



STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

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August 23, 1994

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*Executive Director*

No. 94/49

TO COUNTY ASSESSORS:

**PROPOSITION 171: DISASTER RELIEF**  
**INTERCOUNTY TRANSFERS OF BASE YEAR VALUES**

On November 2, 1993, the voters of California approved Proposition 171 which amended subdivision (e) of Section 2 of Article XIII A of the California Constitution. This constitutional amendment authorizes the Legislature to provide that the base year value of property substantially damaged or destroyed in a Governor-declared disaster may be transferred to a replacement property located in another county, provided that the replacement property is located in a county that has adopted an ordinance to accept such base-year value transfers.

Chapter 72 of the Statutes of 1994 (Assembly Bill 382, Lee) provides necessary statutory implementation for Proposition 171. While this bill is urgency legislation, effective on May 20, 1994, it applies to any property damaged in a Governor-declared disaster occurring on or after October 20, 1991.

Chapter 72 adds Section 69.3 to the Revenue and Taxation Code (all statutory references are to the Revenue and Taxation Code unless otherwise indicated). Section 69.3 provides disaster relief under provisions similar to Section 69.5 (transfer of base year values for disabled persons or persons over the age of 55). However, some areas in Section 69.3 are incomplete and need further clarification. Clarifying amendments to Section 69.3 are currently proposed in the Board's housekeeping bill, Senate Bill 1431.

A detailed analysis of the requirements of Section 69.3 is being developed. Copies of Chapter 72 and relevant portions of SB 1431, as amended June 29, 1994, are enclosed for your information. These copies are being provided to you in case your county is considering adopting an ordinance pursuant to Section 69.3 and to make you aware that amendments are pending.

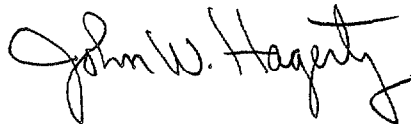
TO COUNTY ASSESSORS

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August 23, 1994

If there are areas that you think need legislative action, you should contact Rose Marie Carlos of the Legislative Unit at (916) 445-6777. If you have any questions regarding Section 69.3, please contact our Real Property Technical Services Section at (916) 445-4982.

Sincerely,



John W. Hagerty  
Deputy Director  
Property Taxes Department

JH:grs

Enclosure

## Assembly Bill No. 382

## CHAPTER 72

An act to add Section 69.3 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 20, 1994. Filed with Secretary of State May 20, 1994.]

## LEGISLATIVE COUNSEL'S DIGEST

AB 382, Lee. Property taxation: transfer of base year value: substantially damaged or destroyed property.

Existing provisions of the California Constitution that were approved by the voters at the November 2, 1993, special election authorize the Legislature to authorize counties to adopt an ordinance allowing the transfer of the property tax base year value of property in another county in the state that has been substantially damaged or destroyed by a disaster, as provided, to comparable replacement property, of equal or lesser value, that is located in the adopting county and is acquired or newly constructed within 3 years of the damage to, or destruction of, the original property.

This bill would implement this constitutional grant of legislative authority.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 69.3 is added to the Revenue and Taxation Code, to read:

69.3. (a) (1) Notwithstanding any other provision of law, pursuant to the authority of paragraph (3) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, a county board of supervisors, after consultation with affected local agencies located within the boundaries of the county, may adopt an ordinance that authorizes the transfer, subject to the conditions and limitations of this section, of the base year value of real property that is located within another county in this state and has been substantially damaged or destroyed by a disaster to comparable replacement property of equal or lesser value, including land, that is located within the adopting county and has been acquired or newly constructed as a replacement for the damaged or destroyed property within three years after the damage or destruction of the original property.

(2) The base year value of the original property shall be the base year value of the original property as determined in accordance with

Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property was substantially damaged or destroyed. The base year value of the original property shall also include any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the date of the substantial damage to, or destruction of, the original property and up to the date the replacement property is acquired or newly constructed. The base year or years used to compute the base year value of the original property shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(b) For purposes of this section:

(1) "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.

(2) "Comparable replacement property" means a replacement property that has a full cash value of equal or lesser value as defined in paragraph (5).

(3) "Consultation" means a noticed hearing, that is conducted by a county board of supervisors concerning the adoption of an ordinance described in subdivision (a) and with respect to which all affected local agencies within the boundaries of the county are provided with reasonable notice of the time and the place of the hearing and a reasonable opportunity to appear and participate.

(4) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(5) "Equal or lesser value" means that the amount of the full cash value of a replacement property does not exceed one of the following:

(A) One hundred five percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the first year following the date of the damage or destruction of the original property.

(B) One hundred ten percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the second year following the date of the damage or destruction of the original property.

(C) One hundred fifteen percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the third year following the date of the damage or destruction of the original property.

For the purposes of this paragraph, if the replacement property is, in part, purchased and, in part, newly constructed, the date the "replacement property is purchased or newly constructed" is the date of the purchase or the date of completion of new construction,

whichever is later. For purposes of this paragraph, "full cash value of the original property" shall be the amount of its full cash value immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(6) "Original property" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated, that has been substantially damaged or destroyed by a disaster, as declared by the Governor. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. For purposes of this paragraph, each unit of a multiunit dwelling shall be considered a separate original property.

(7) "Owner or owners" means an individual or individuals, but does not include any firm, partnership, association, corporation, company, other legal entity or organization of any kind.

(8) "Replacement property" means a building, structure, or other shelter, or other personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the land replacement dwelling includes only that area of reasonable size that is used as the site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. For purposes of this paragraph, each unit of a multiunit dwelling shall be considered a separate replacement dwelling.

(9) "Substantially damaged or destroyed" means property that sustains physical damage amounting more to than 50 percent of its full cash value immediately prior to the disaster. Damage includes a diminution of value in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(c) At the time the base year value of the substantially damaged or destroyed property is transferred pursuant to an ordinance adopted under this section, the substantially damaged or destroyed property shall be reassessed at its full cash value. However, the substantially damaged or destroyed property shall retain its base year value notwithstanding that transfer. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property relief under subdivision (c) of Section 70 in the event

of its reconstruction.

(d) Only the owner or owners of the property that has been substantially damaged or destroyed may receive property tax relief under an ordinance adopted pursuant to this section. Relief under an ordinance adopted pursuant to this section shall be granted to an owner or owners of a substantially damaged or destroyed property obtaining title to comparable replacement property. The acquisition of an ownership interest in a legal entity that, directly or indirectly, owns real property is not an acquisition of comparable replacement property for purposes of this section.

(e) A claim for relief under an ordinance adopted pursuant to this section shall be filed with the assessor of the county in which the replacement property is located in accordance with procedures and requirements as prescribed by the board. Those procedures and requirements that are prescribed by the board pursuant to this subdivision shall, to the extent not inconsistent with this section, be similar to those procedures and requirements established with respect to Section 69.5.

(f) Any taxes that were levied on the replacement property prior to the filing of a claim on the basis of the replacement property's new base-year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(g) This section shall apply to any comparable replacement property of equal or lesser value that is acquired or newly constructed as a replacement for property that has been substantially damaged or destroyed by a disaster occurring on or after October 20, 1991, and to the determination of base year values for the 1991-92 fiscal year and each fiscal year thereafter.

(h) It is the intent of the Legislature in enacting this section that the scope and amount of the tax relief provided under an ordinance adopted pursuant to this section not exceed the scope and amount of tax relief provided under Section 69.5 as that section read on November 2, 1993.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that disaster victims who have lost or suffered heavy damage to their homes are provided with an opportunity for essential relief as soon as possible, it is necessary that this act take effect immediately.

AMENDED IN ASSEMBLY JUNE 29, 1994

AMENDED IN ASSEMBLY JUNE 22, 1994

**SENATE BILL**

**No. 1431**

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**Introduced by Committee on Revenue and Taxation  
(Senators Greene (Chairman), Boatwright, Campbell,  
Dills, Hayden, and Lockyer)**

February 8, 1994

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An act to amend Section 51142 of the Government Code, and to amend Sections 61, 63.1, 69.3, 69.5, 75.21, 75.5, 273.5, 276, 5802, and 38204 of, to add Section 2188.11 to, and to repeal Sections 32 and 107.4 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1431, as amended, Senate Committee on Revenue and Taxation. Taxation.

Existing law with respect to the taxation of timber authorizes the State Board of Equalization to modify immediate harvest values of timber on its own motion, and provides for the levy of tax recoupment fees upon the immediate rezoning of a parcel located within a timberland production zone. *Existing law further requires that applications for waiver of tax recoupment fees be made to the State Board of Equalization.*

This bill would require the State Board of Equalization to consult with the Timber Advisory Committee prior to modifying immediate harvest values on its own motion, and would require that payments of tax recoupment fees; ~~and requests for waiver of those fees;~~ be made to the county in which the immediate rezoning has occurred. ~~By imposing new duties upon counties in the waiver of tax recoupment fees;~~ this bill would impose a state/mandated local program

*This bill would also allow applications for waiver of tax recoupment fees to be made to a county board of supervisors that has adopted an authorizing resolution.*

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. The California Constitution also excludes from the terms "purchased" and "change in ownership" the purchase or transfer of the principal residence of the transferor, or the purchase or transfer of the first \$1,000,000 of all other real property, in the case of a purchase or transfer between parents and their children, as defined by the Legislature.

Statutory law that implements this constitutional exclusion requires an applicant for the exclusion to submit information to the assessor that includes, among other things, the social security number of each eligible transferor.

This bill would provide, for purposes of this implementing statute, that the term "social security number" includes a taxpayer identification number provided by the Internal Revenue Service where the taxpayer is a foreign national who cannot obtain a social security number.

Existing property tax law, pursuant to the authorization of the California Constitution, authorizes counties to adopt an ordinance allowing the transfer of the property tax base year value of property in another county in the state that has been substantially damaged or destroyed by a disaster, as provided, to comparable replacement property, of equal or lesser value, that is located in the adopting county and is acquired or newly constructed within 3 years of the damage to, or destruction of, the original property.

This bill would make technical and clarifying changes with respect to this authorization.

Existing property tax law provides that any previously filed application for the homeowners' property tax exemption, that was granted and is the basis for a current exemption, shall constitute a claim for that same exemption with respect to

supplemental assessments.

This bill would expand this provision to include similar applications for the veterans' and disabled veterans' property tax exemptions, and would provide that no additional exemption claim is required until the next succeeding lien date in the case in which a supplemental assessment results from the completion of new construction upon property that has previously been exempted with respect to either the current tax roll or the tax roll being prepared.

Existing property tax law allows a taxpayer to receive partial exemption from tax under the veterans' exemption and the disabled veterans' exemption where a claimant, that fails to file the required affidavit prior to the April 15 immediately preceding the relevant fiscal year, files that affidavit prior to the immediately following December 1.

This bill would change the December filing date to December 10.

Existing law requires a manufactured home to be transferred from taxation under vehicle license fee provisions to ad valorem property taxation upon the request of the owner of that manufactured home.

This bill would provide that the property tax base year value of a manufactured home that is so transferred shall be that home's full cash value on the lien date for the fiscal year in which that home is first subject to property taxation.

This bill would also make nonsubstantive, technical and clarifying changes, and would eliminate provisions that are ineffective as a result of court decisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes no.

~~(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.~~

~~(h) This section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.~~

SEC. 5. Section 69.3 of the Revenue and Taxation Code, as added by Chapter 72 of the Statutes of 1994, is amended to read:

69.3. (a) (1) Notwithstanding any other provision of law, pursuant to the authority of paragraph (3) of subdivision (e) of Section 2 of Article XIII A of the California Constitution, a county board of supervisors, after consultation with affected local agencies located within the boundaries of the county, may adopt an ordinance that authorizes the transfer, subject to the conditions and limitations of this section, of the base year value of real property that is located within another county in this state and has been substantially damaged or destroyed by a disaster to comparable replacement property, including land, of equal or lesser value that is located within the adopting county and has been acquired or newly constructed as a replacement for the damaged or destroyed property within three years after the damage or destruction of the original property.

(2) The base year value of the original property shall be the base year value of the original property as determined in accordance with Section 110.1, with the inflation factor adjustments permitted by subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property was substantially damaged or destroyed. The base year value of the original property shall also include any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the date of the

substantial damage to, or destruction of, the original property and up to the date the replacement property is acquired or newly constructed, regardless of whether the claimant continued to own the original property during this entire period. The base year or years used to compute the base year value of the original property shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(b) For purposes of this section:

(1) "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.

(2) "Claimant" means an owner or owners of real property claiming the property tax relief provided by this section.

(3) "Comparable replacement property" means a replacement property that has a full cash value of equal or lesser value as defined in paragraph (6).

(4) "Consultation" means a noticed hearing, that is conducted by a county board of supervisors concerning the adoption of an ordinance described in subdivision (a) and with respect to which all affected local agencies within the boundaries of the county are provided with reasonable notice of the time and the place of the hearing and a reasonable opportunity to appear and participate.

(5) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(6) "Equal or lesser value" means that the amount of the full cash value of the replacement property does not exceed one of the following:

(A) One hundred five percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the first year following the date of the damage or destruction of the original property.

(B) One hundred ten percent of the amount of the full

1 (10) "Owner or owners" means an individual or  
2 individuals, but does not include any firm, partnership,  
3 association, corporation, company, other legal entity or  
4 organization of any kind.

5 (11) "Replacement property" means a building,  
6 structure, or other shelter constituting a place of abode,  
7 whether real property or personal property, that is  
8 owned and occupied by a claimant as his or her principal  
9 place of residence, and any land owned by the claimant  
10 on which the building, structure, or other shelter is  
11 situated. For purposes of this paragraph, land  
12 constituting a part of the replacement property includes  
13 only that area of reasonable size that is used as the site for  
14 a residence, and "land owned by the claimant" includes  
15 land for which the claimant either holds a leasehold  
16 interest described in subdivision (c) of Section 61 or a  
17 land purchase contract. For purposes of this paragraph,  
18 each unit of a multiunit dwelling shall be considered a  
19 separate replacement property. "Replacement  
20 property" does not include any property, including land  
21 or improvements, if the claimant owned any portion of  
22 that property prior to the date of the disaster that  
23 damaged or destroyed the original property.

24 (12) "Substantially damaged or destroyed" means  
25 property that sustains physical damage amounting more  
26 to than 50 percent of its full cash value immediately prior  
27 to the disaster. Damage includes a diminution in the  
28 value of property as a result of restricted access to the  
29 property where the restricted access was caused by the  
30 disaster and is permanent in nature.

31 (c) At the time the base year value of the substantially  
32 damaged or destroyed property is transferred to the  
33 replacement property pursuant to an ordinance adopted  
34 under this section, the substantially damaged or  
35 destroyed property shall be reassessed at its full cash  
36 value. However, the substantially damaged or destroyed  
37 property shall retain its base year value notwithstanding  
38 that transfer. If the owner or owners of substantially  
39 damaged or destroyed property receive property tax  
40 relief under this section, that property shall not be

1 cash value of the original property if the replacement  
2 property is purchased or newly constructed within the  
3 second year following the date of the damage or  
4 destruction of the original property.

5 (C) One hundred fifteen percent of the amount of the  
6 full cash value of the original property if the replacement  
7 property is purchased or newly constructed within the  
8 third year following the date of the damage or  
9 destruction of the original property.

10 For the purposes of this paragraph, if the replacement  
11 property is, in part, purchased and, in part, newly  
12 constructed, the date the "replacement property is  
13 purchased or newly constructed" is the date of the  
14 purchase or the date of completion of new construction,  
15 whichever is later.

16 (7) "Full cash value of the original property" means its  
17 full cash value, as determined in accordance with Section  
18 110, immediately prior to its substantial damage or  
19 destruction, as determined by the county assessor of the  
20 county in which the property is located.

21 (8) "Full cash value of the replacement property"  
22 means its full cash value, as determined in accordance  
23 with Section 110.1 as of the date upon which it was  
24 purchased or new construction was completed, that is  
25 applicable on and after that date.

26 (9) "Original property" means a building, structure,  
27 or other shelter constituting a place of abode, whether  
28 real property or personal property, that is owned and  
29 occupied by a claimant as his or her principal place of  
30 residence, and any land owned by the claimant on which  
31 the building, structure, or other shelter is situated, that  
32 has been substantially damaged or destroyed by a  
33 disaster. For purposes of this paragraph, land constituting  
34 a part of original property includes only that area of  
35 reasonable size that is used as a site for a residence, and  
36 "land owned by the claimant" includes land for which the  
37 claimant either holds a leasehold interest described in  
38 subdivision (c) of Section 61 or a land purchase contract.  
39 For purposes of this paragraph, each unit of a multiunit  
40 dwelling shall be considered a separate original property.



1 eligible for property tax relief under subdivision (c) of  
2 Section 70 in the event of its reconstruction.

3 (d) Only the owner or owners of the property that has  
4 been substantially damaged or destroyed may receive  
5 property tax relief under an ordinance adopted pursuant  
6 to this section. Relief under an ordinance adopted  
7 pursuant to this section shall be granted to an owner or  
8 owners of a substantially damaged or destroyed property  
9 obtaining comparable replacement property. The  
10 acquisition of an ownership interest in a legal entity that,  
11 directly or indirectly, owns real property is not an  
12 acquisition of comparable replacement property for  
13 purposes of this section.

14 (e) A timely claim for relief under an ordinance  
15 adopted pursuant to this section, in that form as shall be  
16 prescribed by the board, shall be filed by the owner with  
17 the assessor of the county in which the replacement  
18 property is located. No relief under an ordinance adopted  
19 pursuant to this section shall be granted unless the claim  
20 in filed no later than January 1, 1996, or within three years  
21 after the replacement property is acquired or newly  
22 constructed, whichever is later.

23 (f) Any taxes that were levied on the replacement  
24 property prior to the filing of a claim on the basis of the  
25 replacement property's new base year value, and any  
26 allowable annual adjustments thereto, shall be canceled  
27 or refunded to the claimant to the extent that taxes  
28 exceed the amount that would be due when determined  
29 on the basis of the adjusted new base year value.

30 (g) This section shall apply to any comparable  
31 replacement property of equal or lesser value that is  
32 acquired or newly constructed as a replacement for  
33 property that has been substantially damaged or  
34 destroyed by a disaster occurring on or after October 20,  
35 1991, and to the determination of base year values for the  
36 1991-92 fiscal year and each fiscal year thereafter.

~~37 SEC. 6. Section 69.5 of the Revenue and Taxation  
38 Code, as amended by Section 3 of Chapter 1180 of the  
39 Statutes of 1992, is amended to read:~~

40 ~~69.5. (a) (1) Notwithstanding any other provision of~~

1 law, pursuant to subdivision (a) of Section 2 of Article  
2 XIII A of the California Constitution, any person over the  
3 age of 55 years, or any severely and permanently disabled  
4 person, who resides in property that is eligible for the  
5 homeowner's exemption under subdivision (k) of Section  
6 3 of Article XIII of the California Constitution and Section  
7 218 may transfer, subject to the conditions and limitations  
8 provided in this section, the base year value of that  
9 property to any replacement dwelling of equal or lesser  
10 value that is located within the same county and is  
11 purchased or newly constructed by that person as his or  
12 her principal residence within two years of the sale by  
13 that person of the original property, provided that the  
14 base year value of the original property shall not be  
15 transferred to the replacement dwelling until the original  
16 property is sold.

17 (2) Notwithstanding the limitation in paragraph (1)  
18 requiring that the original property and the replacement  
19 dwelling be located in the same county, this limitation  
20 shall not apply in any county in which the county board  
21 of supervisors, after consultation with local affected  
22 agencies within the boundaries of the county, adopts an  
23 ordinance making the provisions of paragraph (1) also  
24 applicable to situations in which replacement dwellings  
25 are located in that county and the original properties are  
26 located in another county within this state. The  
27 authorization contained in this paragraph shall be  
28 applicable in a county only if the ordinance adopted by  
29 the board of supervisors complies with the following  
30 requirements:

31 (A) It is adopted only after consultation between the  
32 board of supervisors and all other local affected agencies  
33 within the county's boundaries.

34 (B) It requires that all claims for transfers of base year  
35 value from original property located in another county be  
36 granted if the claims meet the applicable requirements of  
37 both subdivision (a) of Section 2 of Article XIII A of the  
38 California Constitution and this section.

39 (C) It requires that all base year valuations of original  
40 property located in another county and determined by its