



SOURCE: Board Action

SUMMARY

Amend Article XIII A, section 2(a); Article XIII A section 2.1(b)(1); and Article XIII A section 2(e)(3) of the California Constitution to provide additional time for taxpayers to comply with the Constitutional provisions relating to the purchasing or new construction of a replacement property to transfer the taxpayers' previous base year value. These three provisions relate to: base year value transfers for seniors, disabled persons prior to April 1, 2021; base year value transfers for seniors, disabled persons and victims of wildfires or natural disasters; and victims of disasters.

EXISTING LAW

In November 2020, California voters approved Proposition 19 which among other things, changed constitutional provisions relating to intergenerational transfers of property and the transfer of base year values for persons over 55, disabled persons and victims of wildfires or natural disasters.

Article XIII A, section 2(a) authorizes persons over the age of 55 to transfer their base year value to a replacement property that was purchased on or after November 5, 1986, but before April 1, 2021 due to the passage of Proposition 19.

Article XIII A, section 2.1(b)(1) added by Proposition 19 applies to base year value transfers on or after April 1, 2021 for persons over 55 years of age, severely disabled or a victim of a wilder or natural disaster. This provision authorizes taxpayers to transfer their base year value to anywhere in the state if the replacement property was purchased or newly constructed for their principal residence within two years of the sale of the original primary residence.

Article XIII A, section 2(e)(3) authorizes a base year value transfer within the same county, or a different county if authorized by a Board of Supervisors, if the property was damaged or destroyed by a disaster as declared by the Governor if the construction or purchase of the replacement property occurs within three years of the original property being substantially damaged or destroyed.

PROPOSAL

This proposal amends the three constitutional provisions identified to provide taxpayers with more time to transfer their base year values to a replacement property. Due to the COVID-19 pandemic, the Governor's emergency order made it difficult for taxpayers to comply with these constitutional provisions which required the purchase or new construction of a replacement property within a set period to qualify for a base year value transfer. This proposal would authorize additional time for taxpayers to meet the requirements of these sections to keep their respective base year values.

FISCAL IMPACT

Minimal statewide revenue impact.

DRAFT LANGUAGE

Amend Paragraph 2 of section 2(a), Article XIII A of the California Constitution

However, the Legislature may provide that, under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of determining whether a replacement dwelling was purchased or newly constructed within two years of the sale of the original property, any time period during which a Governor proclaimed emergency exists, including for the COVID-19 pandemic, plus one year, but not to exceed 3 years in total, shall not be counted if the original or replacement property is located within an area for which the emergency is proclaimed and the emergency significantly affects the ability to buy or sell real property.

Amend Section 2.1(b)(1), Article XIII A of the California Constitution

Subject to applicable procedures and definitions as provided by statute, an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster may transfer the taxable value of their primary residence to a replacement primary residence located anywhere in this state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence. For purposes of determining whether a replacement primary residence was purchased or newly constructed within two years of the sale of the original primary residence, any time period during which a Governor proclaimed emergency exists, including for the COVID-19 pandemic, plus one year, but not to exceed 3 years in total, shall not be counted if the original or replacement primary residence is located within an area for which the emergency is proclaimed and the emergency significantly affects the ability to buy or sell real property.

Amend Section 2(e)(3) of Article XIII A of the California Constitution

In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed

within three years of the substantial damage or destruction of the original property as a replacement for that property. For purposes of determining whether a replacement dwelling was purchased or newly constructed within three years of the sale of the original property, any time period during which a Governor proclaimed emergency exists, including for the COVID-19 pandemic, plus one year, but not to exceed 3 years in total, shall not be counted if the original or replacement property is located within an area for which the emergency is proclaimed and the emergency significantly affects the ability to buy or sell real property.