

## RESOLUTION 4-04-06

### DIGEST

#### Commercial and Industrial Properties: Annual Reassessment

Amends Article XIII-A, Section 2 of the Constitution of California requiring annual reassessment of business properties valued in excess of two million dollars.

### RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

#### History:

Similar to Resolution 8-03-05, which was disapproved.

#### Reasons

This resolution amends Amends Article XIII-A, Section 2 of the Constitution of California requiring annual reassessment of business properties valued in excess of two million dollars. This resolution should be approved in principle because it provides a limited modification to address some of the adverse effects of Proposition 13, a constitutional amendment passed in 1978, and will permit the annual reassessment of industrial and commercial properties.

The tax revolution evidenced by the passage of Proposition 13 was an effort to protect the homeowner and small business property owner from the drastic effects of annual reassessment of property values. On the one hand, its passage saved many homeowners the loss of their homes from rising taxes in an inflating real estate market. On the other hand, it provided a windfall to business properties and destroyed the tax base for many social services. By this proposal, the Legislature is requested to allow voters by referendum to have an opportunity to reconsider whether industrial and commercial properties valued in excess of \$2 million on January 1, 2008, should continue to obtain the same benefits and assessment protection from Proposition 13 as will homeowners and small businesses in the future.

### TEXT OF RESOLUTION

Resolved, that the Conference of Delegates of California Bar Associations urges the California Legislature to submit to the voters of California a referendum for an Amendment to Article XIII-A, Section 2, of the Constitution of California to read as follows:

- 1 SEC. 2.
- 2 (a) The "full cash value" means the county assessor's valuation of real property as shown on
- 3 the 1975-76 tax bill under "full cash value" or, thereafter, the appraised value of real
- 4 property when purchased, newly constructed, or a change in ownership has occurred after
- 5 the 1975 assessment. All real property not already assessed up to the 1975-76 full cash value
- 6 may be reassessed to reflect that valuation. For purposes of this section, "newly
- 7 constructed" does not include real property that is reconstructed after a disaster, as declared
- 8 by the Governor, where the fair market value of the real property, as reconstructed, is
- 9 comparable to its fair market value prior to the disaster. Also, the term "newly constructed"

10 shall not include the portion of reconstruction or improvement to a structure, constructed of  
11 unreinforced masonry bearing wall construction, necessary to comply with any local  
12 ordinance relating to seismic safety during the first 15 years following that reconstruction or  
13 improvement. However, the Legislature may provide that under appropriate circumstances  
14 and pursuant to definitions and procedures established by the Legislature, any person over  
15 the age of 55 years who resides in property that is eligible for the homeowner's exemption  
16 under subdivision (k) of Section 3 of Article XIII and any implementing legislation may  
17 transfer the base year value of the property entitled to exemption, with the adjustments  
18 authorized by subdivision (b), to any replacement dwelling of equal or lesser value located  
19 within the same county and purchased or newly constructed by that person as his or her  
20 principal residence within two years of the sale of the original property. For purposes of this  
21 section, "any person over the age of 55 years" includes a married couple one member of  
22 which is over the age of 55 years. For purposes of this section, "replacement dwelling"  
23 means a building, structure, or other shelter constituting a place of abode, whether real  
24 property or personal property, and any land on which it may be situated. For purposes of this  
25 section, a two-dwelling unit shall be considered as two separate single-family dwellings.  
26 This paragraph shall apply to any replacement dwelling that was purchased or newly  
27 constructed on or after November 5, 1986. In addition, the Legislature may authorize each  
28 county board of supervisors, after consultation with the local affected agencies within the  
29 county's boundaries, to adopt an ordinance making the provisions of this subdivision relating  
30 to transfer of base year value also applicable to situations in which the replacement  
31 dwellings are located in that county and the original properties are located in another county  
32 within this State. For purposes of this paragraph, "local affected agency" means any city,  
33 special district, school district, or community college district that receives an annual  
34 property tax revenue allocation. This paragraph shall apply to any replacement dwelling that  
35 was purchased or newly constructed on or after the date the county adopted the provisions of  
36 this subdivision relating to transfer of base year value, but shall not apply to any  
37 replacement dwelling that was purchased or newly constructed before November 9, 1988.  
38 The Legislature may extend the provisions of this subdivision relating to the transfer of base  
39 year values from original properties to replacement dwellings of homeowners over the age  
40 of 55 years to severely disabled homeowners, but only with respect to those replacement  
41 dwellings purchased or newly constructed on or after the effective date of this paragraph.  
42 (b) The full cash value base may reflect from year to year the inflationary rate not to exceed  
43 2 percent for any given year for real property used as a dwelling, real property with a value  
44 of five million dollars or less as of January 1, 2008, and portions of real property that if  
45 assessed separately would satisfy either of the foregoing and 4 percent for all other real  
46 property, or reduction as show in the consumer price index or comparable data for the area  
47 under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or  
48 other factors causing a decline in value. Notwithstanding the foregoing, the 4% limitation  
49 set forth above shall be 8% during the first 5 years after the passage of this provision.  
50 [Sections (c) through (j) remain unchanged]

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: National Lawyers Guild, San Francisco Chapter

## STATEMENT OF REASONS

Existing Law: Existing law includes all real property in California under the protection of Proposition 13, California Constitution Article XIII-A, Section 2, passed by the voters on June 6, 1978 which precludes annual reassessments of the value of all real property.

This Resolution: Requests the legislature to submit to the voters a referendum for a constitutional amendment to remove commercial and industrial properties with a value over \$2 Million on 1/1/08 from continued protection against annual reassessment. In addition, businesses that leased property that had an assessed value of less than \$2 million, as of January 1, 2008, if such leased property were to be assessed separately, would also be exempt from such annual reassessment.

The Problem: Proposition 13 prohibited annual reassessment of the value of real property in California and did not distinguish between property uses. This has resulted in a substantial reduction in property tax revenue for state and local governments in California over the past 26 years. This has been particularly evident during recent years due to economic recession caused by the collapse of the dot com phenomenon and other factors.

The consequences of this drastic reduction of tax revenue threatens to affect every type of government service provided by state and local governments and special districts in this state, including, Education, Healthcare, Public Safety Services, The Judicial System, Recreation Services, Environmental Protection, Child Protection, Transportation Services, and every other governmental function.

This resolution suggests a modest but significant change in Proposition 13. It does not apply that change to real property used for residential purposes—either by homeowner or apartment owner—or to commercial or industrial property with a value of less than \$2 Million as of 1/1/08. The purpose of these exemptions is to continue the protection of individuals, with respect to their homes or apartments, and small businesses.

Recent opinion surveys indicate that a majority of the residents of California favor this modification and would support it if given the opportunity to consider it as a constitutional amendment. This resolution asks that the legislature approve a referendum allowing the voters of California an opportunity to make that choice.

## IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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