

**Resolution 01-06-2009**

Commercial and Industrial Property Tax: Revised Limits For Annual Reassessment

RESOLVED, that the Conference of Delegates of California Bar Associations urges the California Legislature to submit to the voters of California a referendum for an Amendment to Article XIII A, Section 2, of the Constitution of California to read as follows:

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1 Article XIII A, SEC. 2.

2 (a) The "full cash value" means the county assessor's valuation of real property as  
3 shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of  
4 real property when purchased, newly constructed, or a change in ownership has occurred  
5 after the 1975 assessment. All real property not already assessed up to the 1975-76 full cash  
6 value may be reassessed to reflect that valuation. For purposes of this section, "newly  
7 constructed" does not include real property that is reconstructed after a disaster, as declared  
8 by the Governor, where the fair market value of the real property, as reconstructed, is  
9 comparable to its fair market value prior to the disaster. Also, the term "newly constructed"  
10 does not include the portion of reconstruction or improvement to a structure, constructed of  
11 unreinforced masonry bearing wall construction, necessary to comply with any local  
12 ordinance relating to seismic safety during the first 15 years following that reconstruction or  
13 improvement. However, the Legislature may provide that under appropriate circumstances  
14 and pursuant to definitions and procedures established by the Legislature, any person over  
15 the age of 55 years who resides in property that is eligible for the homeowner's exemption  
16 under subdivision (k) of Section 3 of Article XIII and any implementing legislation may  
17 transfer the base year value of the property entitled to exemption, with the adjustments  
18 authorized by subdivision (b), to any replacement dwelling of equal or lesser value located  
19 within the same county and purchased or newly constructed by that person as his or her  
20 principal residence within two years of the sale of the original property. For purposes of this  
21 section, "any person over the age of 55 years" includes a married couple one member of  
22 which is over the age of 55 years. For purposes of this section, "replacement dwelling"  
23 means a building, structure, or other shelter constituting a place of abode, whether real  
24 property or personal property, and any land on which it may be situated. For purposes of this  
25 section, a two-dwelling unit shall be considered as two separate single-family dwellings.  
26 This paragraph shall apply to any replacement dwelling that was purchased or newly  
27 constructed on or after November 5, 1986.

28 In addition, the Legislature may authorize each county board of supervisors, after  
29 consultation with the local affected agencies within the county's boundaries, to adopt an  
30 ordinance making the provisions of this subdivision relating to transfer of base year value  
31 also applicable to situations in which the replacement dwellings are located in that county  
32 and the original properties are located in another county within this State. For purposes of  
33 this paragraph, "local affected agency" means any city, special district, school district, or  
34 community college district that receives an annual property tax revenue allocation. This  
35 paragraph shall apply to any replacement dwelling that was purchased or newly constructed  
36 on or after the date the county adopted the provisions of this subdivision relating to transfer

37 of base year value, but shall not apply to any replacement dwelling that was purchased or  
38 newly constructed before November 9, 1988.

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

44 (b) The full cash value base may reflect from year to year the inflationary rate not to  
45 exceed 2 percent for any given year for real property used as a dwelling, real property with a  
46 value of five million dollars or less, and portions of real property that if assessed separately  
47 would satisfy either of the foregoing and 4 percent for all other real property, or reduction as  
48 show in the consumer price index or comparable data for the area under taxing jurisdiction,  
49 or may be reduced to reflect substantial damage, destruction or other factors causing a  
50 decline in value. Notwithstanding the foregoing, the 4% limitation set forth above shall be  
51 10% during the first 8 years after the passage of this provision.

52 [Sections (c) through (j) remain unchanged]

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(Proposed new language underlined; language to be deleted stricken)

**PROPONENT:** National Lawyers Guild, San Francisco Chapter

### **STATEMENT OF REASONS**

Existing Law: Existing law includes all real property in California under the protection of Proposition 13, California Constitution Article XIII-A, Section 2, passed by the voters on June 6, 1978 which precludes annual reassessments of the value of all real property.

This Resolution: Requests the legislature to submit to the voters a referendum for a constitutional amendment to remove commercial and industrial properties with a value over \$5 Million on 1/1/10 from continued protection against annual reassessment. In addition, businesses that leased property that had an assessed value of less then \$5 million , if such leased property were to be assessed separately, would also be exempt from such increased annual reassessment.

The Problem: Proposition 13 prohibited annual reassessment of the value of real property in California and did not distinguish between property uses. This has resulted in a substantial reduction in property tax revenue for state and local governments in California over the past 30 years. This has been particularly evident during recent years due to economic recessions.

The consequences of this drastic reduction of tax revenue threatens to affect every type of government service provided by state and local governments and special districts in this state, including, Education, Healthcare, Public Safety Services, The Judicial System, Recreation Services, Environmental Protection, Child Protection, Transportation Services, and every other governmental function.

This Resolution suggests a modest but significant change in Proposition 13. It does not apply that change to real property used for residential purposes—either by homeowner or apartment owner—or to commercial or industrial property with a value of less than \$5 Million. The purpose of these exemptions is to continue the protection of individuals, with respect to their homes or apartments, and small businesses. Recent opinion surveys indicate that a majority of the residents of California favor this modification and would support it if given the opportunity to consider it as a constitutional amendment. This resolution asks that the legislature approve a referendum allowing the voters of California an opportunity to make that choice.

#### **IMPACT STATEMENT**

This resolution does not affect any other law, statute or rule.

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