

AMENDED IN ASSEMBLY JULY 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

Assembly Constitutional Amendment

No. 6

Introduced by Assembly ~~Member~~ Members Brown and Perea

April 20, 2015

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 3 of Article XIII thereof, and by amending Section 2 of Article XIII A thereof, relating to taxation.*

LEGISLATIVE COUNSEL'S DIGEST

ACA 6, as amended, Brown. Property taxation: *exemptions: fruit and nut trees*: base year value transfers: persons with a severely disabled child.

(1) *The California Constitution requires that all property be taxed unless otherwise provided by the California Constitution or the laws of the United States. The California Constitution exempts, among other things, fruit and nut trees for 4 years after the season in which they were planted in orchard form.*

This measure would exempt from property taxation pistachio trees for 6 years after the season in which they were planted in orchard form.

(2) 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~~ yes.
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 *Regular*
3 *Session* commencing on the first day of December 2014, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California, that the Constitution of the
6 State be amended as follows:

7 *First— That Section 3 of Article XIII thereof is amended to read:*
8 SEC. 3. The following are exempt from property taxation:

- 9 (a) Property owned by the State.
10 (b) Property owned by a local government, except as otherwise
11 provided in Section 11(a).
12 (c) Bonds issued by the State or a local government in the State.
13 (d) Property used for libraries and museums that are free and
14 open to the public and property used exclusively for public schools,
15 community colleges, state colleges, and state universities.
16 (e) Buildings, land, equipment, and securities used exclusively
17 for educational purposes by a nonprofit institution of higher
18 education.
19 (f) Buildings, land on which they are situated, and equipment
20 used exclusively for religious worship.
21 (g) Property used or held exclusively for the permanent deposit
22 of human dead or for the care and maintenance of the property or
23 the dead, except when used or held for profit. This property is also
24 exempt from special assessment.
25 (h) Growing crops.
26 (i) (1) Fruit and nut trees until ~~4~~ *four* years after the season in
27 which they were planted in orchard form and grape vines until ~~3~~
28 *three* years after the season in which they were planted in vineyard
29 form.
30 (2) *Notwithstanding paragraph (1), pistachio trees until six*
31 *years after the season in which they were planted in orchard form.*

1 (j) Immature forest trees planted on lands not previously bearing
2 merchantable timber or planted or of natural growth on lands from
3 which the merchantable original growth timber stand to the extent
4 of 70 percent of all trees over 16 inches in diameter has been
5 removed. Forest trees or timber shall be considered mature at such
6 time after 40 years from the time of planting or removal of the
7 original timber when so declared by a majority vote of a board
8 consisting of a representative from the State Board of Forestry, a
9 representative from the State Board of Equalization, and the
10 assessor of the county in which the trees are located.

11 The Legislature may supersede the foregoing provisions with
12 an alternative system or systems of taxing or exempting forest
13 trees or timber, including a taxation system not based on property
14 valuation. Any alternative system or systems shall provide for
15 exemption of unharvested immature trees, shall encourage the
16 continued use of timberlands for the production of trees for timber
17 products, and shall provide for restricting the use of timberland to
18 the production of timber products and compatible uses with
19 provisions for taxation of timberland based on the restrictions.
20 Nothing in this paragraph shall be construed to exclude timberland
21 from the provisions of Section 8 of this article.

22 (k) ~~\$7,000~~ *Seven thousand dollars (\$7,000)* of the full value of
23 a dwelling, as defined by the Legislature, when occupied by an
24 owner as his principal residence, unless the dwelling is receiving
25 another real property exemption. The Legislature may increase
26 this exemption and may deny it if the owner received state or local
27 aid to pay taxes either in whole or in part, and either directly or
28 indirectly, on the dwelling.

29 No increase in this exemption above the amount of ~~\$7,000~~ *seven*
30 *thousand dollars (\$7,000)* shall be effective for any fiscal year
31 unless the Legislature increases the rate of state taxes in an amount
32 sufficient to provide the subventions required by Section 25.

33 If the Legislature increases the homeowners' property tax
34 exemption, it shall provide increases in benefits to qualified renters,
35 as defined by law, comparable to the average increase in benefits
36 to homeowners, as calculated by the Legislature.

37 (l) Vessels of more than 50 tons burden in this State and engaged
38 in the transportation of freight or passengers.

39 (m) Household furnishings and personal effects not held or used
40 in connection with a trade, profession, or business.

1 (n) Any debt secured by land.

2 (o) Property in the amount of ~~-\$1,000~~ *one thousand dollars*
3 *(\$1,000)* of a claimant who—

4 (1) is serving in or has served in and has been discharged under
5 honorable conditions from service in the United States Army,
6 Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine
7 (Revenue Cutter) Service; and—

8 (2) served either

9 (i) in time of war, or

10 (ii) in time of peace in a campaign or expedition for which a
11 medal has been issued by Congress, or

12 (iii) in time of peace and because of a service-connected
13 disability was released from active duty; and—

14 (3) resides in the State on the current lien date.

15 An unmarried person who owns property valued at ~~-\$5,000~~ *five*
16 *thousand dollars (\$5,000)* or more, or a married person, who,
17 together with the spouse, owns property valued at ~~-\$10,000~~ *ten*
18 *thousand dollars (\$10,000)* or more, is ineligible for this
19 exemption.

20 If the claimant is married and does not own property eligible for
21 the full amount of the exemption, property of the spouse shall be
22 eligible for the unused balance of the exemption.

23 (p) Property in the amount of ~~-\$1,000~~ *one thousand dollars*
24 *(\$1,000)* of a claimant who—

25 (1) is the unmarried spouse of a deceased veteran who met the
26 service requirement stated in paragraphs (1) and (2) of subsection
27 3(o), and

28 (2) does not own property in excess of ~~-\$10,000~~, *ten thousand*
29 *dollars (\$10,000)*, and

30 (3) is a resident of the State on the current lien date.

31 (q) Property in the amount of ~~-\$1,000~~ *one thousand dollars*
32 *(\$1,000)* of a claimant who—

33 (1) is the parent of a deceased veteran who met the service
34 requirement stated in paragraphs (1) and (2) of subsection 3(o),
35 and

36 (2) receives a pension because of the veteran's service, and

37 (3) is a resident of the State on the current lien date.

38 Either parent of a deceased veteran may claim this exemption.

39 An unmarried person who owns property valued at ~~-\$5,000~~ *five*
40 *thousand dollars (\$5,000)* or more, or a married person, who,

1 together with the spouse, owns property valued at ~~\$10,000~~ *ten*
2 *thousand dollars (\$10,000)* or more, is ineligible for this
3 exemption.

4 (r) No individual residing in the State on the effective date of
5 this amendment who would have been eligible for the exemption
6 provided by the ~~previous section~~ *Section 1 ¼* of this article had it
7 not been repealed shall lose eligibility for the exemption as a result
8 of this amendment.

9 ~~That—Second—~~ *That* Section 2 of Article XIII A thereof is
10 amended to read:

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

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

1 real property or personal property, and any land on which it may
2 be situated. For purposes of this section, a two-dwelling unit shall
3 be considered as two separate single-family dwellings. This
4 paragraph shall apply to any replacement dwelling that was
5 purchased or newly constructed on or after November 5, 1986.

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

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 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 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.