

SA2005RF0047

January 19, 2005

VIA MESSENGER

Ms. Tricia Knight
Initiative Coordinator
Attorney General's Office
1300 I Street, Suite 125
Sacramento, CA 94244-2500

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

RE: Request for Title and Summary - "The Tax Reduction and Taxpayer Equity Act of 2005."

Dear Ms. Knight:

I hereby request that the Attorney General prepare a title and summary for the attached proposed initiative entitled, "The Tax Reduction and Taxpayer Equity Act of 2005." Enclosed please find the text of the measure and my check for \$200.00. My residence address is listed below.

Sincerely,

KEN HEREDIA
7555 Princeville Street
Gilroy, CA 95020

Section 1. Title

This enactment shall be known as, and may be cited as: "The Tax Reduction and Taxpayer Equity Act of 2005."

SEC. 2. Declarations and Intent

- (a) Middle-class working Californians face an increasing shortage of affordable, quality housing in this state, forcing them to incur longer commutes between the housing they can afford and their places of employment, and leaving them with less income to expend on other essential necessities of life.
- (b) For middle-income workers who do not yet own a home, soaring home prices have effectively eliminated the prospect of owning a quality home in this state.
- (c) In his 2005 state-of-the-state address, Governor Arnold Schwarzenegger announced the need for affordable housing in California, citing that the median price of a home in this state is \$460,000 and acknowledging that the median home price is too much.
- (d) The overall tax burden in this state has gradually, over the years, shifted away from insurance companies, banks, utilities and other large corporations and now, a disproportionate share rests on the backs of hard-working California taxpayers.
- (e) Recognizing that there is an affordable housing crisis in California, while at the same time middle-income workers continue to unfairly assume the overall tax burden, the people of this State find it necessary to enact this measure, in order to reduce the tax burden on California's middle-income working men and women, the elderly, the disabled, our military veterans, and our military personnel serving in Iraq and other dangerous areas in this troubled world, in a fair and equitable manner so that more people will be able to afford to own their own quality home and adequately support their families.
- (f) The homeowners' property tax exemption has not been increased since 1974, when voters approved a ten-fold increase in the exemption. Just as voters approved over 30 years ago, this measure would provide for a ten-fold increase in the property tax exemption for homeowners, as well as extend additional tax exemptions to active and retired military personnel, the elderly, the disabled and those who move close to work. This Act will further create a mechanism to compel local governments to reduce taxes on homeowner-occupied dwellings and press the state Legislature to reduce personal income tax rates for individuals. The tax benefits provided under this Act to homeowners, active and retired military personnel, the elderly, and the disabled will be funded by asking insurance companies, banks, utilities and other large corporations to pay their fair share of the tax burden.

SEC. 3. Constitutional Amendments

Section 2 of Article XIII of the California Constitution shall be amended as follows:

The Legislature, a majority of the membership of each house concurring, may ~~provide for, notwithstanding any other provision of this Constitution, impose or adjust the rate of~~ property taxation of all forms of tangible personal property, shares of capital stock, evidences of indebtedness, and any legal or equitable interest therein not exempt under any other provision of this article. The Legislature, two-thirds of the membership of each house concurring, may classify such personal property for differential taxation or for exemption. The tax on any interest in notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, or mortgages shall not exceed ~~four-tenths of one~~ three percent of full value, and the tax per dollar of full value shall not be higher on personal property than on non-residential real property in the same taxing jurisdiction.

Section 3 of Article XIII of the California Constitution shall be amended as follows:

The following are exempt from property taxation:

- (a) Property owned by the State.
- (b) Property owned by a local government, except as otherwise provided in Section 11(a).
- (c) Bonds issued by the State or a local government in the State.
- (d) Property used for libraries and museums that are free and open to the public and property used exclusively for public schools, community colleges, state colleges, and state universities.
- (e) Buildings, land, equipment, and securities used exclusively for educational purposes by a nonprofit institution of higher education.
- (f) Buildings, land on which they are situated, and equipment used exclusively for religious worship.
- (g) Property used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit. This property is also exempt from special assessment.
- (h) Growing crops.
- (i) Fruit and nut trees until 4 years after the season in which they were planted in orchard form and grape vines until 3 years after the season in which they were planted in vineyard form.
- (j) Immature forest trees planted on lands not previously bearing merchantable timber or planted or of natural growth on lands from which the merchantable original growth timber stand to the extent of 70 percent of all trees over 16 inches in diameter has been removed. Forest trees or timber shall be considered mature at such time after 40 years from the time of planting or removal of the original timber when so declared by a majority vote of a board consisting of a

representative from the State Board of Forestry, a representative from the State Board of Equalization, and the assessor of the county in which the trees are located.

The Legislature may supersede the foregoing provisions with an alternative system or systems of taxing or exempting forest trees or timber, including a taxation system not based on property valuation. Any alternative system or systems shall provide for exemption of unharvested immature trees, shall encourage the continued use of timberlands for the production of trees for timber products, and shall provide for restricting the use of timberland to the production of timber products and compatible uses with provisions for taxation of timberland based on the restrictions. Nothing in this paragraph shall be construed to exclude timberland from the provisions of Section 8 of this article.

(k) \$7,000 \$70,000, plus an additional \$10,000 in the case of a person over the age of 61, \$10,000 in the case of a person whose place of employment is within five miles of his or her principal residence, \$10,000 in the case of a person who is an "individual with a severe disability" as that term is defined in subdivision (b) of Section 19151 of the Welfare and Institutions Code, \$10,000 in the case of a person who meets the service requirement stated in paragraphs (1) and (2) of subdivision (o), \$10,000 in the case of an unmarried spouse of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subdivision (o), and \$10,000 in the case of a parent of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subdivision (o), of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence, unless the dwelling is receiving another real property exemption. The Legislature may increase this exemption and may deny it if the owner received state or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.

No increase in this exemption above the amount of \$7,000 amounts of 70,000, \$80,000, \$90,000, \$100,000, or \$110,000 as provided above shall be effective for any fiscal year unless the Legislature increases the rate of state taxes in an amount sufficient to provide the subventions required by Section 25.

If the Legislature increases the homeowners' property tax exemption, it shall provide increases in benefits to qualified renters, as defined by law, comparable to the average increase in benefits to homeowners, as calculated by the Legislature.

(l) Vessels of more than 50 tons burden in this State and engaged in the transportation of freight or passengers for hire.

(m) Household furnishings and personal effects not held or used in connection with a trade, profession, or business.

(n) Any debt secured by land that is subject to subdivision (k).

(o) Property in the amount of \$1,000 of a claimant who --

(1) is serving in or has served in and has been discharged under honorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine (Revenue Cutter) Service; and --

(2) served either

(i) in time of war, or

(ii) in time of peace in a campaign or expedition for which a medal has been issued by Congress, or

(iii) in time of peace and because of a service-connected disability was released from active duty; and --

(3) resides in the State on the current lien date.

An unmarried person who owns property valued at \$5,000 or more, or a married person, who, together with the spouse, owns property valued at \$10,000 or more, is ineligible for this exemption.

If the claimant is married and does not own property eligible for the full amount of the exemption, property of the spouse shall be eligible for the unused balance of the exemption.

(p) Property in the amount of \$1,000 of a claimant who --

(1) is the unmarried spouse of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3 (o), and

(2) does not own property in excess of \$10,000, and

(3) is a resident of the State on the current lien date.

(q) Property in the amount of \$1,000 of a claimant who --

(1) is the parent of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and

(2) receives a pension because of the veteran's service, and

(3) is a resident of the State on the current lien date.

Either parent of a deceased veteran may claim this exemption.

An unmarried person who owns property valued at \$5,000 or more, or a married person, who, together with the spouse, owns property valued at \$10,000 or more, is ineligible for this exemption.

(r) No individual residing in the State on the effective date of this amendment who would have been eligible for the exemption provided by the previous section 11/4 of this article had it not been repealed shall lose eligibility for the exemption as a result of this amendment.

Section 19 of Article XIII of the California Constitution shall be amended as follows:

The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity. This property shall be subject to taxation to the same extent and in the same manner as other non-residential real property.

No other state tax or license charge may be imposed on these companies which differs from that imposed on mercantile, manufacturing, and other business corporations. This restriction does not release a utility company from payments agreed on or required by law for a special privilege or franchise granted by a government body.

The Legislature may authorize Board assessment of property owned or used by other public utilities.

The Board may delegate to a local assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by a local assessee.

Section 22 of Article XIII of the California Constitution shall be amended as follows:

Not more than 25 percent of the total appropriations from all funds of the State shall be raised by means of taxes on residential real and personal property of natural persons according to the value thereof.

Section 27 of Article XIII of the California Constitution shall be amended as follows:

The Legislature, a majority of the membership of each house concurring, may impose or adjust the rate of any tax on corporations, including state and national banks, and their franchises by any method not prohibited by this Constitution or the Constitution or laws of the United States. Unless otherwise provided by the Legislature, the tax on state and national banks shall be according to or measured by their net income and shall be in lieu of all other state imposed taxes and license fees upon banks or their shares, except taxes upon real property and vehicle registration and license fees. Notwithstanding any other provision of this Constitution, the Legislature, a majority of the membership of each house concurring, may reduce or repeal any tax credit on, or deduction from the tax on corporations, including state and national banks, and shall annually adjust the tax rate on corporations so that the aggregate tax burden on all corporations equals the aggregate tax burden on all persons subject to the personal income tax.

Section 28 of Article XIII of the California Constitution is amended shall be amended as follows:

(a) "Insurer," as used in this section, includes insurance companies or associations and reciprocal or interinsurance exchanges together with their corporate or other attorneys in fact considered as a single unit, and the State Compensation Insurance Fund. As used in this paragraph, "companies" includes persons, partnerships, joint stock associations, companies and corporations.

(b) An annual tax is hereby imposed on each insurer doing business in this State on the base, at the rates, and subject to the deductions from the tax hereinafter specified.

(c) In the case of an insurer not transacting title insurance in this State, the "basis of the annual tax" is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State, other than premiums received for reinsurance and for ocean marine insurance.

In the case of an insurer transacting title insurance in this State, the "basis of the annual tax" is, in respect to each year, all income upon business done in this State, except:

- (1) Interest and dividends.
- (2) Rents from real property.
- (3) Profits from the sale or other disposition of investments.
- (4) Income from investments.

"Investments" as used in this subdivision includes property acquired by such insurer in the settlement or adjustment of claims against it but excludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the annual tax.

In the case of an insurer transacting title insurance in this State which has a trust department and does a trust business under the banking laws of this State, there shall be excluded from the basis of the annual tax imposed by this section, the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this State or included in the measure of any tax imposed by this State.

(d) The rate of the tax to be applied to the basis of the annual tax in respect to each year is ~~2.35~~ 7 percent.

(f) The tax imposed on insurers by this section is in lieu of all other state imposed taxes and licenses, ~~state, county, and municipal~~, upon such insurers and their property, except:

(1) Taxes upon their real estate.

(2) That an insurer transacting title insurance in this State which has a trust department or does a trust business under the banking laws of this State is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this State.

(3) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this State; so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions, of whatever kind shall be imposed upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in California. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on California insurers or their agents or

representatives shall be deemed to be imposed by such state or country within the meaning of this paragraph (3) of subdivision (f).

The provisions of this paragraph (3) of subdivision (f) shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments heretofore imposed by another state or foreign country in connection with particular kinds of insurance, other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration in determining the propriety and extent of retaliatory action under this paragraph (3) of subdivision (f).

For the purposes of this paragraph (3) of subdivision (f) the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state in which is located its principal place of business in the United States.

In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.

The provisions of this paragraph (3) of subdivision (f) shall also be applicable to reciprocals or interinsurance exchanges and fraternal benefit societies.

(4) The tax on ocean marine insurance.

(5) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the State upon vehicles, motor vehicles or the operation thereof.

(6) That each corporate or other attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the State, other than taxes on income derived from its principal business as attorney in fact.

A corporate or other attorney in fact of each exchange shall annually compute the amount of tax that would be payable by it under prevailing law except for the provisions of this section, and any management fee due from each exchange to its corporate or other attorney in fact shall be reduced pro tanto by a sum equivalent to the amount so computed.

(g) Every insurer transacting the business of ocean marine insurance in this State shall annually pay to the State a tax measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States and all other countries, which the gross premiums of the insurer from such insurance written in this State bear to the gross premiums of the insurer from such insurance written within the United States and all other countries, at the rate of 5 9 per centum, which tax shall be in lieu of all other state taxes and licenses, ~~state, county and municipal~~, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it. The Legislature shall define the terms "ocean marine insurance" and "underwriting profit," and shall provide for the assessment, levy, collection and enforcement of the ocean marine tax.

(h) The taxes provided for by this section shall be assessed by the State Board of Equalization.

(i) The Legislature, notwithstanding any other provision of this Constitution, a majority of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers to any rate or rates that are not less than three percent (3%) of the basis of the annual tax.

(j) This section is not intended to and does not change the law as it has previously existed with respect to the meaning of the words "gross premiums, less return premiums, received" as used in this article.

Section 1 of Article XIII A of the California Constitution shall be amended as follows:

SECTION 1. (a) (1) The maximum amount of any ad valorem tax on the first two million dollars (\$2,000,000) of the full cash value of residential real property, as defined by the Legislature, shall not exceed one percent (1%) of the full cash value of such property.

(2) The maximum amount of any ad valorem tax on non-residential and the remaining portion in excess of two million dollars (\$2,000,000) of the full cash value of residential real property shall not exceed three percent (3%) of the full cash value of such property.

(3) Notwithstanding any other provision of this Constitution, the Board of Supervisors in each county may, by a majority vote, in accordance with the needs of each city and district in the county, adjust for each year, the rate of ad valorem tax on residential and non-residential real property within that county so that the rate on non-residential real property is not less than two percent (2%) of the full cash value of such property, provided that the ad valorem tax rate on the first two million dollars (\$2,000,000) of the full cash value of each residential property shall not exceed one third of the ad valorem tax rate on non-residential real property. ~~The one percent (1%) ad valorem tax to~~ shall be collected by the counties and apportioned according to law to the cities and districts within the counties.

(b) The limitation provided for in paragraph (1) of subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

(1) Indebtedness approved by the voters prior to July 1, 1978.

(2) Bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) Bonded indebtedness incurred by a school district, community college district, or county office of education for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.

(D) A requirement that the school district board, community college board, or county office of education conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

(c) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may levy a 55 percent vote ad valorem tax pursuant to subdivision (b).

(d) The limitation provided for in paragraph (2) of subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any Indebtedness approved by a majority of the voters who voted on the proposition.

Section 2 of Article XIII A of the California Constitution shall be amended as follows:

(a) The "full cash value" means the county assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 full cash value may be reassessed to reflect that valuation. For purposes of this section, "newly constructed" does not include real property that is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term "newly constructed" shall not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

However, ~~the Legislature may provide that under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and~~

purchased or newly constructed by that person as his or her principal residence within ~~two~~ five years of the sale of the original property. For purposes of this section, "any person over the age of 55 years" includes a married couple one member of which is over the age of 55 years. For purposes of this section, "replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section, a two-dwelling unit shall be considered as two separate single-family dwellings. ~~This~~ The 2005 amendment to this paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after November 5, ~~1986~~ 2000.

~~In addition, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county's boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this State. For purposes of this paragraph, "local affected agency" means any city, special district, school district, or community college district that receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling that was purchased or newly constructed on or after the date the county adopted the provisions of this subdivision relating to transfer of base year value, but shall not apply to any replacement dwelling that was purchased or newly constructed before November 9, 1988.~~

The Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners, but only with respect to those replacement dwellings purchased or newly constructed on or after the effective date of this paragraph.

(b) The full cash value base of the first two million dollars (\$2,000,000) of the full cash value of each residential property may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

(c) For purposes of subdivision (a), the Legislature may provide that the term "newly constructed" does not include any of the following:

(1) The construction or addition of any: (A) active solar energy system; (B) fuel cell, photovoltaic, or wind powered electric generator; or (C) rainwater reclamation system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, that is constructed or installed after the effective date of this paragraph.

(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of a single- or multiple-family dwelling that is eligible for the homeowner's exemption if the construction, installation, or modification is for the purpose of making the dwelling more

accessible to a severely disabled person.

(4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies that are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements that qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).

(5) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.

(d) For purposes of this section, the term "change in ownership" does not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action that has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property that occur after the provisions of this subdivision take effect.

(e) (1) Notwithstanding any other provision of this section, the Legislature shall provide that the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

(2) Except as provided in paragraph (3), this subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base year values for the 1985-86 fiscal year and fiscal years thereafter.

(3) In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. The scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to this paragraph shall not exceed the scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to subdivision (a).

For purposes of this paragraph, "affected local agency" means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues. This paragraph shall apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster, as declared by the Governor, occurring on or after October 20, 1991, and to the determination of base year values for the 1991-92 fiscal year and fiscal years thereafter.

(f) For the purposes of subdivision (e):

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property that it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.

(g) For purposes of subdivision (a), the terms "purchased" and "change in ownership" do not include the purchase or transfer of real property the first two million dollars (\$2,000,000) of the full cash value of the principal residence between spouses since March 1, 1975, including, but not limited to, all of the following:

(1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.

(2) Transfers to a spouse that take effect upon the death of a spouse.

(3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

(4) The creation, transfer, or termination, solely between spouses, of any coowner's interest.

(5) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

(h) (1) For purposes of subdivision (a), the terms "purchased" and "change in ownership" do not include the purchase or transfer of the first two million dollars (\$2,000,000) of the full cash value of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, ~~as defined by the Legislature, and the purchase or transfer of the first one million dollars (\$1,000,000) of the full cash value of all other real property between parents and their children, as defined by the Legislature.~~ This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(2) (A) Subject to subparagraph (B), commencing with purchases or transfers that occur on or after the date upon which the measure adding this paragraph becomes effective, the exclusion established by paragraph (1) also applies to a

purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). ~~The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar (\$1,000,000) full cash value limit specified in paragraph (1).~~

The 2005 amendment to subdivision (g) and this subdivision shall apply to any purchase or transfer made after June 30, 2005.

(i) (1) Notwithstanding any other provision of this section, the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following shall apply:

(A) (i) Subject to the limitation of clause (ii), the base year value of the qualified contaminated property, as adjusted as authorized by subdivision (b), may be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, if the replacement real property has a fair market value that is equal to or less than the fair market value of the qualified contaminated property if that property were not contaminated and, except as otherwise provided by this clause, is located within the same county. The base year value of the qualified contaminated property may be transferred to a replacement real property located within another county if the board of supervisors of that other county has, after consultation with the affected local agencies within that county, adopted a resolution authorizing an intercounty transfer of base year value as so described.

(ii) This subparagraph applies only to replacement property that is acquired or newly constructed within five years after ownership in the qualified contaminated property is sold or otherwise transferred.

(B) In the case in which the remediation of the environmental problems on the qualified contaminated property requires the destruction of, or results in substantial damage to, a structure located on that property, the term "new construction" does not include the repair of a substantially damaged structure, or the construction of a structure replacing a destroyed structure on the qualified contaminated property, performed after the remediation of the environmental problems on that property, provided that the repaired or replacement structure is similar in size, utility, and function to the original structure.

(2) For purposes of this subdivision, "qualified contaminated property" means residential or nonresidential real property that is all of the following:

(A) In the case of residential real property, rendered uninhabitable, and in the case of nonresidential real property, rendered unusable, as the result of either environmental problems, in the nature of and including, but not limited to, the presence of toxic or hazardous materials, or the remediation of those environmental problems, except where the existence of the environmental problems was known to the owner, or to a related individual or entity as described in paragraph (3), at the time the real property was acquired or constructed. For purposes of this subparagraph, residential real property is "uninhabitable" if that property, as a result of health hazards caused by or associated with the environmental problems, is unfit for human habitation, and nonresidential real property is "unusable" if that property, as a result of health hazards caused by or associated with the environmental problems, is unhealthy and unsuitable for occupancy.

(B) Located on a site that has been designated as a toxic or environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government.

(C) Real property that contains a structure or structures thereon prior to the completion of environmental cleanup activities, and that structure or structures are substantially damaged or destroyed as a result of those environmental cleanup activities.

(D) Stipulated by the lead governmental agency, with respect to the environmental problems or environmental cleanup of the real property, not to have been rendered uninhabitable or unusable, as applicable, as described in subparagraph (A), by any act or omission in which an owner of that real property participated or acquiesced.

(3) It shall be rebuttably presumed that an owner of the real property participated or acquiesced in any act or omission that rendered the real property uninhabitable or unusable, as applicable, if that owner is related to any individual or entity that committed that act or omission in any of the following ways:

(A) Is a spouse, parent, child, grandparent, grandchild, or sibling of that individual.

(B) Is a corporate parent, subsidiary, or affiliate of that entity.

(C) Is an owner of, or has control of, that entity.

(D) Is owned or controlled by that entity.

If this presumption is not overcome, the owner shall not receive the relief provided for in subparagraph (A) or (B) of paragraph (1).

The presumption may be overcome by presentation of satisfactory evidence to the assessor, who shall not be bound by the findings of the lead governmental agency in determining whether the presumption has been overcome.

(4) This subdivision applies only to replacement property that is acquired or constructed on or after January 1, 1995, and to property repairs performed on or after that date.

(j) Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section

adopted after November 1, 1988, shall be effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment.

SEC. 4. Competing Measures

In the event that this measure and another measure or measures that add or amend any provision of Articles XIII or XIII A of this Constitution relating to the taxation of real or personal property, banks or corporations, insurance companies, public utilities, stocks, bonds or other evidence of indebtedness, shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in the entirety, and the provisions of the other measure(s) shall be null and void.

SEC. 5. Severability

The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect in the absence of the invalid provision or application.