compensation or a pension from the federal Department of Veterans Affairs on the basis of disability rated at 100 percent OR "total disability" rating based on unemployability. (Title 38, CFR Chap. I, Sec. 4.15, 4.16, and 4.17)

For the 2005 claim year and thereafter, FTB will no longer accept FTB's physician's affidavits (FTB Form 2194) pursuant to section 20504 of Title 18 of the California Code of Regulations (Cal. Code Regs.).

Proof of permanent disability is required each year with every claim for assistance if the claimant is NOT a recipient of SSI or SSA as a disabled person.

2) Special Provisions for Disabled Minor Children - Section 1614(a)(1)(A), (B) and Sec. 1614 (a)(2)(a), (3)(C) of Part A of Title XVI of the Social Security Act defines a disabled minor as a child with a physical or mental impairment that results in marked and severe functional limitations, which can result in death or can be expected to last for a

continuous period of not less than 12 months. If the child is blind, the same definition of blind used for adults (see above) applies to minor children.

Proof of Minor Child's Disability – A copy of the SSI letter or a statement made under penalty of perjury by a physician that the child's disability meets the definition of impairment as defined in Section 1614 (a)(1)(A), (B) and Sec. 1614 (a)(2)(a), (3)(C) of Part A of Title XVI.

In addition, for the 2005 claim year and thereafter, acceptable proof of disability will be a copy of the SSI decision or the documentation accepted by a local, state, or federal agency to support its determination of disability as that term is defined in Section 1614 (a)(1)(A), (B) and Sec. 1614 (a)(2)(a), (3)(C) of Part A of Title XVI.

For the 2005 claim year and thereafter, FTB will no longer accept FTB's physician's affidavits (FTB Form 2194) pursuant to section 20504 of Title 18 of the California Code of Regulations (Cal. Code Regs.).

In addition, a minor disabled child must also qualify as a "renter." To qualify as a renter, see section 7 of this Law Summary.

4. Claimants Per Household

Owner-Claimant - There can be only one owner-claimant per household. If two or more individuals of a household meet the requirements as an owner-claimant, they may determine who the owner-claimant will be. If they are unable to agree, then the Franchise Tax Board will decide, and its decision will be final. (Revenue and Taxation Code section 20542(b)(1)(A).)

Renter-Claimant - When two or more individuals pay rent for the same premises and each individual meets the qualifications for a renter-claimant, each qualified individual will be entitled to assistance. However, a husband and wife or Registered Domestic Partners (RDPs) living in the same premises shall be treated as one renter. (Revenue and Taxation Code section 20542(b)(1)(B) and Family Code section 297.5.)

5. Deceased Claimants

In general, the right to file a claim is personal to the claimant and does not survive the claimant's death. (Revenue and Taxation Code section 20542.)

No Claim Filed Before Death - Only surviving spouses/RDPs of eligible claimants who died on or after January 2nd of the year for which a claim may be filed may file claims on behalf of deceased spouses/RDPs. However, if surviving spouses/RDPs are eligible to file their own claim, they should file the claim in their own name rather than in the name of the deceased spouse/RDP.

NOTE: Assistance attributable to a deceased claimant may not be paid to a person who is not a United States citizen or who is not described in the Eligibility Code Chart for Noncitizens in the homeowner and renter assistance claim booklets.

Claim Filed Before Death – The assistance will be mailed to the surviving spouse/RDP and, if no surviving spouse/RDP, to any other member of the household who is a qualified claimant. If there is no surviving spouse/RDP and no other member of the household is a qualified claimant, the assistance will be mailed to any other member of the household.

6. Homeowner Property Information

The owner-claimant must be the recorded owner of a home and live in that home, which is located on property within the State of California.

A home may include the claimant's condominium, "own-your-own" apartment, a mobile home taxed as real property, houseboat, or other similar living accommodations. (Revenue and Taxation Code section 20508.)

Property Tax - In general, the property tax is the tax paid on a residence during the fiscal year for which the assistance is claimed. California Constitution, Article XIII A, Section 1, limits the property tax to one percent (1%) of the fair market value of the property. (Proposition 13 passed by the voters of California on June 7, 1978.)

Under Revenue and Taxation Code section 20512, the amount of property tax paid does not include the amount attributable to:

- Special or direct assessments
- Improvement bonds
- Service charges or fees

Proof of Property Tax Paid

Claims for assistance for the 2004 claim year filed on or after July 1, 2004, and claims for all years thereafter, must include a copy of the claimant's residential dwelling property tax bill for the qualifying year the first year the assistance is claimed. (Cal. Code Regs., tit. 18, section 20503.)

For all subsequent years in which the same owner files a claim for assistance with respect to the same property, no property tax bill need be filed. However, if there has been a change of residence from a prior claim year, change of ownership after the date of the tax bill previously submitted, or upon written request of the FTB to the claimant that such a bill be submitted for verification purposes, additional tax bills may be required.

Proration of the Property Tax - When a residence is owned by two or more individuals as joint tenants or tenants in common and one or more of the owners is not a member of the claimant's household, the term "property tax" will include only that part of the property taxes which reflects the ownership of the claimant and members of the claimant's household. (Revenue and Taxation Code section 20511.)

The property tax proration required by the preceding paragraph does not apply to the extent that the ownership interest is held by the claimant and any one of the following individuals:

- the claimant's spouse/RDP,
- the parents, children (natural or adopted), or grandchildren of either the claimant or the claimant's spouse/RDP, or the spouse/RDP of any of these individuals.

First \$34,000.00 – The assistance provided to claimants is based on a percentage of the property tax accrued and paid on their residential dwelling. In the case of homeowners, the assistance shall be equal to the applicable percentage of the property taxes paid on the full value of the residential property up to \$34,000.00. No assistance shall be allowed on the property taxes paid on the full value of the property that exceeds \$34,000.00.

The amount of assistance for claimants who own their own residence will be determined by total household income of the applicable base year. (Revenue and Taxation Code sections 20542 and 20543.)

For 2002 claims and thereafter, the maximum assistance paid will be not more than \$472.60. No assistance shall be paid if the amount of the assistance claim is less than \$20.40. (Revenue and Taxation Code sections 20542 and 20543.)

The allowable amounts for a claim year are applicable if the full value of the home is at least \$34,000.00, and if the claimant's personal use/ownership percentage is 100%. If the value or the percentage is less, then the amount allowable would be adjusted accordingly.

7. Rental Property Information

Rented residences are premises, which were rented and occupied by claimants as their principal place of residence during the calendar year preceding the claim year for which the assistance is claimed. Each renter-claimant must pay at least fifty dollars (\$50.00) per month in rent. (Revenue and Taxation Code section 20510.) Rent includes any utility payments required to be paid by claimants under the terms of the rental agreement.

Renter assistance is based on a calculation, which considers the number of months of rental occupancy, and a claimant's total household income in a claim's applicable base year. If the rented residence is occupied for less than 12 months during the calendar year for which the assistance is claimed, then the amount of assistance provided would be prorated by the number of months the claimants lived in their qualified rented residence. (Revenue and Taxation Code section 20513.)

The term "rented residence" does not include: (1) Property that is exempt from taxation, unless the landlord can establish that the owner of the property makes payments in place of property taxes. The amount paid instead of the property taxes must be "substantially equivalent" to the property taxes paid on properties of comparable market value, or (2) Property not located in California. (Revenue and Taxation Code section 20509.)

For purposes of this program, the term "substantially equivalent to property taxes" as used in section 20509 means that at least 80% of the assessed value of the property be used in calculating the 1% property tax under Proposition 13. (Cal. Const., art. XIII A, § 1(a); Cal. Code Regs., tit. 18, section 20502; *Appeals of Helen Cantor, et al.*, 2002-SBE-008, November 13, 2002.) If the amount of property taxes paid are not "substantially equivalent" to the minimum 1% property tax, the property does not qualify as a "rented residence" and the renter-claimant would not be entitled to assistance. The amount of property tax paid does not include special or direct assessments, improvement bonds, and service charges or fees (Revenue and Taxation Code section 20512).

For 2002 claims and thereafter, the maximum assistance paid will be no more than \$347.50. No assistance shall be paid if the amount of the assistance claim is less than \$15.00. (Revenue and Taxation Code sections 20542 and 20544.)

Disabled Minor Child - No minor child living in his or her parent's or guardian's home is eligible for renter assistance, because a minor child cannot be found to have paid rent to the parent or guardian pursuant to a legally binding rental contract, express or implied. If a minor child is not living in the home with a parent or guardian, the minor child may qualify for assistance if he or she can establish: (1) that he/she is living outside the family home and (2) that he/she is a renter under the provisions of the HRA program.

To prove that the disabled minor child is a qualified renter, the disabled minor claimant must provide a copy of the rental agreement made by the parents on behalf of the minor child to live in a separate residence outside the family home. Generally, this will be a group home type of living arrangement. This DOES NOT include a foster home, the parent's home, or in general, a relative's home.

8. Claimants Confined to Health Facilities

Individuals residing in health facilities do not occupy "rented residences" for purposes of the HRA program, and therefore are not entitled to renter assistance under that program.

"Health facility" means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment

of human illness, physical or mental, including convalescence and rehabilitation, and includes hospitals, skilled nursing facilities, and intermediate care facilities. (Health and Safety Code section 1250.) As indicated above, in order for renter-claimants to be eligible for renter assistance, the claimants must occupy rented residences as their principal place of residence during the calendar year and must pay at least \$50 per month rent. (Revenue and Taxation Code sections 20509 and 20510.)

Rent means the amount paid at arms length solely for the right of occupancy of a residence. (Revenue and Taxation Code section 20510.)

Under California law, renters are entitled to the exclusive use and possession of the rented premises. (See *Rossetto v. Barross* (2001) 90 Cal.App.4th Supp. 1 at page 4 citing *Howard v. County of Amador* (1990) 220 Cal.App.3d. 962, 972.) Patients receiving care or treatment on the orders of a physician in health facilities do not have the right of exclusive possession and/or private enjoyment of the facility. Admission to such facilities is conditioned upon a physician's determination that medical services are necessary (Cal. Code Regs., tit. 22, sections 72315(a) (skilled nursing facilities) and 73315(a) (intermediate care facility)). Delivery of the required medical services restricts the patient's use of the facilities. As such, the amounts paid by those who receive treatment and care in such facilities do not constitute a payment of rent made solely for the right of occupancy of the facility (Revenue and Taxation Code section 20510). Instead, such patients have established a contractual relationship with the operator of the facility under the terms of which certain required medical services are provided for a fee.

9. Household Defined

Owner-Claimant – In the case of an owner-claimant, members of the “household” include the claimant and all other persons, except bona fide renters, minors, or students, whose principal place of residence is the residential dwelling of the claimant. (Revenue and Taxation Code section 20506.)

Renter-Claimant – In the case of a renter-claimant, members of the “household” include the claimant, the claimant's spouse/RDP, and all other persons who reside on the premises, except renters, minors, or students and owners of the same principal place of residence. (Revenue and Taxation Code section 20506.)

10. Total Household Income

In addition to meeting the Gross Household Income threshold (see section 12), claimants must also meet the Total Household Income limitation.

Household income is defined as all income received by all persons of a household while they were members of the household. (Revenue and Taxation Code section 20504.) If claimants are married or Registered Domestic Partners (RDPs), they must include the income of their spouses/RDPs and all the income received by all members of the household while they were members of the household except: minors, students, renters, and the owner of the property if the claimant is a renter.

2004 Claim: The law will not allow a 2004 claim for assistance for claimants whose 2003 total household income was greater than \$38,505.00. (Revenue and Taxation Code sections 20543 and 20544.)

2005 Claim: The law will not allow a 2005 claim for assistance for claimants whose 2004 total household income was greater than \$39,699.00. (Revenue and Taxation Code sections 20543 and 20544.)

2006 Claim: The law will not allow a 2006 claim for assistance for claimants whose 2005 total household income was greater than \$40,811.00. (Revenue and Taxation Code sections 20543 and 20544.)

2007 Claim: The law will not allow a 2007 claim for assistance for claimants whose 2006 total household income was greater than \$42,770.00. (Revenue and Taxation Code sections 20543 and 20544.)

For Claim Years Thereafter: The above income limit is applicable for each qualifying income year thereafter adjusted annually for inflation.

11. Total Household Income Computation

The following is a list of income and deduction items that must be used to compute claimants' Total Household Income. The list is not all-inclusive. (Revenue and Taxation Code sections 20503 and 17072.)

Income - To determine Total Household Income, claimants must include, among other things, the yearly income that the claimants and the members of their household received from:

- Social Security
- Interest/Dividends
- Pensions/Annuities
- Supplemental Security Income (SSI), State Supplemental Program (SSP), Aid to the Blind (AB) and Aid to the Totally Disabled (ATD)
- Rental Income (or Loss)
- Gain (or Loss) from Sale of Assets
- Other Income:
 - Wages
 - Alimony
 - Life insurance proceeds
 - Veterans' benefits
 - Unemployment insurance benefits
 - Worker's compensation for temporary disability
 - Sick leave payments
 - Military compensation
 - Scholarships and fellowship grants
 - Nontaxable gain on sale of a residence
 - CA lottery winnings
 - Gifts and inheritances greater than \$300.00
 - Amounts received from an Estate or Trust
 - Amounts contributed to a tax sheltered retirement plan or deferred compensation plan
 - Public assistance and relief
- Any other income received

Adjustments (Deductions) to Income - In addition, to determine Total Household Income, claimants can deduct (subtract) the following amounts received from:

- IRA contribution deduction
- Student loan interest deduction
- Medical Savings Account (MSA) deduction
- Moving expenses
- Self-employment tax deduction
- Self-employed health insurance

- Forfeited interest on early withdrawal of savings
- Alimony paid

(Revenue and Taxation Code sections 17072, 18152, 20503, 20504, 20506, 20543, and 20544.)

Amounts not included in Total Household Income - Claimants are not required to include in the calculation of their Total Household Income the following public assistance payments received by claimants or members of their household:

- Temporary Assistance for Needy Families
- Foster care payments
- Federal heating rebates
- Utility company refunds or assistance
- Medicare or Medi-Cal reimbursements for medical expenses
- Homeowner or renter assistance payments

12. Gross Household Income

In addition to meeting the Total Household Income threshold (see section 10), claimants must also meet the Gross Household Income limitation.

2004 Claim: By law, the 2004 claim for assistance cannot be provided to claimants whose 2003 gross household income, after allowance for actual cash expenditures that are reasonable, ordinary, and necessary to realize income, exceeds \$70,009.00. (Revenue and Taxation Code section 20514.)

2005 Claim: By law, the 2005 claim for assistance cannot be provided to claimants whose 2004 gross household income, after allowance for actual cash expenditures that are reasonable, ordinary, and necessary to realize income, exceeds \$72,179.00. (Revenue and Taxation Code section 20514.)

2006 Claim: By law, the 2006 claim for assistance cannot be provided to claimants whose 2005 gross household income, after allowance for actual cash expenditures that are reasonable, ordinary, and necessary to realize income, exceeds \$74,200.00. (Revenue and Taxation Code section 20514.)

2007 Claim: By law, the 2007 claim for assistance cannot be provided to claimants whose 2006 gross household income, after allowance for actual cash expenditures that are reasonable, ordinary, and necessary to realize income, exceeds \$77,762.00. (Revenue and Taxation Code section 20514.)

For Claim Years Thereafter: The above income limit is applicable for each qualifying income year thereafter adjusted annually for inflation.

13. Filing Period

FTB is authorized to accept claims for assistance from July 1st of the year for which the assistance is claimed through June 30th of the year following the year for which the assistance may be claimed. (Revenue and Taxation Code section 20563.)

Extension Due to Medical Incapacity – Claimants who, because of a medical incapacity, are prevented from filing a timely claim, will be permitted to file a claim within 6 months after the end of their medical incapacity or 3 years following the end of the fiscal year for which the assistance is claimed, whichever date is earlier. (Revenue and Taxation Code section 20563(c).) For purposes of this provision, medical incapacity is defined as being unable to attend to his or her own personal needs and activities of daily life, including, but not limited to, matters such as his or her own personal hygiene or nutritional needs. (Cal. Code Regs., tit. 18, section 20501.)

The following are examples of how the extended filing period based on medical incapacity can be computed based on the statutory requirements. Each of the examples pertains to the 2005 claim year.

Example 1: Claimant is incapacitated by a stroke on January 1, 2004 through December 15, 2005. Claimant must file a claim for the 2005 claim year (which is based on the income and property tax for the 2004 calendar year) by June 30, 2006.

Explanation: Because the incapacity in this example ended during the 12 month period provided by law to file a claim, i.e., July 1, 2005 to June 30 2006, the earlier of the above 2 extension dates is 6 months after the end of the medical incapacity. Six months from December 15, 2005 (the date

on which the medical incapacity ended) is June 15, 2006. However, the June 15, 2006 date falls within the 12-month period otherwise provided for filing claims, and if used, would shorten rather than lengthen the period of time to file a claim. As such, claimant would have until June 30, 2006 to file the claim, the last date in the 12-month period provided by law to file a claim.

Example 2: Claimant is incapacitated by a stroke on January 1, 2004 and never recovers from this incapacity. Claimant must file a claim for the 2005 claim year (which is based on the income for the 2004 calendar year and property tax for the 2004/2005 property tax year) by June 30, 2008, 3 years following the end of the fiscal year for which the assistance is claimed for a 2005 claim year.

Explanation: The extension is limited to 3 years and the disability will continue more than 3 years past the end of the fiscal year for which assistance is claimed (2005). The end of the fiscal year for 2005 is June 30, 2005. Therefore, the claimant only has 3 years from the end of the fiscal year for which assistance is claimed, or until June 30, 2008, in which to file a claim.

Example 3: Claimant is incapacitated by a stroke from January 1, 2004 and recovers from this incapacity in November 2008. If the claimant did not file a claim before his or her recovery, he or she would be unable to file a claim for the 2005 claim year because more than 3 years have past since the end of the fiscal year for which the assistance is claimed (for the 2005 claim year, the fiscal year ended June 30, 2005, so the 3 years ended June 30, 2008). Since the statute specifies that it is the earlier of the two deadlines (3 years from the end of the fiscal year or 6 months after the incapacity ended), the claimant cannot take advantage of the 6-month extension as the 3-year period had already expired.

Statute Of Limitations: No claim will be accepted 3 years following the end of the fiscal year for which the assistance is claimed.

14. Failure to Furnish Information

The law provides the FTB with the authority to supply the forms and request the information necessary to establish that claimants meet the requirements to obtain the Homeowner or Renter Assistance. (Revenue and Taxation Code sections 20561 and 20641.)

Therefore, unless claimants provide information that will allow the FTB to verify that they meet the Homeowner or Renter Assistance requirements, the assistance cannot be allowed. (Gonsalves-Deukmejian-Petris Senior Citizens Property Tax Assistance Law.)