California State
Board *of* Equalization

Legislative Bill Analysis

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Assembly Constitutional Amendment 11 (Mullin)
Date: June 15, 2020 (Amended)
Program: Property Taxes
Sponsor: Author
California Constitution Article XIII A, Sections 2.1, 2.2, and 2.3
Effective: Upon voter approval

Analysis Date: June 22, 2020

This analysis is limited to the property tax provisions.

Summary: Subject to voter approval, this constitutional amendment proposes to make the following changes to article XIII A of the California Constitution:

- Adds a base year value transfer for homeowners who are over age 55, severely, disabled or victims of a wildfire or natural disaster to a replacement home in California, regardless of location or value.
- Replaces the parent-child and grandparent-grandchild exclusion with a new parent-child and grandparent-grandchild principal residence exclusion, if the property continues as the family home or farm of the transferee and the property meets a specified value test.

Fiscal Impact Summary:

- The revenue impact of the change to the parent-child and grandparent-grandchild exclusion is indeterminable.
- The base year value transfer would result in an average revenue loss of $1,560 per replacement property.

Background:

Related Legislation. SCA 2 (Galgiani) proposes changes to article A of the California that are identical to the provisions in this bill.

SCA 4 (Galgiani) proposes to make the following changes to section 2 of article XIII A of the California Constitution:

- For the parent-child and grandparent-grandchild exclusion: (1) limits the principal residence exclusion, and (2) eliminates the exclusion for real property other than a principal residence.
- For the age 55/disabled base year value transfer provisions: (1) eliminates the one-time-only limitation, (2) allows a replacement dwelling to be located anywhere in California, (3) removes the equal-or-lesser value standard.
- For the disaster relief base year value transfer provisions: (1) removes the comparability standard, (2) allows a replacement property to be located anywhere in California, and (3) removes the equal-or-lesser value standard for intercounty transfers.
- For the base year value transfer for qualified contaminated property: (1) allows a replacement dwelling to be located anywhere in California, and (2) removes the equal-or-lesser value standard.

SCA 8 and its companion bill, SB 1037 (Archuleta), propose to allow a base year value transfer for a person who is the parent or legal guardian of and resides with a severely and permanently disabled child.

Related Initiative. Initiative 1864 (19-0003), which is eligible for the November 2020 ballot, proposes to add section 1.6 to article XIII A to limit the parent-child and grandparent-grandchild exclusion to a principal residence exclusion, as long as the residence continues as the principal residence of the transferee and meets a value test (which is similar to the provisions contained in this bill). This initiative also proposes changes to the base year value transfers contained in article XIII A, section 2, for persons over 55/disabled, disasters, and contaminated property, allowing the base year value to be transferred to property anywhere in California and of any value (similar to this bill).

Base Year Value Transfer for Age 55/Disabled/Major Disaster

Existing Law: For property tax purposes, the law requires assessors to reassess real property from its Proposition 13 protected value (called the "base year value") to its current market value whenever a change in ownership occurs.[1] Exceptions to this reassessment requirement have been enacted, including two base year value transfers for property owners whose property has been damaged or destroyed in a disaster for which the Governor proclaimed a state of emergency. In addition, subject to many conditions, the law[2] allows homeowners at least age 55 years or qualified disabled persons to sell their existing home (called the "original property"), buy or build a new one, and transfer their base year value to the new home (replacement home).

Disaster Relief – Intracounty Transfers. Existing law[3] allows a person who owns property substantially damaged or destroyed in a Governor-proclaimed disaster to transfer the base year value of the damaged property to a comparable replacement property, as long as the replacement property is:

- Located within the same county,
- Purchased or newly constructed within five years of the date the disaster occurred, and
- Similar in size, utility, and function.
    - Property is similar in *size and utility* if the market value of the acquired property does not exceed 120 percent of the fair market value of the damaged or destroyed property in its pre-damaged condition. If the market value of the replacement property exceeds 120 percent, partial relief is available. Specifically, the value above 120 percent is added to the transferred base year value.
    - Property is similar in *function* if the replacement property is subject to similar governmental restrictions, such as zoning. The replacement property must be used in the same manner as the damaged or destroyed property.

Any type of property that is damaged or destroyed in a disaster for which the Governor proclaimed a state of emergency may qualify for this intracounty base year value transfer, including multifamily, commercial, or industrial property.

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[1] Article XIII A, section 2.
[2] Article XIII A, section 2(a), RTC section 69.5.
[3] RTC section 69.

Disaster Relief – Intercounty Transfers. Existing law[4] allows a homeowner whose principal residence was substantially damaged or destroyed in a Governor-proclaimed disaster to transfer the base year value to a replacement property that is purchased or newly constructed in a different county, as long as the replacement property is:

- Located in a county that has enacted an ordinance,[5]
- Purchased or newly constructed within three years of the date of the disaster,
- The principal residence of the property owner, and
- Of equal or lesser value.

Equal or lesser value means the current market value of the replacement property must be *equal to or less than* the market value of the damaged property immediately prior to the damage. A replacement property is considered comparable if its full cash value does not exceed one of the following:

- **105 percent** 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
- **110 percent** 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.
- **115 percent** 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.

If the replacement home exceeds the applicable value test, the base year value transfer is unavailable. There are no provisions in law for partial relief in these circumstances.

A claim for relief must be filed with the county assessor of the county in which the replacement property is located. The claim must be filed within three years after the replacement property is acquired or newly constructed. No prospective relief is available for late-filed claims.

Over 55/Disabled Base Year Value Transfer. Existing law[6] allows homeowners at least age 55 years or qualified disabled persons to sell their existing home (called the "original property"), buy or build a new one, and transfer their base year value to the new home (replacement home). This benefit gives homeowners property tax relief by allowing property taxes to remain essentially the same[7] after the move, provided they purchase a home of equal or lesser value. The replacement home must be purchased within 2 years, before or after, the original property's sale.

- **Principal Place of Residence.** To qualify for this benefit, both the original property and the replacement home must be eligible for either the homeowners' or the disabled veterans' exemption, based on the claimant's ownership and occupation of the home as a principal place of residence.[8]

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[4] RTC section 69.3.
[5] Contra Costa, Los Angeles, Modoc, Orange, San Francisco, Santa Clara, Solano, Sonoma, Sutter, and Ventura Counties.
[6] Article XIII A, section 2(a), RTC section 69.5.
[7] The property tax bill for the new home may not be identical to the property tax bill of the original home because the precise tax rate and direct levies (special assessments, parcel taxes, etc.) differ for each home's location.
[8] RTC sections 69.5(b)(2), 69.5(b)(4), and 69.5(g)(10).

- **Location Limitation.** The replacement home must be located either (1) in the same county as the original property, or (2) in a county that has enacted an ordinance accepting "intercounty" transfers. Currently, the 10 counties that have enabling ordinances are Alameda, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Mateo, Santa Clara, Tuolumne, and Ventura.

- **One-Time Benefit.** Current law[9] allows homeowners to use this base year value transfer only one time. The sole exception is that if a homeowner is granted the age 55 base year value transfer, the homeowner may transfer the base year value a second time if the homeowner subsequently becomes physically and permanently disabled and must move because of the disability.

  Statewide Tracking Database. To monitor and enforce this one-time base year value transfer limit statewide, the law[10] requires the State Board of Equalization (BOE) to maintain a database to track persons granted a base year value transfer. When married persons file a claim to transfer the base year value of their current home to a newly purchased home to which they share title, their names and pertinent information are entered in the database. This ensures that neither person will be allowed a future transfer.

- **Value Limit.** To qualify for this benefit, the replacement home's market value as of the date of purchase must be *equal to or less than* the original property's market value on the date of its sale. If the replacement home does not satisfy the "equal or lesser value" test, then the benefit is not available. The meaning of "equal or lesser value" depends on when the replacement home is purchased or newly constructed. In general, equal or lesser value means:[11]

  - **100 percent** or less of the market value of the original property if a replacement home was purchased or newly constructed *before* the sale of the original property, or
  - **105 percent** or less of the market value of the original property if a replacement home was purchased or newly constructed *within the first year* after the sale of the original property, or
  - **110 percent** or less of the market value of the original property if a replacement home was purchased or newly constructed *within the second year* after the sale of the original property.
  - If the replacement home exceeds the applicable value test, the base year value transfer is unavailable. There are no provisions in law for partial relief in these circumstances.

- A claim for relief must be filed with the county assessor of the county in which the replacement home is located. The claim must be filed within three years after the replacement home is acquired or newly constructed. If the claim is filed after the three-year deadline, prospective relief is available.[12]

Proposed Law: This bill proposes to add section 2.1 to article XIII A of the California Constitution. Operative April 1, 2021, these provisions allow homeowners who are over age 55, severely disabled, or

[9] RTC section 69.5(b)(7).
[10] RTC section 69.5(b)(7).
[11] RTC section 69.5(g)(5).
[12] RTC section 69.5(f).

victims of wildfire or natural disasters to transfer a base year value to a replacement home anywhere in California, regardless of the location or value.

Original Property. This bill requires the original property be sold.

Replacement Property. The replacement property must be purchased or newly constructed within two years of the sale of the original property.

Location. This bill allows a replacement property to be located anywhere in California.

Value. This bill allows the base year value to be transferred to a home of equal or lesser value. If the value of the replacement home is greater than the value of the original property, the difference in market values will be added to the transferred base year value of the original property.

Limitation on Number of Base Year Value Transfers. This bill allows persons over age 55 or severely disabled to transfer their base year value only three times.

Victim of Wildfire or Natural Disaster. This bill provides that "victim of a wildfire or natural disaster" means the owner of a primary residence which has been substantially damaged as a result of a wildfire or natural disaster that amounts to more than 50 percent of the improvement value of the primary residence immediately before the wildfire or natural disaster. This bill also provides that "damage" includes a diminution in the value of the primary residence as a result of restricted access caused by the wildfire or natural disaster. In addition, this bill provides the following definitions for wildfire and natural disaster.

- "Wildfire" has the same meaning as defined in Government Code section 51177(j), which is an unplanned, unwanted wildland fire, including unauthorized human-caused fires, escaped wildland fire use events, escaped prescribed fire projects, and all other wildland fires where the objective is to extinguish the fire.
- "Natural disaster" means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

Filing. This bill requires the homeowner to file an application with the county assessor where the replacement property is located.

In General: **Property Tax System.** In 1978, voters approved Proposition 13, which added article XIII A to the California Constitution. Under this system, property is valued at its 1975 fair market value, with annual increases thereafter limited to the amount of inflation or 2 percent, whichever is less, until the property changes ownership or new construction occurs. Once a reassessable event occurs (i.e., a change in ownership or new construction), the value of the property for tax purposes is redetermined based on its current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Because real estate values generally appreciate at a rate greater than 2 percent per year, when an event occurs triggering a reassessment of property to its current market value, the reassessed value (i.e., its new base year value) will likely be substantially higher.

California property tax law provides for various situations where the base year value of a property is either: (1) retained, notwithstanding that new construction has taken place or that the property has changed ownership, or (2) transferred to another property, notwithstanding that the property has changed ownership. These special situations are provided pursuant to various constitutional amendments modifying the original Proposition 13 framework and serve to avoid the otherwise required reassessment of a property to its current market value.

Disaster Relief. There are a variety of provisions in property tax law to provide property tax relief for disaster victims. These provisions address both the short-term and the long-term consequences of the disaster as it relates to current and future property tax liabilities. In the short term, property tax liability is redetermined to reflect the damage to the property. Additionally, some taxpayers may defer the next property tax installment payment. Over the long term, property owners may rebuild or repair damaged properties without incurring any increase in property tax liability. Alternatively, property owners may relocate rather than rebuild without being adversely impacted by the property tax consequences.

The various provisions that provide property tax relief for disaster victims are as follows:

RTC	Property Type	Type of Relief Available	Type of Disaster
Section 70	All property types	New construction exclusion	Any disaster or calamity
Section 170	All property types	Removal of value; New construction exclusion	Governor-proclaimed; Any disaster or calamity
Section 69	All property types	Base year transfer within same county	Governor-proclaimed
Section 69.3	Principal place of residence	Base year transfer to another county	Governor-proclaimed
Sections 172 & 172.1	Manufactured home (license fee or property tax)	Base year transfer	Governor-proclaimed
Section 5825	Manufactured home (property tax only)	Base year transfer; new construction exclusion	Any disaster or calamity
Section 194	Real property and manufactured homes	Property tax deferral	Governor-proclaimed

Disaster New Construction Exclusion. Related to the subject matter of this bill, RTC section 70(c) provides that "where real property has been damaged or destroyed by misfortune or calamity, 'newly constructed' and 'new construction' does not mean any timely reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction." Any reconstruction of real property, or portion thereof, that is not substantially equivalent to the damaged or destroyed property, is treated as new construction. If this occurs, only that portion that exceeds what is deemed to be substantially equivalent reconstruction would be assessed at current market value. RTC section 70(c) does not provide any time limitation as to what is considered "timely" new construction for purposes of the exclusion.

Under this provision, however, reconstruction that does qualify means that the property will retain its previous assessed value after its reconstruction. Consequently, a property that is rebuilt after a fire will continue to be assessed at the same value even though the entire property has been newly constructed. (This new construction exclusion was provided by Proposition 8 in 1978).

Disaster Base Year Value Transfers. Voters have approved two constitutional amendments permitting persons to transfer their Proposition 13 base year value from one home to another in disaster situations. The base year value transfer avoids reassessment of the newly purchased home to its fair market value.

- **Intracounty.** In 1986, Proposition 50 amended the Constitution to allow property owners whose property was damaged or destroyed in a Governor-declared disaster to transfer its base year value to comparable property within the same county (implemented by RTC section 69).
- **Intercounty.** In 1993, Proposition 171 amended the Constitution to allow homeowners whose principal residence was damaged or destroyed in a Governor-declared disaster to be transferred to a replacement residence of equal or lesser value and located in another county if that county has enacted an ordinance approving such transfers (implemented by RTC section 69.3).

Specifically related to this bill, RTC section 69 provides that persons who own property substantially damaged or destroyed in a Governor-declared disaster may transfer the base year value of that property to a property acquired or constructed as a replacement if it is acquired within five years after the disaster. "Substantially damaged" means physical damage amounting to more than 50 percent of its current market value immediately prior to the damage. Base year value transfers are available for all property types, with the limitation that the original property and the replacement property must be of the same property *type*: residential, commercial, agricultural, or industrial. The replacement property is "comparable" if it is similar in size, utility, and function to the destroyed property, and if the market value of the acquired property does not exceed 120 percent of the fair market value of the replaced property in its pre-damaged condition. If the value of the replacement property exceeds the 120 percent limitation, the amount over this threshold is assessed at full market value and added to the transferred base year value.

RTC section 69.3 provides similar disaster base year value transfer provisions but, unlike RTC section 69, which applies to all property types, it is limited to principal places of residence purchased in another county where the board of supervisors has adopted an ordinance making this benefit available. Additionally, replacement homes must be purchased within three years rather than five years. Currently, there are 11 counties that have such an ordinance: Contra Costa, Los Angeles, Modoc, Orange, San Diego, San Francisco, Santa Clara, Solano, Sonoma, Sutter, and Ventura.

If a property owner transfers their base year value under either section 69 or 69.3, then the new construction exclusion under section 170 does not apply if the property owner subsequently rebuilds the damaged or destroyed structure.

Over 55/Disabled Base Year Value Transfers. Voters have approved three constitutional amendments permitting persons over age 55 or disabled to transfer their Proposition 13 base year value from one home to another that is of equal or lesser value. The base year value transfer avoids reassessment of the newly purchased home to its fair market value.

- **Intracounty.** In 1986, Proposition 60[13] amended the constitution to allow persons who are over the age of 55 to sell a principal residence and transfer its base year value to a replacement principal residence within the same county.
- **Intercounty.** In 1988, Proposition 90[14] amended the constitution to extend these provisions to a replacement residence located in another county on a county-optional basis. Relevant to this bill, the law gives each county board of supervisors the option to accept intercounty base year value transfers from homeowners moving from a different county. The boards of supervisors are

[13] Proposition 60, approved November 4, 1986.
[14] Proposition 90, approved November 8, 1988.

required to consult with local affected agencies, cities, special districts, school districts, and community college districts, before making the decision to enact a necessary local ordinance.

- **Disabled Persons**. In 1990, Proposition 110[15] amended the constitution to extend these provisions to any severely and permanently disabled person regardless of age.

RTC section 69.5 implements all three propositions.

The BOE's Assessors' Handbook Section 401, *Change in Ownership*, chapter 14, provides more details, and the BOE's website includes FAQ's for Propositions 60/90 and Proposition 110.

Background:

Disaster Relief. Initially, a replacement property located within the same county had to be purchased within two years of the date of the disaster. In 1993, AB 1824 (Stats. 1993, ch. 1053) extended the timeframe from 2 years to 3 years for all disasters occurring on or after October 20, 1991, the date of the Oakland Hills fire. In 1997, SB 594 (Stats. 1997, ch. 353) created a special 5-year period for any victim of the 1994 Northridge earthquake. In 2006, AB 1890 (Stats. 2006, ch. 317) extended the timeframe for RTC section 69 base year value transfers from 3 years to 5 years for all disasters occurring on or after July 1, 2003.

In 2018, two bills were introduced that would have allowed a base year value transfer to any county in California for property that was substantially damaged or destroyed by a Governor-proclaimed disaster that occurred between January 1, 2017 and July 1, 2018. ACA 20 (Steinorth) proposed changes to article XIII A, section 2, but was not assigned to committee. ACA 20 did not have a companion measure. SB 1091 (Stone) proposed changes to section 69 that would have been operative upon voter approval of a constitutional amendment that was not introduced; SB 1091 was held in the Senate Appropriations Committee.

Over 55/Disabled Base Year Value Transfer. The following table lists previous legislative attempts to allow a partial benefit for replacement homes of greater value.

Bill Number	Session	Author	Disposition
SCA 24	2017-18	Galgiani	Not assigned to committee.
ACA 20/AB 1748	2017-18	Steinorth	ACA 20 was not heard. AB 1748 failed passage in the Assembly Revenue and Taxation Committee.
ACA 12/AB 2668	2015-16	Mullin	ACA 12 was not heard. AB 2668 was held in the Assembly Appropriations Committee.
SCA 9/SB 378	2015-16	Beall	SCA 9 did not pass out of the Senate Elections and Constitutional Amendments Committee. SB 378 was held in the Senate Appropriations Committee.
SCA 11/SB 274	2009-10	Dutton	Did not pass out of Senate Revenue and Taxation Committee. This bill also expanded the purchase window from within two years to three years of the original property's sale date.

[15] Proposition 110, approved June 5, 1990.

SCA 24/SB 1610	2007-08	Dutton	Did not pass out of Senate Revenue and Taxation Committee. This bill also expanded the purchase window from within two years to three years of the original property's sale date.

The following table lists previous legislative attempts to require all counties to accept intercounty base year value transfers.

Bill Number	Session	Author	Disposition
ACA 7	2017-18	Bocanegra	Not assigned to committee.
AB 1172* as amended 3/21/13	2013-14	Bocanegra	Limited to persons 65+. Not heard with the intercounty provisions. Amended out 01/06/14.
SCA 31/SB 1415	2009-10	Walters	Not heard.
ACA 39/AB 1960	1997-98	Takasugi	Held in Assembly Appropriations Committee.
ACA 57/AB 3234	1987-88	Mojonnier	Not heard.

* Assembly Bill 1172 only applied to homeowners 65 years and older. Those between the ages of 55 and 64 remained limited to the county in which they currently reside or those counties with active ordinances.

Assembly Bill 1172, as amended January 6, 2014, would have required the California Research Bureau to evaluate the revenue impact if California enacted a statute similar to Florida's "Save Our Homes" portability statute. (Florida Stat., Sec. 193.155(8); we note that Florida's program is not age-restricted.) These provisions were amended out of that bill. However, a study was conducted under the Faculty Fellows Program. In 2016, The Center for California Studies published *Economic Impacts of a Property Assessment Portability Law*, by Dr. Adrian R. Flessig, California State University, Fullerton. The study concluded that Florida's portability law "will provide an additional incentive for residential property owners to sell their home and purchase another residence. This will increase turnover rates and homeowner mobility."

Prior Initiative. Proposition 5 on the November 6, 2018 ballot would have amended section 2 of article XIII A to allow a base year value transfer for property owners whose property has been substantially damaged or destroyed in a Governor-proclaimed disaster or homeowners age 55 or severely disabled to a replacement property located anywhere in California and of any value. If the market value of the replacement property is greater than the market value of the original property, the increase in value would be added to the transferred base year value. If the market value of the replacement property is less than the market value of the original property, there would be a proportional decrease in the transferred base year value. Proposition 5 failed to pass, 58.7 percent no to 41.3 percent yes.

Commentary:

1. **No Companion Measure.** This constitutional amendment does not have an implementing companion measure.

2. **Conflicting Base Year Value Transfers.** Article XIII A, sections 2(a) and (e) provide base year value transfers for homeowners age 55/disabled and disaster relief. Does the author intend to replace these base year value transfers or add an additional base year value transfer that is

limited to homeowners? We note that the existing disaster intercounty base year value transfer applies to any type of property, including commercial, industrial, and multifamily residential. While this bill provides a sunset date for the parent-child and grandparent-grandchild exclusion in section 2(h) of article XIII A, this bill does not provide a sunset date for the base year value transfers contained in sections 2(a) and (e). Consequently, this bill creates a new base year value transfer for homeowners, in addition to the existing base year value transfers. The competing base year value transfers may be confusing to homeowners.

3. **Sale of Original Property.** ACA 11 requires the original property to be sold and the replacement home must be purchased within two years of the sale in order to transfer the base year value. For property that has been damaged or destroyed, this two-year period may be difficult to meet if the homeowner purchases a replacement home first and then must sell the damaged or destroyed home within two years.

4. **New Value Comparison Test.** Currently, the market value of the replacement home on its date of purchase or completion of new construction is compared to the market value of the original property on its date of sale.

   For property that has been substantially damaged or destroyed, the market value just prior to the date of damage or destruction is used. For homeowners who have lost their home in a disaster, they can transfer their base year value to a replacement home within the same county that is 120 percent of the value of the home that was damaged or destroyed. Under this scenario, partial relief is available. Since this bill replaces the 120 percent value test with a 100 percent value test, this will mean that homeowners who stay in the same county will pay more if they buy a home of greater value.

   For persons who are at least age 55 or disabled, if the replacement home's market value is equal or less than 100, 105, or 110 percent of the original property's market value (depending on the replacement home's date of purchase or completion of new construction and the original property's date of sale), then the replacement home will qualify value-wise for the base year value transfer). If the replacement home's value exceeds the applicable value test, no partial relief is available. Under this proposal, the equal or lesser value test is replaced with a 100 percent test. If the replacement home is of greater value, the difference in values is added to the original property's base year value so that partial relief is available.

   For example, a couple sells their principal place of residence for $600,000. At the time of sale, this property had a factored base year value of $269,250.

   - **Home of Greater Value.** If this couple purchases a replacement dwelling for $800,000, the new base year value is calculated as follows.
     - Difference between the full cash value of the original property and the full cash value of the replacement dwelling:

       $800,000 - $600,000 = $200,000

     - Add the difference to the base year value of the original property:

       $269,250 + $200,000 = $469,250

     Under this scenario, the replacement dwelling's new base year value is $469,250.

- **Home of Equal or Lesser Value.** If this couple purchases a replacement dwelling for $600,000, the replacement dwelling's new base year value will be the same as the factored base year value of the original property ($269,250). The calculations are demonstrated as follows:
    - Divide: $269,250 ÷ $600,000 = .44875
    - Multiply: $600,000 x .44875 = $269,250

- **Wildfire and Natural Disaster.** This bill provides definitions of wildfire and natural disasters by reverence to existing statutes. The meaning could change if the existing statutes are changed. The existing disaster base year value transfers apply to any disaster for which the Governor declares a state of emergency. By adding such definitions, this bill limits the application of this new base year value transfer to these itemized events.

- **Choice of relief.** Under current law, if a property owner chooses to transfer the base year value to another property under either of the disaster relief base year value transfers (sections 69 and 69.3), the new construction exclusion under section 70(c) or 170 is no longer available. If the substantially damaged or destroyed improvement is repaired or reconstructed, the new construction will be reassessed to current market value upon completion of construction.

5. **Number of Base Year Value Transfers for Homeowners Age 55 or Disabled.** Currently, persons over age 55 or disabled can transfer a base year value to a replacement home or a unit of a multi-unit dwelling generally one time. This bill allows three base year value transfers for homeowners who are over 55 or disabled.

Costs: Currently, the BOE maintains a database that tracks the one-time-only limitation. The BOE would incur costs up to $53,000 to reprogram this database, if tracking will be required to ensure that the base year value from the original property is not transferred more than three times. The BOE would also incur absorbable costs to update forms, publications, and the website, and address ongoing implementation issues.

Revenue Impact: The revenue impact of this section of ACA 11 is difficult to estimate. This proposal allows three base year value transfers for homeowners over 55 or disabled or victims of a Governor-declared disaster to a replacement home anywhere in California and of any value. While these changes to existing law will likely result in significantly more claims granted annually, we do not know how many more. However, using statewide average values, we can attempt to compute an average revenue impact for every additional claim granted.

According to the California Association of Realtors, the May 2020 median home price was $588,000. In Fiscal Year 2019-20, the average assessed value of a property receiving the homeowners' exemption was $432,000. Therefore, where the transfer is granted, the estimated amount of assessed value difference per home on average is $156,000 ($588,000 – $432,000).

Average revenue loss at the basic 1 percent property tax rate is estimated to be $156,000 x 1% = $1,560 per replacement home.

Qualifying Remarks. This revenue estimate does not account for any changes in economic activity that may or may not result from the enactment of the proposed law.

Parent-Child and Grandparent-Grandchild Exclusion

Existing Law: The law requires assessors to reassess real property from its Proposition 13 protected value (called the "base year value") to its current market value whenever a change in ownership occurs.[16] Exceptions to this reassessment requirement have been enacted, including exclusions from reassessment for transfers between parents and children. Under certain circumstances, the parent-child exclusion is extended to transfers of real property from grandparents to grandchildren.

Existing law[17] provides that the terms "purchased" and "change in ownership" does not include the purchase or transfer of a principal residence, or the first $1 million of all other real property, between parents and their children.

Proposed Law: Operative February 16, 2021, this bill replaces the existing parent-child and grandparent-grandchild exclusion with a new parent-child and grandparent-grandchild exclusion that applies to a transfer of a family home, if the property continues as the family home of the transferee.

Family Home. This bill provides that "family home" includes a family farm, which means any real property that is under cultivation or being used for pasture or grazing or to produce any agricultural commodity, defined as any and all plant and animal products produced in California for commercial purposes.[18]

Principal Residence Value Test. This bill provides that the existing adjusted base year value of the principal residence will remain if the reassessed value is less than the sum of the adjusted base year value of the principal residence of the transferor plus $1 million. If the reassessed value is equal to or exceeds the sum of the adjusted base year value of the principal residence of the transferor plus $1 million, then the difference between (1) the sum of the adjusted base year value plus $1 million, and (2) the reassessed value, is to be added to the property's existing adjusted base year value.

Adjustment of $1 Million. This bill requires that, beginning February 16, 2023, the $1 million amount be annually adjusted by an inflation factor that is the percentage change in the House Price Index (HPI) for California for the prior calendar year, as determined by the Federal Housing Finance Agency. This bill requires the BOE to calculate and publish the adjustments required.

Principal Place of Residence. To qualify for this benefit, the home must be the principal residence of the transferee and requires the transferee to file for the homeowners' or disabled veterans' exemption. This bill provides that if the transferee fails to file for either exemption at the time of transfer, the transferee is eligible for prospective relief if the claim for the homeowners' or disabled veterans' exemption is filed within one year of the transfer.

Grandparent-Grandchild Middle Generation Limitation. This bill provides that the exclusion applies to a transfer between grandparents and grandchildren if all of the parents of those grandchildren, who qualify as children of the grandparents, are deceased as of the date of the purchase or transfer.

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[16] Article XIII A, section 2.

[17] Article XIII A, section 2(h) and Revenue and Taxation Code (RTC) section 63.1.

[18] Government Code section 51201 provides that "agricultural commodity" means any and all plant and animal products produced in California for commercial purposes, including, but not limited to, plant products used for producing biofuels, and industrial hemp cultivated in accordance with Food and Agricultural Code division 24 (commencing with section 81000).

In General: In 1986, the voters approved Proposition 58, which, in part, added subdivision (h) to section 2 of article XIII A of the California Constitution. Subdivision (h) provides that the terms *purchased* and *change in ownership* exclude the purchase or transfer of:

- A principal residence between parents and their children. There is no limit as to the value of the residence or how many principal residences may be transferred.
- The first $1 million of the base year value[19] of all real property other than a principal residence between parents and children (called "other property"). Each person may transfer real property to any combination of parents and/or children up to $1 million cumulatively over a lifetime.

RTC section 63.1 implements the parent-child exclusion. The parent-child exclusion applies to changes in ownership that occur on or after November 5, 1986.

In 1996, the voters approved Proposition 193, which amended subdivision (h) to extend the parent-child exclusion to transfers from grandparents to grandchildren if certain members of the intervening parent generation are deceased. Section 63.1 was subsequently amended to reflect these new provisions. The grandparent-grandchild exclusion applies to changes in ownership that occur on or after March 27, 1996.

To qualify for this exclusion, a claim form must be timely filed with the county assessor. If a claim is filed late, prospective relief is available if the transferee still owns the real property.

Principal Place of Residence. For a principal place of residence, there is no limit as to value or how many times a principal residence can be transferred to a qualifying parent, child, or grandchild. To qualify for the principal residence exclusion, the real property must be eligible for either the homeowners' exemption or the disabled veterans' exemption, based on the property owner's ownership and occupation of the home as a principal place of residence.[20] A "principal residence" includes only that portion of the land underlying the residence that consists of an area of reasonable size that is used as a site for the residence.

Statewide Tracking Database. To monitor and enforce the $1 million limit statewide, assessors report information from approved claims[21] to the BOE to maintain a database to track the $1 million limit of transferors who transfer "other property" that receives the parent-child or grandparent-grandchild exclusion. The transferors' names and pertinent information are entered in the database. When a transferor cumulatively transfers more than $1 million of adjusted base year value, a report is sent to the county assessors to take action (i.e., verify information and, if necessary, reassess).

Commentary:

1. **No Companion Measure.** This constitutional amendment does not have a companion measure that implements these provisions.

[19] Article XIII, section 2(h) uses the term "full cash value." RTC section 63.1 provides that "full cash value" means full cash value as defined in section 110.1, which describes a property's base year value, not its current market value.
[20] RTC sections 63.1(b)(1).
[21] RTC section 63.1(f).

2. **Principal Residence Exclusion.** Currently, each transferor may transfer any number of principal residences to an eligible parent or child, or grandchild (under limited circumstances). There is no limit as to the value of a principal residence and no limit as to the number of principal residences a transferor can transfer to an eligible parent or child over a lifetime. A grandparent may transfer a principal residence to a grandchild as long as the deceased parent did not transfer a principal residence to their child (i.e., the grandchild); if the deceased parent transferred a principal residence to their child, then the grandparent's residence that transfers to the same child/grandchild is counted under the $1 million exclusion.

3. **Change in Ownership Exclusion.** Under article XIII A, property is reassessed to current market value upon a change in ownership. This bill provides that the purchase or transfer of a family home between parents and children and, under certain circumstances, between grandparents and grandchildren, is not a change in ownership. This means that the property retains its existing factored base year value and is not reassessed to current market value. However, this bill provides that a new taxable value (defined as a base year value) will be calculated.

4. **Principal Residence Value Test.** Under this bill, if the assessed value of the principal residence is *less than* the sum of the property's adjusted base year value and $1 million, it appears that the property's adjusted base year value will remain the same. If the assessed value of the principal residence is *equal to or greater than* the sum of the adjusted base year value and $1 million, then the difference between (1) the sum of the adjusted base year value and $1 million, and (2) the reassessed value, is to be added to the adjusted base year value. The term "assessed value" is not defined. This bill appears to require that all principal residences that transfer between parent and child be reappraised to verify qualification. This additional workload on the county assessor's appraisal staff could delay the approval of claims for the parent-child or grandparent-grandchild exclusion.

5. **Exclusion Amount Adjustment.** This bill provides that the $1,000,000 amount be annually adjusted by the percentage change in the California HPI, rounded to the nearest one-thousandth of 1 percent, for the first three quarters of the prior calendar year, as determined by the Federal Housing Finance Agency. Base year values are annually adjusted by the percentage change in the California Consumer Price Index from October to October, not to exceed two percent.[22] Does this mean that an increasingly larger amount is to be excluded for future transfers?

6. **Exclusion Amount Adjustment: Negative housing price index changes**? On occasion, the change in the housing price index (HPI) is negative. This bill provides that the assessor is to adjust the $1,000,000 amount by the difference in the HPI. Thus, it appears that assessors would be required to reduce the $1,000,000 amount when the HPI is negative. Why use the HPI? Other property tax annual inflationary adjustments (i.e., base year values and the disabled veterans' exemption limits[23]) are based on the California Consumer Price Index, which is generally considered a more stable index than the California HPI.

7. **Family Home includes Family Farm.** This bill specifies that the term "family home" also includes a family farm, which is defined as any real property under cultivation or being used for pasture, grazing, or production of any agricultural commodity. "Agricultural commodity" is defined as any

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[22] RTC sections 51(a)(1)(c).

[23] RTC sections 51(a)(1)(c) and 205.5(h).

and all plant and animal products produced in California for commercial purposes. Why allow the exclusion for one type of commercial activity, but not another? This prohibits the exclusion from applying to the family-owned corner grocery store where the family home is on the second story. This bill creates an inequity between a family farm and other types of mixed-use properties that include a family home.

8. **Principal Residence of Transferee.** Under this proposal, the principal residence qualifies for the exclusion only if the property is the principal residence of the transferee and the transferee timely files for the homeowners' or disabled veterans' exemption. There is no requirement that the property be the principal residence of the transferor. What would happen if the transferee files, but fails to qualify for the homeowners' or disabled veterans' exemption?

9. **Filing period.** This bill requires the transferee to file for the homeowners' or disabled veterans' exemption at the time of the transfer or purchase. If the transferee does not file for the homeowners' or disabled veterans' exemption at the time of the transfer, the transferee may get prospective relief if they file for the homeowners' or disabled veterans' exemption within one year of the date of transfer. There is no relief available if the transferee fails to file for either exemption within one year. This bill does not provide any filing requirements for the parent-child or grandparent-grandchild exclusion. How will the assessor know to exclude the property from reassessment?

Costs: The BOE would incur absorbable costs to update forms, publications, and the website, and address ongoing implementation issues.

Currently, the BOE maintains a database that tracks a transferor's $1 million lifetime limit for property other than principal residences. The BOE would incur costs to reprogram this database if a limitation is placed on a transferor's ability to use the principal residence exclusion.

Revenue Impact: Based on BOE Property Tax Department data, we know there are 64,000 Proposition 58/193 (parent/child and grandparent/grandchild) claims granted on average annually. However, we cannot determine (1) the values of the properties transferred, (2) which transferred homes subsequently became the transferees' primary residence, or (3) how many properties were considered "other real property" (ACA 11 eliminates that part of the exclusion).

In addition, ACA 11 is unclear (1) whether assessors will reappraise the market value of the principal residence on each lien date, and (2) how the proposed annual exclusion amount relates to the HPI method versus the current CCPI method. For all of these reasons, the revenue impact of this section of ACA 11 is indeterminable.