

21-0032

Amdt. # 1

November 9, 2021

HAND DELIVERED

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

RECEIVED

NOV 10 2021

**INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE**

Re: Initiative No. 21-0032 - First Amendment

Dear Ms. Renteria:

Pursuant to Elections Code Section 9002(b), enclosed please find an amendment to Initiative Number 21-0032, also known as the "Tax Cut and Housing Affordability Act of 2022." The amendments are reasonably germane to the theme, purpose, or subject of the initiative measure as originally proposed.

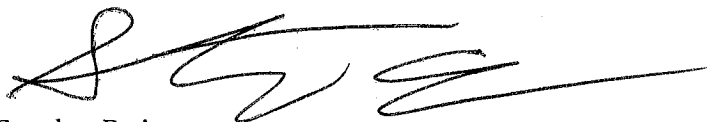
I am the proponent of the measure and request that the Attorney General prepare a circulating title and summary of the measure as provided by law.

Should you have any questions or require additional information, please direct any inquiries or correspondence to:

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

Thank you in advance for your attention to this matter.

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, increasing air pollution, causing them to miss quality time with their family, and leading to 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. Median home prices in California recently exceeded \$800,000 and average market rent for a two-bedroom unit is almost \$25,000 a year.

(e) For decades, billionaires living in multi-million-dollar mansions have used lobbyists and accountants to avoid paying their fair share in property taxes. This Act closes that loophole. While less than 1% of the wealthiest homeowners will see their taxes increase, 99% of homeowners will receive a tax cut of up to \$2,000. In addition, 97% of tax-filing renters will be eligible for up to \$2,000 for joint filers and up to \$1,000 for single filers.

(f) 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. In 2015, more than four in ten California households were cost-burdened, and more than one in five households statewide were severely cost-burdened.

(g) 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.

(h) Since 1972, homeowners have only received a \$7,000 property tax exemption, even though the median home price has grown from \$28,660 to over \$800,000. An increase in this exemption is long overdue. This Act will increase the exemption to \$200,000.

(i) Increasing the property tax exemption that homeowners receive from \$7,000 to \$200,000 will save most homeowners in California nearly \$2,000 in taxes per year. This will help make housing more affordable for middle and working-class families.

(j) Renters, who also face a housing affordability crisis, will receive a comparable increase in tax relief under this Act through an increase in the renter's tax credit. The Act will increase the renter's credit to up to \$2,000 for joint filers making up to \$400,000.

(k) To fund the tax credit for middle and low-income homeowners and renters, a surcharge of 1.0% (flexible up to 1.2% to meet state funding needs) will be applied to properties with a current assessed value of \$5 million or more, with a phase-in starting at \$4 million. This surcharge on high value property is designed to further incentivize housing development, while protecting existing development tools.

(l) Financial support through tax relief for homeowners and renters will help make housing more affordable for most Californians. But to solve California's housing crisis, more housing construction is also needed, especially housing affordable to middle and working-class families. This Act will facilitate the construction of such housing. The Act will streamline approval for housing construction if the housing complies with the locally adopted General Plan and has a majority of units that will be sold or rented to middle or working-class households that earn up to 150% of the median income in the geographic area.

(m) 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 changes. 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 public services, infrastructure, educational needs, and job growth in their communities.

(n) This Act empowers California communities to implement General Plans to approve housing for California families free of duplicative lawsuits, bureaucratic burdens that can add close to \$100,000 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.

(o) As existing law establishes, housing affordability and the adequacy of statewide and regional supplies of housing are matters of statewide concern that must be addressed through state law that is intended to increase the availability of housing throughout California. The provisions of this Act are reasonably related and appropriately tailored to meet those concerns.

(p) 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. HOMEOWNERS' PROPERTY TAX EXEMPTION; RENTER'S TAX CREDIT.

Section 3, subdivision (k) of Article XIII of the California Constitution is amended to read:

(k) (1) ~~\$7,000~~ \$200,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as ~~his~~ *the owner's* principal residence, unless the dwelling is receiving another real property exemption. The Legislature may increase this exemption and may deny it if the owner received state or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.

No increase in this exemption above the amount of ~~\$200,000~~ ~~\$7,000~~ shall be effective for any fiscal year unless the Legislature increases the rate of state taxes *or otherwise provides for* ~~in~~ an amount sufficient to provide the subventions required by Section 25.

(2) *For purposes of income taxation, qualified renters, as defined by and in accordance with the law, shall be allowed a credit against their net tax in an amount not less than \$2,000 for spouses filing joint returns, heads of household, and surviving spouses, and in an amount not less than \$1,000 for other individuals.*

(3) If the Legislature increases the homeowners' property tax exemption, it shall provide increases in benefits to qualified renters, as defined by law, comparable to the average increase in benefits to homeowners, as calculated by the Legislature.

(4) *The homeowners' property tax exemption in paragraph (1) and renter's tax credit in paragraph (2) 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. For any year in which the California Consumer Price Index is negative, the homeowners' property tax exemption and renter's tax credit shall not be reduced but shall remain constant.*

Revenue and Taxation Code Section 17053.5, paragraph (a)(1), is amended to read:

(1) For a qualified renter, there shall be allowed a credit against the renter's "net tax," as defined in Section 17039. The amount of the 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 dollars (\$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.

SECTION 4. RELIEF ACCOUNT & REIMBURSEMENTS TO LOCAL GOVERNMENT.

Section 25 of Article XIII of the California Constitution is amended to read:

The Legislature shall provide, in the same fiscal year, *and shall hereby continuously appropriate from the General Fund*, reimbursements to each local government for revenue lost because of Section 3(k). *The Legislature shall provide for the methods of collection of the surcharge imposed by Article XIII A, Section 1(d) and for its allocation to accomplish the purpose of this subdivision.*

A new Section 25.2 is added to Article XIII of the California Constitution, to read:

§ 25.2. Property Tax and Rental Relief Account

(a) The Property Tax and Rental Relief Account is hereby created in the General Fund.

(b) All revenues derived from the surcharge imposed by Article XIII A, Section 1(d) shall be deposited in the Property Tax and Rental Relief Account.

(c) Except as set out in paragraph (e)(4), revenues deposited in the Property Tax and Rental Relief Account shall be used exclusively for expenditures to:

(1) Fund the tax relief provided for by the increase in the homeowners' property tax exemption in Article XIII, Section 3(k) and fulfill the purposes of Article XIII, Section 25;

(2) Fund the tax relief provided for by the increase in the renter's tax credit in Article XIII, Section 3(k); and

(3) Pay for the reasonable costs of administering the tax relief under Article XIII, Section 3(k) and the surcharge imposed by Article XIII A, Section 1(d).

(d) For the first fiscal year in which the surcharge imposed by Article XIII A, Section 1(d) is levied and each fiscal year thereafter, the Department of Finance shall provide to the Legislature all of the following information:

(1) The balance in the Property Tax and Rental Relief Account.

(2) The estimated revenue to be generated for the current year through the surcharge imposed by Article XIII A, Section 1(d).

(3) The estimated expenditures for the current year necessary for the increase in the homeowners' property tax exemption in Article XIII, Section 3(k), the increase in the renter's tax credit relief authorized by Article XIII, Section 3(k), and the reasonable administration costs described by paragraph (c)(3).

(e) In administering the Property Tax and Rental Relief Account:

(1) Funds above the amounts required under subdivision (c) in any fiscal year shall remain in the Property Tax and Rental Relief Account for use in future fiscal years, except as set forth in paragraph (e)(4).

(2) If there are insufficient moneys in the Property Tax and Rental Relief Account to cover the total expenditures required under subdivision (c), the applied surcharge level in Article XIII A, Section 1(d) shall be increased to cover the estimated shortfall, but only up to 1.2%.

(3) If the tax increase required by paragraph (e)(2) is not projected to cover the total amount required under subdivision (c) in a given fiscal year, then, notwithstanding any other provision of this Constitution, the homeowners' property tax exemption and renter's tax credit relief authorized by Section 3(k) of Article XIII shall be reduced pro rata for that fiscal year so that projected revenues will be sufficient.

(4)(A) Funds shall be deemed to have accumulated excessively in the Property Tax and Rental Relief Account if, for the previous three-year period, the average annual revenues generated through the surcharge imposed by Article XIII A, Section 1(d) are greater than or equal to 125% of the average annual expenditures described in subdivision (c).

(B) If the Department of Finance certifies that funds have accumulated excessively in the Property Tax and Rental Relief Account, an amount equal to 100% of the average annual expenditures for the previous three years shall be held in reserve, and the remainder shall be disbursed as excess funds.

(C) Excess funds, as described in subparagraph (e)(4)(B), shall be refunded, pursuant to Article XIII, Section 3(k), to qualified renters for whom the amount allowable pursuant to

the renter's credit exceeds their tax liability for the taxable year, in proportion to the size of their unused credit.

(D) Notwithstanding any other law, amounts refunded pursuant to this paragraph 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.

(5) In order to provide for the purposes set out in subdivision (c), the State may borrow for up to three years against the revenues derived from the surcharge described in Article XIII A, Section 1(d).

SECTION 5. 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 one percent (1.0%), or more as provided under Article XIII, Section 25.2. 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 or entity 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 subdivision 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 Property Tax and Rental Relief 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 changes from a covered use to a non-covered use, or vice versa, 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 residences 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 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.

SECTION 6. 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, an application for a building permit or for any other permit or entitlement for 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, for at least half of the units, to sell or rent to middle and working-class households for use as a primary residence, with any such rental commitment to middle and working-class households to be maintained for a period of three years;

(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) All permits and other entitlements for a housing development project that satisfies the conditions in subdivision (a) shall be approved by the local government ministerially provided that the new housing development project complies with all applicable, objective standards of the General Plan, local ordinances, and state law 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: (A) 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 (B) 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) 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.

(e) 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) "Ministerially" or "ministerial" means that the housing development project shall not constitute a "project" within the meaning and for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(7) "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 7. EFFECTIVE DATES.

The effective date of this Act shall be January 1, 2023, except that Section 3 of this Act shall go into effect one year after the effective date of this Act.

SECTION 8. SEVERABILITY.

If any provision of this Act, or its application to any person or circumstance, is for any reason held to be invalid or unconstitutional, the remainder of this Act shall be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. 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. The People find and declare, without limitation as to other conflicts that may appear on the ballot, that this Act and Initiative 21-0016A1 (Local Land Use) both relate to the authority of state and local government to regulate housing and related land-use and zoning matters, in a comprehensive and substantively conflicting manner. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their

entirety over Initiative 21-0016A1 (Local Land Use) or any other conflicting measure, 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.