

Amend Revenue and Taxation Code Section 69.5 of the Property Tax Law to clarify the definition of "substantially damaged or destroyed." (Housekeeping)

Source: Property and Special Taxes Department

Existing Law

Proposition 60, which was passed by the voters in November 1986, amended Section 2 of Article XIII A of the California Constitution to allow persons over the age of 55 to sell their principal place of residence (original property) and transfer the base year value to a replacement principal place of residence (replacement property) that is purchased or newly constructed within the same county. Proposition 90, which was passed by the voters in November 1988, extended these provisions to a replacement property that is located in a different county than the original property. Proposition 110, which was passed by the voters in June 1990, extended these provisions to severely and permanently disabled persons of any age. All three propositions are implemented by Revenue and Taxation Code Section 69.5.

Section 69.5 also allows a base year value from an original property that was substantially damaged or destroyed by misfortune or calamity and sold in its damaged state. "Substantially damaged" means physical damage amounting to more than 50 percent of its current market value immediately prior to the disaster. Situations have occurred in which the scarcity of land in some locations has driven up land values to the point that land comprised more than 50% of a property's total value. For example, assume a home that is worth \$800,000 is completely destroyed in a wildfire. If the now empty lot is worth \$450,000 – i.e., more than 50% of the total value, the homeowner would not be eligible for a base year value transfer even though the home itself (the improvement) was 100% destroyed. Similar language was contained in Sections 69 and 69.3, before both were amended by SB 824 (Ch. 67, Stats. 2009), sponsored by the BOE.

This Proposal

"Substantially damaged or destroyed" language in Section 69.5 should be amended to be consistent with Sections 69 and 69.3. This proposal would ensure that for those disaster victims that ultimately decide to relocate rather than rebuild a base year value transfer will be available to them in those locations where land values compromise more than 50% of the property's value.

Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (g) For purposes of this section:

(13) For the purposes of this section property is "substantially damaged or destroyed by misfortune or calamity" if ~~it sustains~~ either the land or the improvements sustain physical damage amounting to more than 50 percent of its full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the

property where the restricted access was caused by the misfortune or calamity and is permanent in nature.