

ASSEMBLY BILL

No. 321

Introduced by Assembly Member Niello

February 18, 2009

An act to amend Section 69.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 321, as introduced, Niello. Property tax: base year value transfers.

The California Constitution and existing property tax law authorize taxpayers to transfer the base year value, as defined, of property to replacement property, if certain conditions are met, including, among others, that the claimant has not previously been granted, as a claimant, this property tax relief. For purposes of this property tax relief, existing law defines a "claimant" as any person claiming the property tax relief provided by this section, and provides that if a spouse of the claimant is a record owner of the replacement dwelling, the spouse is also considered a claimant for purposes of determining whether in any future claim filed by the spouse the condition of eligibility has been met.

This bill would instead provide that a spouse of a claimant who is a record owner of the replacement dwelling shall not be considered a claimant for purposes of determining whether, in any future claim filed by the spouse, the condition of eligibility has been met, and would also make conforming changes to that provision. This bill would provide that this property tax relief shall apply only to persons who file a claim on or after January 1, 2010, and who have not been previously granted this property tax relief, as specified.

Existing law provides, in the case where a taxpayer has timely filed and been granted a transfer of base year value of property to replacement

property, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, that there shall be no reassessment upon completion of the new construction, if the new construction is completed within 2 years of the date of sale of the original property, and the owner notifies the assessor in writing of the completion of the new construction, as specified.

This bill would eliminate the requirement that the owner notify the assessor in writing of the completion of the new construction.

By changing the manner in which county officials process claims for base year value transfers, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares both of the
2 following:
3 (a) An owner of a residence who is over 55 years of age, and
4 who otherwise meets certain other requirements, may transfer the
5 base year value of property to a replacement property of equal or
6 lesser value within two years. This benefit may be exercised only
7 one time by a claimant. Existing law provides that where an
8 original residence is owned by coowners, such as for example by
9 registered domestic partners, the coowners who otherwise qualify
10 for the benefit must determine between themselves who will
11 exercise the benefit. The coowner who does not exercise the benefit
12 may make a claim for the benefit in the future. However, an
13 inequity exists in the case of a married couple, where one spouse
14 makes a claim for the property tax relief, because the other spouse
15 is also considered as having claimed the property tax relief, and
16 is therefore barred in the future from claiming the property tax
17 relief. Therefore, it is the intent of the Legislature, by enacting this

1 bill, to treat spouses the same as unmarried coowners for purposes
2 of this property tax relief.

3 (b) Existing law allows for new construction to be performed
4 upon a replacement dwelling subsequent to the transfer of base
5 year value from the original residence. The fair market value of
6 the new construction on the date of completion plus the full cash
7 value of the replacement dwelling on the date of acquisition may
8 not be more than the full cash value of the original residence.
9 Existing law requires the claimant to notify the assessor in writing
10 of the completion of the new construction within 30 days, or the
11 new construction is not eligible for the property tax relief.
12 However, most property owners are not aware of this notification
13 requirement and do not notify the assessor. As a result, many
14 taxpayers do not receive the relief intended by this section. The
15 assessor, however, is usually made aware of new construction by
16 the issuance of a building permit, thus the notification requirement
17 is not necessary. Therefore, it is the intent of the Legislature, by
18 enacting this bill, to delete this notification requirement.

19 SEC. 2. Section 69.5 of the Revenue and Taxation Code is
20 amended to read:

21 69.5. (a) (1) Notwithstanding any other provision of law,
22 pursuant to subdivision (a) of Section 2 of Article XIII A of the
23 California Constitution, any person over the age of 55 years, or
24 any severely and permanently disabled person, who resides in
25 property that is eligible for the homeowners' exemption under
26 subdivision (k) of Section 3 of Article XIII of the California
27 Constitution and Section 218 may transfer, subject to the conditions
28 and limitations provided in this section, the base year value of that
29 property to any replacement dwelling of equal or lesser value that
30 is located within the same county and is purchased or newly
31 constructed by that person as his or her principal residence within
32 two years of the sale by that person of the original property,
33 provided that the base year value of the original property shall not
34 be transferred to the replacement dwelling until the original
35 property is sold.

36 (2) Notwithstanding the limitation in paragraph (1) requiring
37 that the original property and the replacement dwelling be located
38 in the same county, this limitation shall not apply in any county
39 in which the county board of supervisors, after consultation with
40 local affected agencies within the boundaries of the county, adopts

1 an ordinance making the provisions of paragraph (1) also applicable
2 to situations in which replacement dwellings are located in that
3 county and the original properties are located in another county
4 within this state. The authorization contained in this paragraph
5 shall be applicable in a county only if the ordinance adopted by
6 the board of supervisors complies with all of the following
7 requirements:

8 (A) It is adopted only after consultation between the board of
9 supervisors and all other local affected agencies within the county's
10 boundaries.

11 (B) It requires that all claims for transfers of base year value
12 from original property located in another county be granted if the
13 claims meet the applicable requirements of both subdivision (a)
14 of Section 2 of Article XIII A of the California Constitution and
15 this section.

16 (C) It requires that all base year valuations of original property
17 located in another county and determined by its assessor be
18 accepted in connection with the granting of claims for transfers of
19 base year value.

20 (D) It provides that its provisions are operative for a period of
21 not less than five years.

22 (E) ~~The ordinance~~ It specifies the date on and after which its
23 provisions shall be applicable. However, the date specified shall
24 not be earlier than November 9, 1988. The specified applicable
25 date may be a date earlier than the date the county adopts the
26 ordinance.

27 (b) In addition to meeting the requirements of subdivision (a),
28 any person claiming the property tax relief provided by this section
29 shall be eligible for that relief only if the following conditions are
30 met:

31 (1) The claimant is an owner and a resident of the original
32 property either at the time of its sale, or at the time when the
33 original property was substantially damaged or destroyed by
34 misfortune or calamity, or within two years of the purchase or new
35 construction of the replacement dwelling.

36 (2) The original property is eligible for the homeowners'
37 exemption, as the result of the claimant's ownership and occupation
38 of the property as ~~his or her~~ *the claimant's* principal residence,
39 either at the time of its sale, or at the time when the original
40 property was substantially damaged or destroyed by misfortune

1 or calamity, or within two years of the purchase or new
2 construction of the replacement dwelling.

3 (3) At the time of the sale of the original property, the claimant
4 or the claimant's spouse who resides with the claimant is at least
5 55 years of age, or is severely and permanently disabled.

6 (4) At the time of claiming the property tax relief provided by
7 subdivision (a), the claimant is an owner of a replacement dwelling
8 and occupies it as ~~his or her~~ *the claimant's* principal place of
9 residence and, as a result thereof, the property is currently eligible
10 for the homeowners' exemption or would be eligible for the
11 exemption except that the property is already receiving the
12 exemption because of an exemption claim filed by the previous
13 owner.

14 (5) The original property ~~of the claimant~~ is sold by ~~him or her~~
15 *the claimant* within two years of the purchase or new construction
16 of the replacement dwelling. For purposes of this paragraph, the
17 purchase or new construction of the replacement dwelling includes
18 the purchase of that portion of land on which the replacement
19 building, structure, or other shelter constituting a place of abode
20 of the claimant will be situated and that, pursuant to paragraph (3)
21 of subdivision (g), constitutes a part of the replacement dwelling.

22 (6) The replacement dwelling, including that portion of land on
23 which it is situated that is specified in paragraph (5), is located
24 entirely within the same county as the claimant's original property.

25 (7) The claimant has not previously been granted, as a claimant,
26 the property tax relief provided by this section, except that this
27 paragraph shall not apply to any person who becomes severely
28 and permanently disabled subsequent to being granted, as a
29 claimant, the property tax relief provided by this section for any
30 person over the age of 55 years. In order to prevent duplication of
31 claims under this section within this state, county assessors shall
32 report quarterly to the State Board of Equalization that information
33 from claims filed in accordance with subdivision (f) and from
34 county records as is specified by the board necessary to identify
35 fully all claims under this section allowed by assessors and all
36 claimants who have thereby received relief. The board may specify
37 that the information include all or a part of the names and social
38 security numbers of claimants ~~and their spouses~~ and the identity
39 and location of the replacement dwelling to which the claim
40 applies. The information may be required in the form of data

1 processing media or other media and in a format that is compatible
2 with the recordkeeping processes of the counties and the auditing
3 procedures of the state.

4 (c) The property tax relief provided by this section shall be
5 available if the original property or the replacement dwelling, or
6 both, of the claimant includes, but is not limited to, either of the
7 following:

8 (1) A unit or lot within a cooperative housing corporation, a
9 community apartment project, a condominium project, or a planned
10 unit development. If the unit or lot constitutes the original property
11 of the claimant, the assessor shall transfer to the claimant's
12 replacement dwelling only the base year value of the claimant's
13 unit or lot and his or her share in any common area reserved as an
14 appurtenance of that unit or lot. If the unit or lot constitutes the
15 replacement dwelling of the claimant, the assessor shall transfer
16 the base year value of the claimant's original property only to the
17 unit or lot of the claimant and any share of the claimant in any
18 common area reserved as an appurtenance of that unit or lot.

19 (2) A manufactured home or a manufactured home and any land
20 owned by the claimant on which the manufactured home is situated.
21 For purposes of this paragraph, "land owned by the claimant"
22 includes a pro rata interest in a resident-owned mobilehome park
23 that is assessed pursuant to subdivision (b) of Section 62.1.

24 (A) If the manufactured home or the manufactured home and
25 the land on which it is situated constitutes the claimant's original
26 property, the assessor shall transfer to the claimant's replacement
27 dwelling either the base year value of the manufactured home or
28 the base year value of the manufactured home and the land on
29 which it is situated, as appropriate. If the manufactured home
30 dwelling that constitutes the original property of the claimant
31 includes an interest in a resident-owned mobilehome park, the
32 assessor shall transfer to the claimant's replacement dwelling the
33 base year value of the claimant's manufactured home and ~~his or~~
34 ~~her~~ *the claimant's* pro rata portion of the real property of the park.
35 No transfer of base year value shall be made by the assessor of
36 that portion of land that does not constitute a part of the original
37 property, as provided in paragraph (4) of subdivision (g).

38 (B) If the manufactured home or the manufactured home and
39 the land on which it is situated constitutes the claimant's
40 replacement dwelling, the assessor shall transfer the base year

1 value of the claimant's original property either to the manufactured
2 home or the manufactured home and the land on which it is
3 situated, as appropriate. If the manufactured home dwelling that
4 constitutes the replacement dwelling of the claimant includes an
5 interest in a resident-owned mobilehome park, the assessor shall
6 transfer the base year value of the claimant's original property to
7 the manufactured home of the claimant and ~~his or her~~ *the*
8 *claimant's* pro rata portion of the park. No transfer of base year
9 value shall be made by the assessor to that portion of land that
10 does not constitute a part of the replacement dwelling, as provided
11 in paragraph (3) of subdivision (g).

12 This subdivision shall be subject to the limitations specified in
13 subdivision (d).

14 (d) The property tax relief provided by this section shall be
15 available to a claimant who is the coowner of the original property,
16 as a joint tenant, a tenant in common, or a community property
17 owner, subject to the following limitations:

18 (1) If a single replacement dwelling is purchased or newly
19 constructed by all of the coowners and each coowner retains an
20 interest in the replacement dwelling, the claimant shall be eligible
21 under this section whether or not any or all of the remaining
22 coowners would otherwise be eligible claimants.

23 (2) If two or more replacement dwellings are separately
24 purchased or newly constructed by two or more coowners and
25 more than one coowner would otherwise be an eligible claimant,
26 only one coowner shall be eligible under this section. These
27 coowners shall determine by mutual agreement which one of them
28 shall be deemed eligible.

29 (3) If two or more replacement dwellings are separately
30 purchased or newly constructed by two coowners who held the
31 original property as community property, only the coowner who
32 has attained the age of 55 years, or is severely and permanently
33 disabled, shall be eligible under this section. If ~~both spouses~~
34 *coowners* are over 55 years of age, they shall determine by mutual
35 agreement which one of them *is shall be deemed* eligible.

36 In the case of coowners whose original property is a multiunit
37 dwelling, the limitations imposed by paragraphs (2) and (3) shall
38 only apply to coowners who occupied the same dwelling unit
39 within the original property at the time specified in paragraph (2)
40 of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) (1) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that shall be designed by the State Board of Equalization and that the assessor shall make available upon request, the following information:

(A) The name and social security number of each claimant ~~and of any spouse of the claimant~~ who is a record owner of the replacement dwelling.

(B) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(i) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the

1 claimant, or the claimant's spouse or guardian, so declares under
2 penalty of perjury, it shall be rebuttably presumed that the primary
3 purpose of the move to the replacement dwelling is to satisfy
4 identified disability-related requirements.

5 (ii) The claimant's substantiation that the primary purpose of
6 the move to the replacement dwelling is to alleviate financial
7 burdens caused by the disability. If the claimant, or the claimant's
8 spouse or guardian, so declares under penalty of perjury, it shall
9 be rebuttably presumed that the primary purpose of the move is
10 to alleviate the financial burdens caused by the disability.

11 (C) The address and, if known, the assessor's parcel number of
12 the original property.

13 (D) The date of the claimant's sale of the original property and
14 the date of the claimant's purchase or new construction of a
15 replacement dwelling.

16 (E) A statement by the claimant that ~~he or she occupied~~ the
17 replacement dwelling *was occupied as his or her the claimant's*
18 principal place of residence on the date of ~~the filing of his or her~~
19 *the claim*.

20 (F) Any claim under this section shall be filed within three years
21 of the date the replacement dwelling was purchased or the new
22 construction of the replacement dwelling was completed subject
23 to subdivision (k) or (m).

24 (2) A claim for transfer of base year value under this section
25 that is filed after the expiration of the filing period set forth in
26 subparagraph (F) of paragraph (1) shall be considered by the
27 assessor, subject to all of the following conditions:

28 (A) Any base year value transfer granted pursuant to that claim
29 shall apply commencing with the lien date of the assessment year
30 in which the claim is filed.

31 (B) The full cash value of the replacement property in the
32 assessment year described in subparagraph (A) shall be the base
33 year value of the real property in the assessment year in which the
34 base year value was transferred, factored to the assessment year
35 described in subparagraph (A) for both of the following:

36 (i) Inflation as annually determined in accordance with
37 paragraph (1) of subdivision (a) of Section 51.

38 (ii) Any subsequent new construction occurring with respect to
39 the subject real property that does not qualify for property tax relief

1 pursuant to the criteria set forth in subparagraphs (A) and (B) of
2 paragraph (4) of subdivision (h).

3 (g) For purposes of this section:

4 (1) “Person over the age of 55 years” means any person or the
5 spouse of any person who has attained the age of 55 years or older
6 at the time of the sale of the original property.

7 (2) “Base year value of the original property” means its base
8 year value, as determined in accordance with Section 110.1, with
9 the adjustments permitted by subdivision (b) of Section 2 of Article
10 XIII A of the California Constitution and subdivision (f) of Section
11 110.1, determined as of the date immediately prior to the date that
12 the original property is sold by the claimant, or in the case where
13 the original property has been substantially damaged or destroyed
14 by misfortune or calamity and the owner does not rebuild on the
15 original property, determined as of the date immediately prior to
16 the misfortune or calamity.

17 If the replacement dwelling is purchased or newly constructed
18 after the transfer of the original property, “base year value of the
19 original property” also includes any inflation factor adjustments
20 permitted by subdivision (f) of Section 110.1 for the period
21 subsequent to the sale of the original property. The base year or
22 years used to compute the “base year value of the original property”
23 shall be deemed to be the base year or years of any property to
24 which that base year value is transferred pursuant to this section.

25 (3) “Replacement dwelling” means a building, structure, or
26 other shelter constituting a place of abode, whether real property
27 or personal property, that is owned and occupied by a claimant as
28 his or her principal place of residence, and any land owned by the
29 claimant on which the building, structure, or other shelter is
30 situated. For purposes of this paragraph, land constituting a part
31 of a replacement dwelling includes only that area of reasonable
32 size that is used as a site for a residence, and “land owned by the
33 claimant” includes land for which the claimant either holds a
34 leasehold interest described in subdivision (c) of Section 61 or a
35 land purchase contract. Each unit of a multiunit dwelling shall be
36 considered a separate replacement dwelling. For purposes of this
37 paragraph, “area of reasonable size that is used as a site for a
38 residence” includes all land if any nonresidential uses of the
39 property are only incidental to the use of the property as a
40 residential site. For purposes of this paragraph, “land owned by

1 the claimant” includes an ownership interest in a resident-owned
2 mobilehome park that is assessed pursuant to subdivision (b) of
3 Section 62.1.

4 (4) “Original property” means a building, structure, or other
5 shelter constituting a place of abode, whether real property or
6 personal property, that is owned and occupied by a claimant as ~~his~~
7 ~~or her~~ *the claimant’s* principal place of residence, and any land
8 owned by the claimant on which the building, structure, or other
9 shelter is situated. For purposes of this paragraph, land constituting
10 a part of the original property includes only that area of reasonable
11 size that is used as a site for a residence, and “land owned by the
12 claimant” includes land for which the claimant either holds a
13 leasehold interest described in subdivision (c) of Section 61 or a
14 land purchase contract. Each unit of a multiunit dwelling shall be
15 considered a separate original property. For purposes of this
16 paragraph, “area of reasonable size that is used as a site for a
17 residence” includes all land if any nonresidential uses of the
18 property are only incidental to the use of the property as a
19 residential site. For purposes of this paragraph, “land owned by
20 the claimant” includes an ownership interest in a resident-owned
21 mobilehome park that is assessed pursuant to subdivision (b) of
22 Section 62.1.

23 (5) “Equal or lesser value” means that the amount of the full
24 cash value of a replacement dwelling does not exceed one of the
25 following:

26 (A) One hundred percent of the amount of the full cash value
27 of the original property if the replacement dwelling is purchased
28 or newly constructed prior to the date of the sale of the original
29 property.

30 (B) One hundred and five percent of the amount of the full cash
31 value of the original property if the replacement dwelling is
32 purchased or newly constructed within the first year following the
33 date of the sale of the original property.

34 (C) One hundred and ten percent of the amount of the full cash
35 value of the original property if the replacement dwelling is
36 purchased or newly constructed within the second year following
37 the date of the sale of the original property.

38 For the purposes of this paragraph, except as otherwise provided
39 in paragraph (4) of subdivision (h), if the replacement dwelling is,
40 in part, purchased and, in part, newly constructed, the date the

1 “replacement dwelling is purchased or newly constructed” is the
2 date of purchase or the date of completion of construction,
3 whichever is later.

4 (6) “Full cash value of the replacement dwelling” means its full
5 cash value, determined in accordance with Section 110.1, as of
6 the date on which it was purchased or new construction was
7 completed, and after the purchase or the completion of new
8 construction.

9 (7) “Full cash value of the original property” means, either:

10 (A) Its new base year value, determined in accordance with
11 subdivision (e), without the application of subdivision (h) of
12 Section 2 of Article XIII A of the California Constitution, plus the
13 adjustments permitted by subdivision (b) of Section 2 of Article
14 XIII A and subdivision (f) of Section 110.1 for the period from the
15 date of its sale by the claimant to the date on which the replacement
16 property was purchased or new construction was completed.

17 (B) In the case where the original property has been substantially
18 damaged or destroyed by misfortune or calamity and the owner
19 does not rebuild on the original property, its full cash value, as
20 determined in accordance with Section 110, immediately prior to
21 its substantial damage or destruction by misfortune or calamity,
22 as determined by the county assessor of the county in which the
23 property is located, without the application of subdivision (h) of
24 Section 2 of Article XIII A of the California Constitution, plus the
25 adjustments permitted by subdivision (b) of Section 2 of Article
26 XIII A and subdivision (f) of Section 110.1, for the period from
27 the date of its sale by the claimant to the date on which the
28 replacement property was purchased or new construction was
29 completed.

30 (8) “Sale” means any change in ownership of the original
31 property for consideration.

32 (9) “Claimant” means any person claiming the property tax
33 relief provided by this section. If a spouse of that person is a record
34 owner of the replacement dwelling, the spouse ~~is also~~ *shall not be*
35 *considered* a claimant for purposes of determining whether in any
36 future claim filed by the spouse under this section the condition
37 of eligibility specified in paragraph (7) of subdivision (b) has been
38 met.

1 (10) “Property that is eligible for the homeowners’ exemption”
2 includes property that is the principal place of residence of its
3 owner and is entitled to exemption pursuant to Section 205.5.

4 (11) “Person” means any individual, but does not include any
5 firm, partnership, association, corporation, company, or other legal
6 entity or organization of any kind.

7 (12) “Severely and permanently disabled” means any person
8 described in subdivision (b) of Section 74.3.

9 (13) For the purposes of this section property is “substantially
10 damaged or destroyed by misfortune or calamity” if it sustains
11 physical damage amounting to more than 50 percent of its full
12 cash value immediately prior to the misfortune or calamity.
13 Damage includes a diminution in the value of property as a result
14 of restricted access to the property where the restricted access was
15 caused by the misfortune or calamity and is permanent in nature.

16 (h) (1) Upon the timely filing of a claim described in
17 subparagraph (F) of paragraph (1) of subdivision (f), the assessor
18 shall adjust the new base year value of the replacement dwelling
19 in conformity with this section. This adjustment shall be made as
20 of the latest of the following dates:

21 (A) The date the original property is sold.

22 (B) The date the replacement dwelling is purchased.

23 (C) The date the new construction of the replacement dwelling
24 is completed.

25 (2) Any taxes that were levied on the replacement dwelling prior
26 to the filing of the claim on the basis of the replacement dwelling’s
27 new base year value, and any allowable annual adjustments thereto,
28 shall be canceled or refunded to the claimant to the extent that the
29 taxes exceed the amount that would be due when determined on
30 the basis of the adjusted new base year value.

31 (3) Notwithstanding Section 75.10, Chapter 3.5 (commencing
32 with Section 75) shall be utilized for purposes of implementing
33 this subdivision, including adjustments of the new base year value
34 of replacement dwellings acquired prior to the sale of the original
35 property.

36 (4) In the case where a claim under this section has been timely
37 filed and granted, and new construction is performed upon the
38 replacement dwelling subsequent to the transfer of base year value,
39 the property tax relief provided by this section also shall apply to
40 the replacement dwelling, as improved, and thus there shall be no

1 reassessment upon completion of the new construction if both of
2 the following conditions are met:

3 (A) The new construction is completed within two years of the
4 date of the sale of the original property ~~and the owner notifies the~~
5 ~~assessor in writing of completion of the new construction within~~
6 ~~30 days after completion.~~

7 (B) The fair market value of the new construction on the date
8 of completion, plus the full cash value of the replacement dwelling
9 on the date of acquisition, is not more than the full cash value of
10 the original property as determined pursuant to paragraph (7) of
11 subdivision (g) for purposes of granting the original claim.

12 (i) Any claimant may rescind a claim for the property tax relief
13 provided by this section and shall not be considered to have
14 received that relief for purposes of paragraph (7) of subdivision
15 (b), and the assessor shall grant the rescission, if a written notice
16 of rescission is delivered to the office of the assessor as follows:

17 (1) A written notice of rescission signed by the original filing
18 claimant ~~or claimants~~ is delivered to the office of the assessor in
19 which the original claim was filed.

20 (2) (A) Except as otherwise provided in this paragraph, the
21 notice of rescission is delivered to the office of the assessor before
22 the date that the county first issues, as a result of relief granted
23 under this section, a refund check for property taxes imposed upon
24 the replacement dwelling. If granting relief will not result in a
25 refund of property taxes, then the notice shall be delivered before
26 payment is first made of any property taxes, or any portion thereof,
27 imposed upon the replacement dwelling consistent with relief
28 granted under this section. If payment of the taxes is not made,
29 then notice shall be delivered before the first date that those
30 property taxes, or any portion thereof, imposed upon the
31 replacement dwelling, consistent with relief granted under this
32 section, are delinquent.

33 (B) Notwithstanding any other provision in this division, any
34 time the notice of rescission is delivered to the office of the assessor
35 within six years after relief was granted, provided that the
36 replacement property has been vacated as the claimant's principal
37 place of residence within 90 days after the original claim was filed,
38 regardless of whether the property continues to receive the
39 homeowners' exemption. If the rescission increases the base year
40 value of a property, or the homeowners' exemption has been

1 incorrectly allowed, appropriate escape assessments or
2 supplemental assessments, including interest as provided in Section
3 506, shall be imposed. The limitations periods for any escape
4 assessments or supplemental assessments shall not commence until
5 July 1 of the assessment year in which the notice of rescission is
6 delivered to the office of the assessor.

7 (3) The notice is accompanied by the payment of a fee as the
8 assessor may require, provided that the fee shall not exceed an
9 amount reasonably related to the estimated cost of processing a
10 rescission claim, including both direct costs and developmental
11 and indirect costs, such as costs for overhead, personnel, supplies,
12 materials, office space, and computers.

13 (j) (1) With respect to the transfer of base year value of original
14 properties to replacement dwellings located in the same county,
15 this section, except as provided in paragraph (3) or (4), shall apply
16 to any replacement dwelling that is purchased or newly constructed
17 on or after November 6, 1986.

18 (2) With respect to the transfer of base year value of original
19 properties to replacement dwellings located in different counties,
20 except as provided in paragraph (4), this section shall apply to any
21 replacement dwelling that is purchased or newly constructed on
22 or after the date specified in accordance with subparagraph (E) of
23 paragraph (2) of subdivision (a) in the ordinance of the county in
24 which the replacement dwelling is located, but shall not apply to
25 any replacement dwelling which was purchased or newly
26 constructed before November 9, 1988.

27 (3) With respect to the transfer of base year value by a severely
28 and permanently disabled person, this section shall apply only to
29 replacement dwellings that are purchased or newly constructed on
30 or after June 6, 1990.

31 (4) The amendments made to subdivision (e) by the act adding
32 this paragraph shall apply only to replacement dwellings under
33 Section 69 that are acquired or newly constructed on or after
34 October 20, 1991, and shall apply commencing with the 1991–92
35 fiscal year.

36 (k) (1) In the case in which a county adopts an ordinance
37 pursuant to paragraph (2) of subdivision (a) that establishes an
38 applicable date which is more than three years prior to the date of
39 adoption of the ordinance, those potential claimants who purchased
40 or constructed replacement dwellings more than three years prior

1 to the date of adoption of the ordinance and who would, therefore,
2 be precluded from filing a timely claim, shall be deemed to have
3 timely filed a claim if the claim is filed within three years after the
4 date that the ordinance is adopted. This paragraph may not be
5 construed as a waiver of any other requirement of this section.

6 (2) In the case in which a county assessor corrects a base year
7 value to reflect a pro rata change in ownership of a resident-owned
8 mobilehome park that occurred between January 1, 1989, and
9 January 1, 2002, pursuant to paragraph (4) of subdivision (b) of
10 Section 62.1, those claimants who purchased or constructed
11 replacement dwellings more than three years prior to the correction
12 and who would, therefore, be precluded from filing a timely claim,
13 shall be deemed to have timely filed a claim if the claim is filed
14 within three years of the date of notice of the correction of the base
15 year value to reflect the pro rata change in ownership. This
16 paragraph may not be construed as a waiver of any other
17 requirement of this section.

18 (3) This subdivision does not apply to a claimant who has
19 transferred his or her replacement dwelling prior to filing a claim.

20 (4) The property tax relief provided by this section, but filed
21 under this subdivision, shall apply prospectively only, commencing
22 with the lien date of the assessment year in which the claim is
23 filed. There shall be no refund or cancellation of taxes prior to the
24 date that the claim is filed.

25 (l) No escape assessment may be levied if a transfer of base
26 year value under this section has been erroneously granted by the
27 assessor pursuant to an expired ordinance authorizing intercounty
28 transfers of base year value.

29 (m) (1) The amendments made to subdivisions (b) and (g) of
30 this section by Chapter 613 of the Statutes of 2001 shall apply:

31 (A) With respect to the transfer of base year value of original
32 properties to replacement dwellings located in the same county,
33 to any replacement dwelling that is purchased or newly constructed
34 on or after November 6, 1986.

35 (B) With respect to the transfer of base year value of original
36 properties to replacement dwellings located in different counties,
37 to any replacement dwelling that is purchased or newly constructed
38 on or after the date specified in accordance with subparagraph (E)
39 of paragraph (2) of subdivision (a) in the ordinance of the county
40 in which the replacement dwelling is located, but not to any

1 replacement dwelling that was purchased or newly constructed
2 before November 9, 1988.

3 (C) With respect to the transfer of base year value by a severely
4 and permanently disabled person, to replacement dwellings that
5 are purchased or newly constructed on or after June 6, 1990.

6 (2) The property tax relief provided by this section in accordance
7 with this subdivision shall apply prospectively only commencing
8 with the lien date of the assessment year in which the claim is
9 filed. There shall be no refund or cancellation of taxes prior to the
10 date that the claim is filed.

11 (n) A claim filed under this section is not a public document
12 and is not subject to public inspection, except that a claim shall be
13 available for inspection by the claimant or the claimant's spouse,
14 the claimant's or the claimant's spouse's legal representative, the
15 trustee of a trust in which the claimant or the claimant's spouse is
16 a present beneficiary, and the executor or administrator of the
17 claimant's or the claimant's spouse's estate.

18 (o) *The amendments made to this section by the act adding this*
19 *subdivision shall apply only to persons who file a claim pursuant*
20 *to this section on or after January 1, 2010, and who have not been*
21 *previously granted the property tax relief provided by this section.*
22 *A person considered to be a claimant prior to these amendments*
23 *because he or she was a record owner of a replacement dwelling*
24 *on a claim filed by a spouse shall be deemed to be a person that*
25 *has been previously granted the property tax relief provided by*
26 *this section.*

27 SEC. 3. If the Commission on State Mandates determines that
28 this act contains costs mandated by the state, reimbursement to
29 local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.