

3-23-2005

# Commercial Real Property Taxation. Reassessment, Exemptions, And Revenue Distribution. Initiative Constitutional Amendment.

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SA2005RF0034

January 14, 2005

**BY HAND DELIVERY**

Office of the Attorney General  
1300 "T" Street  
Sacramento, CA 95814

Attention: Tricia Knight

**RECEIVED**

JAN 18 2005

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

RE: *Tax Fairness for Homeowners Act of 2005*

Dear Ms. Knight:

Pursuant to Elections Code section 9002, we request that the Attorney General prepare a title and summary of the measure entitled the "Tax Fairness for Homeowners Act of 2005." I have included the text of the measure, a check for \$200.00, and the address at which I am registered to vote.

Please direct all correspondence and inquires regarding this measure to:

Lenny Goldberg  
California Tax Reform Association

Sincerely,

Lenny Goldberg

Section 1: This measure shall be called the Tax Fairness for Homeowners Act of 2005

The people do find all of the following:

- a. The current assessment system is unfair to homeowners. In particular, homeowners currently face property tax reassessment upon change in ownership of a home, but businesses are able to exploit loopholes to avoid reassessment on major hotels, shopping centers, office buildings, and other large corporate properties, despite changing ownership frequently.
- b. Because of this unfair system, the burden of property taxes has shifted on to homeowners and away from the owners of commercial and industrial property.
- c. The current assessment system for non-residential property is loophole-ridden, anti-competitive, and harmful to schools, local government, homeowners and renters, the environment and the state's infrastructure.
- d. Local government, schools, and our physical infrastructure have suffered because the non-residential property tax base has been inadequate to finance our pressing needs.
- e. One of our economy's greatest needs, investment in infrastructure, is harmed because the windfall gain to commercial property owners from taxpayer-financed infrastructure is never captured.
- f. The current assessment system is also bad for business investment in California, because new investors are often paying far more in property taxes than their direct competitors and are required to pay fees and exactions when they make these investments.
- g. The failure to appropriately assess commercial and industrial land leads to land speculation, sprawl, and over-reliance of local government on sales taxes.

Section 2. Therefore it is the intent of the people to do the following in this measure:

- a. Provide for the periodic reassessment of non-residential property to market value, with exceptions as described in this measure.
- b. Provide for the exclusion of \$500,000 in personal property tax for all businesses, in order to simplify the system and provide tax relief for small businesses.
- c. Be consistent with the will of the people as expressed in Proposition 98 of 1988, and Proposition 1A in 2004, such that the revenues from this measure be utilized by schools and local governments as provided in those measures.

Section 3:

Article XIII A of the California Constitution is amended to read:

Add new SEC. 2.5. (a) Notwithstanding section 2, for the lien date for the 2006-07 fiscal year and each lien date thereafter, the "full cash value" of nonresidential real property that is not used for commercial agricultural production or is otherwise exempt under the Constitution or statute is the fair market value of that property as of that date.

(b) For purposes of this section:

(1) "Nonresidential real property" means any real property other than a constructed single-family or multifamily unit that is intended to be used primarily as a permanent residence and is used primarily as a permanent residence or that is zoned as a residence, and the land on which that unit constructed, or any portion of the property used as a residence.

(2) Nonresidential real property is "used for commercial agricultural production" if that real property is used and zoned for producing commercial agricultural commodities and is real property to which either of the following applies:

(A) The real property is an unimproved parcel.

(B) The parcel of real property contains only living improvements.

(3) "Unimproved parcel" means a parcel of real property to which both of the following apply:

(A) The parcel is used and zoned for producing commercial agricultural commodities.

(B) The parcel does not contain a single-family residence or a multifamily residence that was subdivided in accordance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or any successor to that law, or that was described and conveyed in one or more deeds separating the parcel from all adjoining property.

(4) "Otherwise exempt under the Constitution or statute" means any property which is exempt from taxation pursuant to the Constitution, or any property exempt by statute enacted consistent with and permissible under the Constitution.

Section 4. Article XIII, section 2 of the California Constitution is amended to read:

SEC. 2. (a) The Legislature may provide for 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 percent of full value, and the tax per dollar

of full value shall not be higher on personal property than on real property in the same taxing jurisdiction.

*(b) For all taxpayers paying the tax on tangible personal property, \$500,000 in personal property shall be exempt from taxation. The Legislature may increase this amount, but may not reduce it.*

#### Section 5. Expenditure of proceeds of this measure

The proceeds of this measure shall be expended in a manner consistent with Proposition 98 of 1988 and Proposition 1A of 2004, as implemented by the Legislature.