TO COUNTY ASSESSORS:

PROPOSITION 171: DISASTER RELIEF
INTERCOUNTRY 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.
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,

[Signature]

John W. Hagerly
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 (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 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,
Chapter 72

(6) "Original Property" means a building, structure, or other permanent improvement which has been legally described in the deed, regardless of whether the deed is for sale or lease, and which is not included in any subsequent transactions.

(5) Only the owner or owners of the property, their assigns, and their personal representatives, are entitled to the benefits of this section.

(4) Any fees, costs, or expenses incurred in any proceeding or action under this section shall be borne by the party who is ultimately unsuccessful in that proceeding or action.

(3) Any fee for services rendered under this section shall be paid by the party who is ultimately successful in that proceeding or action.

(2) This section shall apply to any permanent improvement, fixture, or other permanent addition to the property, whether or not such improvement, fixture, or addition is visible from the street.

(1) Any fee for services rendered under this section shall be paid by the party who is ultimately successful in that proceeding or action.
Intended by Committee on Revenue and Taxation
(Senators Greene (Chairman), Boatwright, Campbell,
Dills, Hayden, and Lockyer)

February 8, 1994

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 these 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.
Existing property tax law provides that any property that was acquired as a result of the change in ownership of the property for which the tax is being paid is subject to the property tax. The California Constitution generally limits the amount of tax that can be levied on real property to 1% of the assessed valuation of the property. The California Constitution also provides that the tax burden on property is shared among the local taxing authorities in proportion to the value of the property located within the jurisdiction of each authority.
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) of the general principle that transfers by reason of death occur at the time of death.

(b) This section shall apply to purchases and transfers of real property completed on or after November 6, 1996, 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 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
deliberately considered a separate original property.

For purposes of the definition of a building, the structure of a building that bears substantially on the building's bearing walls is considered a replacement property. The replacement property is determined by the architect or engineer responsible for the design of the building. The replacement property is defined as the portion of the original property that is necessary for the function of the building.

All applicable laws and regulations apply to the replacement property as if it were the original property. The replacement property is subject to the same taxes, assessments, and other levies as the original property.

For the purposes of this definition of a replacement property, it is the property that bears substantially on the building's structure and is necessary for the function of the building. The replacement property is defined as the portion of the original property that is necessary for the function of the building.

All applicable laws and regulations apply to the replacement property as if it were the original property. The replacement property is subject to the same taxes, assessments, and other levies as the original property.
eligible for property tax 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 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 timely claim for relief under an ordinance adopted pursuant to this section, in that form as shall be prescribed by the board, shall be filed by the owner with the assessor of the county in which the replacement property is located. No relief under an ordinance adopted pursuant to this section shall be granted unless the claim in filed no later than January 1, 1996, or within three years after the replacement property is acquired or newly constructed, whichever is later.  
(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.  

SEC. 6. Section 69.5 of the Revenue and Taxation Code, as amended by Section 3 of Chapter 1180 of the Statutes of 1992, is amended to read:  
(a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.  
(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with the following requirements:  
(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.  
(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.  
(C) It requires that all base year valuations of original property located in another county and determined by its