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Property Appraisal. Exception. Grandparent-Grandchild Transfer.

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**Property Appraisal. Exception.
Grandparent-Grandchild Transfer.
Legislative Constitutional Amendment.**

Official Title and Summary Prepared by the Attorney General

**PROPERTY APPRAISAL. EXCEPTION.
GRANDPARENT-GRANDCHILD TRANSFER.
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- Amends State Constitution by not requiring new appraisal of real property upon purchase or transfer between grandparents and their grandchild, subject to certain conditions.
- Parents of grandchild must be deceased as of date of purchase or transfer.
- Purchase or transfer of principal residence does not qualify if grandchild already received a principal residence through previous purchase or transfer not requiring a new appraisal.
- \$1,000,000 limit on purchases or transfers of real property not requiring new appraisals, includes purchases or transfers between grandparents and grandchild, as well as between parents and children.

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

- Property tax revenue losses to schools, counties, cities, and special districts of about \$1 million annually.
- School revenue losses would be made up by the state General Fund.

Final Votes Cast by the Legislature on ACA 17 (Proposition 193)

Assembly: Ayes 59 Senate: Ayes 32
 Noes 18 Noes 1

Analysis by the Legislative Analyst

Background

Local property taxes are based on each property's assessed value. As long as a property has the same owner, its assessed value generally cannot increase by more than 2 percent each year—even if the property's market value is increasing at a faster rate. As a result, the market value of many properties is higher than the assessed value. Whenever a property is sold or transferred, it is reappraised and its assessed value often increases to reflect the market value. In such cases, the property taxes for that piece of property also increase.

Current law allows for some exceptions to this general rule. For example, current law allows *parents* to sell or transfer ownership of their principal residence and up to \$1 million of other property to their *children* without a reappraisal of the property and a corresponding change in its assessed value.

Proposal

This constitutional amendment would extend the existing parent-child exemption from reappraisal to sales or transfers of property between *grandparents* and *grandchildren*. These sales or transfers would be exempt only in cases where both parents of the grandchild are

deceased, and would apply only to the sale or transfer of a principal residence and the first \$1 million of other property. Grandchildren would not be eligible to receive the exemption—or would be eligible to receive only a reduced exemption—if they had already benefited from a purchase or transfer that was exempt from reappraisal.

The new exemption proposed by this measure would apply only to sales or transfers of property occurring after March 26, 1996.

Fiscal Effect

By exempting from reappraisal these grandparent-to-grandchild property sales and transfers, this measure would reduce property tax revenues to local governments. Because these sales and transfers occur infrequently, the property tax revenue loss would not be significant. After several years, the loss statewide could be about \$1 million annually.

Counties, cities, and special districts would bear nearly one-half of the annual revenue loss. The remainder of the loss would affect schools and community colleges, which also receive property tax revenue. Under existing law, losses to schools and community colleges would be made up by the state General Fund.

For text of Proposition 193 see page 56

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Argument in Favor of Proposition 193

When the voters of California passed Proposition 13 in 1978, a strong message was delivered to political leaders throughout our state regarding California tax policy. The message was simple—"Get the Government Out of Our Pocketbooks!" The voters in 1978 drew a line in the sand that government has never been able to cross, despite numerous efforts fought all the way up to the United States Supreme Court.

And, for over fifteen years, Proposition 13 remains the bedrock of our tax structure. Among other things, Proposition 13 requires a two-thirds vote of the Legislature to pass any new state taxes, and limits the ability of local governments to raise your taxes, while allowing for property to be transferred from parents to children without reassessment. These are important protections for California's families and businesses from huge, unfair tax increases.

The ballot proposition that is now before you for your vote is needed to correct the provision in current law that requires any property that is transferred from grandparents to their grandchildren to be reassessed at the new, higher tax rate—even in the unfortunate circumstances where *both* parents of those grandchildren are deceased.

You should know that under present law, grandparents can first transfer property to their immediate children, and a second transfer from the parents to the grandchildren can also be accomplished without

reassessing the tax rates. However, this practice requires that the intervening generation (in this case, the parents) be alive at the time of such transfers of property.

Proposition 193 was authored to allow you to decide today whether to permit property to be transferred from grandparents to their own grandchildren *only in cases where both parents are deceased*, so that California families who are caught in this unfortunate situation are not punished due to mere oversight in the law. Quite simply, I believe the government should not double-penalize grandchildren through taxation who have already had the unfortunate loss of their parents.

It will be an uncommon family to whom this new tax provision will apply, and therefore this measure will have minimal revenue consequence on state or local governments. But remember, for those families to whom this new law will apply, this is indeed a fair and compassionate measure.

We urge you to support this important and equitable change in our Constitution, and help maintain the Spirit of Proposition 13 for *all* Californians!

DAVID KNOWLES
State Assemblyman

K. MAURICE JOHANNESSEN
State Senator

BILL HOGE
State Assemblyman

Rebuttal to Argument in Favor of Proposition 193

As written, the "*automatic reassessment*" provision in Proposition 13 is unfair—not just to people who *inherit* homes from relatives—but especially to people who have *purchased* a home since the base year (1975) and to everyone who might wish to purchase a home in today's inflated housing market.

The provision also hits **RENTERS**: every time property changes hands, taxes go up and the rent follows.

Because Proposition 13 is part of our state's constitution, it can only be changed "*by a majority of votes*" cast in a statewide election on an amendment proposed either by the Legislature ("*two-thirds membership of each house*") or by initiative petition (Article XVIII of the California Constitution).

We need an amendment that makes the system fairer and can gain "*a majority of votes*" in a statewide election.

For years, some legislators have talked about taxing business property at a higher rate. Another way to address the unfair *shift* of the property tax burden to residential owners (and renters) would be to periodically re-assess all business property—regardless of whether it changes hands.

Taxing businesses differently would not remedy the unfairness of one homeowner paying 10 times as much as a neighbor. This unfairness could be eliminated by periodically re-assessing all residential property while **AUTOMATICALLY LOWERING THE TAX RATE** so that government would not get more money just because residential property values increase.

GARY B. WESLEY
Attorney at Law

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Argument Against Proposition 193

This is another proposal by the Legislature to exempt some privileged persons from the automatic reassessment provision in Proposition 13, a constitutional limitation on property taxes approved by voters in 1978.

Under Proposition 13 (now Article XIII A of the California Constitution), assessed property values generally are frozen at their 1975 levels; however, property is reassessed and (if the market value has increased) higher property taxes are imposed each time the property is "*purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment.*"

Proposition 13 has had the beneficial effect of holding down property taxes—particularly for persons who have owned their property since 1975. However, the automatic reassessment provision in Proposition 13 has resulted in new homeowners paying far more in property taxes than their neighbors whose property has the same value but was purchased earlier when property was less expensive.

In addition, this automatic reassessment provision has caused a gradual but massive SHIFT of the overall property tax burden from owners of commercial and industrial property (which is often leased but seldom sold) to owners (and renters) of residential property.

Instead of offering voters a constitutional amendment which would correct these inequities, the Legislature is proposing in this measure to retain the basic flaw but authorize itself to allow grandparents to give real property to grandchildren (when the parents are deceased) without triggering the reassessment of the property.

Think about it. The people who have to pay the most for property are further burdened by also having to pay the most in property taxes.

This measure would only increase the unfairness of our property tax system.

Under Proposition 193, a person who inherits property from a grandparent would receive the additional windfall of paying low property taxes based on the grandparent's old assessment.

Instead of passing another exemption to reassessment for the privileged few, voters should insist that the Legislature place on the ballot a comprehensive amendment to our property tax system that would make it fairer for everyone.

GARY B. WESLEY
Attorney at Law

Rebuttal to Argument Against Proposition 193

Proposition 193 is nothing more than a proposal to fix a small, but important, problem in current property tax law. Penalizing segments of vulnerable citizens via our tax laws, such as children who have lost both of their parents, is unfair and immoral. The fact that these children have had to go through the most tragic of circumstances in losing the love and nurture of their parents is hardly grounds for labeling them as "privileged." If anything, these children are severely *UNDER*-privileged, and deserve our special concern.

Proposition 193 is *fair*. It is a fair solution for a specific problem that affects perhaps the smallest number of people in the narrowest of circumstances. But to those few who are faced with such circumstances, Proposition 193 will be of great and lasting benefit.

Under current law, the transfer of property from parent to child is a proper way of providing and

safeguarding a child's welfare and future in an increasingly costly society. Similarly, allowing grandparents to provide for grandchildren where parents have died is just as proper.

To argue against Proposition 193 is to argue that our government should discourage families from providing for the well-being of children in every way possible! No moral society would accept that argument and that is why Proposition 193 is necessary.

Please support a fair and just property tax system. Vote *YES* on Proposition 193.

DAVID KNOWLES
Assemblyman, 4th District
BILL HOGE
Assemblyman, 44th District
K. MAURICE JOHANNESSEN
Senator, 4th District

for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

8879.17. The Director of Transportation shall report annually to the Governor and the Legislature regarding the funds available for seismic retrofit projects and the expenditure of bond proceeds.

Proposition 193: Text of Proposed Law

This amendment proposed by Assembly Constitutional Amendment 17 (Statutes of 1994, Resolution Chapter 110) expressly amends the 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 AMENDMENT TO SUBDIVISION (h) OF SECTION 2 OF ARTICLE XIII A

(h) (1) For purposes of subdivision (a), the terms "purchased" and "change of ownership" shall 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 \$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).*

Proposition 194: Text of Proposed Law

This law proposed by Senate Bill 103 (Statutes of 1995, Chapter 440) is submitted to the people in accordance with the provisions of Article II, Section 10 of the Constitution.

This proposed law adds a section to the Penal Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Section 2717.9 is added to the Penal Code, to read:

2717.9. Notwithstanding any other provision of law, a prisoner who participates in a joint venture program is ineligible for unemployment benefits upon his or her release from prison based upon participation in that program.

Proposition 195: Text of Proposed Law

This law proposed by Senate Bill 32 (Statutes of 1995, Chapter 477) is submitted to the people in accordance with the provisions of Article II, Section 10 of the Constitution.

This proposed law amends a section of the Penal Code; 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

SECTION 1. Section 190.2 of the Penal Code is amended to read:

190.2. (a) The penalty for a defendant *who is found guilty of murder in the first degree shall be death or confinement imprisonment in the state prison for a term of life without the possibility of parole in any case in which if* one or more of the following special circumstances has been found under Section 190.4; to be true:

(1) The murder was intentional and carried out for financial gain.

(2) The defendant was ~~previously convicted previously of~~ murder in the first degree or second degree. For the purpose of this paragraph, an offense committed in another jurisdiction, which if committed in California would be punishable as first or second degree murder, shall be deemed murder in the first or second degree.

(3) The defendant ~~has~~, in this proceeding, *has* been convicted of more than one offense of murder in the first or second degree.

(4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden, or concealed in any place, area, dwelling, building, or structure, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to ~~a human being one or more~~ human beings.

(5) The murder was committed for the purpose of avoiding or preventing a lawful arrest ~~or to perfect, or attempt, or perfecting or attempting to perfect, an escape from lawful custody.~~

(6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or ~~cause caused~~ to be mailed or delivered, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to ~~a human being one or more~~ human beings.

(7) The victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties; or the victim was a peace officer, as defined in the ~~above enumerated above-enumerated~~ sections of the Penal Code, or a former peace officer under any of ~~such those~~ sections, and was intentionally killed in retaliation for the performance of his or her official duties.

(8) The victim was a federal law enforcement officer or agent; who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a federal law enforcement officer or agent; engaged in the performance of his or her duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the performance of his or her official duties.

(9) The victim was a firefighter, as defined in Section 245.1, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a firefighter engaged in the performance of his or her duties.

(10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his or her testimony in any criminal or juvenile proceeding, and the killing was not committed during the commission; or attempted commission; of the crime to which he or she was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his or her testimony in any criminal or juvenile proceeding. As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.

(11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this state or any other state, or of a federal prosecutor's office, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(12) The victim was a judge or former judge of any court of record in the local, state, or federal system in ~~the State of California, or in this or any other state of the United States~~, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(13) The victim was an elected or appointed official or former official of the federal government, ~~or of a any local or state government of California, or of any local or state government of any other state in the United States this or any other state~~, and the killing was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(14) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity. As ~~utilized used~~ in this section, the phrase ~~especially especially~~ heinous, atrocious, or cruel, manifesting exceptional ~~depravity depravity~~ means a conscienceless; or pitiless crime ~~which that~~ is unnecessarily torturous to the victim.

(15) The defendant intentionally killed the victim while lying in wait.

(16) The victim was intentionally killed because of his or her race, color, religion, nationality, or country of origin.

(17) The murder was committed while the defendant was engaged in, or was an accomplice in, the commission of, attempted commission of, or the immediate flight after committing, or attempting to commit, the following felonies: