

July 3, 2019

VIA PERSONAL DELIVERY

Hon. Xavier Becerra
Attorney General of California
1300 I Street, 17th Floor
Sacramento, CA 95814

RECEIVED

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Anabel Renteria, Initiative Coordinator

Re: Request for Title and Summary for Proposed Initiative Constitutional
Amendment

Dear Ms. Renteria:

Pursuant to Article II, Section 10(d) of the California Constitution, I hereby submit the attached proposed Initiative Constitutional Amendment, entitled the "Family Home Protection and Fairness in Property Tax Reassessments Act," to your office and request preparation of a circulating title and summary of the chief points and purposes of the measure as provided by law. Included with this submission are the required proponent affidavits signed by the proponent of this measure pursuant to Sections 9001 and 9608 of the California Elections Code. My address as a registered voter is attached to this letter, along with a check for \$2,000.00.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Gross & Leoni, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Kurt Oneto (telephone: 916/446-6752).

Thank you for your assistance.

Sincerely,



Alexander E. Creel, Proponent

Enclosure: Proposed Initiative Constitutional Amendment

([Additions in section 6 of this initiative are set forth in *italics and underline*; deletions are set forth in ~~strikeout~~.]

Section 1. Title.

This Act shall be known, and may be cited, as the Family Home Protection and Fairness in Property Tax Reassessments Act.

Section 2. Findings and Declarations.

The People of the State of California find and declare as follows:

(a) California’s property tax system currently protects the ability of parents and grandparents to pass their family home onto their children and grandchildren without a tax increase. However, loopholes in the system are being exploited— frequently by out-of-state residents and trust-fund heirs—to unfairly avoid paying current fair market taxes on vacation homes, luxury estates, beachfront rentals, and income-producing properties. These tax scheme abuses cost schools, police, fire, and other vital services *billions of dollars* each year. (See *New York Magazine Intelligencer*, “Rich Absentee Landlords Who Inherited Properties Keep Making a Killing in California,” Aug. 18, 2018.)

(b) Other loopholes in the system are being exploited—frequently by multinational corporations, Fortune 500 CEOs, and venture capital firms—to avoid paying current fair market taxes on business properties they acquire. These tax scheme abuses cost schools, police, fire, and other vital services *hundreds of millions of dollars*. (See *Santa Monica Daily Press*, “Education Group Blasts Dell, Fairmont Miramar Over Taxes,” Oct. 28, 2013.)

(c) Further, the severely disabled, victims of natural disasters or hazardous waste contamination, and all California homeowners once they reach age 55, frequently need to move in order to obtain medical care, be closer to family members, or to avoid a disaster zone or environmental hazard. Unfortunately, California’s property tax system unfairly restricts the ability of these people to purchase a replacement property without paying a property tax increase.

(d) Removing barriers that restrict homeowners age 55 and over from selling their homes helps alleviate the state’s housing shortage by increasing the number of homes available for sale on the market. It also increases revenues for schools, police, fire, and other vital services

because the houses owned by homeowners age 55 and over will be reassessed to current fair market value once they are sold.

(e) California's property tax reassessment rules should preserve and protect tax breaks for family homes used as primary residences so that they may be passed on from parents to children without a tax increase. But special tax loopholes frequently used by out-of-state-residents, trust-fund heirs, multinational corporations, Fortune 500 CEOs, and venture capital firms to avoid paying current fair market taxes on properties they inherit or acquire should be eliminated.

(f) Additionally, the severely disabled, victims of natural disasters or hazardous waste contamination, and all California homeowners once they reach age 55, should be permitted to transfer their existing property tax base anywhere in the state when they need to move to a replacement property. Unfair and discriminatory location and price restrictions which arbitrarily limit the options available to these individuals should be eliminated.

Section 3. Statement of Purpose.

The purpose of this Act is to do the following:

(a) Preserve and protect tax breaks that allow children to inherit and move into their family home while closing special tax loopholes frequently used by out-of-state residents and trust-fund heirs to improperly avoid paying current fair market taxes on vacation homes, luxury estates, beachfront rentals, and income-producing properties.

(b) Close special tax loopholes frequently used by multinational corporations, Fortune 500 CEOs, and venture capital firms to avoid paying current fair market taxes on business properties they acquire.

(c) Give the severely disabled, victims of natural disasters or hazardous waste contamination, and all California homeowners once they reach age 55, the right to transfer their existing property tax base anywhere in the state when they need to move to a replacement property—which benefits all Californians by expanding the overall housing supply on an ongoing basis and raising revenues for schools, police, fire, and other vital services.

Section 4. Section 1.6 is added to Article XIII A of the California Constitution, to read:

Section 1.6. This section protects the constitutional right of parents and grandparents to pass their family home onto their children and grandchildren for use as a primary residence without a tax increase while eliminating loopholes that improperly shield vacation homes, luxury estates, beachfront rentals, and income-producing properties from being taxed based on their current fair market value at the time of transfer.

(a) On and after January 1, 2021, for purposes of subdivision (a) of Section 2 of this article, 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, if the residence continues as the principal residence of the transferee. This subdivision applies to both voluntary transfers and transfers resulting from a court order or judicial decree. The new base year value of the principal residence of the transferee shall be the sum of both of the following:

(1) The base year value of the principal residence, as adjusted as authorized by subdivision (b) of Section 2 of this article, determined as of the date immediately prior to the date of purchase by, or transfer to, the transferee.

(2) The applicable of the following amounts:

(A) If the reassessed value of the principal residence upon purchase by, or transfer to, the transferee is less than the sum of the base year value described in paragraph (1) plus one million dollars (\$1,000,000), zero dollars (\$0).

(B) If the reassessed value of the principal residence upon purchase by, or transfer to, the transferee is equal to or more than the sum of the base year value described in paragraph (1) plus one million dollars (\$1,000,000), an amount that is equal to the reassessed value of the principal residence upon purchase by, or transfer to, the transferee minus the sum of the base year value described in paragraph (1) plus one million dollars (\$1,000,000).

(b) On and after March 27, 1996, subdivision (a) 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 subdivision (a), 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.

(c) Commencing January 1, 2022, and each January 1 thereafter, the assessor shall adjust each exclusion amount under subdivision (a) for the prior fiscal year for a principal residence of

a transferee by the percentage change, rounded to the nearest one-thousandth of 1 percent, in the House Price Index for California for the first three quarters of the prior calendar year, as determined by the Federal Housing Finance Agency.

Section 5. Section 1.7 is added to Article XIII A of the California Constitution, to read:

Section 1.7. This section eliminates loopholes that improperly allow corporations and other legal entities to acquire business properties without being taxed based on the property's current fair market value at the time of acquisition.

(a) When a corporation, partnership, limited liability company, other legal entity, or any other person obtains control through direct or indirect ownership or control of more than 50 percent of the voting stock of any corporation, or obtains a majority ownership interest in any partnership, limited liability company, or other legal entity through the purchase or transfer of corporate stock, partnership, or limited liability company interest, or ownership interests in other legal entities, including any purchase or transfer of 50 percent or less of the ownership interest through which control or a majority ownership interest is obtained, the purchase or transfer of that stock or other interest shall be a change in ownership of the real property owned by the corporation, partnership, limited liability company, or other legal entity in which the controlling interest is obtained.

(b) When 90 percent or more of the direct or indirect ownership interests in a legal entity are sold or transferred in a single transaction, the purchase or transfer of the ownership interests is a change in ownership of the real property owned by the legal entity, including the real property owned by legal entities under its control, whether or not any one legal entity or person that is a party to the transaction obtains control, except when the sale or transfer qualifies for an exclusion from change in ownership under any other law or does not result in a change in ownership under any other law.

(c) For purposes of this section:

(1) "Control" means control as described in subdivision (a).

(2) "Legal entity" means a corporation, partnership, limited liability company, or other legal entity.

(3) "Ownership interests" means corporate voting stock, partnership capital and profits interests, limited liability company membership interests, and other ownership interests in legal entities.

(4) “Single transaction” means a plan consisting of one or more sales or transfers of ownership interests that occur on or after January 1, 2021. For purposes of this paragraph, it shall be rebuttably presumed that a sale or transfer is part of a single transaction if either of the following occur:

(A) The transferees are persons described in Section 267(b) of Title 26 of the United States Code.

(B) The sales or transfers occur within a 60-month period, commencing on the date of the first sale or transfer of the ownership interests that occurs on or after January 1, 2021.

(5) “Sold or transferred” does not include either of the following:

(A) A transfer of ownership interests that occurs upon death, without payment for the ownership interests, other than taxes due with respect to the transfer, paid by or on behalf of the transferee.

(B) A sale of stock or interests of a publicly traded corporation or a publicly traded partnership in the regular course of a trading activity on an established securities market, as defined in Section 1.7704-1(b) of Title 26 of the Code of Federal Regulations, unless shares are acquired as part of a merger, acquisition, private equity buyout, transfer of partnership shares, or any other means by which a change in ownership would otherwise occur pursuant to subdivision (b).

(d) For purposes of subdivision (b), indirect ownership or transfer of ownership interests shall be measured proportionately.

(e) Whenever there is a change in ownership, as described in subdivision (a) and subdivision (b) of this section, of any corporation, partnership, limited liability company, or other legal entity, a change in ownership statement shall be filed by the corporation, partnership, limited liability company, or other legal entity, as set forth in and consistent with Article 2.5 (commencing with Section 480) of Chapter 2 of Part 2 of Division 1 of the Revenue and Taxation Code, including any amendments thereto.

Section 6. Section 2 of Article XIII A of the California Constitution is amended, to read:

SEC. 2. Property Tax Fairness: Prior to the adoption of paragraph (7) of subdivision (a), paragraph (2) of subdivision (e), and paragraph (5) of subdivision (h), the severely disabled, victims of natural disasters or hazardous waste contamination, and all California homeowners once they reach age 55, were only allowed to transfer their property tax base to a replacement

property in specific counties. The adoption of the aforementioned paragraphs removes those unfair restrictions and permits the severely disabled, victims of natural disasters or hazardous waste contamination, and all California homeowners once they reach age 55, to keep their existing property tax base when they purchase a replacement property anywhere in the state.

(a)(1) 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. For purposes of this section, the term “newly constructed” does not include that portion of an existing structure that consists of the construction or reconstruction of seismic retrofitting components, as defined by the Legislature.

(2) ~~However,~~ On and after November 5, 1986 through June 30, 2021, 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.

(3) For purposes of this section, the following definitions shall apply:

(A) ~~any~~ Any person over the age of 55 years” includes a married couple, one member of which is over the age of 55 years.

(B) ~~For purposes of this section,~~ “replacement 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.

(4) ~~This paragraph~~ Paragraphs (2) and (3) of this subdivision shall apply to any replacement dwelling that was purchased or newly constructed on or after November 5, 1986.

(5) In addition, On and after November 9, 1988 through June 30, 2021, 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 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 does not apply to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

(6) The On and after June 6, 1990 through June 30, 2021, 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.

(7) Property Tax Fairness for Seniors and the Disabled. Prior to the adoption of this paragraph, seniors and the disabled were only allowed to transfer their residential property tax base to a replacement home in specific counties. This paragraph removes that restriction and permits seniors and the disabled to keep their existing residential property tax base when they purchase a replacement home anywhere in the state.

(A) Notwithstanding any other provision of this section or any other law, on and after July 1, 2021, subject to applicable procedures and definitions as provided by statute, the base year value of property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of any person over 55 years of age or any severely disabled homeowner may be transferred to any replacement dwelling, regardless of the value of the replacement dwelling or whether the replacement dwelling is located within the same county or a different county, that is purchased or newly constructed by that person as that person's principal residence within two years of the sale of the original property.

(B) For purposes of this paragraph, the following shall apply:

(i) For any replacement dwelling of greater value and purchased or newly constructed by a person eligible to transfer the base year value of that person's original property, the base year value of the replacement dwelling shall be calculated by adding the difference between the full cash value of the original property and the full cash value of the replacement dwelling to the base year value of the original property.

(ii) For any replacement dwelling of equal or lesser value purchased or newly constructed by a person eligible to transfer the base year value of that person's original property, the base year value of the replacement dwelling shall be the base year value of the original property.

(C) Any person over 55 years of age or any severely disabled homeowner shall not make more than three base year value transfers pursuant to this paragraph.

(D) A base year value shall be transferred pursuant to subparagraph (A) by filing an application with the county assessor of the county in which the replacement dwelling is located. The form shall be designed by the Board of Equalization. The application shall, at a minimum, request information comparable to that identified in paragraph (1) of subdivision (f) of Section 69.5 of the Revenue and Taxation Code.

(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, 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.

(5) The construction or addition, completed on or after January 1, 2019, of a rain water capture system, as defined by the Legislature.

(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. This subdivision applies to any property acquired after March 1, 1975, but affects only those assessments of that property that occur after the provisions of this subdivision take effect.

(e) (1)(A) 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.

~~(B) (2) Except as provided in paragraph (3), this subdivision subparagraph (C), this paragraph applies to any comparable replacement property acquired or newly constructed on or after July 1, 1985 through June 30, 2021, and to the determination of base year values for the 1985–86 fiscal year through the 2020-21 fiscal year and fiscal years thereafter.~~

~~(C)(i) (3) In addition to the transfer of base year value of property within the same county that is permitted by ~~paragraph (1)~~ subparagraph (A), 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~~ subparagraph, “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.

(ii) This ~~paragraph~~ subparagraph 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 through June 30, 2021, and to the determination of base year values for the 1991–92 fiscal year through the 2020-21 fiscal year. and ~~fiscal years thereafter.~~

(2) Property Tax Fairness for Victims of Natural Disasters. Prior to the adoption of this paragraph, victims of natural disasters were only allowed to transfer their property tax base to a replacement property in specific counties. This paragraph removes that restriction and permits victims of natural disasters to keep their existing property tax base when they purchase a replacement property anywhere in the state.

(A) Notwithstanding any other provision of this section or any other law, on and after July 1, 2021, the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to any property that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property, regardless of the value of the replacement property or whether the replacement property is located within the same county or a different county.

(B) For purposes of this paragraph, the following shall apply:

(i) For any replacement property of greater value and purchased or newly constructed by a person eligible to transfer the base year value of that person’s original property, the base year value of the replacement property shall be calculated by adding the difference between the full cash value of the original property and the full cash value of the replacement property to the base year value of the original property.

(ii) For any replacement property of equal or lesser value purchased or newly constructed by a person eligible to transfer the base year value of that person’s original

property, the base year value of the replacement property shall be the base year value of the original property.

(C) A base year value shall be transferred pursuant to subparagraph (A) by filing an application with the county assessor of the county in which the replacement property is located. The form shall be designed by the Board of Equalization.

(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 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 (\$1,000,000) full cash value limit specified in paragraph (1).~~

~~(i) (h)(1) Notwithstanding any other provision of this section, *and except as otherwise provided in paragraph (5)*, the Legislature shall provide with respect to a qualified contaminated property, as defined in paragraph (2), that either, but not both, of the following apply:~~

~~(A) (i) Subject to the limitation of clause (ii), *on and after November 4, 1988 through June 30, 2021*, 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.

(5) Property Tax Fairness for Owners of Uninhabitable or Unusable Contaminated Properties. Prior to the adoption of this paragraph, owners of uninhabitable or unusable contaminated properties were only allowed to transfer their property tax base to a replacement property in specific counties. This paragraph removes that restriction and permits owners of uninhabitable or unusable contaminated properties to keep their existing property tax base when they purchase a replacement property anywhere in the state.

(A) Notwithstanding any other provision of this section or any other law, on and after July 1, 2021, and subject to the limitation of clause (ii) of subparagraph (A) of paragraph (1), the base year value of the qualified contaminated property may be transferred to a replacement property that is acquired or newly constructed as a replacement for the qualified contaminated property, regardless of whether the replacement real property has a fair market value that is higher than, equal to, or less than, the fair market value of the qualified contaminated property if

that property were not contaminated or whether the replacement property is located within the same county or a different county.

(B) For purposes of this paragraph, the following shall apply:

(i) For any replacement property of greater value and purchased or newly constructed by a person eligible to transfer the base year value of that person's original property pursuant to this clause, the base year value of the replacement property shall be calculated by adding the difference between the full cash value of the original property and the full cash value of the replacement property to the base year value of the original property.

(ii) For any replacement property of equal or lesser value purchased or newly constructed by a person eligible to transfer the base year value of that person's original property, the base year value of the replacement property shall be the base year value of the original property.

(C) A base year value shall be transferred pursuant to subparagraph (A) by filing an application with the county assessor of the county in which the replacement property is located. The form shall be designed by the Board of Equalization.

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

Section 7. Conflicting Measures.

(a)(1) In the event that this initiative measure and another initiative measure or measures dealing with property tax reassessments shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(2) Notwithstanding paragraph (1), this initiative measure shall not be deemed to be in conflict with any other initiative measure that (A) requires or results in commercial and/or

industrial real property being reassessed more frequently than residential property; and/or (B) defines “full cash value” within Cal. Const., art. XIII A differently for commercial and/or industrial real property as compared to residential property.

(b) If this initiative measure is approved by the voters but superseded in whole or in part by any other conflicting ballot measure approved by the voters at the same election, and such conflicting measure is later held invalid, this measure shall be self-executing and given full force and effect.

Section 8. Severability.

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

Section 9. Legal Defense.

The purpose of this section is to ensure that the people’s precious right of initiative cannot be improperly annulled by state politicians who refuse to defend the will of the voters. Therefore, if this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge which attempts to limit the scope or application of this Act in any way, or alleges this Act violates any state or federal law in whole or in part, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and

shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(c) In order to support the defense of this Act in instances where the Governor and Attorney General fail to do so despite the will of the voters, a continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

Section 10. Liberal Construction.

This Act shall be liberally construed in order to effectuate its purposes as articulated in Section 2 and Section 3 of this Act.