

**Introduced by Senators Speier, Kuehl, Machado, Soto, and  
Vasconcellos**

(Principal coauthor: Assembly Member Leno)  
(Coauthors: Assembly Members Hancock, Kehoe, Koretz,  
Lowenthal, Nation, and Yee)

February 14, 2003

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Senate Constitutional Amendment No. 5—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (g) of Section 2 of Article XIII A thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 5, as introduced, Speier. Property taxation: change in ownership exclusion: coowners.

Existing provisions of the California Constitution, with certain exceptions, place a limitation on ad valorem taxes on real property of 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 after the 1975 assessment. The California Constitution excludes certain transfers of real property between spouses from classification as a "purchase" or "change in ownership" requiring reappraisal of the subject property for tax purposes.

This measure would authorize the board of supervisors of a county to adopt an ordinance to exclude, from classification as a "purchase" or "change in ownership," the transfer of an ownership interest in a principal residence located within that county between coowners of that

residence, if those parties coowned and continuously resided in the residence for a period of 3 years immediately preceding the transfer and the transfer occurs on or after January 1, 2005, by reason of the death of the transferor.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1     *Resolved by the Senate, the Assembly concurring,* That the  
 2     Legislature of the State of California at its 2003–04 Regular  
 3     Session commencing on the second day of December 2002,  
 4     two-thirds of the membership of each house concurring, hereby  
 5     proposes to the people of the State of California that the  
 6     Constitution of the State be amended by amending subdivision (g)  
 7     of Section 2 of Article XIII A thereof, to read:

8     (g) (1) For purposes of subdivision (a), the terms “purchased”  
 9     and “change in ownership” do not include the purchase or transfer  
 10    of real property between spouses since March 1, 1975, including,  
 11    but not limited to, all of the following:

12    ~~(1)–~~

13    (A) Transfers to a trustee for the beneficial use of a spouse, or  
 14    the surviving spouse of a deceased transferor, or by a trustee of  
 15    such a trust to the spouse of the trustor.

16    ~~(2)–~~

17    (B) Transfers to a spouse that take effect upon the death of a  
 18    spouse.

19    ~~(3)–~~

20    (C) Transfers to a spouse or former spouse in connection with  
 21    a property settlement agreement or decree of dissolution of a  
 22    marriage or legal separation.

23    ~~(4)–~~

24    (D) The creation, transfer, or termination, solely between  
 25    spouses, of any coowner’s interest.

26    ~~(5)–~~

27    (E) The distribution of a legal entity’s property to a spouse or  
 28    former spouse in exchange for the interest of the spouse in the legal  
 29    entity in connection with a property settlement agreement or a  
 30    decree of dissolution of a marriage or legal separation.

31    (2) *The board of supervisors of a county may, by a majority vote*  
 32    *of its membership, enact an ordinance providing that, for purposes*  
 33    *of subdivision (a), for property located within that county the terms*



1 “purchased” and “change in ownership” do not include the  
2 purchase or transfer of an ownership interest in the principal  
3 residence of the transferor or a transferee, if all of the following  
4 conditions are satisfied:

5 (A) The residence was coowned by the transferor and the  
6 transferee for the three-year period immediately preceding the  
7 transfer.

8 (B) The transferor and the transferee continuously resided at  
9 the residence for the three-year period immediately preceding the  
10 transfer.

11 (C) The transfer occurs, on or after January 1, 2005, by reason  
12 of the death of the transferor.

