

2010

LIMITS ON PROPERTY TAX ASSESSMENT.
SEISMIC RETROFITTING OF EXISTING
BUILDINGS.

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_props

Recommended Citation

LIMITS ON PROPERTY TAX ASSESSMENT. SEISMIC RETROFITTING OF EXISTING BUILDINGS. California Proposition 13 (2010).
http://repository.uchastings.edu/ca_ballot_props/1300

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.

**LIMITS ON PROPERTY TAX ASSESSMENT.
SEISMIC RETROFITTING OF EXISTING BUILDINGS.
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

**LIMITS ON PROPERTY TAX ASSESSMENT. SEISMIC RETROFITTING OF EXISTING BUILDINGS.
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- Provides that construction to seismically retrofit existing buildings will not trigger reassessment of property tax value, regardless of the type of building.
- Sets a statewide standard for the types of seismic retrofit improvements exempt from reassessment.
- Limits the exemption from reassessment to specific components of construction or reconstruction that qualify as seismic retrofit improvements, as defined by the Legislature.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- **Minor reduction in local property tax revenues related to the assessment of earthquake upgrades.**

**FINAL VOTES CAST BY THE LEGISLATURE ON SCA 4 (PROPOSITION 13)
(Resolution Chapter 115, Statutes of 2008)**

Senate:	Ayes 37	Noes 0
Assembly:	Ayes 78	Noes 0

BACKGROUND

Local property taxes are based on each property's assessed value. When a property is purchased, it is generally given an assessed value equal to its purchase price. As long as a property has the same owner and there is no new construction on the property, its assessed value generally remains the same, except for a small annual increase for inflation. New construction generally causes a reassessment if it adds a building, adds space, converts a building to a new use, or renovates the building to make it like new. The property's assessed value is increased to reflect the value added by the new construction. In contrast, the assessed value is not increased for normal maintenance and repair, such as replacing a leaky roof.

Currently, there are several specific exclusions in the State Constitution from the new construction rule. Among them are two separate provisions regarding earthquake safety modifications on existing buildings. The first one excludes earthquake safety upgrades on "unreinforced masonry buildings" (such as those made of brick or cement blocks) that are required by local ordinances. Such upgrades are excluded from reassessments for a period of 15 years. The second excludes from reassessment other earthquake safety modifications to any type of building and has no time limit. Both exclusions apply only until the property is sold.

PROPOSAL

This constitutional amendment deletes both of the existing exclusions and replaces them with a single exclusion for all earthquake safety upgrades. The exclusion would not be time-limited and would last until the property is sold. This amendment has the practical effect of removing the 15-year limit to the exclusion for safety upgrades on unreinforced masonry buildings.

FISCAL EFFECTS

This measure would allow properties with masonry buildings currently receiving an exclusion from reassessment of 15 years for earthquake upgrades to extend this exclusion. It would also allow any properties with future masonry upgrades to receive exclusions with no time limits. This would reduce local property tax revenues to the extent that properties are no longer reassessed at higher values after 15 years. Many county assessors, however, have indicated that they either: (1) do not track the number of years that unreinforced masonry upgrades have received an exclusion or (2) classify these upgrades as maintenance or repair. In addition, many properties sell before the 15-year period is up, which triggers a reassessment of the entire property. For these reasons, the loss to local property taxes as a result of this measure is probably minor.

★ ARGUMENT IN FAVOR OF PROPOSITION 13 ★

Proposition 13 makes a necessary change to our state's constitution in order to eliminate a dangerous and unfair disincentive for property owners to upgrade certain types of buildings in order to improve earthquake safety. This proposition promotes equity and fairness among taxpayers by eliminating the unequal treatment of different types of property which undergo seismic safety improvements.

Currently, there exists an inequity in the State Constitution regarding the assessment of buildings which have undergone repairs to make them safer during earthquakes. Some properties, which have repairs made to increase the building's safety in the case of an earthquake, are subject to reassessment and higher taxes while others are not. As a result, property owners who install seismic safety technologies are taxed differently depending on the type of building they improve.

Only property owners with reinforced masonry structures receive an unlimited exclusion from reassessment. Those owners of un-reinforced masonry structures receive only a 15-year exclusion from reassessment. This exclusion creates a wrongful and dangerous disincentive for safety retrofits. What is especially concerning is that older un-reinforced masonry buildings are in the greatest need of retrofitting if they are to survive earthquakes or other natural disasters that frequently occur in California—particularly in the San Francisco Bay Area and Los Angeles County. Seismic retrofits should be made to ALL unsafe buildings, including un-reinforced masonry structures.

The proposition that you are voting on corrects this unfair policy by providing equal treatment for all property owners

who incorporate seismic safety improvements regardless of the type of building. It assures that any property having undergone a seismic safety retrofit will be exempt from property tax reassessment for that improvement. This measure is narrowly written and does not change the taxpayer protections afforded by the original Proposition 13 enacted in 1978.

This proposition also eliminates a substantial workload for the State Board of Equalization and County Assessors. They will no longer be required to reassess the property to determine which seismic retrofits are covered and which are not covered under the old law. This decreases the workload and will save taxpayer dollars. Any loss in local property taxes from correcting this inequity in seismic safety retrofitting is minimal, which is why no organized opposition to this proposition exists.

The language for this proposition passed the Legislature unanimously. For seismic safety for all Californians—North, South, East and West—please vote Yes on Proposition 13.

ROY ASHBURN

California State Senator

TOM J. BORDONARO, JR.

San Luis Obispo County Assessor

BARBARA ALBY

Chief-Deputy Board Member

Board of Equalization District 2

★ ARGUMENT AGAINST PROPOSITION 13 ★

No argument against
Proposition 13 was submitted.

PROPOSITION 13

This amendment proposed by Senate Constitutional Amendment 4 of the 2007–2008 Regular Session (Resolution Chapter 115, Statutes of 2008) expressly amends the California Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

PROPOSED AMENDMENT TO
SECTION 2 OF ARTICLE XIII A

SEC. 2. (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~~ *For purposes of this section, the term “newly constructed” does not include the that portion of an existing structure that consists of the construction or 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 of seismic retrofitting components, as defined by the Legislature.*

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 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 paragraph shall apply to any

replacement dwelling that was purchased or newly constructed on or after November 5, 1986.

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~~ *applies* 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 does~~ 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 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 active solar energy 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)

(4) 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~~ *This* subdivision ~~shall be applied~~ *applies* to any property acquired after March 1, 1975, but ~~shall affect~~ *affects* 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~~ *applies* 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~~ *applies* 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 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 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~~ *applies* 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~~ *one-million-dollar* (\$1,000,000) full cash value limit specified in paragraph (1).

(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~~ *are* 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~~ *are* effective for changes in ownership that occur, and new construction that is completed, on or after the effective date of the amendment.

PROPOSITION 14

This amendment proposed by Senate Constitutional Amendment 4 of the 2009–2010 Regular Session (Resolution Chapter 2, Statutes of 2009) expressly amends the California Constitution by amending sections thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

First—This measure shall be known and may be cited as the “Top Two Candidates Open Primary Act.”

Second—The People of the State of California hereby find and declare all of the following:

(a) Purpose. The Top Two Candidates Open Primary Act is hereby adopted by the People of California to protect and preserve the right of every Californian to vote for the candidate of his or her choice. This act, along with legislation already enacted by the Legislature to implement this act, are intended to implement an open primary system in California as set forth below.

(b) Top Two Candidate Open Primary. All registered voters otherwise qualified to vote shall be guaranteed the unrestricted right to vote for the candidate of their choice in all state and congressional elections. All candidates for a given state or congressional office shall be listed on a single primary ballot. The top two candidates, as determined by the voters in an open primary, shall advance to a general election in which the winner shall be the candidate receiving the greatest number of votes cast in an open general election.

(c) Open Voter Registration. At the time they register, all voters shall have the freedom to choose whether or not to disclose their party preference. No voter shall be denied the right to vote for the candidate of his or her choice in either a primary or a general election for statewide constitutional office, the State Legislature, or the Congress of the United States based upon his or her disclosure or

nondisclosure of party preference. Existing voter registrations, which specify a political party affiliation, shall be deemed to have disclosed that party as the voter’s political party preference unless a new affidavit of registration is filed.

(d) Open Candidate Disclosure. At the time they file to run for public office, all candidates shall have the choice to declare a party preference. The preference chosen shall accompany the candidate’s name on both the primary and general election ballots. The names of candidates who choose not to declare a party preference shall be accompanied by the designation “No Party Preference” on both the primary and general election ballots. Selection of a party preference by a candidate for state or congressional office shall not constitute or imply endorsement of the candidate by the party designated, and no candidate for that office shall be deemed the official candidate of any party by virtue of his or her selection in the primary.

(e) Freedom of Political Parties. Nothing in this act shall restrict the right of individuals to join or organize into political parties or in any way restrict the right of private association of political parties. Nothing in this measure shall restrict the parties’ right to contribute to, endorse, or otherwise support a candidate for state elective or congressional office. Political parties may establish such procedures as they see fit to endorse or support candidates or otherwise participate in all elections, and they may informally “nominate” candidates for election to voter-nominated offices at a party convention or by whatever lawful mechanism they so choose, other than at state-conducted primary elections. Political parties may also adopt such rules as they see fit for the selection of party officials (including central committee members, presidential electors, and party officers). This may include restricting participation in elections for party officials to those who disclose a party preference for that party at the time of registration.

(f) Presidential Primaries. This act makes no change in current law as it relates to presidential primaries. This act conforms to the ruling of the United States Supreme Court in *Washington State Grange v. Washington State Republican Party* (2008) 128 S.Ct. 1184. Each political party retains the right either to close its presidential primaries to those voters who disclose their party preference for that party at the time of registration or to open its presidential primary to include those voters who register without disclosing a political party preference.

Third—That Section 5 of Article II thereof is amended to read:

SEC. 5. (a) *A voter-nomination primary election shall be conducted to select the candidates for congressional and state elective offices in California. All voters may vote at a voter-nominated primary election for any candidate for congressional and state elective office without regard to the political party preference disclosed by the candidate or the voter, provided that the voter is otherwise qualified to vote for candidates for the office in question. The*