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October 6, 2021

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Anabel Renteria
Initiative Coordinator
Office of the Attorney General
1300 I Street, 17th Floor
Sacramento, CA 95814-2919

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

**Re: Request for Circulating Title and Summary
"The Tax Cut and Housing Affordability Act of 2022"**

Dear Ms. Renteria:

We serve as counsel for the proponents of the enclosed proposed statewide initiative, "The Tax Cut and Housing Affordability Act of 2022." The proponent of the proposed initiative is:

- Stanley R. Apps

On the proponent's behalf, I am enclosing the following documents:

- Proponent's Request for Circulating Title and Summary
- Proponent's certification pursuant to Elections Code section 9001(b)
- Proponent's certification pursuant to Elections Code section 9608
- A check in the amount of \$2,000.00
- Text of "The Tax Cut and Housing Affordability Act of 2022" Initiative

All inquiries or correspondence relative to this proposed initiative, should be directed to:

George M. Yin
Kaufman Legal Group
777 S. Figueroa Street, Suite 4050
Los Angeles, CA 90017
Tel: (213) 452-6565
E-mail: gyin@kaufmanlegalgroup.com

If you have any questions, please do not hesitate to contact me.

Very truly yours,



George M. Yin

Enclosures

October 6, 2021

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OCT 6 2021

Anabel Renteria
Initiative Coordinator
Office of the Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary for Proposed Initiative

Dear Ms. Renteria:

Pursuant to Article II, Section 10(d) of the California Constitution, I submit the attached proposed Initiative, entitled "The Tax Cut and Housing Affordability Act of 2022" to your office and request that your office prepare a title and summary. Included with this submission is the required proponent certifications pursuant to sections 9001 and 9608 of the California Elections Code, along with a check for \$2,000.00.

All inquiries or correspondence relative to this initiative should be directed to George Yin at Kaufman Legal Group, 777 S. Figueroa St., Suite 4050, Los Angeles, CA 90017-5864; tel: (213) 452-6565; E-mail: gyin@kaufmanlegalgroup.com.

Thank you for your assistance.

Very truly yours,



Stanley R. Apps
Initiative Proponent

THE TAX CUT AND HOUSING AFFORDABILITY ACT OF 2022

The People of California do enact as follows:

SECTION 1. TITLE.

This Measure shall be known as the Tax Cut and Housing Affordability Act of 2022.

SECTION 2. PURPOSE AND INTENT.

(a) California has a housing affordability emergency: there is not enough housing located close to where people work, and housing costs too much for too many Californians.

(b) The housing affordability emergency increases homelessness, prevents hard-working families from owning a home, and discourages young families from raising their children in California.

(c) The housing affordability emergency causes too many workers to endure multi-hour daily commutes that increase air pollution, miss quality time with their family, and suffer from higher levels of stress and other health problems.

(d) In addition, the housing shortage is a driving factor in California's astronomical real estate prices. Experts say that the state needs to add 3.5 million homes by 2025 to help alleviate the shortage and make homes more affordable.

(e) Median home prices in California recently exceeded \$800,000 and average market rent for a two-bedroom unit is almost \$25,000 a year.

(f) The average wage for California renters is less than \$25 per hour. On average, 47% of renters' income goes toward covering their rental costs, based on a two-bedroom unit.

(g) Households paying more than 30 percent of income toward housing are considered cost-burdened, and those with housing costs that exceed half of income are considered severely cost-burdened.

(h) In 2015, more than four in ten California households had unaffordable housing costs, exceeding 30 percent of household income, and more than one in five households statewide faced severe housing cost burdens, spending more than half of their income toward housing expenses.

(i) Despite being in the midst of a severe housing crisis, current support for housing has not been meaningfully increased since the 1970s. The most effective way to make housing more affordable for people who need it most is to refund housing costs for middle and low-income homeowners and renters. This Act will do so by providing income tax credits of up to \$2,000 for heads of household, married couples filing jointly,

married couples filing singly, and surviving spouses if they earn \$400,000 or less, and income tax credits of up to \$1,000 for single tax filers earning \$200,000 or less.

(j) To fund the tax credit for middle and low-income homeowners and renters, a surcharge of 0.7% (flexible up to 0.9% to meet state funding needs) will be applied to properties with a current assessed value of \$5,000,000 or more. This surcharge on high value property is designed to further incentivize housing development, while protecting existing development tools.

(k) Financial support for homeowners and renters is crucial, but more housing construction is also needed to generate a long-term solution to California's housing crisis, especially housing for middle and working-class families.

(l) California communities, acting by and through their local elected officials, adopt General Plans after analyzing, disclosing, and receiving public input on the environmental, economic, and social consequences of the proposed change. Every eight years, all cities and counties are required to update their General Plan housing elements to accommodate their fair share of regional housing growth, and to plan for the public services, infrastructure, educational needs, and job growth in their communities.

(m) This measure empowers California communities to implement General Plans to approve housing for California families free of duplicative lawsuits, bureaucratic burdens that can add \$100,000 or more to the per unit cost of housing, and special interest politics that elevate the concerns of locally powerful groups over the interests of California families seeking to own or rent a home they can afford.

(n) As existing law establishes, housing affordability and the adequacy of statewide and regional supplies of housing are matters of statewide concern. The provisions of this Act are reasonably related and appropriately tailored to meet those concerns.

(o) It is the policy of the State that the provisions of this Act be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

SECTION 3. INCOME TAX CREDIT FOR HOUSING.

Revenue and Taxation Code Section 17053.5 is amended to read:

(a)(1) For *both* a qualified renters *and* qualified homeowners, there shall be allowed a housing credit against the taxpayer's ~~renter's~~ "net tax," as defined in Section 17039. The amount of the *housing* credit shall be as follows:

(A) For spouses filing joint returns, heads of household, and surviving spouses, as defined in Section 17046, the credit shall be equal to ~~one hundred twenty dollars (\$120) two thousand (\$2,000)~~ if adjusted gross income is ~~fifty thousand dollars (\$50,000) four hundred thousand dollars (\$400,000)~~ or less.

(B) For other individuals, the credit shall be equal to ~~sixty dollars (\$60) one thousand dollars (\$1,000)~~ if adjusted gross income is ~~twenty-five thousand dollars (\$25,000) two hundred thousand dollars (\$200,000)~~ or less.

(2) Except as provided in subdivision (b), spouses shall receive but one credit under this section. If the spouses file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (e).

(B) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (e).

(b) For spouses, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, *the following definitions apply:*

(1) Aa “qualified renter” means an individual who satisfies both of the following:

(A1) Was a resident of this state, as defined in Section 17014.

(B2) Rented and occupied premises in this state which constituted the individual’s principal place of residence during at least 50 percent of the taxable year.

(2) A “qualified homeowner” means the owner of a dwelling as defined in Revenue and Taxation Code Section 218(c) who satisfies both of the following:

(A) Was a resident of this state, as defined in Section 17014.

(B) Owned a dwelling in this state which constituted the individual’s principal place of residence during at least 50 percent of the taxable year.

(3) “Qualified renter” and “qualified homeowner” do does not include any of the following:

(1A) An individual who for more than 50 percent of the taxable year rented and occupied premises that were exempt from property taxes, except that an individual, otherwise qualified, is deemed a qualified renter if the individual or the individual’s landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes that are substantially equivalent to property taxes paid on properties of comparable market value.

(2B) An individual whose principal place of residence for more than 50 percent of the taxable year is with another person who claimed that individual as a dependent for income tax purposes.

(4) (h) For purposes of this section, “premises” means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, unless the dwelling unit is a mobile home.

(d) A taxpayer can only be either a qualified renter or a qualified owner for any month of the year. Months of the year shall be apportioned according to subsection e.

(e)(1) An otherwise qualified taxpayer renter who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(2) An otherwise qualified taxpayer who is a qualified renter or qualified homeowner for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the

rate of one-twelfth of those credits for each full month that the individual was a qualified renter or homeowner.

(f) A person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(g) The credit provided in this section shall be claimed on returns in the form as the Franchise Tax Board may from time to time prescribe.

(h) For purposes of this section, "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, unless the dwelling unit is a mobilehome. ~~The credit is not allowed for any taxable year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners' exemption under Section 218 in that year.~~

~~(i) This section shall become operative on January 1, 1998, and applies to any taxable year beginning on or after January 1, 1998.~~

(j) For each taxable year beginning on or after ~~January 1, 1999~~ *January 1, 2024*, the Franchise Tax Board shall ~~recompute~~ *recompute* the credit and adjusted gross income amounts set forth in subdivision (a) ~~shall be increased annually by the inflationary rate as shown in the California consumer price index, but shall not exceed 2 percent for any given year. The amounts shall be rounded up to the next one dollar (\$1). In the event the inflationary rate is negative, the credit and adjusted gross income amounts shall not be adjusted downward but shall remain constant. The computation shall be made as follows:~~

~~(1) The Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current year, no later than August 1 of the current calendar year.~~

~~(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to the portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100.~~

~~(3) The Franchise Tax Board shall multiply the amount in subparagraph (B) of paragraph (1) of subdivision (a) for the preceding taxable year by the inflation adjustment factor determined in paragraph (2), and round off the resulting products to the nearest one dollar (\$1).~~

~~(4) In computing the amounts pursuant to this subdivision, the amounts provided in subparagraph (A) of paragraph (1) of subdivision (a) shall be twice the amount provided in subparagraph (B) of paragraph (1) of subdivision (a).~~

(j)(1) If the amount allowable as a credit under this section exceeds the tax liability computed under this part for the taxable year, the excess shall be credited against other amounts due, if any, and the balance, if any, up to \$300, shall be refunded to the qualified taxpayer.

(2) Notwithstanding any other law, amounts refunded pursuant to this section shall be treated in the same manner as the federal earned income refund for the purpose of determining eligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or amounts of those benefits.

SECTION 4. PROPERTY TAX SURCHARGE

Subdivision (a) of Section 1 of Article XIII of the California Constitution is amended to read:

(a) All property is taxable and, *except for the surcharge imposed by Article XIII A, Section 1(d)*, shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

A new subdivision (d) is added to Section 1 of Article XIII A of the California Constitution, to read:

(d)(1) For covered properties with full cash values of \$5 million or more, an annual surcharge is imposed at an applied surcharge level equal to seven tenths of a percent (0.7%), or more as provided under subparagraph 9(F) of this subdivision. For covered properties with full cash values between \$4 million and \$5 million, an annual surcharge is imposed equal to the applied surcharge level divided by \$1 million multiplied by the difference between the full cash value and \$4 million. No deduction of the surcharge imposed by this subdivision shall be permitted by the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) or the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code).

(2) Notwithstanding any other provision of this Constitution or any law, such a surcharge shall not be considered (A) General Fund proceeds of taxes, General Fund revenues, or allocated proceeds of taxes for purposes of Section 8 of Article XVI, or (B) proceeds of taxes for purposes of Article XIII B of the California Constitution.

(3) No person responsible for paying the surcharge for covered property shall directly pass on the cost of the surcharge to any tenant.

(4) Counties shall collect the surcharge imposed by this section together with a taxpayer's property tax. The proceeds of the surcharge, after subtraction for reasonable expenses incurred in collecting the surcharge, shall be remitted to the Housing Affordability Tax Cut Account.

(5) The Board of Equalization may promulgate regulations to implement this section pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(6) For any year in which the use of a parcel, or part of a parcel, changes from a covered use to a non-covered use, the county assessor shall adjust the surcharge ratably.

(7) The surcharge on parcels that are vacant land shall be eliminated beginning on the earlier date by which (A) a certificate of occupancy or its substantial equivalent is granted for that parcel or parcels or (B) that parcel is encumbered by a tax, special assessment, or substantially equivalent levy imposed on the parcel as a residential parcel. The county assessor shall adjust the surcharge ratably to the parcels no longer covered and to those that are covered.

(8) For purposes of this subdivision:

(A) "Covered property" means any real property situated within California with a full cash value of over \$4 million that is used as commercial, residential, industrial, or mixed-use real property, or is vacant land, subject to the following inclusions and exclusions:

(i) "Covered property" includes: (I) parcels on which there is a portion of a single residence or single commercial structure with a full cash value of more than \$4 million; and (II) parcels created by subdividing another parcel for the purpose of avoiding the surcharge provided for by this subdivision and not for a substantial independent purpose.

(ii) "Covered property" excludes: (I) real property exempt under Article XIII; (II) real property authorized to be made exempt under Article XIII to the extent the Legislature has provided for such exemptions; (III) commercial agriculture, including but not limited to land used for growing crops, fruit, and nut trees; (IV) parcels of real property where the full cash value of the parcel divided by the number of owner-occupied households is \$4 million or less; (V) parcels with utilities and transport assessed by the State under Article XIII, Section 19; (VI) residential projects or housing units within residential or mixed-use projects that are restricted by deed to occupancy by low and very low-income occupants, as defined by law; and (VII) vacant land that is used or protected for open space or a park, or that is essentially free of structures, is natural in character to provide opportunities for recreation and education, and is intended to preserve scenic, cultural, or historic values.

(B) "Full cash value" has the same meaning as in Section 2 of Article XIII A.

(C) "Mixed-use real property" means real property on which residential and either commercial or industrial uses are permitted.

(D) "Residential property" means real property used for residential purposes, including both single-family and multi-unit structures, and the land on which those structures are constructed or placed.

(E) "Substantial independent purpose" includes the purpose of development, so long as such development is expected to be completed within a reasonable timeframe taking due account of the type of development, subject to interpretation and enforcement by the Board of Equalization.

(9)(A) The Housing Affordability Tax Cut Account is hereby created in the General Fund.

(B) All revenues derived from the surcharge imposed by this subdivision shall be deposited in the Housing Affordability Tax Cut Account.

(C) Revenues deposited in the Housing Affordability Tax Cut Account shall be used exclusively to:

(i) Fund the tax relief provided for by Revenue and Taxation Code Section 17053.5 and

(ii) Pay for the reasonable costs of administering the tax relief under Revenue and Taxation Code Section 17053.5 and the surcharge imposed by this subdivision.

(D) For the first fiscal year in which the surcharge is levied and each fiscal year thereafter, the Department of Finance shall provide to the Legislature all of the following information:

(i) The balance in the Housing Affordability Tax Cut Account.

(ii) The estimated yield of the surcharge imposed by this subdivision for the current year.

(iii) The estimated cost of the increased tax relief authorized by Revenue and Taxation Code Section 17053.5.

(E) Excess funds above the amounts required under subparagraph (C) in any fiscal year shall remain in the Housing Affordability Tax Cut Account for use in future fiscal years.

(F) If there are insufficient moneys in the Housing Affordability Tax Cut Account to cover the total amount required under subparagraph (C), the surcharge in paragraph 1 of this subdivision shall be increased to cover the estimated shortfall, but only up to a total applied surcharge level of 0.9%.

(G) If the surcharge increase required by subparagraph (F) is not projected to cover the total amount required under subparagraph (C) in a given fiscal year, then, notwithstanding any other provision of this Constitution, the tax relief authorized by Revenue and Taxation Code Section 17053.5 shall be reduced pro rata for that fiscal year so that projected revenues will be sufficient.

SECTION 5. RIGHT TO DEVELOP AFFORDABLE AND REGIONALLY NEEDED HOUSING CONSISTENT WITH LOCAL STANDARDS.

Section 65589.1 is added to the Government Code, to read:

(a) Notwithstanding any other provision of state or local law, a housing development project submitted to a local government for review and approval shall be considered ministerially without discretionary review or a hearing if both of the following conditions are met:

(1) The project consists of the construction of new residential dwelling units for which the developer provides a legally enforceable commitment to sell or rent at least half of the units initially to middle and working-class households for use as a primary residence;

(2) The project is located on a parcel or parcels of land that have been designated in a local government's General Plan, community plan, or specific plan, or an element of such plan, for residential or mixed residential-commercial projects.

(b) A housing development project that satisfies the conditions in subdivision (a) shall be authorized by the local government with ministerial building and grading permits provided that the new housing development project complies with all applicable and objective standards of the General Plan and local ordinances in effect at the time that the application was deemed complete.

(1) The project shall be deemed to comply with applicable, objective General Plan, zoning, and subdivision standards and criteria, including design review standards, if there is substantial evidence that would allow a reasonable person to find that the project is consistent, compliant, and in conformity with said standards.

(2) The project shall be deemed to comply with applicable, objective public health and safety standards unless the local government makes written findings supported by a preponderance of the evidence on the record that the project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved with modification or mitigation conditions, and that there is no feasible method to satisfactorily mitigate or avoid that adverse public health or safety impact other than the disapproval of the housing development project or imposition of the specified conditions. As used in this subdivision, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(c) A housing development project for which the applicant requests ministerial review pursuant to this section, and which satisfies the requirements of subdivision (a), shall be processed as follows:

(1) The applicant shall submit a preliminary application demonstrating compliance with applicable objective standards. The preliminary application shall include a site plan illustrating features of the project which the local government's objective standards require to be shown in a site plan, such as the location of housing, infrastructure, recreational and open space, and parking.

(2) Within 60 days of receiving the application, the local government shall inform the applicant of all apparent noncompliance with objective standards, and the applicant shall thereafter submit a final application with revisions or other responses demonstrating compliance with objective standards.

(3) Within 60 days of receiving the applicant's revision, the local government department authorized to issue building and grading permits shall make a final determination of whether the project satisfies the standards of subdivision (b) and, if those standards are met, issue the permits.

(4) An applicant may appeal a housing project denial directly to the governing body of the local government.

(d) For purposes of determining what comprises a “project” as defined in Sections 21065 and 21080 of the Public Resources Code, “project” shall exclude both: (1) the determination of whether a housing development project qualifies for ministerial review pursuant to subdivision (a); and (2) the determination of whether a project that so qualifies meets the standards of subdivision (b) including paragraphs (b)(1) and (b)(2).

(e) Compliance with this section may be enforced through a writ of mandate under Section 1085 of the California Code of Civil Procedure and in the same manner, and with the same standards and remedies, as provided in Section 65589.5 of the Government Code.

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

(1) “Area median income” means the median income of a geographic area of the state, as defined in Health and Safety Code Section 50093. The State Income Limits prepared annually by the California Department of Housing and Community Development may be used to determine the area median income for purposes of this section.

(2) “Deemed complete” means that the applicant has submitted a preliminary application pursuant to Section 65941.1, or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943.

(3) “Housing development project” means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the private square footage designated for residential use.

(C) Transitional housing or supportive housing.

(4) “Local government” means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

(5) “Middle and working-class household” means a household with average annual income over a three year period of 150% or less than the area median income.

(6) “Objective” means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

SECTION 6. SEVERABILITY.

If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SECTION 7. CONFLICTING MEASURES; CREATING AND FINANCING INCREASED HOUSING A STATEWIDE CONCERN.

(a) This Act is intended to be comprehensive for the purposes of this election with regard to the subject of creating and incentivizing housing, including tax adjustments for homeowners and renters; the authority of state and local government to regulate housing and related land-use and zoning matters; and the balance between housing equity and affordability and environmental protections. It is therefore the intent of the People that in the event this Act and another initiative measure or measures relating to the same subject appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

(b) If this Act 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 Act shall be self-executing and given full force and effect.

(c) The People declare that the availability and affordability of housing are matters of statewide concern that justify state legislation that is reasonably related and reasonably tailored to those goals. Nothing in this Act prohibits the Legislature or any local government from passing laws intended to further incentivize or authorize the creation of more affordable housing, such as through additional tax cuts or streamlining of regulation.