

**Assembly Constitutional Amendment**

**No. 6**

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**Introduced by Assembly Member Brown**

April 20, 2015

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Assembly Constitutional Amendment No. 6—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article XIII A thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 6, as introduced, Brown. Property taxation: base year value transfers: persons with a severely disabled child.

The California Constitution generally limits ad valorem taxes on real property to 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. The California Constitution authorizes the Legislature to provide that persons over the age of 55 and persons who are severely disabled may transfer the base year value, as defined, of property to a replacement dwelling, if certain conditions are met.

This measure would additionally authorize the Legislature to provide for transfer of base year value of property to a replacement dwelling for persons who have a severely disabled child.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

1     *Resolved by the Assembly, the Senate concurring,* That the  
2 Legislature of the State of California at its 2015–16 commencing  
3 on the first day of December 2014, two-thirds of the membership  
4 of each house concurring, hereby proposes to the people of the  
5 State of California, that the Constitution of the State be amended  
6 as follows:

7     That Section 2 of Article XIII A thereof is amended to read:

8     SEC. 2. (a) (1) The “full cash value” means the county  
9 assessor’s valuation of real property as shown on the 1975–76 tax  
10 bill under “full cash value” or, thereafter, the appraised value of  
11 real property when purchased, newly constructed, or a change in  
12 ownership has occurred after the 1975 assessment. All real property  
13 not already assessed up to the 1975–76 full cash value may be  
14 reassessed to reflect that valuation. For purposes of this section,  
15 “newly constructed” does not include real property that is  
16 reconstructed after a disaster, as declared by the Governor, where  
17 the fair market value of the real property, as reconstructed, is  
18 comparable to its fair market value prior to the disaster. For  
19 purposes of this section, the term “newly constructed” does not  
20 include that portion of an existing structure that consists of the  
21 construction or reconstruction of seismic retrofitting components,  
22 as defined by the Legislature.

23     ~~However,~~

24     (2) *However,* the Legislature may provide that, under appropriate  
25 circumstances and pursuant to definitions and procedures  
26 established by the Legislature, any person over the age of 55 years  
27 who resides in property that is eligible for the homeowner’s  
28 exemption under subdivision (k) of Section 3 of Article XIII and  
29 any implementing legislation may transfer the base year value of  
30 the property entitled to exemption, with the adjustments authorized  
31 by subdivision (b), to any replacement dwelling of equal or lesser  
32 value located within the same county and purchased or newly  
33 constructed by that person as his or her principal residence within  
34 two years of the sale of the original property. For purposes of this  
35 section, “any person over the age of 55 years” includes a married  
36 couple one member of which is over the age of 55 years. For  
37 purposes of this section, “replacement dwelling” means a building,  
38 structure, or other shelter constituting a place of abode, whether  
39 real property or personal property, and any land on which it may  
40 be situated. For purposes of this section, a two-dwelling unit shall

1 be considered as two separate single-family dwellings. This  
2 paragraph shall apply to any replacement dwelling that was  
3 purchased or newly constructed on or after November 5, 1986.

4 ~~In~~

5 (3) *In* addition, the Legislature may authorize each county board  
6 of supervisors, after consultation with the local affected agencies  
7 within the county’s boundaries, to adopt an ordinance making the  
8 provisions of this subdivision relating to transfer of base year value  
9 also applicable to situations in which the replacement dwellings  
10 are located in that county and the original properties are located  
11 in another county within this State. For purposes of this paragraph,  
12 “local affected agency” means any city, special district, school  
13 district, or community college district that receives an annual  
14 property tax revenue allocation. This paragraph applies to any  
15 replacement dwelling that was purchased or newly constructed on  
16 or after the date the county adopted the provisions of this  
17 subdivision relating to transfer of base year value, but does not  
18 apply to any replacement dwelling that was purchased or newly  
19 constructed before November 9, 1988.

20 ~~The~~

21 (4) *The* Legislature may extend the provisions of this subdivision  
22 relating to the transfer of base year values from original properties  
23 to replacement dwellings of homeowners over the age of 55 years  
24 to ~~severely~~ *either of both of the following:*

25 (A) *Severely* disabled homeowners, but only with respect to  
26 those replacement dwellings purchased or newly constructed on  
27 or after ~~the effective date of this paragraph.~~ *June 6, 1990.*

28 (B) *Homeowners with a severely disabled child, but only with*  
29 *respect to those replacement dwellings purchased or newly*  
30 *constructed on or after the effective date of this paragraph.*

31 (b) The full cash value base may reflect from year to year the  
32 inflationary rate not to exceed 2 percent for any given year or  
33 reduction as shown in the consumer price index or comparable  
34 data for the area under taxing jurisdiction, or may be reduced to  
35 reflect substantial damage, destruction, or other factors causing a  
36 decline in value.

37 (c) For purposes of subdivision (a), the Legislature may provide  
38 that the term “newly constructed” does not include any of the  
39 following:

1 (1) The construction or addition of any active solar energy  
2 system.

3 (2) The construction or installation of any fire sprinkler system,  
4 other fire extinguishing system, fire detection system, or fire-related  
5 egress improvement, as defined by the Legislature, that is  
6 constructed or installed after the effective date of this paragraph.

7 (3) The construction, installation, or modification on or after  
8 the effective date of this paragraph of any portion or structural  
9 component of a single- or multiple-family dwelling that is eligible  
10 for the homeowner's exemption if the construction, installation,  
11 or modification is for the purpose of making the dwelling more  
12 accessible to a severely disabled person.

13 (4) The construction, installation, removal, or modification on  
14 or after the effective date of this paragraph of any portion or  
15 structural component of an existing building or structure if the  
16 construction, installation, removal, or modification is for the  
17 purpose of making the building more accessible to, or more usable  
18 by, a disabled person.

19 (d) For purposes of this section, the term "change in ownership"  
20 does not include the acquisition of real property as a replacement  
21 for comparable property if the person acquiring the real property  
22 has been displaced from the property replaced by eminent domain  
23 proceedings, by acquisition by a public entity, or governmental  
24 action that has resulted in a judgment of inverse condemnation.  
25 The real property acquired shall be deemed comparable to the  
26 property replaced if it is similar in size, utility, and function, or if  
27 it conforms to state regulations defined by the Legislature  
28 governing the relocation of persons displaced by governmental  
29 actions. This subdivision applies to any property acquired after  
30 March 1, 1975, but affects only those assessments of that property  
31 that occur after the provisions of this subdivision take effect.

32 (e) (1) Notwithstanding any other provision of this section, the  
33 Legislature shall provide that the base year value of property that  
34 is substantially damaged or destroyed by a disaster, as declared  
35 by the Governor, may be transferred to comparable property within  
36 the same county that is acquired or newly constructed as a  
37 replacement for the substantially damaged or destroyed property.

38 (2) Except as provided in paragraph (3), this subdivision applies  
39 to any comparable replacement property acquired or newly  
40 constructed on or after July 1, 1985, and to the determination of

1 base year values for the 1985–86 fiscal year and fiscal years  
2 thereafter.

3 (3) In addition to the transfer of base year value of property  
4 within the same county that is permitted by paragraph (1), the  
5 Legislature may authorize each county board of supervisors to  
6 adopt, after consultation with affected local agencies within the  
7 county, an ordinance allowing the transfer of the base year value  
8 of property that is located within another county in the State and  
9 is substantially damaged or destroyed by a disaster, as declared  
10 by the Governor, to comparable replacement property of equal or  
11 lesser value that is located within the adopting county and is  
12 acquired or newly constructed within three years of the substantial  
13 damage or destruction of the original property as a replacement  
14 for that property. The scope and amount of the benefit provided  
15 to a property owner by the transfer of base year value of property  
16 pursuant to this paragraph shall not exceed the scope and amount  
17 of the benefit provided to a property owner by the transfer of base  
18 year value of property pursuant to subdivision (a). For purposes  
19 of this paragraph, “affected local agency” means any city, special  
20 district, school district, or community college district that receives  
21 an annual allocation of ad valorem property tax revenues. This  
22 paragraph applies to any comparable replacement property that is  
23 acquired or newly constructed as a replacement for property  
24 substantially damaged or destroyed by a disaster, as declared by  
25 the Governor, occurring on or after October 20, 1991, and to the  
26 determination of base year values for the 1991–92 fiscal year and  
27 fiscal years thereafter.

28 (f) For the purposes of subdivision (e):

29 (1) Property is substantially damaged or destroyed if it sustains  
30 physical damage amounting to more than 50 percent of its value  
31 immediately before the disaster. Damage includes a diminution in  
32 the value of property as a result of restricted access caused by the  
33 disaster.

34 (2) Replacement property is comparable to the property  
35 substantially damaged or destroyed if it is similar in size, utility,  
36 and function to the property that it replaces, and if the fair market  
37 value of the acquired property is comparable to the fair market  
38 value of the replaced property prior to the disaster.

39 (g) For purposes of subdivision (a), the terms “purchased” and  
40 “change in ownership” do not include the purchase or transfer of

1 real property between spouses since March 1, 1975, including, but  
2 not limited to, all of the following:

3 (1) Transfers to a trustee for the beneficial use of a spouse, or  
4 the surviving spouse of a deceased transferor, or by a trustee of  
5 such a trust to the spouse of the trustor.

6 (2) Transfers to a spouse that take effect upon the death of a  
7 spouse.

8 (3) Transfers to a spouse or former spouse in connection with  
9 a property settlement agreement or decree of dissolution of a  
10 marriage or legal separation.

11 (4) The creation, transfer, or termination, solely between  
12 spouses, of any coowner's interest.

13 (5) The distribution of a legal entity's property to a spouse or  
14 former spouse in exchange for the interest of the spouse in the  
15 legal entity in connection with a property settlement agreement or  
16 a decree of dissolution of a marriage or legal separation.

17 (h) (1) For purposes of subdivision (a), the terms "purchased"  
18 and "change in ownership" do not include the purchase or transfer  
19 of the principal residence of the transferor in the case of a purchase  
20 or transfer between parents and their children, as defined by the  
21 Legislature, and the purchase or transfer of the first one million  
22 dollars (\$1,000,000) of the full cash value of all other real property  
23 between parents and their children, as defined by the Legislature.  
24 This subdivision applies to both voluntary transfers and transfers  
25 resulting from a court order or judicial decree.

26 (2) (A) Subject to subparagraph (B), commencing with  
27 purchases or transfers that occur on or after the date upon which  
28 the measure adding this paragraph becomes effective, the exclusion  
29 established by paragraph (1) also applies to a purchase or transfer  
30 of real property between grandparents and their grandchild or  
31 grandchildren, as defined by the Legislature, that otherwise  
32 qualifies under paragraph (1), if all of the parents of that grandchild  
33 or those grandchildren, who qualify as the children of the  
34 grandparents, are deceased as of the date of the purchase or transfer.

35 (B) A purchase or transfer of a principal residence shall not be  
36 excluded pursuant to subparagraph (A) if the transferee grandchild  
37 or grandchildren also received a principal residence, or interest  
38 therein, through another purchase or transfer that was excludable  
39 pursuant to paragraph (1). The full cash value of any real property,  
40 other than a principal residence, that was transferred to the

1 grandchild or grandchildren pursuant to a purchase or transfer that  
2 was excludable pursuant to paragraph (1), and the full cash value  
3 of a principal residence that fails to qualify for exclusion as a result  
4 of the preceding sentence, shall be included in applying, for  
5 purposes of subparagraph (A), the one-million-dollar (\$1,000,000)  
6 full cash value limit specified in paragraph (1).

7 (i) (1) Notwithstanding any other provision of this section, the  
8 Legislature shall provide with respect to a qualified contaminated  
9 property, as defined in paragraph (2), that either, but not both, of  
10 the following apply:

11 (A) (i) Subject to the limitation of clause (ii), the base year  
12 value of the qualified contaminated property, as adjusted as  
13 authorized by subdivision (b), may be transferred to a replacement  
14 property that is acquired or newly constructed as a replacement  
15 for the qualified contaminated property, if the replacement real  
16 property has a fair market value that is equal to or less than the  
17 fair market value of the qualified contaminated property if that  
18 property were not contaminated and, except as otherwise provided  
19 by this clause, is located within the same county. The base year  
20 value of the qualified contaminated property may be transferred  
21 to a replacement real property located within another county if the  
22 board of supervisors of that other county has, after consultation  
23 with the affected local agencies within that county, adopted a  
24 resolution authorizing an intercounty transfer of base year value  
25 as so described.

26 (ii) This subparagraph applies only to replacement property that  
27 is acquired or newly constructed within five years after ownership  
28 in the qualified contaminated property is sold or otherwise  
29 transferred.

30 (B) In the case in which the remediation of the environmental  
31 problems on the qualified contaminated property requires the  
32 destruction of, or results in substantial damage to, a structure  
33 located on that property, the term “new construction” does not  
34 include the repair of a substantially damaged structure, or the  
35 construction of a structure replacing a destroyed structure on the  
36 qualified contaminated property, performed after the remediation  
37 of the environmental problems on that property, provided that the  
38 repaired or replacement structure is similar in size, utility, and  
39 function to the original structure.

1 (2) For purposes of this subdivision, “qualified contaminated  
2 property” means residential or nonresidential real property that is  
3 all of the following:

4 (A) In the case of residential real property, rendered  
5 uninhabitable, and in the case of nonresidential real property,  
6 rendered unusable, as the result of either environmental problems,  
7 in the nature of and including, but not limited to, the presence of  
8 toxic or hazardous materials, or the remediation of those  
9 environmental problems, except where the existence of the  
10 environmental problems was known to the owner, or to a related  
11 individual or entity as described in paragraph (3), at the time the  
12 real property was acquired or constructed. For purposes of this  
13 subparagraph, residential real property is “uninhabitable” if that  
14 property, as a result of health hazards caused by or associated with  
15 the environmental problems, is unfit for human habitation, and  
16 nonresidential real property is “unusable” if that property, as a  
17 result of health hazards caused by or associated with the  
18 environmental problems, is unhealthy and unsuitable for  
19 occupancy.

20 (B) Located on a site that has been designated as a toxic or  
21 environmental hazard or as an environmental cleanup site by an  
22 agency of the State of California or the federal government.

23 (C) Real property that contains a structure or structures thereon  
24 prior to the completion of environmental cleanup activities, and  
25 that structure or structures are substantially damaged or destroyed  
26 as a result of those environmental cleanup activities.

27 (D) Stipulated by the lead governmental agency, with respect  
28 to the environmental problems or environmental cleanup of the  
29 real property, not to have been rendered uninhabitable or unusable,  
30 as applicable, as described in subparagraph (A), by any act or  
31 omission in which an owner of that real property participated or  
32 acquiesced.

33 (3) It shall be rebuttably presumed that an owner of the real  
34 property participated or acquiesced in any act or omission that  
35 rendered the real property uninhabitable or unusable, as applicable,  
36 if that owner is related to any individual or entity that committed  
37 that act or omission in any of the following ways:

38 (A) Is a spouse, parent, child, grandparent, grandchild, or sibling  
39 of that individual.

40 (B) Is a corporate parent, subsidiary, or affiliate of that entity.

1 (C) Is an owner of, or has control of, that entity.

2 (D) Is owned or controlled by that entity.

3 If this presumption is not overcome, the owner shall not receive  
4 the relief provided for in subparagraph (A) or (B) of paragraph  
5 (1). The presumption may be overcome by presentation of  
6 satisfactory evidence to the assessor, who shall not be bound by  
7 the findings of the lead governmental agency in determining  
8 whether the presumption has been overcome.

9 (4) This subdivision applies only to replacement property that  
10 is acquired or constructed on or after January 1, 1995, and to  
11 property repairs performed on or after that date.

12 (j) Unless specifically provided otherwise, amendments to this  
13 section adopted prior to November 1, 1988, are effective for  
14 changes in ownership that occur, and new construction that is  
15 completed, after the effective date of the amendment. Unless  
16 specifically provided otherwise, amendments to this section  
17 adopted after November 1, 1988, are effective for changes in  
18 ownership that occur, and new construction that is completed, on  
19 or after the effective date of the amendment.

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