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REVENUE AND TAXATION CODE

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REVENUE AND TAXATION CODE

DIVISION 1. PROPERTY TAXATION

PART 0.5. IMPLEMENTATION OF ARTICLE XIII A OF THE CALIFORNIA CONSTITUTION *

Chapter 1. Base Year Values. §§ 50–54.
2. Change in Ownership and Purchase. §§ 60–69.5.
3. New Construction. §§ 70–74.7.
3.5. Change in Ownership and New Construction After the Lien Date. §§ 75–75.80.
4. Assessment Appeals. §§ 80–81.
5. Taxpayer Reporting. § 90.
5.5. Property Tax Rates. § 93.
6. Allocation of Property Tax Revenues. §§ 95–100. [Repealed]
6. Allocation of Property Tax Revenue. §§ 95–100.9.
7. Excess Tax Revenues. §§ 100.1–100.4. [Repealed.]
8. The Deflator. §§ 100.5–100.7. [Repealed.]

CHAPTER 1. BASE YEAR VALUES

§ 50. Base year value for property purchased or changes ownership.
§ 51. Adjustments to base year values.
§ 51.5. Errors and omissions in determination of base year value.
§ 52. Valuation of enforceably restricted property.
§ 53. Base year value for fruit, nut trees and grapevines.
§ 53.5 Base year value of leach pads, tailing facilities, and settling ponds.
§ 54. Assessment procedures: Nordlinger v. Hahn.

50. **Base year value for property purchased or changes ownership.** For purposes of base year values as determined by Section 110.1, values determined for property which is purchased or changes ownership after the 1975 lien date shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership. Values determined after the 1975 lien date for property which is newly constructed shall be entered on the roll for the lien date next succeeding the date of completion of the new construction. The value of new construction in progress on the lien date shall be entered on the roll as of the lien date.

Construction.—The application of this section to property purchased or changing ownership after the 1975 lien date does not violate Article XIII A, Section 2(a) of the Constitution (real property acquired after 1975 to be assessed according

* Part 0.5 was added by Stats. 1979, Ch. 242, in effect July 10, 1979.

NOTE.—Section 41 of Stats. 1979, Ch. 242, provided that notwithstanding the provisions of Sections 110.1 and (former) 110.6, as added to the Revenue and Taxation Code by Chapter 292 of the Statutes of 1978, and amended by Chapters 332 and 576 of the Statutes of 1978, the provisions of this act shall be effective for the 1979–80 assessment year and thereafter, except as provided in Section 42 of this act.

It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1979–80 assessment year and thereafter, including, but not limited to, any change in ownership occurring on or after March 1, 1975. Sec. 42 thereof provided that no creation, termination, assignment or sublease of a leasehold interest on or after March 1, 1975, and no transfer of property subject to a lease on or after March 1, 1975, shall constitute a change in ownership, unless it is defined as a change in ownership under subdivision (c) of Section 61 and subdivision (g) of Section 62. Sec. 43 thereof provided that except as otherwise provided in this act, or in Chapter 49 of the Statutes of 1979, no escape assessments shall be levied and no refund shall be made for any years prior to 1979–80 for any increases (or decreases) in value made in 1978–79 as the result of the enactment of Article XIII A of the Constitution, and Chapters 292 and 332 of 1978 or this act, except that any refunds which result from appeals filed for 1978–79 in a timely manner or pursuant to Chapter 24 of the Statutes of 1979 shall be made. Sec. 44 thereof provided in state payments to local governments because of this act. Sec. 45 thereof provided that the provisions of this act are severable.

to appraised value at time of acquisition). Nothing in Article XIII A changed or prohibited the existing assessment procedure under which a change of value during the fiscal year would only be reflected in the appraisal on the next lien date, and the enactment of supplemental assessment provisions of Revenue and Taxation Code sections 75 through 75.80 does not establish that the prior method of assessment under this section was unconstitutional. *Vacu-dry Company* v. *Sonoma County,* 190 Cal.App.3d 947.

51. **Adjustments to base year values.** (a) For purposes of subdivision (b) of Section 2 of Article XIII A of the California Constitution, for each lien date after the lien date in which the base year value is determined pursuant to Section 110.1, the taxable value of real property shall, except as otherwise provided in subdivision (b) or (c), be the lesser of:

(1) Its base year value, compounded annually since the base year by an inflation factor, which shall be determined as follows:

(A) For any assessment year commencing prior to January 1, 1985, the inflation factor shall be the percentage change in the cost of living, as defined in Section 2212.

(B) For any assessment year commencing after January 1, 1985, and prior to January 1, 1998, the inflation factor shall be the percentage change, rounded to the nearest one-thousandth of 1 percent, from December of the prior fiscal year to December of the current fiscal year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

(C) For any assessment year commencing on or after January 1, 1998, the inflation factor shall be the percentage change, rounded to the nearest one-thousandth of 1 percent, from October of the prior fiscal year to October of the current fiscal year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations.

(D) In no event shall the percentage increase for any assessment year determined pursuant to subparagraph (A), (B), or (C) exceed 2 percent of the prior year's value.

(2) Its full cash value, as defined in Section 110, as of the lien date, taking into account reductions in value due to damage, destruction, depreciation, obsolescence, removal of property, or other factors causing a decline in value.

(b) If the real property was damaged or destroyed by disaster, misfortune, or calamity and the board of supervisors of the county in which the real property is located has not adopted an ordinance pursuant to Section 170, or any portion of the real property has been removed by voluntary action by the taxpayer, the taxable value of the property shall be the sum of the following:

(1) The lesser of its base year value of land determined under paragraph (1) of subdivision (a) or full cash value of land determined pursuant to paragraph (2) of subdivision (a).

(2) The lesser of its base year value of improvements determined pursuant to paragraph (1) of subdivision (a) or the full cash value of improvements determined pursuant to paragraph (2) of subdivision (a).

In applying this subdivision, the base year value of the subject real property does not include that portion of the previous base year value of that property that was attributable to any portion of the property that has been

destroyed or removed. The sum determined under this subdivision shall then become the base year value of the real property until that property is restored, repaired, or reconstructed or other provisions of law require establishment of a new base year value.

(c) If the real property was damaged or destroyed by disaster, misfortune or calamity and the board of supervisors in the county in which the real property is located has adopted an ordinance pursuant to Section 170, the taxable value of the real property shall be its assessed value as computed pursuant to Section 170.

(d) For purposes of this section, ''real property'' means that appraisal unit that persons in the marketplace commonly buy and sell as a unit, or that is normally valued separately.

(e) Nothing in this section shall be construed to require the assessor to make an annual reappraisal of all assessable property. However, for each lien date after the first lien date for which the taxable value of property is reduced pursuant to paragraph (2) of subdivision (a), the value of that property shall be annually reappraised at its full cash value as defined in Section 110 until that value exceeds the value determined pursuant to paragraph (1) of subdivision (a). In no event shall the assessor condition the implementation of the preceding sentence in any year upon the filing of an assessment appeal.

History.—Stats. 1981, Ch. 377, in effect January 1, 1982, added "and the board . . . to Section 170" after "calamity" and "value; or" after "new base year" in subdivision (c); lettered the former second paragraph as subdivision (e) and substituted "subdivisions (a) and (b)," for "this section" therein; and lettered the former third paragraph as subdivision (f). Stats. 1984, Ch. 1164, in effect January 1, 1985, substituted "determined as follows:" for "the percentage change in the cost of living, as defined in Section 2212; provided, that any percentage increase shall not exceed 2 percent of the prior year's value; or" in the first sentence of subdivision (a), and added subsections (1) and (2) thereto. Stats. 1985, Ch. 441, effective July 31, 1985, substituted "." for "; or" at the end of subdivisions (a)(1), (a)(2), (b), and (c); added "removal of property," after "obsolescence," in subdivision (b); and substituted "marketplace" for "market place" after "the" in subdivision (e). Stats. 1995, Ch. 491, in effect January 1, 1996, added subdivision letter designation (a) before "For purposes" and added ", except as . . . or (c)," after "property shall" in the first paragraph; renumbered former subdivisions (a) and (b) as paragraphs (1) and (2), respectively, relettered former paragraphs (1) and (2) of former subdivision (a) as subparagraphs (A) and (B), respectively; substituted ". In no event shall" for "; provided, that" after "Relations", substituted "subparagraph (A) or (B)" for "paragraph (1) or (2) shall not" after "pursuant to" in subparagraph (B) of paragraph (2) of subdivision (a); relettered former subdivisions (c), (d), (e), and (f) as (b), (c), (d), and (e) respectively; added "real" after "If the", added "real" after "which the", added "any portion . . . has been" after "170, or", added "taxable . . . be the" after "taxpayer, the", added "the following:" after "sum of" and created new paragraph with the balance of subdivision (b) beginning with "(1)"; substituted "The" for "the" after "(1)", added "paragraph (1) of" after "determined under", added "paragraph (2) of" after "pursuant to", and substituted "(a)" for "(b), plus" in paragraph (1) of subdivision (b); created new paragraph beginning with "(2)", substituted "The" for "the", substituted "pursuant to paragraph (1) of" for "under" after "improvements determined", added "paragraph (2)" after "determined pursuant to", substituted "(a)." for "(b), which" after "subdivision", created new paragraph with the balance of the sentence by adding "The sum determined under this subdivision" before "shall then", added "of the real property" after "year value", and substituted "that" for "such" after "until" in paragraph (2) of subdivision (b); added "real" after "If the", added "real" after "in which the", and added "the taxable . . . shall be" after "Section 170" in subdivision (c); substituted "this section" for "subdivisions (a) and (b)" after "For purposes of", substituted "that" for "which" after "appraisal unit", and substituted "that is" for "which are" in subdivision (d); and added second and third sentences in subdivision (e). Stats. 1996, Ch. 1087, in effect January 1, 1997, added ", rounded to the nearest one-thousandth of 1 percent," after "percentage change in" the first sentence of subparagraph (B) of paragraph (1) of subdivision (a). Stats. 1997, Ch. 940 (SB 1105), in effect January 1, 1998, added "and prior to January 1, 1998," after "January 1, 1985," in subparagraph (B), added subparagraph (C), substituted "(A), (B), or (C)" for "(A) or (B)" after "pursuant to subparagraph", and lettered the former second sentence of subparagraph (B) as subparagraph (D) in subdivision (a). Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, added the first sentence of the second paragraph of subdivision (b).

Note.—Stats. 1995, Ch. 491, provided that the amendments to Section 51 made by that act do not constitute a change in, but are declaratory of, existing law.

Note.—Stats. 1981, Ch. 377, provided no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it under this act, because any property tax revenues lost would be as a result of a constitutional amendment approved by the voters.

Construction.—County assessment appeals board did not err in separating cable television system's property into component parts rather than considering all the property as one appraisal unit for valuation purposes. Neither this section nor subdivision (e) of this section mandates appraisal of the property as a single unit. *Orange County* v. *Orange County Assessment Appeals Board No. 1,* 13 Cal.App.4th 524.

Inflation Factor.—Requiring adjustment of 1975–76 base values for the three tax years between establishment of the full cash value base in 1975 and the 1978 effective date of Article XIII A represented a valid exercise of legislative power. *Armstrong* v. *San Mateo County,* 146 Cal.App.3d 597.

Valuation.—The correct method for computing the taxable value of property as of the lien date is set forth in this section. Thus, an assessment appeals board must determine not only the base year value or factored base year value of the property, but also its full cash value undepreciated for any damage. After the full cash value is determined, it is then reduced for damage or depreciation. If the depreciated cash value is less than the base year value or the factored base year value, it is the taxable value. If such value is more than the base year value or in later years becomes more than the factored base year value, then the base year value or factored base year value is the taxable value. *San Diego County* v. *Assessment Appeals Board No. 2,* 148 Cal.App.3d 548.

Decline in value.—An assessor was required under subdivision (e) to reappraise a taxpayer's real property after the assessment for 1993 was reduced due to a decline in value. No reappraisal was required to be performed before February 1997, the date on which the assessment appeals board found that the property value for 1993 should be reduced. Once that value was established, however, the reappraisal requirement became retroactive to 1994 and 1995; and refunds for those tax years were available, even though taxpayer failed to file assessment appeals for 1994 and 1995. Where a property owner has been granted a reduction under this section, subdivision (e) dispenses with the usual requirement of filing an assessment appeal. *El Dorado Palm Springs, Ltd.* v. *Board of Supervisors,* 104 Cal.App.4th 1262.

Disaster, misfortune, or calamity.—As used in Sections 51 and 170, "disaster, misfortune, or calamity" require at a minimum some event out of the ordinary. The purpose of the sections is to afford financial relief to the owners of property physically damaged or destroyed by an unforeseeable occurrence beyond their control. Thus, damage to a building that occurred gradually due to ordinary natural forces was not caused by disaster, misfortune, or calamity. *T. L. Enterprises, Inc.* v. *Los Angeles county,* 215 Cal.App.3d 876.

Pollution cleanup.—Although the cost of pollution cleanup that reduces the fair market value of property may form the basis for a reduction in that property's valuation, the contamination must be evident, and there was insufficient evidence to establish that the assessor knew or should have known that a tire manufacturing plant was contaminated on the date he valued it. *Firestone Tire & Rubber Co.* v. *Monterey County,* 223 Cal.App.3d 382.

51.5. **Errors and omissions in determination of base year value.** (a) Notwithstanding any other provision of the law, any error or omission in the determination of a base year value pursuant to paragraph (2) of subdivision (a) of Section 110.1, including the failure to establish that base year value, which does not involve the exercise of an assessor's judgment as to value, shall be corrected in any assessment year in which the error or omission is discovered.

(b) An error or an omission described in subdivision (a) which involves the exercise of an assessor's judgment as to value may be corrected only if it is placed on the current roll or roll being prepared, or is otherwise corrected, within four years after July 1 of the assessment year for which the base year value was first established.

(c) An error or an omission involving the exercise of an assessor's judgment as to value shall not include errors or omissions resulting from the taxpayer's fraud, concealment, misrepresentation, or failure to comply with any provision of law for furnishing information required by Sections 441, 470, 480, 480.1, and 480.2, or from clerical errors.

(d) If a correction authorized by subdivision (a) or (b) reduces the base year value, appropriate cancellations or refunds of tax shall be granted in accordance with this division. If the correction increases the base year value, appropriate escape assessments shall be imposed in accordance with this division.

(e) The existence of a clerical error shall be proved by a preponderance of the evidence, except that if the correction is made more than four years after

July 1 of the assessment year for which the base year value was first established the clerical error shall be proved by clear and convincing evidence, including the papers in the assessor's office. Nothing in this subdivision shall be construed to change the standard of proof applicable to a determination of the value of property.

(f) For purposes of this section:

(1) ''Assessment year'' means an assessment year as defined in Section 118.

(2) ''Clerical errors'' means only those defects of a mechanical, mathematical, or clerical nature, not involving judgment as to value, where it can be shown from papers in the assessor's office or other evidence that the defect resulted in a base year value that was not intended by the assessor at the time it was determined.

History.—Added by Stats. 1987, Ch. 537, in effect January 1, 1988. Stats. 1990, Ch. 126, in effect June 11, 1990, substituted "base year" for "base-year" throughout section and added ", or is otherwise corrected," after "prepared" in subdivision (b).

Construction.—This section was enacted to provide guidelines for county assessors in making base year value corrections, and it does not override the prospective application provision of Section 80, subdivision (a)(5) for a reduced base year value year determined as a result of a taxpayer's successful application for reduction of such value. Thus, a taxpayer whose appeal of a 1989 supplemental assessment was untimely but whose appeal of a 1990 assessment was successful based upon information supplied with the 1989 appeal was not entitled to a retroactive refund of the 1989 taxes. *Sea World, Inc.* v. *San Diego County,* 27 Cal.App.4th 1390. For purposes of subdivision (a) of this section, if the assessor fails to establish a new base year value after a change in ownership of property but continues to enroll adjustments for inflation to the property's prior base year value, such adjustments do not constitute an exercise of judgment as to value which would preclude the assessor from correcting the base year value in any year in which the omission is discovered. Enrolling an adjusted base year value is done pro forma by applying an inflation factor to the previous year's entry. *Montgomery Ward & Co., Inc.* v. *Santa Clara County,* 47 Cal.App.4th 1122.

This section provides an independent mechanism for correcting base-year values apart from the normal appeals procedures of Section 80. While Section 80(a)(3) imposes a four-year time limit on appealing base-year reassessments, this section specifically states that notwithstanding any other provision of law, nonjudgmental errors shall be corrected in any assessment year in which the error or omission is discovered. Since the purpose of this section is to remove any time limits on correcting the roll based on nonjudgmental errors, reading a statute of limitations back into the law would run contrary to the express wording of the statute. *Sunrise Retirement Villa* v. *Dear,* 58 Cal.App.4th 948.

Application for reduction of base year value.—Taxpayer requested correction of the base year value within four years, consistent with subdivision (b). As to whether the applications for reduction in assessment were filed under this section, the reason provided on the county's preprinted form, ''Assessor's improper method of calculation'', was sufficient to put the county on notice that an appeal was being taken thereunder. *Metropolitan Culinary Services, Inc.* v. *Los Angeles County,* 61 Cal.App.4th 935.

Escape Assessments.—Base year value errors or omission not involving an assessor's judgment as to value may be corrected in any year in which those errors or omissions are discovered, notwithstanding the limitations periods for levying escape assessments. However, where a correction increases the base year value, ''appropriate escape assessments'' as intended by subdivision (d) of this section may be made only within the time limitations of Revenue and Taxation Code Section 532. *Montgomery Ward & Co., Inc.* v. *Santa Clara County,* 47 Cal.App.4th 1122.

Note.—Section 1(a) of Stats. 1987, Ch. 537, provided that the Legislature finds and declares that fairness and equity require that county assessors have express authority to make corrections to property tax base-year values whenever it is discovered that a base-year value does not reflect applicable constitutional or statutory valuation standards or the base-year value was omitted. Any limitations imposed upon the assessor's authority to correct these errors would result in a system of taxation which, on the one hand, denies the benefits of Article XIII A of the California Constitution to some taxpayers where the barred error or correction would reduce the base-year value and, on the other hand, encourages even the most honest person to engage in deception and concealment in order to delay discovery of changes in ownership or new construction beyond the point where a correction of the base-year value can be made. Further, the failure to place any value on the assessment roll for property which completely escapes taxation because of limitations on the authority to correct errors would violate the constitutional requirement that all property in the state shall be subject to taxation. Nothing in this act violates either the spirit or the letter of Article XIII A of the California Constitution since all corrections permitted by it must be consistent with applicable constitutional and statutory valuation standards.

52. **Valuation of restricted property.** (a) Notwithstanding any other provision of this division, property which is enforceably restricted pursuant to Section 8 of Article XIII of the California Constitution shall be valued for property tax purposes pursuant to Article 1.5 (commencing with Section 421) and Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2.

(b) Notwithstanding any other provision of this division, property restricted to timberland use pursuant to subdivision (j) of Section 3 of Article XIII of the California Constitution shall be valued for property tax purposes pursuant to Article 1.7 (commencing with Section 431) of Chapter 3 of Part 2.

(c) Notwithstanding any other provision of this division, property subject to valuation as a golf course pursuant to Section 10 of Article XIII of the California Constitution shall be valued for property tax purposes in accordance with such section.

(d) Notwithstanding the provisions of this division, property subject to valuation pursuant to Section 11 of Article XIII of the California Constitution shall be valued for property tax purposes in accordance with such section.

Construction.—In enacting subdivision (c) of this section, the Legislature did not effectively remove golf course property from the provisions of Article XIII A, Section 2 of the Constitution, and the values of plaintiffs' properties are their respective 1975–76 "golf course" values subject to the 2 percent per year increases authorized by Article XIII A, Section 2(b). *Los Angeles Country Club* v. *Pope,* 175 Cal.App.3d 278.

In enacting subdivision (d) of this section, the Legislature did not remove lands owned by local governments and located outside their boundaries from the provisions of Article XIII A of the Constitution, even though the subdivision states that property subject to valuation pursuant to Article XIII, Section 11 must be valued for property tax purposes according to that section. That section only sets a ceiling for the valuation of extra-territorial lands that the taxing body cannot exceed. Any valuation below the limits set by that section thus accords with the section. *San Francisco* v. *San Mateo County*, 10 Cal.4th 554.

53. **Base year value for fruit, nut trees and grapevines.** (a) Except as provided in subdivision (b), the initial base-year value for fruit and nut trees and grapevines subject to exemption pursuant to subdivision (i) of Section 3 of Article XIII of the California Constitution shall be the full cash value of those properties as of the lien date of their first taxable year.

(b) A county board of supervisors may, after consulting with affected local agencies within the county's boundaries, provide by ordinance that the initial base year value for replacement grapevines that are planted to replace grapevines less than 15 years of age that were removed solely as a result of phylloxera infestation or Pierce's Disease, and are planted on the same parcel as the replaced grapevines, as certified in writing by the county agricultural commissioner, shall be the base year value of the removed grapevines factored to the lien date of the first taxable year of the replacement vines. The assignment of base year replacement value shall be limited to that portion of the replacement grapevines that are substantially equivalent to the vines that were replaced, if the replacement vines are planted at a greater density.

History.—Stats. 1992, Ch. 413, added "(a). . . the" at the beginning of the first sentence of subdivision (a); deleted the comma after "XIII", and substituted "those" for "such" after "value of" in subdivision (a); and added subdivision (b). Stats. 1993, Ch. 589 in effect January 1, 1994, substituted "consulting" for "consultation" after "may, after" in the first sentence of subdivison (b); added "assignment of" after "The" , and added "replacement" after "limited to" in the second sentence of subdivision (b); and added "replacement" after "subdivision,", added "the" after "equivalent to", added "they" after "vines", substituted "replace" for "replaced" after "vines", added "replacement" after "if the", and added "of" after "are" in the third sentence of subdivision (b). Stats. 1997, Ch. 607 (AB 122), in effect October 3, 1997, added "or Pierce's Disease" after "phylloxera infestation" in the first sentence of subdivision (b). Stats. 2000, Ch. 272 (AB 1790), in effect January 1, 2001, added "and are planted on the same parcel as the replaced grapevines," after "Pierce's Disease," and substituted "grapevines" for "vines" after "the removed" and after "the replacement" in the first sentence, substituted "shall be" for "is" after "replacement value", added "that portion of the" after "limited to", substituted "grapevines" for "vines" after "to the", substituted "if the replacement grapevines are planted at a greater density" for "and are planted on the same parcel as the replaced vines" after "were replaced," in the second sentence; and deleted the former third sentence, which provided "For purposes of this subdivision, replacement vines are substantially equivalent to the vines they replace if the replacement vines are of a similar type and are planted at a similar density.", of subdivision (b).

53.5. **Base year value of leach pads, tailing facilities, and settling ponds.** With respect to property that is subject to valuation as mining or mineral property, the initial base year value of a leach pad, tailing facility, or settling pond on that property shall be the full cash value of that leach pad, tailing facility, or settling pond as of the first lien date upon which that pad, facility, or pond is subject to assessment. Each leach pad, tailing facility, or settling pond shall be considered a separate appraisal unit for purposes of determining its taxable value on each lien date subsequent to the lien date upon which the initial base year value was determined for that pad, facility, or pond.

History.—Added by Stats. 1998, Ch. 226 (AB 1246), in effect January 1, 1999.

Note.—Section 1 of Stats. 1998, Ch. 226 (AB 1246) provided that the Legislature finds and declares both of the following: (a) The unique nature of certain mining processes used in extracting nonfuel minerals creates changes to the condition of real property that are difficult to categorize for property tax purposes as either fixtures or long-term capital improvements to real property. (b) Because of the difficulties described in subdivision (a), it is necessary for the Legislature to create a special category for leach pads, tailings facilities, and settling ponds as separate appraisal units in order to more accurately reflect their declining value as an integral part of the mining process.

54. **Assessment procedures: Nordlinger v. Hahn.** (a) Notwithstanding any other provision of law, no modification of assessment procedures shall be made with respect to real property on the basis of the invalidity of any portion of Section 2 of Article XIII A of the California Constitution as determined by the United States Supreme Court in the case of Nordlinger v. Hahn.

(b) This section shall only be operative if the United States Supreme Court, in its decision in the case of Nordlinger v. Hahn, determines that any portion of Section 2 of Article XIII A of the California Constitution is invalid, and shall, in that event, absent a shorter period specified by the Legislature by statute, be operative for only two years from the date of that decision.

History.—Added by Stats. 1992, Ch. 14, in effect March 18, 1992.

Chapter 2. Change in Ownership and Purchase *

§ 60. Meaning of "change in ownership."
§ 61. "Change in ownership" includes.
§ 62. "Change in ownership" exclusions.
§ 62.1. "Change in ownership" exclusion.
§ 62.2. "Change in ownership" exclusion.
§ 63. Interspousal transfers.
§ 63.1. Transfers between parents and their children.
§ 64. Corporation and partnership interests.
§ 65. Termination of joint tenancy or tenancy in common [Repealed.]
§ 65. Joint tenancy interests.
§ 65.1. Percentage interests; units or lots in a complex with common areas or facilities.
§ 66. Vesting of employee benefit plan.
§ 67. "Purchase."

* **NOTE.—**Section 19 of Stats. 1979, Ch. 1161, provided that notwithstanding the provisions of Sections 110.1 and (former) 110.6, as added to the Revenue and Taxation Code by Chapter 292 of the Statutes of 1978, and amended by Chapters 332 and 576 of the Statutes of 1978, the provisions of this act shall be effective for the 1979–80 assessment year and thereafter.

It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1979–80 assessment year and thereafter, including, but not limited to, any change in ownership occurring on or after March 1, 1975. Sec. 22 thereof provided no state payments to local governments because of this act. Sec. 23 thereof provided that the provisions of this act are severable.

§ 68. "Change in ownership" exclusion; replacement property.
§ 69. Disaster relief.
§ 69.3. Transfer of base-year value to replacement dwelling—disasters.
§ 69.4. Transfer of base-year value or new construction exclusion—environmentally contaminated property.
§ 69.5. Transfer of base-year value to replacement dwelling.

60. **Meaning of "change in ownership".** A "change in ownership" means a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee interest.

Construction.—This Section was intended as a guidepost in cases not covered specifically by Sections 61 through 66 and is inapplicable to cases in which specific provisions cover the transaction that occurred. *Shuwa Investments Corporation* v. *Los Angeles County,* 1 Cal.App.4th 1635. Where the owner of an apartment building conveyed title in fee simple to a buyer who planned to convert the building to cooperative housing, the buyer provided a down payment, the remainder of the purchase price was covered in an all-inclusive trust deed carried by the owner, and initial payments of interest by the buyer could be satisfied by transferring to the owner the rental income generated by the building, a change of ownership occurred. The sale documents were absolute on their face, containing no conditions, exceptions or reservations regarding transfer of full title, and buyer's sale of fractional interests to individual investors and the subsequent conveyance by one of those investors to a third party were consistent with the change of ownership at the time of the transaction between owner and buyer. *Cal-American Income Property Fund II* v. *Los Angeles County,* 208 Cal.App.3d 109. The legislative treatment of partnerships and corporations similarly and in a manner differently from joint tenancies and tenancies in common for purposes of real property transfers, which results in a 100 percent reassessment, is not irrational. Partnerships and corporations are recognized legal entities, whereas joint tenancies and tenancies in common are not, and both partners and shareholders have limited rights in the partnership or corporation's real property. *Munkdale* v. *Giannini*, 35 Cal.App.4th 1104. Majority partner's purchase of minority partners' partnership interests and partnership transfer of title to partnership real property to the sole partner constituted a change in ownership under this section. *Zapara* v. *Orange County,* 26 Cal.App.4th 464.

Under Section 61 and this section, a partnership's transfer of parcels of real property to a partner was a change in ownership requiring a 100 percent reassessment. The transfer was a transfer of a beneficial interest. *Munkdale* v. *Giannini*, 35 Cal.App.4th 1104.

The purchase by a property owner of transferable development rights allowing the owner, in developing its property, to exceed the maximum floor area ratio otherwise allowed under a city redevelopment plan, was a taxable event within the framework of Article XIII A of the Constitution, permitting reappraisal upon a change of ownership. The purchase involved a transfer of a significant present, beneficial property interest within the meaning of this section. *Mitsui Fudosan (U.S.A.), Inc.* v. *Los Angeles County,* 219 Cal.App.3d 525.

Step transaction doctrine.—For purposes of determining whether a 100 percent change of ownership has occurred so as to support reassessment pursuant to Article XIII A, Section 2 of the Constitution and Section 60 et seq., the application of the step transaction doctrine requires an analysis of the parties' purposes and intents in carrying out the various steps in the transaction. Such matters as intent and purpose are customarily viewed as factual. Moreover, the existence of an independent business purpose for each of the various steps, while of significance, does not prevent the application of the doctrine. Even if only one or two of the relevant tests is satisfied, a step transaction finding may be made for reassessment purposes. And, even where each step may have been made according to a particular exclusion from reassessment, the series of steps may be amalgamated and viewed in their entirety if such is necessary to comply with the spirit, rather than the letter, of the change in ownership rules under Article XIII A. *McMillin-BCED/Miramar Ranch North* v. *San Diego County*, 31 Cal.App.4th 545.

Life Estate.—A transfer of a life estate to a nonspouse third party constitutes a change in ownership under this section. The transferee receives a present interest in the property, the beneficial use of the property, and the primary interest under the value equivalency test. *Leckie* v. *Orange County,* 65 Cal.App.4th 334.

Sale and leaseback.—A change in ownership under this section occurred on the sale of an office building at market value with the seller simultaneously acquiring a leasehold interest in a portion of the property for 60 years and in another portion of the property for 21 months, including a renewal option. The seller transferred the entire fee to the buyer, and the buyer acquired its beneficial use during the lease and exercised its beneficial interest by exacting rent from the seller/lessee. *Pacific Southwest Realty Co.* v. *Los Angeles County,* 1 Cal.4th 155. A change in ownership under this section occurred on a corporation's sale of an office complex subject to three recently executed 50-year leases assigned to its wholly owned subsidiary. There was a transfer of a present interest, regardless of the presence of the long-term leases. The purchaser acquired beneficial use of the property, since it enjoyed the value of the property represented by the rent under the lease. And the value transferred was substantially equal to the value of the fee interest, being a transfer of the fee itself. *Crow Winthrop Operating Partnership* v. *Orange County,* 10 Cal.App.4th 1848. The sale of a building pursuant to a sale and leaseback arrangement was a change in ownership within the meaning of this section, triggering reassessment of the property. That the purchaser contracted by lease to accept the financial value of its right of possession rather than the actual, physical possession of the property did not transform its present interest in real property into a

future interest. And, that the purchaser could not occupy the property during the lease period did not deprive it of its right to enjoy the value of its property represented by the rent. *Industrial Indemnity Co.* v. *City and County of San Francisco,* 218 Cal.App.3d 999.

Mineral interests.—The transfer of a mineral interest is a change of ownership of the mineral estate under this section, as is the assignment of mineral rights to another. On the other hand, a sand profit A prendre created by a sublease from the general mineral lessee to another does not undergo a change of ownership because of the transfer of the mineral interest or because of the assignment of the mineral rights where the sublessee was in continuous possession throughout the relevant period and changes in the relationships between the owner and the lessee and in the lease did not impact upon the sublease. *Howard* v. *Amador County,* 220 Cal.App.3d 962.

Distribution on dissolution.—Distribution of parcels of real property in 1982 to shareholders pursuant to an agreement after dissolution of a corporation was a change in ownership under this section, not exempted by Section 62 as it existed in 1982, triggering reassessment of the parcels. Prior to the distribution, the shareholders had equity interests in each parcel, while after the transfers, groups of shareholders owned fee interests in various different parcels. *Kern* v. *Imperial County,* 226 Cal.App.3d 391.

61. **"Change in ownership" includes.** Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals regardless of the period during which the right may be exercised. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.

(b) The creation, renewal, extension, or assignment of a taxable possessory interest in tax exempt real property for any term. For purposes of this subdivision:

(1) ''Renewal'' and ''extension'' do not include the granting of an option to renew or extend an existing agreement pursuant to which the term of possession of the existing agreement would, upon exercise of the option, be lengthened, whether the option is granted in the original agreement or subsequent thereto.

(2) Any ''renewal'' or ''extension'' of a possessory interest during the reasonably anticipated term of possession used by the assessor to value that interest does not cause a change in ownership until the end of the reasonably anticipated term of possession used by the assessor to value that interest. At the end of the reasonably anticipated term of possession used by the assessor, a new base year value, based on a new reasonably anticipated term of possession, shall be established for the possessory interest.

(3) ''Assignment'' of a possessory interest means that the transfer of all rights held by a transferor in a possessory interest.

(c) (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

Only that portion of a property subject to that lease or transfer shall be considered to have undergone a change of ownership.

For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than manufactured homes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), that are on leased land have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(d) (1) (A) A sublease of a taxable possessory interest in tax-exempt real property for a term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewable options.

(B) The termination of a sublease of a taxable possessory interest in tax-exempt property with an original term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

(C) Any transfer of a sublessee's interest with a remaining term, including renewal options, that exceeds half of the remaining term of the leasehold.

(2) Any transfer of a possessory interest in tax-exempt real property subject to a sublease with a remaining term, including renewable options, that does not exceed half the remaining term of the leasehold, including renewal options.

(e) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62, and in Section 63 and in Section 65.

(f) The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63.

(g) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest that occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63.

(h) Any interests in real property that vest in persons other than the trustor (or, pursuant to Section 63, his or her spouse) when a revocable trust becomes irrevocable.

(i) The transfer of stock of a cooperative housing corporation, vested with legal title to real property that conveys to the transferee the exclusive right to occupancy and possession of that property, or a portion thereof. A "cooperative housing corporation" is a real estate development in which membership in the corporation, by stock ownership, is coupled with the exclusive right to possess a portion of the real property.

(j) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

History.—Stats. 1979, Ch. 1161, in effect September 29, 1979, added the third paragraph of subdivision (c). Stats. 1980, Ch. 285, in effect June 30, 1980, operative July 1, 1980, added "other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800)," to the third paragraph in subdivision (c). Stats. 1980, Ch. 1081, in effect September 26, 1980, added "Section 65" to the end of subdivision (d). Stats. 1985, Ch. 186, effective January 1, 1986, substituted "regardless of the period during which the right may be exercised" for "for so long as they can be produced or extracted in paying quantities" after "minerals" in the first sentence of subdivision (a). Stats. 1986, Ch. 608, effective January 1, 1987, deleted "in" before "Section 65." in subdivision (d), added "or her" before

"spouse" in subdivision (g), and deleted "as defined in Section 17265," before "vested" in the first sentence of subdivision (h) and added the second sentence thereto defining a cooperative housing corporation. Stats. 1987, Ch. 1094, in effect September 25, 1987, added the second sentence of subdivision (b). Stats. 1992, Ch. 523, in effect January 1, 1993, added "extension," after "renewal," in the first sentence of subdivision (b); and substituted "and 'extension' do" for "does" after " 'renewal' ", and added "or extend" after "renew" in the second sentence of subdivision (b). Stats. 1994, Ch. 1222, in effect January 1, 1995, substituted "that" for "such" after "subject to" in the second paragraph of paragraph (1) of subdivision (c); substituted "manufactured homes" for "mobilehomes" after "other than", substituted "that" for "which" after "Section 5800)," and substituted "that" for "such" twice in the third paragraph of paragraph (1) of subdivision (c); added "and in" after "62," in subdivision (d); and substituted "that" for "which" after "property" and "that" for "such" after "possession of" in subdivision (h). Stats. 1996, Ch. 388, in effect January 1, 1997, deleted "sublease," after "extension," in the first sentence of subdivision (b), substituted "subdivision: (1) "Renewal" for "subdivision, "renewal" ", and added paragraph (2) and (3) to subdivision (b); added subdivision (d); relettered former subdivisions (e), (f), (g), (h), and (i) as subdivisions (f), (g), (h), (i), and (j) respectively; and substituted "that" for "which" in subdivisions (g) and (h).

Note.—Section 22 of Stats. 1980, Ch. 285, provided no payment by state to local governments because of this act.

Note.—Section 2 of Stats. 1987, Ch. 1094, provided that the amendment made by this act does not constitute a change in, but is declaratory of, the existing law.

Construction.—The construction of Section 60 and Section 61 are governed by two precepts: the drafters intended Section 61 to provide ''examples'' of common applications of Section 60 rather than exceptions to it, and applications of Section 61 must be consistent with Section 60. *Pacific Southwest Realty Co.* v. *Los Angeles County,* 1 Cal.4th 155.

Possessory interest.—An extension of a lease term from 40 years to 66 years was not a change in ownership for purpose of this section where the extension was automatic under a provision of the original lease whereby the parties intended to create a possessory interest for the maximum term allowed by the city's charter; where at the time the lease was signed, a charter amendment increasing the permissible term was on the ballot for an election less than a month away; and where the assessor recognized and based his first valuation of the lease on the longer term. *Wrather Port Properties, Ltd.* v. *Los Angeles County,* 209 Cal.App.3d 517.

Subdivision (b) does not unconstitutionally place a heavier tax burden on lessees of government land, as compared to lessees of private land. In the case of private property, reassessment is triggered only if the leases are for 35 years or more. Since the tax-exempt status of government land gives rise to no taxes to pass on to lessees of government land, taxing those lessees every time they lease government land to the extent of their possessory interest does not inevitably impose an excess tax burden on them as compared to short-term lessees of private property, who may be subjected to the full tax burden of the private property owner and to the reassessment that occurs every time the property is sold. *United Air Lines, Inc.* v. *San Diego County,* 1 Cal.App.4th 418.

Leasehold interest.—''Change of ownership'', as used in Article XIII A, section 2(a) of the Constitution (real property acquired after 1975 to be assessed according to appraised value at time of acquisition), is not so certain and clear that it requires no construction, and the definitions provided in the section, including that of subdivision (c)(1), comport with the intended meaning of the Article. Further, the term of 35 years chosen by the Legislature was neither an arbitrary nor an unreasonable term; and reappraisal of shopping center property at the time the lessee finished construction of a department store on the property and opened it for business was not prohibited either because the initial term of the lease was only for 30 years since the lease had 2 10-year renewal options and such options are included within the 35-year computation of the section, or because the lease was of the building and not the land underneath it, since the right to use and occupy the land is inherent in a lease of a structure upon the land. *E. Gottschalk & Co., Inc.* v. *Merced County,* 196 Cal.App.3d 1378. The leaseback for a term of 50 years, including renewal options, of a building pursuant to a sale and leaseback arrangement was a change in ownership within the meaning of Section 61(c)(1), triggering reassessment of the property. *Industrial Indemnity Co.* v. *City and County of San Francisco,* 218 Cal.App.3d 999. The creation of a leasehold interest in taxable real property for a term of 35 years or more may be subject to a documentary transfer tax under Revenue and Taxation Code Section 11911. *Thrifty Corp.* v. *Los Angeles County,* 210 Cal.App.3d 881. The extension of a leasehold interest in taxable real property extending the remaining term of the lease to 28 years is not subject to a documentary transfer tax under Section 11911. *McDonald's Corporation* v. *Board of Supervisors,* 63 Cal.App.4th 612.

Mineral interests.—Fixed long-term mineral interests are not governed by subdivision (c), and all such interests in real property are not subject to reassessment simply because one mineral interest is transferred. The leaseholds referred to in subdivision (c) are estates for years, not mineral profits A prendre; and subdivision (c) was intended to provide an example of a change in ownership consistent with the general definition of Section 60. However, the transfer of a mineral interest is a change of ownership of the mineral estate regardless of whether such a transaction is expressly listed in this section. The estate has been transferred and hence a ''change of ownership'' has occurred within the meaning of Article XIII A, Section 2(a) and (d) of the Constitution and Section 60. *Howard* v. *Amador County,* 220 Cal.App.3d 962.

Trusts.—A change in ownership occurred when a revocable trust becomes irrevocable upon the trustor's death and the full beneficial interests in the real property transferred to the residual beneficiaries of the trust. *Empire Properties* v. *Los Angeles,* 44 Cal.App.4th 781.

Partnership.—Under Section 60 and this section, a partnership's transfer of parcels of real property to a partner was a change in ownership requiring a 100 percent reassessment. The beneficial use of the partnership properties underwent a significant change upon transfer to the partner, who obtained the absolute and exclusive rights to possess, use, enjoy, and dispose of the entire fee interest in the property without limitation or condition. *Munkdale* v. *Giannini*, 35 Cal.App.4th 1104.

Step transaction doctrine.—The step transaction doctrine applied to a four-step real property transaction between a parent corporation, its subsidiary corporation, and a developer, so as to justify reassessment on the basis that a 100 percent change in ownership had occurred where the doctrine's ''interdependence test'' was satisfied. The interdependence test

analyzes the relationship between the steps, rather than their ultimate result, and all four steps by the parties were aimed at developing the land with a developer. The developer came into the partnership, which had been formed by the two original, affiliated corporations, to assume all of the entitlement of the parent corporation, and the parent corporation withdrew. It was reasonable to infer that the developer's goals would not have been met without the transfer of title from the parent corporation to the partnership. Even if the two corporations had internal corporate reasons to take the steps they did, the steps would have been fruitless had they not found a developer to join the project. Also, it was not improper for the trial court to consider the timing of the steps in its analysis of the doctrine; timing should be considered when analyzing an entire set of circumstances. *McMillin-BCED/Miramar Ranch North* v. *San Diego County*, 31 Cal.App.4th 545.

62. **"Change in ownership" exclusions.** Change in ownership shall not include:

(a) (1) Any transfer between coowners that results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, that results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) of Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life. However, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than manufactured homes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800),

that are on leased land have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative that was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975 to March 1, 1981, between coowners in any property that was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980–81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of these corporations, or any combination thereof (including any transfer from one entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(*l*) Any transfer, that would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, ''eligible dwelling unit'' means the dwelling unit that was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income that, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars ($20,000) in the year in which the transfer occurs. As used in this subdivision, ''child'' or ''ward'' includes a minor or an adult. As used in this subdivision, ''eligible dwelling unit'' means the dwelling unit that was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of the provisions of this subdivision for the 1984–85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee's receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984–85 fiscal year.

(o) Any transfer of a possessory interest in tax-exempt real property subject to a sublease with a remaining term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

History.—Stats. 1979, Ch. 1161, in effect September 29, 1979, added the second sentence to subdivision (g); and substituted "mortgage" for "housing cooperative" after "such", added "202" after "Section", added "or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative" after "amended", and substituted the balance of the first sentence after "Agency" for "and the Regulatory and Occupancy Agreements were approved by the respective insuring agency or the lender, the California Housing Finance Agency", and added the second sentence to subdivision (i). Stats. 1980, Ch. 285, in effect June 30, 1980, operative July 1, 1980, added ", other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800)," to subdivision (g). Stats. 1980, Ch. 1081, in effect September 26, 1980, added "as provided in subdivision (b) of Section 65" to the end of subdivision (f). Stats. 1980, Ch. 1349, in effect January 1, 1981, added the balance of the sentence after "tenancy in common" in subdivision (a) and added subdivision (j). Stats. 1981, Ch. 615, in effect September 22, 1981, added subdivision (k). Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982, added "by the trustor, or by the trustor's spouse, or by both" after the first "transfer" in subdivision (d); added "during the period March 1, 1975 to March 1, 1981" after "transfer", substituted "that" for "the" before second "period", deleted "between March 1, 1975, and March 1, 1980" after second "period", added "entire" before third "period", and added "notwithstanding any other provision of this chapter" after "coownership" in the first sentence, added "provided it is" after "located" and substituted "March 26, 1982" for "February 28, 1981" after "before" in the second sentence, and added the third sentence of subdivision (j); and deleted "and a holding corporation as defined in Section 23701h holding title for the benefit of any of the aforementioned corporations," after "public benefit corporation" in subdivision (k). Stats. 1982, Ch. 1465, in effect January 1, 1983, added "(1)" after "(a)", "transferred" after "property", and "in that real property" after "coowners", and deleted "or any transfer of title" after "common" in new subdivision (a)(1); added "(2) Any transfer" before the first "between," "or individuals" after "individual", and "or" after "a corporation,", deleted "or an individual to a legal entity" after the second "cotenancy,", added "to the real property" after "title" and "ownership" after "proportional", substituted "of" for "by" after "interests", and added "in each . . . transferred" after "otherwise" in the first sentence, and added the second

sentence to new subdivision (a)(2); added "and" after the second "land", and substituted "that" for "such" before the third "land" and after "fact" in the second sentence of subdivision (g); substituted "that" for "such" after the first "provided" and after "amended, or" in the first sentence, and after "level of" in the second sentence of subdivision (i); deleted "and" after "corporation,", and added "and a . . . corporations" before "or any" in subdivision (k); and added subdivision "(*l*)" and "(m)". Stats. 1984, Ch. 1010, in effect January 1, 1985, added subdivision (n). Stats. 1985, Ch. 186, effective January 1, 1986, deleted "of Section 62" after "subdivision (d)" in subdivision (e). Stats. 1996, Chap. 1087, in effect January 1, 1997, substituted "that" for "which" throughout text; substituted "life. However" for "life; however" after "estate for" in subdivision (e); substituted "land have" for "land and have" in subdivision (g); substituted "these corporations" for "the aforementioned corporations" after "any of" in subdivision (k); and added subdivision (o). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "manufactured homes" for "mobilehomes" after "other than" in the second sentence of subdivision (g), and deleted "such" after "transfer from one" in the first sentence of subdivision (k).

Note.—Section 22 of Stats. 1980, Ch. 285, provided no payment by state to local governments because of this act.

Note.—Section 5 of Stats. 1980, Ch. 1349, provided the amendments made to Section 62 shall be effective for the 1981–82 assessment year and years thereafter. It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1981–82 fiscal year, and shall apply to any change in ownership occurring on or after March 1, 1975. No escape assessments shall be levied and no refund shall be made for any years prior to 1981–82 for any increases or decreases in value made for the 1981–82 fiscal year or fiscal years thereafter as the result of the enactment of this act.

Note.—Section 3 of Stats. 1981, Ch. 615, provided the amendments made to Section 62 of the Revenue and Taxation Code by this act shall be effective for the 1981–82 assessment year and years thereafter. It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1981–82 fiscal year, and shall apply to any change in ownership occurring on or after March 1, 1975. No escape assessments shall be levied and no refund shall be made for any years prior to 1981–82 for any increases or decreases in value made for the 1981–82 fiscal year or fiscal years thereafter as the result of the enactment of this act.

Note.—Section 14 of Stats. 1981, Ch. 1141, provided the provisions of this act shall take immediate effect and shall apply to any change in ownership occurring on or after March 1, 1975. However, all changes in value shall be made effective commencing with the 1982–83 fiscal year. No escape assessments shall be levied and no refund shall be made for any years prior to the 1982–83 fiscal year for any increases or decreases in value made for the 1982–83 fiscal year or fiscal years thereafter as the result of the enactment of this act.

Section 16 thereof provided the Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act.

Note.—Section 2 of Stats. 1984, Ch. 1010, provided the provisions of this act shall be effective for the 1984–85 fiscal year and fiscal years thereafter. It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1984–85 fiscal year, and shall apply to any change in ownership occurring on or after March 1, 1975. No escape assessments shall be levied and no refunds shall be made for any fiscal year prior to the 1984–85 fiscal year for any increases or decreases in value made for the 1984–85 fiscal year or fiscal years thereafter as the result of the enactment of this act.

Construction.—The construction of Section 60 and Section 62 are governed by two precepts: the drafters intended Section 62 to provide ''examples'' of common applications of Section 60 rather than exceptions to it, and application of Section 62 must be consistent with Section 60. Thus, neither subdivision (g) nor subdivision (e) was intended to apply to a sale of a freehold interest in real property and a simultaneous leaseback from the purchaser to the seller. *Pacific Southwest Realty Co.* v. *Los Angeles County,* 1 Cal.4th 155. The sale and leaseback of a building for a term of 50 years did not come within the exclusion of Section 62(e) applicable to any transfer of an interest whose term is reserved to the transferor an estate for years. The leaseback met the three-prong definition of change in ownership in Section 60. Also, Property Tax Rule No. 462(d)(2) provided that the creation of estate for years for a term of 35 years or more of real property is a change in ownership at the time of transfer unless the instrument creating the estate for years reserves such estate in the transferor, and there was no reservation of a lease in the transaction. *Industrial Indemnity Co.* v. *City and County of San Francisco,* 218 Cal.App.3d 999. Distribution of parcels of real property in 1982 to shareholders pursuant to an agreement after dissolution of a corporation did not come within the exclusion of Section 62(a), as it existed in 1982, applicable to transfers of proportional interests. Prior to the distribution, the shareholders had equity interests in each parcel, while after the transfers groups of shareholders owned fee interests in various different parcels. Although the shareholders' proportional interests remained the same after distribution, with respect to title, the proportional interests of each shareholder in each parcel changed. *Kern* v. *Imperial County,* 226 Cal.App.3d 391.

The sale of an office complex subject to three recently executed 50-year leases assigned to its wholly owned subsidiary did not come within the exclusion of Section 62(e), since that section is intended to include only reservations in which the transferor retains the beneficial use of the property. Here, the seller did not retain a beneficial use of the property since its subsidiary paid rent to the purchaser, which enjoyed the entire beneficial interest in the property. Neither did it come within the exclusion of Section 62(g), since there was no established lease in effect at the time of sale, the transfers of the fee to the purchaser and the tenancy to the subsidiary being essentially simultaneous. This exclusion protects a lessee that has made improvements and is required to pay property taxes but has no control over the lessor's sale to a third party, which was not the situation in this case. *Crow Winthrop Operating Partnership* v. *Orange County,* 10 Cal.App.4th 1848. Majority partner's purchase of minority partners' partnership interests and partnership transfer of its real property to the sole partner is not covered by subdivision (a)(2) of this section. Any variation in the proportionality of a conveyance by a legal entity to its members results in 100 percent reassessment. *Zapara* v. *Orange County,* 26 Cal.App.4th 464.

Life Estate.—A transfer of real property with a retained life estate is not a change in ownership. The life tenant has the primary interest under the value equivalency test, and there is no transfer of the present interest in the property until the life tenant dies and the property vests in the remainder. *Leckie* v. *Orange County,* 65 Cal.App.4th 334.

1982 Amendment.—The 1982 amendment of Section 62(a) was a clarification of existing law, providing a legislative construction of the preexisting statute. *Kern* v. *Imperial County,* 226 Cal.App.3d 391.

62.1. **"Change in ownership" exclusion.** (a) Change in ownership shall not include the following:

(1) Any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a mobilehome park, for the purpose of purchasing the mobilehome park, provided that, with respect to any transfer of a mobilehome park on or after January 1, 1989, subject to this paragraph, the individual tenants who were renting at least 51 percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park. If, on or after January 1, 1998, a park is acquired by an entity that did not attain an initial tenant participation level of at least 51 percent on the date of the transfer, the entity shall have up to one year after the date of the transfer to attain a tenant participation level of at least 51 percent. If an individual tenant notifies the county assessor of the intention to comply with the conditions set forth in the preceding sentence, the mobilehome park may not be reappraised by the assessor during that period. However, if a tenant participation level of at least 51 percent is not attained within the one-year period, the county assessor shall thereafter levy escape assessments for the mobilehome park transfer.

(2) Any transfer or transfers on or after January 1, 1985, of rental spaces in a mobilehome park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants of these spaces form, within one year after the first purchase of a rental space by an individual tenant, a resident organization as described in subdivision (*l*) of Section 50781 of the Health and Safety Code, to operate and maintain the park. If, on or after January 1, 1985, an individual tenant or tenants notify the county assessor of the intention to comply with the conditions set forth in the preceding sentence, any mobilehome park rental space that is purchased by an individual tenant in that mobilehome park during that period shall not be reappraised by the assessor. However, if all of the conditions set forth in the first sentence of this paragraph are not satisfied, the county assessor shall thereafter levy escape assessments for the spaces so transferred. This paragraph shall apply only to those rental mobilehome parks that have been in operation for five years or more.

(b) (1) If the transfer of a mobilehome park has been excluded from a change in ownership pursuant to paragraph (1) of subdivision (a) and the park has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer on or after January 1,

1989, of shares of the voting stock of, or other ownership or membership interests in, the entity that acquired the park in accordance with paragraph (1) of subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the park unless the transfer is for the purpose of converting the park to condominium, stock cooperative ownership, or limited equity cooperative ownership or is excluded from change in ownership by Section 62, 63, or 63.1.

(2) For the purposes of this subdivision, ''pro rata portion of the real property'' means the total real property of the mobilehome park multiplied by a fraction consisting of the number of shares of voting stock, or other ownership or membership interests, transferred divided by the total number of outstanding issued or unissued shares of voting stock of, or other ownership or membership interests in, the entity that acquired the park in accordance with paragraph (1) of subdivision (a).

(3) Any pro rata portion or portions of real property that changed ownership pursuant to this subdivision may be separately assessed as provided in Section 2188.10.

(4) (A) Notwithstanding any other provision of law, after an exclusion under subdivision (a), the assessor may not levy any escape or supplemental assessment with respect to any change in ownership of a pro rata portion of the real property of the mobilehome park that occurred between January 1, 1989, and January 1, 2002, and for which the assessor did not, prior to January 1, 2000, levy any assessments. However, commencing with the January 1, 2002, lien date, the assessor shall correct the base year value of the pro rata portion of the real property of the park to properly reflect these changes in ownership. A mobilehome park shall provide information requested by the assessor that is necessary to correct the base year value of the property for purposes of this paragraph.

(B) When an assessor corrects the base year value of the real property of the park pursuant to subparagraph (A), the assessor shall notify parks that residents may be eligible for property tax assistance programs offered by either the Controller or the Franchise Tax Board for senior citizens, or blind or disabled persons.

(C) Any outstanding taxes that were levied between January 1, 2000, and January 1, 2002, as a result of a pro rata change in ownership as described in subparagraph (A) shall be canceled. However, there shall be no refund of taxes, as so levied, that were paid prior to January 1, 2002.

(5) A mobilehome park that does not utilize recorded deeds to transfer ownership interest in the spaces or lots shall file, by February 1 of each year, a report with the county assessor's office containing all of the following information:

(A) The full name and mailing address of each owner, stockholder, or holder of an ownership interest in the mobilehome park.

(B) The situs address, including space number, of each unit.

(C) The date that the ownership interest was acquired.

(D) If the unit is a manufactured home, the Department of Housing and Community Development decal number or serial number, or both, and whether the manufactured home is subject to the vehicle license fee or the local property tax.

(6) Within 30 days of a change in ownership, the new resident owner or other purchaser or transferee of a manufactured home within a mobilehome park that does not utilize recorded deeds to transfer ownership interest in the spaces or lots shall file a change in ownership statement described in either Section 480 or 480.2.

(7) Failure to comply with the reporting requirement described in paragraph (5) shall result in a penalty pursuant to Section 482.

(c) It is the intent of the Legislature that, in order to facilitate affordable conversions of mobilehome parks to tenant ownership, paragraph (1) of subdivision (a) apply to all bona fide transfers of rental mobilehome parks to tenant ownership, including, but not limited to, those parks converted to tenant ownership as a nonprofit corporation made on or after January 1, 1985.

History.—Added and repealed by Stats. 1984, Ch. 1692, in effect January 1, 1985. Stats. 1986, Ch. 447, effective July 22, 1986, reorganized this section, added the subdivision letters, added subdivision (b), and substituted the second paragraph for the former second paragraph which contained the same January 1, 1989, termination date for the former section, now subdivision (a). Stats. 1987, Ch. 1344, in effect September 29, 1987, deleted ", as described in Section 50561 of the Health and Safety Code," after "entity" in subdivision (a); lettered the former second paragraph of subdivision (b) as (c), and substituted "1994" for "1989" after "January 1," therein; and added subdivision (d). Stats. 1988, Ch. 1076, in effect January 1, 1989, added "limited equity stock cooperative," after "corporation," and added ", provided that, with respect to any transfer of a mobilehome park on or after January 1, 1989, subject to this subdivision, the individual tenants who were renting at least 51 percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park" after "park" in subdivision (a); added subdivision (c); and relettered former subdivisions (c) and (d) as (d) and (e) respectively. Stats. 1991, Ch. 442, in effect September 26, 1991, substituted "1994" for "1987" after "January 1,", substituted "resident organization" for "nonprofit corporation, stock cooperative, or other entity," after "tenant, a", added "subdivision (k) of" after "in", and substituted "50781" for "50561" after "Section" in the first sentence of subdivision (b); substituted "1994" for "1987" after "January 1," in the second sentence of subdivision (b); substituted "or" for "of" after "five years" in the fourth sentence of subdivision (b); substituted "Subdivisions" for "Subdivision" after "(d)", added "and (b)" after "(a)", and substituted "operative" for "in effect" after "remain" in the first sentence of subdivision (d); and deleted the former second sentence of subdivision (d) which provided that subdivision (b) would remain in effect only until January 1, 1987. Stats. 1993, Ch. 1200, in effect October 11, 1993, substituted "2000" for "1994" after "January 1" in the first and second sentences of subdivision (b); deleted "the provisions of" after "ownership by" in the first sentence of subdivision (c)(1); and substituted "2000" for "1994" after "January 1" in the first sentence of subdivision (d). Stats. 1998, Ch. 139 (AB 2384), in effect January 1, 1999, added a comma before "for the purpose of" in the first sentence and added the second, third, and fourth sentences of subdivision (a); deleted "and before January 1, 2000,"after "January 1, 1985," in the first and second sentences of subdivision (b); deleted former subdivision (d) which provided that subdivisions (a) and (b) would remain in effect only until January 1, 2000; and relettered former subdivision (e) as (d) and deleted ", and before the termination date of subdivision (a)" after "January 1, 1985" in the first sentence therein. Stats. 2001, Ch. 772 (AB 1457), in effect January 1, 2002, created subdivision (a) with the former first sentence of the first paragraph and deleted "either of" after "include" therein, renumbered former subdivision (a) as new paragraph (1) and substituted "paragraph" for "subdivision" after "to this" in the first sentence therein, renumbered former subdivision (b) as paragraph (2) and substituted "subdivision (l)" for "subdivision (k)" after "described in" in the first sentence, substituted "that" for "which" after "space" in the second sentence, substituted "paragraph" for "subdivision" after "this" in the third sentence, substituted "paragraph" for "subdivision" after "This" and substituted "that" for "which" after "parks" in the fourth sentence therein; relettered former subdivision (c) as (b), substituted "paragraph (1) of subdivision (a)" for "subdivision (a)" twice, after "pursuant to" and after "accordance with", substituted "that" for "which" after "entity" in the first sentence of paragraph (1), substituted "that" for "which" after "entity" and substituted "paragraph (1) of subdivision (a)" for "subdivision (a)" after "accordance with" in the first sentence of paragraph (2), substituted "that" for "which" after "property" in the first sentence of paragraph (3), and added paragraphs (4), (5), (6) and (7) therein; and relettered former subdivision (d) as (c) and substituted "paragraph (1) of subdivision (a)" for "subdivision (a)" after "ownership," in the first sentence therein. Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "subparagraph" for "subparagaph" after "as described in" in the first sentence of subparagraph (C) of paragraph (4) and substituted "manufactured home" for "mobilehome" after "transferee of a" in the first sentence of paragraph (6) of subdivision (b).

Note.—Section 2 of Stats. 1986, Ch. 447, provided that no reimbursement shall be made from the State Mandates Claim Fund for costs mandated by the state pursuant to this act.

Note.—Section 1 of Stats. 2001, Ch. 772 (AB 1457) provided that in 1988, the Legislature changed, for purposes of property taxation, the method for determining changes in ownership of resident-owned mobilehome parks, but failed to specify a notice process for those changes in ownership. The Legislature finds and declares, as a result, that there exists a situation in which the failure to timely assess changes in ownership in resident-owned mobilehome parks has or will

result in the issuance of escape and supplemental assessments in an unfair and inequitable manner. Residents of those parks have been or will be faced with unforeseen tax bills in significant amounts that have imposed or will impose an unfair and unreasonable burden on the residents of the parks, many of whom are persons of limited means or fixed incomes. The Legislature further finds and declares that it is in the public interest to avoid the unfair and unreasonable burden on the park residents that results from escape and supplement assessments in this situation. It is the intent of the Legislature, in adding paragraph (4) to subdivision (b) of Section 62.1 of the Revenue and Taxation Code to avoid the unfair and unreasonable burden on the park residents of escape and supplemental assessments, and to permit the changes in ownership to be applied prospectively only, commencing with the lien date in 2002. It is the intent of the Legislature, in adding paragraphs (5), (6), and (7) to subdivision (b) of Section 62.1 of the Revenue and Taxation Code, to ensure adequate notice of ownership changes and prevent future unanticipated assessments.

Sec. 3 thereof provided notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

Sec. 4 thereof provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

62.2. **"Change in ownership" exclusion.** (a) (1) Subject to paragraph (2), change in ownership shall not include any transfer on or after January 1, 1989, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, tenant-in-common ownership group, or any other entity, including a governmental entity, if, within 18 months after the transfer, the mobilehome park is transferred by that corporation or other entity, including a governmental entity, to a nonprofit corporation, stock cooperative corporation, or other entity formed by the tenants of the mobilehome park in a transaction that is excluded from change in ownership by paragraph (1) of subdivision (a) of Section 62.1, or at least 51 percent of the mobilehome park rental spaces are transferred to the individual tenants of those spaces in a transaction excluded from change in ownership by paragraph (2) subdivision (a) of Section 62.1.

(2) (A) Any mobilehome park that was initially transferred on or after January 1, 1993, to a nonprofit corporation, stock cooperative corporation, tenant-in-common ownership group, or any other entity, including a governmental entity, that is subsequently transferred within 36 months of that initial transfer as provided in paragraph (1), shall qualify for the exclusion from change in ownership pursuant to this subdivision. In applying the 36-month limit specified in the preceding sentence to the subsequent transfer to an individual tenant, as provided in paragraph (1), of a rental space in a mobilehome park that was initially transferred on or after January 1, 1995, to a nonprofit corporation, stock cooperative corporation, tenant-in-common ownership group, or any other entity, the execution of a purchase contract and the opening of a bona fide purchase escrow with a licensed escrow agent shall be deemed to transfer the rental space in compliance with that 36-month limit, provided that both of the following conditions are met:

(i) The escrow is opened prior to the expiration of the 36-month time period.

(ii) The escrow closes on a date no later than six months after the end of the 36-month time period.

(B) A mobilehome park located within a disaster area that was initially transferred on or after October 1, 1991, and before October 31, 1991, to a

nonprofit corporation, stock cooperative corporation, or other entity, that is subsequently transferred within 76 months of that initial transfer as provided in paragraph (1), shall qualify for the exclusion from change in ownership pursuant to this subdivision. For purposes of the preceding sentence, ''mobilehome park located within a disaster area'' means a mobilehome park that is located in the County of Los Angeles in an area for which both of the following apply:

(i) The Governor, as a result of the January 17, 1994, Northridge earthquake, has declared the area to be in a state of disaster and certified the area's need for assistance.

(ii) The President of the United States has, pursuant to federal law, determined the area to be in a state of major disaster.

The exclusion from change in ownership pursuant to this subdivision of a mobilehome park located within a disaster area shall be effective commencing with the 1995–96 fiscal year, and shall not require any affected county to refund any amount of property tax levied with respect to a mobilehome park for the period from October 1, 1991, to June 30, 1995, inclusive.

(b) With respect to any transfer of any mobilehome park on or after January 1, 1989, subject to this section, the individual tenants who are renting at least a majority of the spaces in the mobilehome park prior to the transfer to the entity formed by the tenants for the acquisition of the park shall participate in the transaction through the ownership of an aggregate of at least a majority of voting stock of, or other ownership or membership interest in, that entity.

(c) This section shall not apply if any fees charged the mobilehome park tenants in connection with either the first or second transfer exceed 15 percent of the total consideration paid for the mobilehome park in the first transfer, plus any accrued interest and taxes.

(d) If the assessor is notified in writing at the time the transferee files the change in ownership statement that the transferee intends to qualify the transfer under this section, the mobilehome park shall not be reappraised pending satisfaction of the relevant conditions set forth in this section for exclusion from change in ownership. If the transferee fails to satisfy those conditions, the assessor shall reappraise the mobilehome park and levy escape assessments or supplemental assessments, as appropriate. For escape or supplemental assessments levied pursuant to the preceding sentence with respect to a mobilehome park located within a disaster area, both of the following conditions shall apply:

(1) The limitations period shall be that period specified in either subdivision (b) of Section 532 or subdivision (d) of Section 75.11, as applicable.

(2) For purposes of applying the limitations periods specified in paragraph (1), the expiration date of the 76-month period specified in subdivision (a)

shall be deemed to be the date upon which the initial transfer of the mobilehome park was reported to the assessor.

History.—Added by Stats. 1988, Ch. 1625, in effect January 1, 1989. Stats. 1991, Ch. 442, in effect September 26, 1991, added "including a governmental entity," after "other entity," twice, substituted "one year" for "270 days" after "if, within", and added ", or at least . . . of Section 62.1" after "Section 62.1" in the first sentence. Stats. 1992, Ch. 1080, in effect September 29, 1992, substituted "eighteen months" for "one year" after "within" in the first sentence. Stats. 1995, Ch. 687, in effect October 10, 1995, added subdivision letter designation (a) before "Change in ownership" and substituted "that" for "which" in the first sentence; added the second, third, and fourth sentences, and added paragraphs (1) and (2) in subdivision (a); added subdivision letter designations (b), (c), and (d); substituted "relevant" for "above" after "satisfaction of the", and added "set forth . . . ownership" after "conditions" in the first sentence of subdivision (d); and added the third sentence and paragraphs (1) and (2) in subdivision (d). Stats. 1999, Ch. 603 (SB 42), in effect October 10, 1999, created new paragraph (1) with the former first sentence, added "Subject to paragraph (2)," before "change in ownership shall", added "tenant-in-common ownership group," after "stock cooperative corporation", added "any" before "other entity", and substituted "18" for "eighteen" after "if, within" therein; created new paragraph (2)(A) with the former second sentence, added "tenant-in-common ownership group," after "stock cooperative corporation", added "any" before "other entity", substituted "in paragraph (1)" for "under this subdivision" after "as provided", added the second sentence and added clauses (i) and (ii) therein; created new subparagraph (B) with the former third sentence and substituted "in paragraph (1)" for "under this subdivision" after "as provided" therein, renumbered former paragraph (1) as clause (i), and, renumbered former paragraph (2) as clause (ii), and substituted "subdivision" for "section" after "pursuant to this" in the first sentence of the second paragraph therein, of subdivision (a). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "paragraph (1) of subdivision (a)" for "subdivision (a)" after the first "in ownership by" and substituted "paragraph (2) subdivision (a)" for "subdivision (b)" after the second "in ownership by" in the first sentence of paragraph (1) of subdivision (a).

Note.—Section 2 of Stats. 1999, Ch. 603 (SB 42), provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

63. **Interspousal transfers.** Notwithstanding any other provision in this chapter, a change of ownership shall not include any interspousal transfer, including, but not limited to:

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

(b) Transfers which take effect upon the death of a spouse.

(c) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation, or

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

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

History.—Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982, substituted "any other provision in this chapter" for "Sections 60, 61, 62, and 65" after "Notwithstanding" in the first sentence and added subdivision (e).

Note.—Section 14 of Stats. 1981, Ch. 1141, provided the provisions of this act shall take immediate effect and shall apply to any change in ownership occurring on or after March 1, 1975. However, all changes in value shall be made effective commencing with the 1982—83 fiscal year. No escape assessments shall be levied and no refund shall be made for any years prior to the 1982–83 fiscal year for any increases or decreases in value made for the 1982–83 fiscal year or fiscal years thereafter as the result of the enactment of this act. Section 16 thereof provided the Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act.

63.1. **Transfers between parents and their children.** (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the one million dollar ($1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), ''principal residence'' means a dwelling for which a homeowners' exemption or a disabled veterans' residence exemption has been granted in the name of the eligible transferor. ''Principal residence'' includes only that portion of the land underlying the principal residence that consists of an area of reasonable size that is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one million dollar ($1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar ($1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case

shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) ''Purchase or transfer between parents and their children'' means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent's death, if the decedent died on or after November 6, 1986.

(2) ''Purchase or transfer of real property between grandparents and their grandchild or grandchildren'' means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death.

(3) ''Children'' means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(4) ''Grandchild'' or ''grandchildren'' means any child or children of the child or children of the grandparent or grandparents.

(5) ''Full cash value'' means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(6) ''Eligible transferor'' means a grandparent, parent, or child of an eligible transferee.

(7) ''Eligible transferee'' means a parent, child, or grandchild of an eligible transferor.

(8) ''Real property'' means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(9) ''Transfer'' includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(10) ''Social security number'' also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(d) (1) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(A) A written certification by the transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate, signed and made under penalty of perjury that the transferee is a grandparent, parent, child, or grandchild of the transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) A written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate, signed and made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee and that the transferor is seeking the exclusion under this section and will not file a claim to transfer the base year value of the property under Section 69.5.

(C) A written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a

certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the social security number of each eligible transferor, and the names of the eligible transferees of that property.

(D) If there are multiple transferees, the certification and signature may be made by any one of the transferees, if both of the following conditions are met:

(i) The transferee has actual knowledge that, and the certification signed by the transferee states that, all of the transferees are eligible transferees within the meaning of this section.

(ii) The certification is signed by the transferee as a true statement made under penalty of perjury.

(2) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee from the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (d) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

(e) (1) The State Board of Equalization shall design the form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed:

(A) For transfers of real property between parents and their children occurring prior to September 30, 1990, within three years after the date of the purchase or transfer of real property for which the claim is filed.

(B) For transfers of real property between parents and their children occurring on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996, within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier.

(C) Notwithstanding subparagraphs (A) and (B), a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this

section that is filed subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any exclusion granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (A) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (A) for both of the following:

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

(ii) Any subsequent new construction occurring with respect to the subject real property.

(3) (A) Unless otherwise expressly provided, the provisions of this subdivision shall apply to any purchase or transfer of real property that occurred on or after November 6, 1986.

(B) Paragraph (2) shall apply to purchases or transfers between parents and their children that occurred on or after November 6, 1986, and to purchases or transfers between grandparents and their grandchildren that occurred on or after March 27, 1996.

(4) For purposes of this subdivision, a transfer of real property to a parent or child of the transferor shall not be considered a transfer to a third party.

(f) The assessor shall report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to subdivision (d). Each report shall contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the social security number of each eligible transferor, and any other information the board shall require in order to monitor the one million dollar ($1,000,000) limitation in paragraph (2) of subdivision (a).

(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.

(h) (1) Except as provided in paragraph (2), this section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in

ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

History.—Added by Stats. 1987, Ch. 48, in effect June 17, 1987. Stats. 1988, Ch. 769, in effect January 1, 1989, added the second sentence, and substituted the balance of the third sentence for "may jointly sell or transfer property with a full cash value of not more than the combined amount of their separate exclusions" after "election," in paragraph (2) of subdivision (b); added the second sentence to subparagraph (B) of paragraph (2) of subdivision (c); deleted the period after "parents" and added the balance of the first sentence and the second sentence to subparagraph (C) of paragraph (2) of subdivision (C); added "and the full value of any new construction in progress," after "sections," in paragraph (3) of subdivision (c); added paragraph (7) to subdivision (c); added the second sentence to the first paragraph and added a new second paragraph to subparagraph (C) of paragraph (2) of subdivision (d); and deleted the period after "1986" and added ", and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, which occurred prior to that date." in subdivision (f). Stats. 1990, Ch. 126, in effect June 11, 1990, deleted "while the relationship of parent and son-in-law or daughter-in-law exists" after "parents" in subparagraph (C) of paragraph (2) of subdivision (c); added "the Social Security number of each eligible transferor," after "that real property" in subparagraph (B) of paragraph (2) of subdivision (d); and substituted "Social Security" for "tax identification" after "claimed, the" in the second sentence of the third paragraph of subdivision (d). Stats. 1990, Ch. 1494, in effect September 30, 1990, added ", or prior to . . . whichever is earlier" after "claim is filed" in the second sentence of the second paragraph of subdivision (d). Stats. 1992, Ch. 1180, in effect January 1, 1993, added "For purposes . . . November 6, 1986" after "or children" as the second sentence in paragraph (1) of subdivision (c); added paragraph number (1) after subdivision letter (d); changed former paragraph numbers (1) and (2) of subdivision (d) to subparagraphs (A) and (B), respectively, of paragraph (1) of subdivision (d); relettered subparagraphs (A) and (B) of former paragraph (2) of subdivision (d) as subsections (i) and (ii), respectively, of subparagraph (B) of paragraph (1) of subdivision (d); changed former subparagraph (C) of former paragraph (2) of subdivision (d) to paragraph (2) of subdivision (d); created new subdivision (e) with the former second paragraph of the former subparagraph (C) of former paragraph (2) of subdivision (d); added a colon after "shall be filed" in the newly created subdivision (e); created paragraph (1) in the newly created subdivision (e) and added "For transfers . . . September 30, 1990" after "(1)"; added a period after "claim is filed" in the newly created paragraph (1) of subdivision (e) and created new paragraph (2) of subdivision (e) by adding "For transfers . . . is filed," before "or prior to"; created new subdivision (f) with the former third paragraph of the former subparagraph (C) of former paragraph (2) of subdivision (d); deleted "this" after "pursuant to", and added "(d)" after "subdivision" in the first sentence of the newly created subdivision (f); and relettered former subdivisions (e) and (f) as subdivisions (g) and (h), respectively. Stats. 1993, Ch. 709, in effect January 1, 1994, added ", the transferee's . . . estate" after "transferee" in paragraph (1) and in subparagraph (A) of paragraph (1), substituted "that" for "which" in subdivision (ii), and substituted "from" for "of" in paragraph (2) of subdivision (d); added paragraphs (3) and (4) to subdivision (e); deleted "as" after "information" in the second sentence of paragraph (f); added the second sentence to paragraph (g); and substituted "that" for "which" after "death," in paragraph (h). Stats. 1994, Ch. 1222, in effect January 1, 1995, added paragraph (8) to subdivision (c). Stats. 1996, Ch. 1087, in effect January 1, 1997, deleted "either of" after "shall not include" in the first sentence, and added paragraph (3) of subdivision (a); substituted "homeowners'" for "homeowner's" and "veterans' " for "veteran's" in paragraph (1) of subdivision (b); added subparagraphs (2) and (4), and renumbered former subparagraphs (2), (3), (4), (5), (6), (7) and (8) as (3), (5), (6), (7), (8), (9) and (10), respectively, of subdivision (c), added "grandparent," to renumbered subparagraph (6), deleted "or" before "child" and added ",or grandchild" after "child" to renumbered subparagraph (7); substituted "grandparent, parent, child, or grandchild" for "parent or child" in the first sentence of subparagraph (A), and added the second and third sentences to subparagraph (A) in paragraph (1) of subdivision (d), added "grandparent," after "the transferor is a" in subparagraph (B); added "and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996," after "September 30, 1990," to subparagraph (2) of subdivision (e); substituted "social security" for "Social Security" after "the" in the second sentence of subdivision (f); and substituted "(1) Except as provided by paragraph (2), this section" for "This section", and added paragraph (2) of subdivision (h). Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998, substituted "subdivision (d)" for "subdivision (e)" after "accordance with" in the second sentence of paragraph (2) of subdivision (d); added paragraph number (1) after subdivision letter (e) and added "Except as provided in paragraph (2)," before "any claim" in the second sentence of newly created paragraph (1), changed former paragraph numbers (1), (2) and (3) to subparagraphs (A), (B) and (C), respectively, substituted "subparagraphs (A) and (B)" for "paragraphs (1) and (2)" after "notwithstanding" in subparagraph (C), added paragraph (2), renumbered former paragraph (4) to paragraph (3), added "(A)" before "Unless otherwise" and added subparagraph (B) to former paragraph (4) in subdivision (e). Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000, added paragraph (4) to subdivision (e). Stats. 2001, Ch. 613 (SB 1184), in effect January 1, 2002, added ", signed and" after "estate" and added "and that the transferor is his or her parent, child, or grandparent" after "transferor" in the first sentence of subparagraph (A), deleted the former first sentence of subparagraph (B) which provided that "A copy of a written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee." and substituted "A written" for "The written" before "certification" in the former second sentence therein, and added subparagraph (C) to paragraph (1) of subdivision (d). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, added a comma after "terminated by divorce" in the second sentence of subparagraph (C) of paragraph (3) of subdivision (c), and added new subparagraph (B) to paragraph (1) of subdivision (d) and relettered former subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, therein.

Note.—Section 2 of Stats. 1987, Ch. 48, provided that it is the intent of the Legislature that the provisions of Section 63.1 of the Revenue and Taxation Code shall be liberally construed in order to carry out the intent of Proposition 58 on the November 4, 1986, general election ballot to exclude from change in ownership purchases or transfers between parents and their children described therein. Specifically, transfers of real property from a corporation, partnership, trust, or other legal entity to an eligible transferor or transferors, where the latter are the sole owner or owners of the entity or are the sole beneficial owner or owners of the property, shall be fully recognized and shall not be ignored or given less than full recognition under a substance-over-form or step-transaction doctrine, where the sole purpose of the transfer is to permit an immediate retransfer from an eligible transferor or transferors to an eligible transferee or transferees which qualifies for the exclusion from change in ownership provided by Section 63.1. Further, transfers of real property between eligible transferors and eligible transferees shall also be fully recognized when the transfers are immediately followed by

a transfer from the eligible transferee or eligible transferees to a corporation, partnership, trust, or other legal entity where the transferee or transferees are the sole owner or owners of the entity or are the sole beneficial owner or owners of the property, if the transfer between eligible transferors and eligible transferees satisfies the requirements of Section 63.1. Except as provided herein, nothing in this section shall be construed as an expression of intent on the part of the Legislature disapproving in principle the appropriate application of the substance-over-form or step-transaction doctrine. Sec. 3 thereof provided that the Legislature finds that Section 1 of this act mandates a new program or higher level of service on local government by requiring periodic reports to the State Board of Equalization by county assessors with regard to all purchases or transfers of real property specified in subdivision (d) of Section 63.1 of the Revenue and Taxation Code, as added by Section 1 of this act. As required by Section 6 of Article XIII B of the California Constitution, reimbursement to local agencies and school districts for costs mandated by the state, pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

Note.—Section 4 of Stats. 1988, Ch. 769, provided that except for the addition of paragraph (7) to subdivision (c), the amendments to this section shall apply to purchases and transfers of real property which occur on or after November 6, 1986.

Note.—Section 8 of Stats. 1992, Ch. 1180 provided that the Legislature finds and declares that the amendments made by Section 2 of this act in paragraph (1) of subdivision (e) of this section do not constitute changes in, but are declaratory of, existing law.

Note.—Section 41 of Stats. 1999, Ch. 941 (SB 1231) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Note.—Section 5 of Stats. 2001, Ch. 613 (SB 1184) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 6 therein provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Construction.—A devisee who inherited real property under his mother's will was not required to submit written certification of the relationship in accordance with Section 63.1(d) in order to qualify for exemption under Article XIII A, Section 2(h) of the Constitution where Section 63.1 did not exist at the time the property passed to him by the probate court's order of distribution and where the devisee did what he was required to do at the time to ripen his claim. *Larson* v. *Duca,* 213 Cal.App.3d 324.

Under this section, certain transfers of real property between parents and children are excluded from change in ownership. The exclusion is not applicable to a transfer of real property from a parent to a limited partnership wholly owned by the parent and her adult children, however. The section limits the scope of the exclusion by restricting the definition of "children" to natural persons. *Penner* v. *Santa Barbara County*, 37 Cal.App.4th 1672.

Step transaction doctrine.—A reassessment of real property transferred by a parent to a limited partnership wholly owned by herself and her adult children did not violate the step transaction doctrine, even though the exclusion would have been applicable had the owner first transferred the property to herself and her children and then to the partnership. The doctrine treats a series of nominally separate transactional steps as a single transaction if the steps are, in substance, interdependent and focused toward a particular result. However, the doctrine allows certain steps actually taken to be ignored; it does not allow a taxpayer to invent steps that never existed. Having chosen to transfer the real property directly to the limited partnership, the owner was required to accept the tax consequences of that choice. *Penner* v. *Santa Barbara County*, 37 Cal.App.4th 1672. Subdivision (e)(4) of this section does not violate the constitutional prohibition against making a gift of public funds pursuant to Article XVI, Section 6 of the Constitution, which generally bars the Legislature from providing relief for taxes which have become fixed and vested, because the tax relief provided falls within the well recognized exception for funds expended for a public purpose. By enlarging the time period for filing claims for exclusion, the subdivision implements the provisions of Article XIII A, Section 2, Subdivision (h)(1) of the Constitution and, thereby, fulfills a valid public purpose of relieving hardship on taxpayers, even though such public purpose was not expressly articulated by the Legislature. *Scott* v. *State Board of Equalization,* 50 Cal.App.4th 1597.

64. **Corporation and partnership interests.** (a) Except as provided in subdivision (i) of Section 61 and subdivisions (c) and (d) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership or limited liability company interests, shall not be deemed to constitute a transfer of the real property of the legal entity. This subdivision is applicable to the purchase or transfer of ownership interests in a partnership without regard to whether it is a continuing or a dissolved partnership.

(b) Any corporate reorganization, where all of the corporations involved are members of an affiliated group, and that qualifies as a reorganization under Section 368 of the United States Internal Revenue Code and that is accepted as a nontaxable event by similar California statutes, or any transfer of real property among members of an affiliated group, or any reorganization of farm credit institutions pursuant to the federal Farm Credit Act of 1971 (Public Law 92-181), as amended, shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

For purposes of this subdivision ''affiliated group'' means one or more chains of corporations connected through stock ownership with a common parent corporation if both of the following conditions are met:

(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations.

(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(c) (1) When a corporation, partnership, limited liability company, other legal entity, or any other person obtains control through direct or indirect ownership or control of more than 50 percent of the voting stock of any corporation, or obtains a majority ownership interest in any partnership, limited liability company, or other legal entity through the purchase or transfer of corporate stock, partnership, or limited liability company interest, or ownership interests in other legal entities, including any purchase or transfer of 50 percent or less of the ownership interest through which control or a majority ownership interest is obtained, the purchase or transfer of that stock or other interest shall be a change of ownership of the real property owned by the corporation, partnership, limited liability company, or other legal entity in which the controlling interest is obtained.

(2) On or after January 1, 1996, when an owner of a majority ownership interest in any partnership obtains all of the remaining ownership interests in that partnership or otherwise becomes the sole partner, the purchase or transfer of the minority interests, subject to the appropriate application of the step-transaction doctrine, shall not be a change in ownership of the real property owned by the partnership.

(d) If property is transferred on or after March 1, 1975, to a legal entity in a transaction excluded from change in ownership by paragraph (2) of subdivision (a) of Section 62, then the persons holding ownership interests in that legal entity immediately after the transfer shall be considered the ''original coowners.'' Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of that real property owned by the legal entity shall have occurred, and the property that was previously excluded

from change in ownership under the provisions of paragraph (2) of subdivision (a) of Section 62 shall be reappraised.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

A transfer of shares or other ownership interests that results in a change in control of a corporation, partnership, limited liability company, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision.

(e) To assist in the determination of whether a change of ownership has occurred under subdivisions (c) and (d), the Franchise Tax Board shall include a question in substantially the following form on returns for partnerships, banks, and corporations (except tax-exempt organizations):

If the corporation (or partnership or limited liability company) owns real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership or limited liability company capital and partnership or limited liability company profits) (1) been transferred by the corporation (or partnership or limited liability company) since March 1, 1975, or (2) been acquired by another legal entity or person during the year–? (See instructions.)

If the entity answers ''yes'' to (1) or (2) in the above question, then the Franchise Tax Board shall furnish the names and addresses of that entity and of the stock or partnership or limited liability company ownership interest transferees to the State Board of Equalization.

History.—Stats. 1979, Ch. 1161, in effect September 29, 1979, substituted "A corporation, partnership, other legal entity or any other person" for "one corporation", and substituted "any" for "another" after "in" in the first sentence of subdivision (c). Stats. 1980, Ch. 1349, in effect January 1, 1981, added "and (d)" after "subdivision (c)" in subdivision (a); added "or obtains a majority ownership interest in any partnership or other legal entity" before "through the purchase", substituted "partnership interest, or ownership interests in other legal entities" for "exclusive of any shares owned by directors" after "corporate stock", added "or other interest" before "shall be" and "partnership, or other legal entity" before "in which" in subdivision (c); and added subdivisions (d) and (e). Stats. 1982, Ch. 1465, in effect January 1, 1983, deleted "by merger or consolidation," after "reorganization," in the first sentence of subdivision (b); substituted "If" for "Whenever" before "property," added "on or after March 1, 1975," after "transferred", "paragraph (2) of" before "subdivision (a)", and "then" after "Section 62," in the first sentence, and substituted "that" for "the " before "real property", added "which . . . Section 62" before "shall be", and deleted "by the assessor pursuant to Section 65" after "reappraised" in the second sentence of the first paragraph of subdivision (d), and added the fourth paragraph thereof; and substituted "subdivision (c) and (d)" for "subdivision (c)" after "under" in the first paragraph of subdivision (e), substituted "has cumulatively . . . person" for "was control of the corporation (partnership) transferred or sold" after "California," in the second paragraph thereof, and substituted "the" for "an" after "If", added "(1) or (2) in "after 'cyes' to", substituted "shall" for "will" after "Board", substituted "names and addresses of that" for "name and address of such" after "furnish the", and added "and of . . . transferees" after "entity" in the third paragraph thereof. Stats. 1984, Ch. 678, in effect January 1, 1985, deleted the former third paragraph of subdivision (d) which stated that "The persons holding ownership interests in the legal entity immediately following the reappraisal shall be considered the new original co-owners." Stats. 1988, Ch. 560, in effect January 1, 1989, added ", or any reorganization of farm credit institutions pursuant to the Federal Farm Credit Act of 1971 (Public Law 92-181), as amended," before "shall" in the first sentence of subdivision (b). Stats. 1994, Chs. 1200 and 1243, in effect September 30, 1994, added references to limited liability company throughout text; added "(as enacted . . . 1955)" after "25105" and substituted "the" for "such" and substituted "that" for "such" in subdivision (c). Stats. 1995, Ch. 497, in effect January 1, 1996, added the second sentence in subdivision (a); substituted "that" for "which" twice in the first paragraph in subdivision (b); added "both of . . . are met" after "corporation if" in the second paragraph of subdivision (b); substituted a period for "; and" after "corporations" in paragraph (1) of subdivision (b); added paragraph number designation (1) before first paragraph of subdivision (c), substituted "through direct . . . stock of" for ", as defined in Section 25105 (as enacted by Chapter 938 of the Statutes of 1955), in", after "obtains control", added "including any . . . is obtained," after "legal entities,", and added "the real" after "ownership of" therein; added paragraph (2) to subdivision (c); and substituted "that" for "which" twice in the first paragraph and in the third paragraph of subdivision (d). Stats. 1998, Ch. 591 (SB 2237), in effect January 1, 1999, substituted "subdivision (i)" for "subdivision (h)" after "as provided in" in the first sentence of subdivision (a). Stats. 1999, Ch. 83 (SB 966), in effect January 1, 2000, added a comma after "this subdivision" in the first sentence of the second paragraph of subdivision (b), and deleted "In order" before "To assist" in the first sentence of the first paragraph of subdivision (e).

Note.—Section 40 of Stats. 1995, Ch. 497, providing the following:

The Legislature finds and declared that the amendments of subdivision (a) and paragraph (1) of subdivision (c) of Section 64 of the Revenue and Taxation Code made by this act do not constitute a change in, but are declaratory of, existing law.

The Legislature further finds and declares that the amendment adding paragraph (2) to subdivision (c) of Section 64 of the Revenue and Taxation Code that is made by this act is necessary to correctly state the change in ownership results intended by the Legislature when a majority partner acquires the minority partners' ownership interests. It is the Legislature's intent that, absent the appropriate application of the step-transaction doctrine or one of the express exceptions listed in subdivision (a) of Section 64 of the Revenue and Taxation Code, the transfer of minority interests in a partnership to the majority owner shall not constitute a change in ownership of the partnership real property, on or after January 1, 1996.

Note.—Section 5 of Stats. 1980, Ch. 1349, provided the amendments made to Section 64 shall be effective for the 1981–82 assessment year and years thereafter. It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1981–82 fiscal year, and shall apply to any change in ownership occurring on or after March 1, 1975. No escape assessments shall be levied and no refund shall be made for any years prior to 1981–82 for any increases or decreases in value made for the 1981–82 fiscal year or fiscal years thereafter as the result of the enactment of this act. Section 6 thereof provided the provisions of subdivision (d) of Section 64 as added by this act shall be operative with respect to returns for years beginning in 1981 and thereafter.

Note.—Section 11 of Stats. 1988, Ch. 560, provided that the amendment made to Section 64 shall be applicable to the 1985–86 fiscal year and fiscal years thereafter. The Legislature finds and declares that farm credit banks are instrumentalities of the federal government, and that the recent reorganization of these farm credit institutions was effected pursuant to federal law and regulations. The Legislature further finds and declares that the reorganization of these institutions was of a type which would have avoided a change in ownership reappraisal under Section 64 of the Revenue and Taxation Code if the institutions had been members of a privately owned ''affiliated group'' connected through stock ownership with a common parent, rather than a federal instrumentality.

Construction.—This section applies to true changes in ownership, rather than ''paper'' ones. Where a corporation is involved, the term exempts a mere change in the form of ownership or corporate organization, but it encompasses outright sale of either land or the company to a stranger, whether for cash or for shares of stock. Thus, reassessment may not be avoided by selling all or a majority of the stock in real estate holding companies, and all realty held by a holding company and its former parent corporation was subject to reassessment upon a surviving corporation's acquisition of control of the holding company by merger with the former parent corporation. The change of ownership of the realty occurred within the meaning of section 64(c) when the shareholders of the former parent corporation became proportionate, but minority, shareholders in the surviving corporation, thereby losing control, and conversely, the surviving corporation obtained control of the holding company by acquiring a majority of its voting shares. Section 64(b) was not applicable since the merger was not between members of an affiliated group where none of the corporations owned 100 percent of the voting stock of the other at the time the merger tender offer was accepted. *Sav-on Drugs, Inc.* v. *Orange County,* 190 Cal.App.3d 1611.

A corporation, which obtained direct control of an intermediary corporation by conversion of its wholly owned subsidiary's common stock into the common stock of the intermediary, obtained indirect control of a separate subsidiary corporation that was wholly owned by the intermediary. Thus, notwithstanding the fact that the acquiring corporation did not directly purchase the stock of the intermediary's subsidiary, a change in ownership of that subsidiary's real property holdings occurred within the meaning of Section 64(c). The determinative factor as to whether a change in ownership of corporate property has occurred is control of the corporation that owns the property, not the right to occupy the property or to take possession of it. *Title Ins. & Trust Co.* v. *Riverside County,* 48 Cal.3d 84.

A corporate reorganization effecting a change in the majority controlling ownership of the corporate entities results in a change of ownership of the real property under Section 64(c), even though the reorganization itself was exempt from state and federal income taxation. The reorganization involved affiliated entities that were not affiliated after the transaction, and for Section 64(b) to be applicable, ''members of an affiliated group'' must have been affiliated from beginning to end, under the same ownership and control before a transfer and after. *Pueblos Del Rio South* v. *City of San Diego,* 209 Cal.App.3d 893.

A change in ownership of corporate real property triggering reassessment of the property occurred within the meaning of Section 64(c) where the taxpayer and another corporation formed a new corporation which set up two wholly owned subsidiary corporations which were then merged into the taxpayer and the other corporation, but which left the taxpayer's shareholders with a majority interest in the stock of the new corporation. *Kraft, Inc.* v. *Orange County,* 219 Cal.App.3d 1104. The acquisition of a film corporation by another corporation, specially created for that purpose, constituted a change in ownership within the meaning of Section 64(c) so as to allow reassessment of real property owned by the film corporation, even though none of the investors in the acquiring corporation owned more than 50 percent of its stock. The ultimate control theory, reflected in that section and which looks through the titleholder to the entity ultimately responsible, did not require that the acquiring corporation be ignored in order to focus instead on the individual investors. *Twentieth Century Fox Film Corp.* v. *Los Angeles County,* 223 Cal.App.3d 1158. The statutory definition of ''control'', in a partnership, a majority ownership interest, prevails over the concept that a choice in action represents indirect, constructive or effective control. *Shuwa Investments Corporation* v. *Los Angeles County,* 1 Cal.App.4th 1635. While acquisition of a minority partnership interest does not constitute a change of ownership under this section, this exemption applies only to transfers involving continuing entities. Thus, where the majority partner purchased the minority partners' partnership interests, in this case the partnership dissolved, this was a change in ownership, and the partnership's subsequent transfer of title to its real property to the sole partner was a mere formality. *Zapara* v. *Orange County,* 26 Cal.App.4th 464.

Section 64(e) is designed to assist the appropriate authorities in determining whether a change of ownership has occurred by alerting them to stock purchases that might lead to reassessment of real property, not to state the circumstances under which a property value tax reassessment should occur. *Title Ins. & Trust Co.* v. *Riverside County,* 48 Cal.3d 84.

Legislative intent.—The intent of the Legislature is the end and aim of all statutory construction. The Legislature's failure to adopt a proposed amendment to Section 64(c) which would have expressly extended application of the subdivision to corporate subsidiaries is not conclusive evidence of its intent that the subdivision not apply to subsidiaries. The Legislature may have objected to other portions of the bill, which contained numerous other provisions, or it may have determined that further clarification of the status of subsidiaries was unnecessary. *Title Ins. & Trust Co.* v. *Riverside County*, 48 Cal.3d 84.

65. **Termination of joint tenancy or tenancy in common.** [Repealed by Stats. 1980, Ch. 1081, in effect September 26, 1980.]

65. **Joint tenancy interests.** (a) The creation, transfer, or termination of any joint tenancy is a change in ownership except as provided in this section, Section 62, and Section 63. Upon a change in ownership of a joint tenancy interest only the interest or portion which is thereby transferred from one owner to another owner shall be reappraised.

(b) There shall be no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor or transferors, after such creation or transfer, are among the joint tenants. Upon the creation of a joint tenancy interest described in this subdivision, the transferor or transferors shall be the ''original transferor or transferors'' for purposes of determining the property to be reappraised on subsequent transfers. The spouses of original transferors shall also be considered original transferors within the meaning of this section.

(c) Upon the termination of an interest in any joint tenancy described in subdivision (b), the entire portion of the property held by the original transferor or transferors prior to the creation of the joint tenancy shall be reappraised unless it vests, in whole or in part, in any remaining original transferor, in which case there shall be no reappraisal. Upon the termination of the interest of the last surviving original transferor, there shall be a reappraisal of the interest then transferred and all other interests in the properties held by all original transferors which were previously excluded from reappraisal pursuant to this section.

(d) Upon the termination of an interest held by other than the original transferor in any joint tenancy described in subdivision (b), there shall be no reappraisal if the entire interest is transferred either to an original transferor or to all remaining joint tenants, provided that one of the remaining joint tenants is an original transferor.

(e) For purposes of this section, for joint tenancies created on or before March 1, 1975, it shall be rebuttably presumed that each joint tenant holding an interest in property as of March 1, 1975, shall be an ''original transferor.'' This presumption is not applicable to joint tenancies created after March 1, 1975.

History.—Added by Stats. 1980, Ch. 1081, in effect September 26, 1980. Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982, added subdivision (e). Stats. 1988, Ch. 1271, in effect September 26, 1988, substituted "transferor" for "transfer" after "the original", and deleted the period and added ", provided that one of the remaining joint tenants is an original transferor." after "tenants" in subdivision (d).

Note.—Section 14 of Stats. 1981, Ch. 1141, provided the provisions of this act shall take immediate effect and shall apply to any change in ownership occurring on or after March 1, 1975. However, all changes in value shall be made effective commencing with the 1982–83 fiscal year. No escape assessments shall be levied and no refund shall be made for any years prior to the 1982–83 fiscal year for any increases or decreases in value made for the 1982–83 fiscal year or fiscal years thereafter as the result of the enactment of this act.

Note.—Section 16 of Stats. 1981, Ch. 1141, provided the Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reasons of the classification or exemption of property by this act.

65.1. **Percentage interests; units or lots in a complex with common areas or facilities.** (a) Except for a joint tenancy interest described in subdivision (f) of Section 62, when an interest in a portion of real property is purchased or changes ownership, only the interest or portion transferred shall be reappraised. A purchase or change in ownership of an interest with a market value of less than 5 percent of the value of the total property shall not be reappraised if the market value of the interest transferred is less than ten thousand dollars ($10,000) provided, however, that transfers during any one assessment year shall be cumulated for the purpose of determining the percentage interests and value transferred.

(b) If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned unit development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lot shall be reappraised.

Notwithstanding any other provision of law, the increase in property taxes resulting from such reappraisal shall be applied by the owner of such property to the tenant-shareholder, lessee, or occupant of such individual unit or lot only, and shall not be prorated among all other units or lots of such property.

Construction.—This section applies to conveyances of interests in portions of real properties. A conveyance by a partnership of its entire real property to its sole partner is not covered by this section. *Zapara* v. *Orange County,* 26 Cal.App.4th 464.

History.—Added by Stats. 1980, Ch. 1081, in effect September 26, 1980. Stats. 1981, Ch. 1141, in effect October 2, 1981, operative January 1, 1982, substituted, "for a . . . Section 62," for "as provided in Section 65," after "Except" and deleted "undivided" before the second "interest" in the first sentence, and deleted "undivided" before the first "interest" and added "percentage interests and" before "value transferred" in the second sentence of subdivision (a).

66. **Vesting of employee benefit plan.** Change in ownership does not include any of the following:

(a) The creation, vesting, transfer, distribution or termination of a participant's or beneficiary's interest in an employee benefit plan.

(b) Any contribution of real property to an employee benefit plan.

(c) Any acquisition by an employee benefit plan of the stock of the employer corporation pursuant to which the employee benefit plan obtains direct or indirect ownership or control of more than 50 percent of the voting stock of the employer corporation.

As used in this section, the terms "employer," "employee benefit plan," "participant," and "beneficiary" shall be defined as they are defined in the Employee Retirement Income Security Act of 1974.

History.—Stats. 1986, Ch. 497, effective January 1, 1987, added "any of the following" after "include" in the first sentence, substituted "." for "; or" after "plan" in subdivision (a), added subdivision (c), and added "employer," after "terms" in the first sentence of the second paragraph. Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000,

substituted "does" for "shall" after "Change in ownership" in the first sentence of the first paragraph, and substituted "ownership or control of more than 50 percent of the voting stock of" for "control, as defined in Section 25105, in" after "direct or indirect" in the first sentence of subdivision (c).

Note.—Section 2 of Stats. 1986, Ch. 497, provided that the amendments to Section 66 of the Revenue and Taxation Code made by this act shall be effective for the 1979–80 fiscal year and fiscal years thereafter. It is the intent of the Legislature that these amendments shall apply to the determination of new base year values for the 1979–80 fiscal year and fiscal years thereafter with respect to any transfer occurring on or after March 1, 1975. However, no refunds shall be made for any fiscal year preceding the applicable period provided in Section 5097 of the Revenue and Taxation Code. Sec. 3 thereof declared that Section 1 of this act does not constitute a change in, but is declaratory of, the existing law. Sec. 4 thereof provided that reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made.

Tax injunction act.—ERISA's grant of exclusive jurisdiction was not intended as an exception to the Tax Injunction Act. Thus, where an ERISA plan trustee failed to show that it could not raise the issue of ERISA preemption of state tax in a state court, as required to invoke "lack of plain, speedy and efficient state remedy" exception to the Act's prohibition on enjoining, suspending, or restraining assessment of a state tax, the Act barred a federal court action. *Chase Manhattan Bank, N.A.* v. *San Francisco,* 121 F.3d 557.

67. **"Purchase."** "Purchased" or "purchase" means a change in ownership for consideration.

68. **"Change in ownership" exclusion; replacement property.** For purposes of Section 2 of Article XIII A of the Constitution, the term "change in ownership" shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from property in this state by eminent domain proceedings, by acquisition by a public entity, or by governmental action which has resulted in a judgment of inverse condemnation.

The adjusted base year value of the property acquired shall be the lower of the fair market value of the property acquired or the value which is the sum of the following:

(a) The adjusted base year value of the property from which the person was displaced.

(b) The amount, if any, by which the full cash value of the property acquired exceeds 120 percent of the amount received by the person for the property from which the person was displaced.

The provisions of this section shall apply to eminent domain proceedings, acquisitions, or judgments of inverse condemnation after March 1, 1975, and shall affect only those assessments of that property which occur after June 8, 1982.

Persons acquiring replacement property between March 1, 1975, and January 1, 1983, shall request assessment under this section with the assessor on or before January 1, 1987. Persons acquiring replacement property on and after January 1, 1983, shall request assessment within four years of the date the property was acquired by eminent domain or purchase or the date the judgment of inverse condemnation becomes final.

Any change in the adjusted base year value of the replacement property acquired, resulting from the application of the provisions of this section, shall be deemed to be effective on the first day of the month following the month in which the property is acquired. The change in value shall be treated as a change in ownership for the purpose of placing supplemental assessments on the supplemental roll pursuant to Chapter 3.5 (commencing with Section 75).

The assessor shall, however, appraise the replacement property acquired in accordance with the provisions of this section rather than the provisions of Section 75.10. The provisions of Chapter 3.5 shall be liberally construed in order to provide the benefits of this section and Section 2 of Article XIII A of the California Constitution to affected property owners at the earliest possible date.

History.—Added by Stats. 1982, Ch. 1465, in effect January 1, 1983. Stats. 1983, Ch. 662, in effect September 7, 1983, substituted "value which is the sum of the following" for "adjusted base year value of the property from which the person was displaced" after "or the" in the second paragraph, and added subsections (a) and (b) thereto. Stats. 1985, Ch. 186, effective January 1, 1986, added the fifth paragraph.

Note.—Section 1 of Stats. 1983, Ch. 662, provided that the Legislature finds and declares that it is the intent of the people in enacting subdivision (d) of Section 2 of Article XIII A of the California Constitution to permit taxpayers to use the base year value of the property from which the taxpayer was displaced as the base year value of the property acquired, in cases where the full cash value of the property acquired is no more than 20 percent greater than the value received by the taxpayer for the property from which the taxpayer was displaced.

In cases where the full cash value of the property acquired is more than 20 percent greater than the value received by the taxpayer for the property from which the taxpayer was displaced, the Legislature finds and declares that the intent of the provisions of subdivision (d) of Section 2 of Article XIII A is to permit taxpayers (1) to carry forward the base year value from the property displaced for the portion of the value of the acquired property which is not more than 20 percent greater than the sum received for the property from which the taxpayer was displaced, and (2) to add to the base year value the full cash value of the acquired property in excess of this amount. The Legislature finds this incremental value is appropriately added because this portion of the property is of greater utility than the property from which the taxpayer was displaced. Sec. 3 thereof provided that no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. Sec. 4 thereof provided that the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

69. **Disaster relief.** (a) Notwithstanding any other provision of law, pursuant to Section 2 of Article XIII A of the Constitution, the base year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county which is acquired or newly constructed within three years after the disaster, or five years in the case of the Northridge earthquake, as a replacement for the substantially damaged or destroyed property. At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property, the substantially damaged or destroyed property shall be reassessed at its full cash value; however, the substantially damaged or destroyed property shall retain its base year value notwithstanding the transfer authorized by this section. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(b) The replacement base year value of the replacement property acquired shall be determined in accordance with this section.

The following procedure shall be used by the assessor in determining the appropriate replacement base year value of comparable replacement property:

(1) If the full cash value of the comparable replacement property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base year value of the property substantially damaged or destroyed shall be transferred to the comparable replacement property as its replacement base year value.

(2) If the full cash value of the replacement property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base year value of the property substantially damaged or destroyed. The sum of these amounts shall become the replacement property's replacement base year value.

(3) If the full cash value of the comparable replacement property is less than the adjusted base year value of the property substantially damaged or destroyed, then that lower value shall become the replacement property's base year value.

(4) The full cash value of the property substantially damaged or destroyed shall be the amount of its full cash value immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(c) For purposes of this section:

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the disaster. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces.

(A) Property is similar in function if the replacement property is subject to similar governmental restrictions, such as zoning.

(B) Both the size and utility of property are interrelated and associated with value. Property is similar in size and utility only to the extent that the replacement property is, or is intended to be, used in the same manner as the property substantially damaged or destroyed and its full cash value does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed.

(i) A replacement property or any portion thereof used or intended to be used for a purpose substantially different than the use made of the property substantially damaged or destroyed shall to the extent of the dissimilar use be considered not similar in utility.

(ii) A replacement property or portion thereof which satisfies the use requirement but has a full cash value which exceeds 120 percent of the full cash value of the property substantially damaged or destroyed shall be considered, to the extent of the excess, not similar in utility and size.

(C) To the extent that replacement property, or any portion thereof, is not similar in function, size, and utility, the property, or portion thereof, shall be considered to have undergone a change in ownership when the replacement property is acquired or newly constructed.

(3) ''Disaster'' means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(d) (1) This section shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985.

(2) The amendments made by the act adding this paragraph shall apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

(e) Only the owner or owners of the property substantially damaged or destroyed, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall receive property tax relief under this section. Relief under this section shall be granted to an owner or owners of substantially damaged or destroyed property obtaining title to replacement property. The acquisition of an ownership interest in a legal entity which, directly or indirectly, owns real property is not an acquisition of comparable property.

History.—Added by Stats. 1986, Ch. 855, effective September 17, 1986, operative July 1, 1985. Stats. 1987, Ch. 219, in effect July 23, 1987, substituted "; however, the substantially damaged or destroyed property shall retain its base-year value notwithstanding the transfer authorized by this section." for "," after "full cash value" in the second sentence of subdivision (a). Stats. 1993, Ch. 1053, in effect October 11, 1993, substituted "three" for "two" after "constructed within" in the first sentence of subdivision (a); and added "(1)" after "(d)" and added paragraph (2) to subdivision (d). Stats. 1997, Ch. 353 (SB 594), in effect August 26, 1997, added ",or five years in the case of the Northridge earthquake," after "after the disaster" in the first sentence of subdivision (a).

Note.—Section 2 of Stats. 1986, Ch. 855, provided no reimbursement is required by this act. Sec. 3 thereof provided that this act shall not become operative unless Senate Constitutional Amendment No. 28 of the 1985–86 Regular Session is adopted by the voters. In that event, this act shall become operative on the effective date of Senate Constitutional Amendment No. 28. SCA 28 was adopted by the voters on June 3, 1986, and its effective date is June 4, 1986.

Note.—Section 2 of Stats. 1987, Ch. 219 provided that the amendment made by this act shall apply to substantially damaged or destroyed property for which comparable replacement property was acquired or newly constructed on or after July 1, 1985.

Note.—Section 2 of Stats 1997, Ch. 353 provided that the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution as a result of the unique difficulties being suffered by homeowners affected by the Northridge earthquake.

69.3. **Transfer of base-year value to replacement dwelling—disasters.** (a)(1) Notwithstanding any other provision of law, pursuant to the authority of paragraph (3) of subdivision (e) of Section 2 of Article XIII A of the California Constitution, a county board of supervisors, after consultation with affected local agencies located within the boundaries of the county, may adopt an ordinance that authorizes the transfer, subject to the conditions and limitations of this section, of the base year value of real property that is located within another county in this state and has been substantially damaged or destroyed by a disaster to comparable replacement property, including land, of equal or lesser value that is located within the adopting county and has been acquired or newly constructed as a replacement for the damaged or destroyed property within three years after the damage or destruction of the original property.

(2) The base year value of the original property shall be the base year value of the original property as determined in accordance with Section 110.1, with the inflation factor adjustments permitted by subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property was substantially damaged or destroyed. The base year value of the original property shall also include any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the date of the substantial damage to, or destruction of, the original property and up to the date the replacement property is acquired or newly constructed regardless of whether the claimant continued to own the original property during the entire period. The base year or years used to compute the base year value of the original property shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(b) For purposes of this section:

(1) ''Affected local agency'' means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues.

(2) ''Claimant'' means an owner or owners of real property claiming the property tax relief provided by this section.

(3) ''Comparable replacement property'' means a replacement property that has a full cash value of equal or lesser value as defined in paragraph (6).

(4) ''Consultation'' means a noticed hearing, that is conducted by a county board of supervisors concerning the adoption of an ordinance described in subdivision (a) and with respect to which all affected local agencies within the boundaries of the county are provided with reasonable notice of the time and the place of the hearing and a reasonable opportunity to appear and participate.

(5) ''Disaster'' means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(6) ''Equal or lesser value'' means that the amount of the full cash value of the replacement property does not exceed one of the following:

(A) One hundred five percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the first year following the date of the damage or destruction of the original property.

(B) One hundred ten percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the second year following the date of the damage or destruction of the original property.

(C) One hundred fifteen percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the third year following the date of the damage or destruction of the original property.

For the purposes of this paragraph, if the replacement property is, in part, purchased and, in part, newly constructed, the date the ''replacement property is purchased or newly constructed'' is the date of the purchase or the date of completion of new construction, whichever is later. For purposes of this paragraph, ''full cash value of the original property'' shall be the amount of its full cash value immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(7) ''Full cash value of the original property'' means its full cash value as determined in accordance with Section 110, immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(8) ''Full cash value of the replacement property'' means its full cash value, as determined in accordance with Section 110.1 as of the date upon which it was purchased or new construction was completed, that is applicable on and after that date.

(9) ''Original property'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated, that has been substantially damaged or destroyed by a disaster. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. For purposes of this paragraph, each unit of a multiunit dwelling shall be considered a separate original property.

(10) ''Owner or owners'' means an individual or individuals, but does not include any firm, partnership, association, corporation, company, other legal entity or organization of any kind.

(11) ''Replacement property'' means a building, structure, or other shelter, constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the replacement property includes only that area of reasonable size that is used as the site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. For purposes of this paragraph, each unit of a multiunit dwelling shall be considered a separate replacement property. ''Replacement property'' does not include any property, including land or improvements, if the claimant owned any portion of that property prior to the date of the disaster that damaged or destroyed the original property.

(12) ''Substantially damaged or destroyed'' means property that sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the disaster. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(c) At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property pursuant to an ordinance adopted under this section, the substantially damaged or destroyed property shall be reassessed at its full cash value. However, the substantially damaged or destroyed property shall retain its base year value notwithstanding that transfer. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(d) Only the owner or owners of the property that has been substantially damaged or destroyed may receive property tax relief under an ordinance adopted pursuant to this section. Relief under an ordinance adopted pursuant to this section shall be granted to an owner or owners of a substantially damaged or destroyed property obtaining comparable replacement property. The acquisition of an ownership interest in a legal entity that, directly or indirectly, owns real property is not an acquisition of comparable replacement property for purposes of this section.

(e) A timely claim for relief under an ordinance adopted pursuant to this section, in that form as shall be prescribed by the board, shall be filed by the owner with the assessor of the county in which the replacement property is located. No relief under an ordinance adopted pursuant to this section shall be granted unless the claim is filed no later than January 1, 1996, or within three years after the replacement property is acquired or newly constructed, whichever is later.

(f) Any taxes that were levied on the replacement property prior to the filing of a claim on the basis of the replacement property's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(g) This section shall apply to any comparable replacement property of equal or lesser value that is acquired or newly constructed as a replacement for property that has been substantially damaged or destroyed by a disaster occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and each fiscal year thereafter.

History.—Added by Stats. 1994, Ch. 72, in effect May 20, 1994. Stats. 1994, Ch. 1222, in effect January 1, 1995, deleted "of equal or lesser value" after "property" and added "of equal or lesser value" after "land," in paragraphs (1), added "inflation factor" after "with the", deleted "(b) of Section 2 of Article XIII A of the California Constitution and subdivision" after "subdivision", and added "regardless . . . entire period." after "constructed" in paragraph (2) of subdivision (a); added paragraph (2) to subdivision (b), renumbered former paragraphs (2), (3), (4), and (5) as (3), (4), (5), and (6), respectively, and substituted "(6)" for "(5)" after "paragraph" in paragraph (2), added paragraphs (7) and (8) in subdivision (b), renumbered former paragraphs (7), (8), and (9) as (10), (11), and (12), respectively, substituted "constituting . . . personal property" for "or other personal property," in the first sentence of paragraph (8), deleted "land" after "part of the", and substituted "property" for "dwelling" after "replacement" in the second sentence of paragraph (8), substituted "property" for "dwelling" after "replacement" in the third sentence of paragraph (8), and

added the fourth sentence therein, substituted "to more" for "more to [1]" after "amounting" in the first sentence of paragraph (12), and deleted "of value" after "diminution" in the second sentence of paragraph (12) of subdivision (b); added "to the replacement property" after "transferred" in the first sentence of subdivision (c); and deleted "title to" after "obtaining" in the second sentence of subdivision (d). In subdivision (e), added "timely" before "claim," added "in that form . . . by the board" after "to this section," added "by the owner" after "shall be filed," deleted "in accordance . . . Section 69.5." Added "No relief . . . whichever is later," to subdivision (f), deleted former subdivision (h), which provided that the Legislature's intent in enacting this section is that the scope and the amount of tax relief provided under an ordinance adopted pursuant to this section not exceed the scope and amount of tax relief provided under Section 69.5 as that section read on November 2, 1993.

69.4. **Transfer of base year value— environmentally contaminated property.** (a) Notwithstanding any other provision of law, pursuant to the authority of subdivision (i) of Section 2 of Article XIII A of the California Constitution, the base year value of qualified contaminated property may be transferred to a replacement property that is acquired or newly constructed as a replacement for the contaminated property, pursuant to subparagraph (A) of paragraph (1) of that subdivision.

(b) The base year value of the original property shall be the base year value of the original property as determined in accordance with Section 110.1, with the inflation factor adjustments permitted by subdivision (f) of Section 110.1. The base year value of the original property shall also include any inflation factor adjustments permitted by subdivision (f) of Section 110.1 up to the date the replacement property is acquired or newly constructed, regardless of whether the claimant continued to own the original property during this entire period. The base year or years used to compute the base year value of the original property shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

History.—Added by Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000. Stats. 2003, Ch. 471 (SB 1062), in effect January 1, 2004, substituted "paragraph (1)" for "paragraph 1" after "subparagraph (A)" and deleted ", or if the remediation of the contamination requires the repair or replacement of contaminated property, that repair or replacement shall not be considered "new construction," pursuant to subparagraph (B) of that subdivision" after "paragraph (1)" in the first sentence of subdivision (a).

Text of section effective until January 1, 1999.

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

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county,

this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with the following requirements:

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

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

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

(D) The ordinance provides that its provisions shall remain operative for a period of not less than five years.

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

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

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

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

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

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the

replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and which, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) (A) For purposes of paragraph (1) of subdivision (a), the replacement dwelling, including that portion of land on which it is situated which is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(B) For purposes of paragraph (2) of subdivision (a), the replacement dwelling, including that portion of the land on which it is situated which is specified in paragraph (5), is located entirely within the county.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

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

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

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the

mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

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

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

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

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

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

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) 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 which 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) 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 the assessor shall make available upon request, the following information:

(1) 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.

(2) 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 claimants' 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:

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

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

(3) The address and, if known, the assessor's parcel number of the original property, and, if the original property is located within another county, the name of the county or counties and, if applicable, city or cities in which the original property is located.

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

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(6) If the original property and the replacement dwelling are located in different counties, the base year value of the original property determined by the assessor of the county in which the original property is located.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed.

(g) For purposes of this section:

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

(2) ''Base year value of the original property'' means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

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

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

(4) ''Original property'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, ''area of reasonable size that is used as a site

for a residence'' includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(5) ''Equal or lesser value'' means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

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

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

(C) One hundred and ten percent of the amount of the full cash value of the original property if either of the following conditions are met:

(i) The replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

(ii) The replacement dwelling is purchased or newly constructed on or after November 5, 1986, and on or before January 1, 1988, and within two years of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the ''replacement dwelling is purchased or newly constructed'' is the date of purchase or the date of completion of construction, whichever is later.

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

(7) ''Full cash value of the original property'' means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) ''Sale'' means any change in ownership of the original property for consideration.

(9) ''Claimant'' means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse shall also be deemed a claimant for purposes of determining whether the condition of paragraph (7) of subdivision (b) has been met.

(10) ''Property that is eligible for the homeowner's exemption'' includes property which is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) ''Consultation'' means a noticed hearing conducted by a county board of supervisors concerning the adoption of an ordinance described in paragraph (2) of subdivision (a) and with respect to which all local affected agencies within the boundaries of the county are provided with reasonable notice of the time and place of the hearing and a reasonable opportunity to appear and participate at the hearing.

(12) ''Local affected agency'' means any city, special district, school district, or community college district that receives an annual property tax revenue allocation.

(13) ''Person'' means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(14) ''Severely and permanently disabled person'' means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

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

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

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

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

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

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

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred:

(1) The notice is signed by the original filing claimant or claimants.

(2) The notice is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

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

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any replacement dwelling that is purchased or newly constructed on or after November 5, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, this section, except as provided in paragraph (3), shall apply to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

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

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

(k) This section shall remain operative only until January 1, 1999, and on that date is repealed.

History.—Added by Stats. 1987, Ch. 186, in effect July 23, 1987. Stats. 1988, Ch. 1271, in effect September 26, 1988, added "(1)" before the first paragraph and added paragraph "(2)" to subdivision (a); substituted the new paragraphs (1) and (2) for the former paragraphs of subdivision (b) that provided "(1) At the time of sale of the original property, the claimant is an owner and a resident of that property. (2) At the time of sale of the original property, the property is eligible for the home owner's exemption as a result of the claimant's ownership and occupation of the property as his or her

principal residence."; added "(A) For purposes of paragraph (1) of subdivision (a)," at the beginning of the first sentence of (b)(6), and added subparagraph (B) to subdivision (b)(6); substituted "report quarterly to the State Board of Equalization" for "supply" and deleted "the written request of" after "specified by" in subdivision (b)(7); substituted "an" for "the same proportional" and substituted "dwelling" for "property as he or she held in the original property" in subdivision (d)(1); added the second paragraph to subdivision (d)(3); substituted "unless" for "in any case in which", deleted "not" after "original property is", added "either (1)" after "which" and added the remainder of the sentence after "5803" in the second paragraph of subdivision (e); added the last part of the sentence after "of the original property" in subdivision (f)(3); substituted "occupied" for "will occupy", substituted "on" for "within one year of" in subdivision (f)(5); added new subdivision (f)(6); added the second paragraph to subdivision (g)(2); added the last part of the second sentence after "residence" and the third sentence in subdivision (g)(3); added the last part of the second sentence after "residence" and the third sentence in subdivision (g)(4); substituted "either of the following conditions are met:" for "the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property." and added paragraph (i) and (ii) to subdivision (g)(5)(C); added subparagraphs (11) and (12) to subdivision (g); added the third paragraph to subdivision (h); added "(1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county" to the first paragraph, and added the second paragraph of subdivision (i); and added subdivision (j). Stats. 1989, Ch. 481, in effect January 1, 1990, restate, Stats. 1988, Ch. 1271. Stats. 1990, Ch. 1494, in effect September 30, 1990, added ", or any severely and permanently disabled person," after "55 years" in subdivision (a)(1); substituted "base-year" for "base year" intermittently throughout the section; added the third sentence in subdivision (a)(2)(E); added ", or is severely and permanently disabled" after "55 years of age" in subdivisions (b)(3); added ", as a claimant," after "previously been granted" in the first sentence, and added "and all claimants . . . received relief" after "allowed by assessors" in the second sentence of subdivision (b)(7); added ", or is severely and permanently disabled" after "years" in the first sentence, and substituted "shall be deemed" for "is" after "them" in the second sentence of subdivision (d)(7); substituted "each" for "the" after "number of", substituted "is" for "was" after "who", and deleted "original property at the time of its sale or is a record owner of the" after "owner of the" in subdivision (f)(1); added "or severely and permanently disabled" after "age" in the first sentence, added the second sentence, added "that a person is over 55 years of age," after "available proof" in the third sentence, and added the fourth sentence, including subparagraphs (A) and (B), to subdivision (f)(2); added "except as . . . subdivision (h)," after "paragraph," in the second paragraph of subdivision (g)(5)(C)(ii); deleted "original property or the" after "owner of the", deleted "whether or not that spouse joined in the claim," after "replacement dwelling,", deleted "in any future claim filed by the spouse under this section" after "determining whether", deleted "eligibility specified in" after "condition of", deleted "or has not" after "subdivision (b) has", and deleted "by the spouse" after "been met" in subdivision (g)(9); added paragraphs (13) and (14) to subdivision (g); added "(1)" before "Upon the timely", substituted "(A)", "(B)" and "(C)" for "(1)", "(2)" and "(3)", respectively, added "(2)" before "Any taxes", added "(3)" before "Notwithstanding Section 75.10", and added paragraph (4) including subparagraphs (A) and (B), to subdivision (h); added subdivision (i); relettered former subdivision (i) as (j); added ", except as provided in paragraph (3)," after "this section" in paragraphs (1) and (2) and added paragraph (3) to subdivision (j); relettered former subdivision (j) as (k); and substituted ", and the amendments . . . of the Legislature," for "shall become operative only if Assembly Constitutional Amendment No. 1 of the 1987–88 Regular Session is approved by the voters. In that event, the amendments" after "subdivision", and substituted "remain" for "be" after "shall" in subdivision (k). Stats. 1992, Ch. 1180, in effect January 1, 1993, added "or Section 69" after "section", and "under this section or Section 69" after "qualifies" in the second paragraph of subdivision (e); added "or (4)" after "(3)" in paragraph (1) of subdivision (j); and added paragraph (4) to subdivision (j). Stats. 1994, Ch. 1222, in effect January 1, 1995, deleted hyphen in "base year" throughout text; substituted "that" for "which" throughout text; deleted hyphen in "data processing" after "in the form of" in the fourth sentence of paragraph (7) of subdivision (b); added "the" after "coowner of" in subdivision (d); added ", or Section 69.3" after "Section 69" twice, and added "or property" after "dwelling" in the second paragraph of subdivision (e). Stats. 1996, Ch. 897, in effect September 25, 1996, substituted "that" for "which" in the first sentence of subdivision (a)(1), last sentence of subdivision (b)(7), second sentence of subdivision (g)(3); added the balance of the first sentence after "by this section" in subdivision (b)(7); added the fourth and fifth sentences of subdivision (g)(3), and added the fourth and fifth sentences of subdivision (g)(4). Stats. 1997, Ch. 940 (SB 1105), in effect January 1, 1998, substituted "any nonresidential uses of property are only" for "no portion of the property is used for commercial purposes. "Commercial purposes" does not include activities that are" after "all land if" in the fourth and former fifth sentences of paragraphs (3) and (4) of subdivision (g), and substituted "This section" for "The amendments to this section made by the act adding this subdivision, and the amendments to this section during the 1989 portion of the 1989-90 Regular Session of the Legislature," before "shall remain" in the first sentence of subdivision (k).

Note.—Section 3 of Stats. 1987, Ch. 186, provided that the Legislature finds and declares that valuations of replacement dwellings by assessors for purposes of Section 69.5 of the Revenue and Taxation Code necessarily involve the exercise of judgment, and that to the extent that intangible factors may be involved in those judgments, differences may occur in the valuation of comparable replacement dwellings which result in the qualification of some replacement dwellings and the disqualification of other replacement dwellings within a particular county or between counties. The Legislature further finds and declares that a replacement dwelling which may be of equal or lesser value than the original property at the time of the sale of the original property may no longer meet that eligibility criterion when the replacement dwelling is purchased or newly constructed one or two years after the sale of the original property. In order to provide the maximum property tax relief contemplated by Section 69.5 of the Revenue and Taxation Code, consistent with the terms of subdivision (a) of Section 2 of Article XIII A of the California Constitution, the Legislature concludes that the 5 percent annual adjustment in the valuation of a replacement dwelling provided for in paragraph (5) of subdivision (g) of Section 69.5 properly ameliorates the potential hardships to property owners referred to in this section and is a valid implementation of the authority conferred upon the Legislature by subdivision (a) of Section 2 of Article XIII A of the California Constitution. Sec. 4 thereof provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the duties, obligations, or responsibilities imposed on local government by this act are necessary to implement a ballot measure approved by the voters in a statewide election.

Note.—Section 9 of Stats. 1990, Ch. 1494 provided that the amendments made by Section 2.7 of this act to Section 69.5 of the Revenue and Taxation Code with respect to new construction performed upon a replacement dwelling subsequent to the transfer of base-year value to that dwelling shall only apply with respect to a replacement dwelling which is purchased or newly constructed on or after January 1, 1991.

Text of section effective January 1, 1999.

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

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

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

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

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

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

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

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

(1) The claimant is an owner and a resident of the original property either at the time of its sale, or at the time when the original property was

substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

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

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

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

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

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

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

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

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

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

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

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

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

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

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

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

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) 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) 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 the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who was a record owner of the original property at the time of its sale or is a record owner of the replacement dwelling.

(2) 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:

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

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

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

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

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

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

(g) For purposes of this section:

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

(2) ''Base year value of the original property'' means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant, or in the case where the original property has been substantially damaged or

destroyed by misfortune or calamity and the owner does not rebuild on the original property, determined as of the date immediately prior to the misfortune or calamity.

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

(3) ''Replacement dwelling'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, ''area of reasonable size that is used as a site for a residence'' includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, ''land owned by the claimant'' includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(4) ''Original property'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and ''land owned by the claimant'' includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, ''area of reasonable size that is used as a site for a residence'' includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, ''land owned by the claimant'' includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(5) ''Equal or lesser value'' means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

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

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

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

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the ''replacement dwelling is purchased or newly constructed'' is the date of purchase or the date of completion of construction, whichever is later.

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

(7) ''Full cash value of the original property'' means, either:

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

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

(8) ''Sale'' means any change in ownership of the original property for consideration.

(9) ''Claimant'' means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of

determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) "Property that is eligible for the homeowner's exemption" includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

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

(12) "Severely and permanently disabled" means any person described in subdivision (b) of Section 74.3.

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

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

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

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

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

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

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

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

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

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

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

(B) Notwithstanding any other provision in this division, any time the notice of rescission is delivered to the office of the assessor within six years after relief was granted, provided that the replacement property has been vacated as the claimant's principal place of residence within 90 days after the original claim was filed, regardless of whether the property continues to receive the homeowner's exemption. If the rescission increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in Section 506, shall be imposed. The limitations periods for any escape assessments or supplemental assessments shall not commence until July 1 of the assessment year in which the notice of rescission is delivered to the office of the assessor.

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

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

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

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

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

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph may not be construed as a waiver of any other requirement of this section.

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

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

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

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

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

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

(B) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but not to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

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

(2) The property tax relief provided by this section in accordance with this subdivision shall apply prospectively only commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed. Notwithstanding subdivision (f), a claim shall be deemed to be timely filed if it is filed within four years after the operative date of the act adding this paragraph.

History.—Added by Stats. 1987, Ch. 186, in effect July 23, 1987. Stats. 1988, Ch. 1271, in effect September 26, 1988, operative January 1, 1999, substituted the new paragraphs (1) and (2) for the former paragraphs that provided "(1) at the time of sale of the original property, the claimant is an owner and a resident of that property. (2) At the time of sale of the original property, the property is eligible for the homeowner's exemption as a result of the claimant's ownership and occupation of the property as his or her principal place of residence." in subdivision (b); substituted "report quarterly to the State Board of Equalization" for "supply" and deleted "the written request of" after "specified by" in subdivision (b)(7); substituted "an" for "the same proportional" and substituted "dwelling" for "property as he or she held in the original property" in subdivision (d)(1); substituted "is" for "shall be deemed" in the second sentence, and added the second paragraph of subdivision (d)(3); substituted "unless" for "in any case in which", deleted "not" after "original property is", added "either (1)" after "which", and added the remainder of the sentence after "5803" in the second paragraph of subdivision (e); substituted "occupied" for "will occupy", and substituted "on" for "within one year of" in subdivision (f)(5); added the second paragraph to subdivision (g)(2); added the last part of the second sentence after "residence" and the third sentence in subdivision (g)(3); added the last part of the second sentence after "residence" and the third sentence in subdivision (g)(4); added the second paragraph to subdivision (g)(5)(C); substituted "is" for "shall" and deleted "be deemed" in the second sentence of subdivision (g)(9); added the third paragraph to subdivision (h); and added subdivision (j). Stats. 1990, Ch. 1494, in effect September 30, 1990, added ", or any severely and permanently disabled person," after "55 years" in subdivision (a); substituted "base-year" for "base year" intermittently throughout the section; added ", or is severely and permanently disabled" after "55 years of age" in subdivisions (b)(3) and (d)(3); added ", as a claimant," after "previously been granted", and added "and all claimants . . . received relief" after "allowed by assessors" in the first sentence of subdivision (b)(7); substituted "each" for "the" in subdivision (f)(1); added ", or severely and permanently disabled" after "age" in the first sentence, added the second sentence, added "that a person . . . of age" after "available proof" in the third sentence, and added the fourth sentence, including subparagraphs (A) and (B), to subdivision (f)(2); added "except as . . . subdivision (h)," after "paragraph" in the second paragraph of subdivision (g)(5)(C); deleted "original party or the" after "owner of the", deleted "whether or not that spouse joined in the claim," after "replacement dwelling,", deleted "or has not" after "subdivision (b) has", and deleted "by the spouse" after "been met" in subdivision (g)(9); added paragraphs (11) and (12) to subdivision (g); added "(1)" before "Upon the timely", substituted "(A)", "(B)" and "(C)" for "(1)", "(2)" and "(3)", respectively, added "(2)" before "Any taxes", added "(3)" before "Notwithstanding Section 75.10", and added paragraph (4) to subdivision (h); added subdivision (i); relettered former subdivision (i) as (j); added "(1)" before "This section", added "except as provided in paragraph (2)," after "this section", and added paragraph (2) to subdivision (j); relettered former subdivision (j) as (k); and deleted "the effective date of this act unless Assembly Constitutional Amendment No. 1 of the 1987–88 Regular Session is approved by the voters. In that event, the amendments shall not become operative until" after "shall become operative on" in subdivision (k). Stats. 1992, Ch. 1180, in effect January 1, 1993, added "or Section 69" after "section", and "under this section or Section 69" after "qualifies" in the second paragraph of subdivision (e); added "or (3)" after "(2)" in paragraph (1) of subdivision (j); and added paragraph (3) to subdivision (j). Stats. 1994, Ch. 1222, in effect January 1, 1995, substituted "that" for "which" throughout text; deleted hyphen in "base year" throughout text; added ", or Section 69.3" after "Section 69" twice and added "or property" after "dwelling" in the second paragraph of subdivision (e). Stats. 1996, Ch. 897, in effect September 25, 1996, added the balance of the first sentence after "by this section" in subdivision (b)(7); added the fourth and fifth sentences of subdivision (g)(3), and added the fourth and fifth

sentences of subdivision (g)(4). Stats. 1997, Ch. 941 (SB 542), in effect January 1, 1998, added "1" before "Notwithstanding" in the first sentence of subdivision (a), and added paragraph 2 and (A), (B), (C), (D), and (E) thereof to subdivision (a); substituted "any nonresidential uses of property are only" for "no portion of the property is used for commercial purposes. "Commercial purposes" does not include activities that are" in the fourth and former fifth sentences of paragraphs (3) and (4) of subdivision (g); substituted "With respect to . . . in the same county, this" for "This" in subdivision (g)(1) and substituted "(3) or (4)" for "(2) or (3)" after "paragraph" therein, added subdivision (g)(2), and renumbered former paragraphs (2) and (3) as (3) and (4) respectively; and added ", and by the act amending this section during the 1997–98 Regular Session of the Legislature," after "subdivision" in subdivision (k). Stats. 1998, Ch. 485 (AB 2803), in effect January 1, 1999, substituted "This section" for "The amendments to this section made by the act adding this subdivision, and by the act amending this section during the 1997–98 Regular Session of the Legislature," before "shall become operative" in subdivision (k). Stats. 2000, Ch. 693 (SB 383), in effect September 27, 2000, deleted former subdivision (k) which provided that "This section shall be become operative on January 1, 1999.", and added new subdivision (k). Stats. 2000, Ch. 693 (SB 383), in effect September 27, 2000, operative January 1, 2001, substituted "It" for "The ordinance" before "provides that" and substituted "are" for "shall remain" after "its provisions" in the first sentence of subparagraph (D) of paragraph (2) of subdivision (a); added "subject to subdivision (k)" after "was completed" in the third paragraph of subdivision (f); added "and the assessor shall grant the rescission," after "subdivision (b)," and substituted "as follows:" for "in which the original claim was filed and all of the following have occurred:" after "office of the assessor" in the first sentence of subdivision (i), substituted "A written notice of rescission" for "The notice is" before "signed by", and added "is delivered to the office of the assessor in which the original claim was filed" after "claimants" in the first sentence of paragraph (1) therein, added subparagraph designation (A) to the first paragraph of paragraph (2) therein and substituted "Except as otherwise provided in this paragraph, the notice of rescission" for "The notice" in the first sentence, and added subparagraph (B) therein; added subdivision (k); and relettered former subdivision (k) as subdivision (*l*). Stats. 2001, Ch. 613 (SB 1184), in effect January 1, 2002, added ", or at the time when the original property was substantially damaged or destroyed by misfortune or calamity," after "sale" in the first sentences of paragraphs (1) and (2) of subdivision (b); added ", or in the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, determined as of the date immediately prior to the misfortune or calamity" after "claimant" in the first sentence of the first paragraph of paragraph (2), substituted "means, either:" for "means" after "property" in the first sentence of paragraph (7) and created subparagraph (A) with the balance of the former first sentence after "means" and added subparagraph (B) therein, and added paragraph (13) to subdivision (g); and deleted "is" after "rescission" in the first sentence of paragraph (1) of subdivision (i); and added subdivision (m). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "manufactured home" for "mobilehome" throughout the text; added the second sentence to paragraph (2) of subdivision (c), created new subparagraph (A) with the former second and third sentences of paragraph (2) of subdivision (c), and added the second sentence therein, and created new subparagraph (B) with the former fourth and fifth sentences of paragraph (2) and added the second sentence therein; added "or (m)" after "subdivision (k)" in the third paragraph of subdivision (f); and added the fifth sentence to paragraph (3), added the fifth sentence to paragraph (4), and substituted "its" for "is" after "50 percent of" in paragraph (13) of subdivision (g); added paragraph (2) and renumbered former paragraphs (2) and (3) as paragraphs (3) and (4), respectively, to subdivision (k); and substituted subdivision (m) for former subdivision (m) which provided that "The amendments made to subdivisions (b) and (g) of this section by the act adding this subdivision apply only to replacement dwellings that are acquired or newly constructed on or after March 24, 1999, and shall apply commencing with the 1998–99 fiscal year. The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed."

Note.—Section 9 of Stats. 1988, Ch. 1271 provided that unless specifically provided otherwise in that section, the amendments to Section 69.5 of the Revenue and Taxation Code made by this act shall apply to purchases and transfers of real property which occur on or after November 5, 1986.

Note.—Section 9 of Stats. 1990, Ch. 1494, provided that the amendments made by Section 3.7 of this act to Section 69.5 of the Revenue and Taxation Code with respect to new construction performed upon a replacement dwelling subsequent to the transfer of base-year value to that dwelling shall only apply with respect to a replacement dwelling which is purchased or newly constructed on or after January 1, 1991.

Note.—Section 5 of Stats. 2001, Ch. 613 (SB 1184) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 6 therein provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Chapter 3. New Construction

§ 70. "Newly constructed," "new construction."
§ 71. New base year value.
§ 72. Copies of building permits, occupancy certificates, building plans and maps.
§ 73. "Newly constructed," "new construction;" exclusion. [Repealed.]
§ 73. "Newly constructed," "new construction;" exclusion. [Repealed.]
§ 73. "Newly constructed," "new construction;" exclusion.
§ 73.5. Water conservation equipment. [Repealed.]
§ 74. Fire sprinkler systems, extinguishing systems, etc.
§ 74.3. Disabled person assessibility exclusion.
§ 74.5. Seismic rehabilitation improvements. [Repealed.]

§ 74.5. Seismic retrofitting improvements.
§ 74.6. Disabled person accessibility exclusion.
§ 74.7. Environmentally contaminated property exclusion.

70. **"Newly constructed," "new construction."** (a) "Newly constructed" and "new construction" means:

(1) Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and

(2) Any alteration of land or of any improvement (including fixtures) since the last lien date that constitutes a major rehabilitation thereof or that converts the property to a different use.

(b) Any rehabilitation, renovation, or modernization that converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of that improvement or fixture.

(c) Notwithstanding the provisions of subdivisions (a) and (b), where real property has been damaged or destroyed by misfortune or calamity, "newly constructed" and "new construction" does not mean any timely reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, that is not substantially equivalent to the damaged or destroyed property, shall be deemed to be new construction and only that portion that exceeds substantially equivalent reconstruction shall have a new base year value determined pursuant to Section 110.1.

(d) (1) Notwithstanding the provisions of subdivisions (a) and (b), where a structure must be improved to comply with local ordinances on seismic safety, "newly constructed" and "new construction" does not mean the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with the local ordinance. This exclusion shall remain in effect during the first 15 years following that reconstruction or improvement (unless the property is purchased or changes ownership during that period, in which case the provisions of Chapter 2 (commencing with Section 60) of this division shall apply).

(2) In the sixteenth year following the reconstruction or improvement referred to in paragraph (1), the assessor shall place on the roll the current full cash value of the portion of reconstruction or improvement to the structure that was excluded pursuant to this subdivision.

(3) The governing body that enacted the local ordinance shall issue a certificate of compliance upon the request of the owner who, pursuant to a notice or permit issued by the governing body that specified that the reconstruction or improvement is necessary to comply with a seismic safety ordinance, so reconstructs or improves his or her structure in accordance with the ordinance. The certificate of compliance shall be filed by the property owner with the county assessor not later than six months after the completion

of the project. The failure to file a certificate of completion within the prescribed filing period shall be deemed a waiver of the exclusion for that year.

(e) (1) Notwithstanding the provisions of subdivisions (a) and (b), where a tank must be improved, upgraded, or replaced to comply with federal, state, and local regulations on underground storage tanks, ''newly constructed'' and ''new construction'' does not mean the improvement, upgrade, or replacement of a tank to meet compliance standards, and the improvement, upgrade, or replacement shall be considered to have been performed for the purpose of normal maintenance and repair.

(2) Notwithstanding the provisions of subdivisions (a) and (b), where a structure, or any portion thereof, was reconstructed, as a consequence of completing work on an underground storage tank to comply with federal, state, and local regulations on these tanks, timely reconstruction of the structure shall be considered to have been performed for the purpose of normal maintenance and repair where the structure, or portion thereof, after reconstruction is substantially equivalent to the prior structure in size, utility, and function.

History.—Stats. 1983, Ch. 1187, in effect January 1, 1984, operative June 5, 1984, added subdivision (d). Stats. 1999, Ch. 352 (SB 933), in effect September 7, 1999, substituted "that" for "such" after "rehabilitation of" in the first sentence of subdivision (b), added subdivision (e), and substituted "that" for "which" throughout text. Stats. 2001, Ch. 330 (AB 184), in effect September 25, 2001, substituted "not later than six months after the completion of the project" for "on or before the following April 15" after "assessor" in the second sentence, deleted the former third sentence which provided that "The provisions of this subdivision shall not apply to any structure for which a certificate is not filed.", and added the third sentence to paragraph (3) of subdivision (d).

Note.—Section 2 of Stats. 1983, Ch. 1187, provided that no appropriation is made and no reimbursement is required by this act. Sec. 3 thereof provided the provisions of this act shall become operative only if Senate Constitutional Amendment No. 14 of the 1983–84 Regular Session of the Legislature is approved by the voters.

Note.—Section 3 of Stats. 2001, Ch. 330 (AB 184) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 4 therein provided that this act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

71. **New base year value.** The assessor shall determine the new base year value for the portion of any taxable real property which has been newly constructed. The base year value of the remainder of the property assessed, which did not undergo new construction, shall not be changed. New construction in progress on the lien date shall be appraised at its full value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed shall be reappraised at its full value.

Construction.—Property Tax Rule 463, which provides that if a given unit within a multiple structure development is capable of being occupied and utilized without regard to the completion of the remaining structures, a base year date and value should be set at that time, is consistent with the Legislature's intent in enacting Section 71, which requires a reappraisal of the ''entire portion of property which is newly constructed.'' And Rule 463(e), which defines ''date of completion'' of new construction as ''the date the property or portion thereof is available for use,'' giving consideration to the date of the final inspection by the appropriate governmental official, the date the prime contractor fulfills all contract obligations, or the date of the completion of testing of machinery and equipment, comports with Section 71, which requires that new construction be reappraised at the date of completion. *Pope* v. *State Board of Equalization,* 146 Cal.App.3d 1132. The date of completion of new construction for purposes of assessing real property taxes pursuant to Article XIII A of the Constitution is the date the property or portion thereof is available for use. *Frederick* v. *Sonoma County,* 176 Cal.App.3d 1243.

72. **Copies of building permits, occupancy certificates, building plans, and maps.** (a) A copy of any building permit issued by any city, county, or city and county shall be transmitted by each issuing entity to the county assessor as soon as possible after the date of issuance.

(b) A copy of any certificate of occupancy or other document that shows the date of completion of new construction issued or finalized by any city, county, or city and county, shall be transmitted by each entity to the county assessor within 30 days after the date of issuance or finalization.

(c) At the time an assessee files, or causes to be filed, an approved set of building plans with the city, county, or city and county, a scale copy of the floor plans and exterior dimensions of the building designated for the county assessor shall be filed by the assessee or his or her designee. The scale copy shall be in sufficient detail to allow the assessor to determine the square footage of the building and, in the case of a residential building, the intended use of each room. An assessee, or his or her designee, where multiple units are to be constructed from the same set of building plans, may file only one scale copy of floor plans and exterior dimensions, so long as each application for a building permit with respect to those building plans specifically identifies the scale copy filed pursuant to this section. However, where the square footage of any one of the multiple units is altered, an assessee, or his or her designee, shall file a scale copy of the floor plan and exterior dimensions that specifically identifies the alteration from the previously filed scale copy. The receiving authority shall transmit that copy to the county assessor as soon as possible after the final plans are approved.

(d) The board of supervisors of a county may enact, by a majority vote of its entire membership, an ordinance that requires the local agency that approves the tentative map or maps, and any conditions of approval for the tentative map or maps that are filed with a county or a city in that county, to submit a copy of the map or maps, and any conditions of approval for the tentative map or maps, to the county assessor as soon as possible after the map or maps are filed. The ordinance may require that the map or maps be provided to the county assessor in an electronic format, if available in that form.

History.—Stats. 1983, Ch. 498, in effect July 28, 1983, added The Subdivision letters and added subdivision (b). Stats. 1991, Ch. 510, in effect January 1, 1992, added subdivision (c). Stats. 2003, Ch. 604 (SB 1059), in effect January 1, 2004, substituted "issuing" for "such" after "transmitted by each" in the first sentence of subdivision (a); substituted "that shows the" for "showing" after "or other document" in the first sentence of subdivision (b); and added subdivision (d).

73. **"Newly constructed," "new construction;" exclusion.** [Repealed by Stats. 1985, Ch. 878, in effect January 1, 1991.]

73. **"Newly constructed," "new construction;" exclusion.** [Repealed by Stats. 1991, Ch. 28, in effect January 1, 1995.]

73. **"Newly constructed," "new construction;" exclusion.** (a) Pursuant to the authority granted to the Legislature pursuant to paragraph (1) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, the term "newly constructed," as used in subdivision (a) of

Section 2 of Article XIII A of the California Constitution, does not include the construction or addition of any active solar energy system, as defined in subdivision (b).

(b) (1) ''Active solar energy system'' means a system that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.

(2) ''Active solar energy system'' does not include solar swimming pool heaters or hot tub heaters.

(3) Active solar energy systems may be used for any of the following:

(A) Domestic, recreational, therapeutic, or service water heating.

(B) Space conditioning.

(C) Production of electricity.

(D) Process heat.

(E) Solar mechanical energy.

(c) (1) (A) The Legislature finds and declares that the definition of spare parts in this paragraph is declarative of the intent of the Legislature, in prior statutory enactments of this section that excluded active solar energy systems from the term ''newly constructed,'' as used in the California Constitution, thereby creating a tax appraisal exclusion.

(B) An active solar energy system that uses solar energy in the production of electricity includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, the use of solar energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices such as solar cells or other collectors. However, an active solar energy system used in the production of electricity includes only equipment used up to, but not including, the stage of the transmission or use of the electricity. For the purpose of this paragraph, the term ''parts'' includes spare parts that are owned by the owner of, or the maintenance contractor for, an active solar energy system that uses solar energy in the production of electricity and which spare parts were specifically purchased, designed, or fabricated by or for that owner or maintenance contractor for installation in an active solar energy system that uses solar energy in the production of electricity, thereby including those parts in the tax appraisal exclusion created by this section.

(2) An active solar energy system that uses solar energy in the production of electricity also includes pipes and ducts that are used exclusively to carry energy derived from solar energy. Pipes and ducts that are used to carry both energy derived from solar energy and from energy derived from other sources are active solar energy system property only to the extent of 75 percent of their full cash value.

(3) An active solar energy system that uses solar energy in the production of electricity does not include auxiliary equipment, such as furnaces and hot water heaters, that use a source of power other than solar energy to provide usable energy. An active solar energy system that uses solar energy in the

production of electricity does include equipment, such as ducts and hot water tanks, that is utilized by both auxiliary equipment and solar energy equipment, that is, dual use equipment. That equipment is active solar energy system property only to the extent of 75 percent of its full cash value.

(d) This section shall apply to property tax lien dates for the 1999–2000 to 2004–05 fiscal years, inclusive. For purposes of supplemental assessment, this section shall apply only to qualifying construction or additions completed on or after January 1, 1999.

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends that date.

History.—Added by Stats. 1998, Ch. 855 (AB 1755), in effect January 1, 1999.

Note.—Section 3 of Stats. 1998, Ch. 855 (AB 1755) provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the duties imposed on a local agency or school district by this act were expressly included in a ballot measure approved by the voters in a statewide election, within the meaning of Section 17556 of the Government Code.

73.5. **Water Conservation Equipment.** [Repealed by Stats. 1993, Ch. 1058, in effect October 11, 1993.]

74. **Fire Sprinkler Systems, Extinguishing Systems, Etc.** (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the Constitution, ''newly constructed'' does not include the construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement that is constructed or installed on or after November 7, 1984.

(b) Notwithstanding any other provision of this chapter or Chapter 3.5 (commencing with Section 75), neither ''newly constructed'' nor ''new construction'' includes the construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement that is constructed or installed on or after November 7, 1984.

(c) For purposes of this section:

(1) ''Fire sprinkler system'' means any system intended to discharge water for the purpose of suppressing or extinguishing a fire, and includes a fire sprinkler system that derives its water from the domestic water supply of the building or structure of which it is a part.

(2) ''Other fire extinguishing system'' means any system intended to suppress or to extinguish a fire other than by discharging water upon the fire. An ''other fire extinguishing system'' includes, but is not limited to, a component or application that, solely or primarily for the purposes of fire suppression or extinguishment, is made part of the heating, ventilating, or air-conditioning system of a building or structure, a wet chemical system, or a dry chemical system.

(3) ''Fire detection system'' means any system or appliance intended to detect combustion, or the products thereof, and to activate an alarm or signal, whether audio, visual, or otherwise, including all equipment used to transmit fire alarm activations and related signals to a remote location. A fire detection system includes any system that serves additional functions, but this section shall only apply with respect to that portion of a system that is for fire detection purposes. No portion of a fire detection system as described in this paragraph shall be deemed to be personal property, or shall be deemed to be excluded from that fire detection system, by reason of being owned or controlled by a person other than the owner of property upon which the fire detection system was constructed or installed.

(4) ''Fire-related egress improvement'' means any improvement intended to do either of the following:

(A) Provide any new, or improve any existing, means of egress for individuals from a structure, or any portion thereof, in which a fire is in progress, as to which there is an imminent threat that a fire may soon be in progress, or as to which individuals therein might be subjected to health hazards or the risk of physical injury due to a fire elsewhere.

(B) With respect to individuals who for any reason cannot evacuate a structure in which a fire is in progress, provide a means of safeguarding, or increasing the safety of, those individuals until the time that the rescue of those individuals can be effected.

(5) ''Existing building'' means any building or structure already erected at the time that a fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement is constructed or installed in that building or structure.

(d) Any system or improvement referred to in this section shall be deemed to have been constructed or installed on or after November 7, 1984, if the actual construction or installation thereof is completed on or after November 7, 1984, regardless of when the actual construction or installation thereof was commenced or any building permit pertaining thereto was issued.

(e) This section applies only to fire sprinkler systems, other fire extinguishing systems, fire detection systems, and fire-related egress improvements, as defined in this section, that are constructed or installed in an existing building.

History.—Added by Stats. 1985, Ch. 427, effective July 30, 1985. Stats. 1999, Ch. 200 (AB 1694), in effect July 28, 1999, substituted "otherwise," for "other." after "visual, or" in the first sentence and added the balance of the sentence after "otherwise" therein, and added the third sentence in paragraph (3) of subdivision (c); substituted "applies" for "shall apply" after "This section" in the first sentence of subdivision (e); and substituted "that" for "which" throughout text.

Note.—Section 2 of Stats. 1985, Ch. 427, provided that the section shall be applicable to the 1985–86 fiscal year and fiscal years thereafter. No escape assessments shall be levied and no refunds shall be made for any fiscal year prior to the 1985–86 fiscal year for any increases or decreases in value made for the 1985–86 fiscal year or fiscal years thereafter as the result of the enactment of the section.

Note.—Section 2 of Stats. 1999, Ch. 200 (AB 1694) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

74.3. **Disabled person accessibility exclusion.** (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, ''newly constructed'' does not include the construction, installation, or modification of any portion or structural component of an existing single- or multiple-family dwelling that is eligible for the homeowner's exemption as described in Section 218, if the construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely and permanently disabled person who is a permanent resident of the dwelling.

(b) For purposes of this section, ''a severely and permanently disabled person'' is any person who has a physical disability or impairment, whether from birth or by reason of accident or disease, that results in a functional limitation as to employment or substantially limits one or more major life activities of that person, and that has been diagnosed as permanently affecting the person's ability to function, including, but not limited to, any disability or impairment that affects sight, speech, hearing, or the use of any limbs.

(c) For purposes of this section, ''accessible'' means that combination of elements with regard to any dwelling that provides for access to, circulation throughout, and the full use of, the dwelling and any fixture, facility, or item therein. The construction of an entirely new addition, such as a bedroom or bath, that duplicates existing facilities in the dwelling that are not otherwise

available to the disabled resident solely because of his or her disability, shall be deemed to make the dwelling more accessible within the meaning and for the purposes of this section.

(d) The exclusion provided by this section shall apply only to those improvements or features that specially adapt a dwelling accessibility by a severely and permanently disabled person. The value of any improvement, addition, or modification excluded pursuant to this section shall not include any other functional improvement, addition, or modification to the property unless it is merely incidental to the qualified improvements or features.

(e) The exclusion provided by this section shall not apply to the construction of an entirely new dwelling.

(f) The construction, installation, or modification, with regard to an existing building, for purposes of making the structure more accessible to a disabled person, shall be eligible for exclusion pursuant to this section only if the disabled person, or his or her spouse or legal guardian, submits to the assessor both of the following:

(1) A statement signed by a licensed physician or surgeon, of appropriate specialty which certifies that the person is severely and permanently disabled as defined in subdivision (b), and identifies specific disability-related requirements necessitating accessibility improvements or features.

(2) A statement that identifies the construction, installation, or modification that was in fact necessary to make the structure more accessible to the disabled person.

(g) The assessor may charge a fee to the disabled person or his or her spouse or legal guardian sufficient to reimburse the assessor for the costs of processing and administering the statement required by subdivision (f).

(h) This section shall apply to construction, installations, or modifications completed on or after June 6, 1990.

History.—Added by Stats. 1990, Ch. 1494, in effect September 30, 1990. Stats. 1993, Ch. 48, in effect January 1, 1994, added the second sentence to subdivision (c). Stats. 1994, Ch. 146, in effect January 1,1995, substituted "that" for "which" throughout subdivisions (a), (b), and (c); substituted "activities" for "activity" after "life" in subdivision (b); and added subdivision letter designation (h) to create a new subdivision using the former second sentence of subdivision (g).

74.5. **Seismic rehabilitation improvements.** [Repealed by Stats. 1991, Ch. 8, in effect December 13, 1990, operative January 1, 1991.]

74.5. **Seismic retrofitting improvements.** (a) For purposes of paragraph (4) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, "newly constructed" and "new construction" does not include seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies, to an existing building or structure.

(b) For purposes of this section:

(1) "Seismic retrofitting improvements" means retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects,

and building cladding that pose serious danger. ''Seismic retrofitting improvements'' also means either structural strengthening or providing the means necessary to resist seismic force levels that would otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. ''Seismic retrofitting improvements'' does not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure. ''Seismic retrofitting'' includes, but is not limited to, those items referenced in Appendix Chapters 5 and 6 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(2) ''Improvements utilizing earthquake hazard mitigation technologies'' means improvements to existing buildings identified by a local government as being hazardous to life in the event of an earthquake. These improvements shall involve strategies for earthquake protection of structures. These improvements shall use technologies such as those referenced in Part 2 (commencing with Section 101) of Title 24 of the California Building Code and similar seismic provisions in the Uniform Building Code.

(c) The property owner, primary contractor, civil or structural engineer, or architect shall certify to the building department those portions of the project that are seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. Upon completion of the project, the building department shall report the value of those portions of the project that are seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies to the county assessor.

(d) In order to receive the exclusion, the property owner shall notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project.

(e) The exclusion from ''newly constructed'' and ''new construction'' under this section is not applicable to seismic safety reconstruction and improvements that qualify for the exclusion provided in subdivision (d) of Section 70.

(f) This section shall only apply to projects completed on or after January 1, 1991.

History.—Added by Stats. 1991, Ch. 8, in effect December 13, 1990, operative January 1, 1991. Stats. 1999, Ch. 504 (AB 1291), in effect January 1, 2000, substituted "does" for "shall" before "not include alternations" in the third sentence and added the fourth sentence of paragraph (1) of subdivision (b); deleted ", and completed on or before July 1, 2000" after "January 1, 1991" in the first sentence of subdivision (f); deleted former subdivision (g) which provided that it was the intent of the Legislature in establishing the repeal date of this section in subdivision (h) to encourage the timely improvements of seismically unsafe structures and to not extend the provisions beyond July 1, 2000; and deleted former subdivision (h) which provided that the section would be repealed on July 1, 2000. Stats. 2001, Ch. 330 (AB 184), in effect September 25, 2001, substituted "resist" for "reduce" after "necessary to" in the second sentence of paragraph (1),

deleted ", that utilize earthquake hazard mitigation technologies approved by the State Architect pursuant to Section 16102 of the Health and Safety Code" after "an earthquake" in the first sentence and added the second and third sentences to paragraph (2) of subdivision (b); added "or structural" after "civil" in the first sentence of subdivision (c); and substituted "not later than six months after the completion of the project" for "on or before the following April 15" after "assessor" in the third sentence of subdivision (d).

Note.—Section 3 of Stats. 1999, Ch. 504 (AB 1291) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Section 4 thereof provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made for purposes of this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to Section 1 of this act.

Note.—Section 3 of Stats. 2001, Ch. 330 (AB 184) provided that notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Sec. 4 therein provided that this act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

74.6. **Disabled person accessibility exclusion.** (a) For purposes of paragraph (5) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, ''newly constructed'' and ''new construction'' does not include the construction, installation, removal, or modification of any portion or structural component of an existing building or structure to the extent that it is done for the purpose of making the building or structure more accessible to, or more usable by, a disabled person.

(b) For the purposes of this section, ''disabled person'' means a person who suffers from a physical impairment that substantially limits one or more of that person's major life activities.

(c) The exclusion provided for in subdivision (a) shall apply to all buildings or structures except for those buildings or structures that qualify for the exclusion provided for in subdivision (a) of Section 74.3.

(d) The exclusion provided for in this section does not apply to the construction of an entirely new building or structure, or to the construction of an entirely new addition to an existing building or structure.

(e) For purposes of the exclusion provided for in subdivision (a), the property owner, primary contractor, civil engineer, or architect, shall submit to the assessor a statement that shall identify those specific portions of the project that constitute construction, installation, removal, or modification improvements to the building or structure to make the building or structure more accessible to, or usable by, a disabled person.

(f) For the purposes of the exclusion provided for in subdivision (a), the construction, improvement, modification, or alteration of an existing building or structure may include, but is not limited to, access ramps, widening of doorways and hallways, barrier removal, access modifications to restroom facilities, elevators, and any other accessibility modification of a building or structure that would cause it to meet or exceed the accessibility standards of the 1990 Americans with Disabilities Act (Public Law 101-336) and the most recent edition to the California Building Standards Code that is in effect on the date of the application for a building permit.

(g) In order to receive the exclusion provided for in this section, the property owner shall notify the assessor prior to, or within 30 days of, completion of any project covered by this section that he or she intends to claim the exclusion for making improvements of the type specified in subdivision (a). The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project.

(h) This section applies to any construction, installation, removal, or modification completed on or after June 7, 1994.

History.—Added by Stats. 1993, Ch. 1148, in effect January 1, 1994, approved by the voters on June 7, 1994.

74.7. **Environmentally contaminated property exclusion.** (a) For purposes of subparagraph (B) of paragraph (1) of subdivision (i) of Section 2 of Article XIII A of the California Constitution, "new construction" does not include the repair or replacement of a substantially damaged or destroyed structure on qualified contaminated real property where the remediation of the environmental problems required the destruction of, or resulted in substantial damage to, a structure located on that property. The repaired or replacement structure shall be similar in size, utility, and function to the original structure.

(b) For purposes of this section:

(1) "Substantially damaged or destroyed" means the structure sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the damage.

(2) "Similar in function" means the replacement structure is subject to similar governmental restrictions, including, but not limited to, zoning.

(3) "Similar in size and utility" means the size and utility of the structure are interrelated and associated with its value. A structure is similar in size and utility only to the extent that the replacement structure is, or is intended to be, used in the same manner as the substantially damaged or destroyed structure, and its full cash value does not exceed 120 percent of the full cash value of the replaced structure if that structure was not contaminated. For purposes of this paragraph:

(A) A replacement structure or any portion thereof used or intended to be used for a purpose substantially different than the use made of the replaced structure, shall, to the extent of the dissimilar use, be considered not similar in utility.

(B) A replacement structure or portion thereof that satisfies the use requirement but has a full cash value that exceeds 120 percent of the full cash value of the structure if that property were not contaminated, will be considered, to the extent of the excess, not similar in utility and size.

(4) To the extent that replacement property, or any portion thereof, is not similar in function, size, and utility, the property, or portion thereof, shall have a new base year value determined pursuant to Section 110.1.

(c) Only the owner or owners of the property substantially damaged or destroyed in the process of remediation of the contamination, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall receive property tax relief under this section.

(d) In order to receive the exclusion provided for in this section, the property owner shall notify the assessor in writing that he or she intends to claim the exclusion prior to, or within 30 days of, completion of any project covered by this section. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the property. A claimant shall not be eligible for the exclusion provided by this section unless the claimant provides to the assessor the following information:

(1) Proof that the claimant did not participate in, or acquiesce to, any act or omission that rendered the real property uninhabitable or unusable, as applicable, or is related to any individual or entity that committed that act or omission.

(2) Proof that the qualified contaminated property has been designated as a toxic or environmental hazard or as an environmental cleanup site by an agency of the State of California or the federal government.

(3) The address and, if known, the assessor's parcel number of the qualified contaminated property.

(4) The date of the claimant's purchase and the date of completion of new construction.

(e) This section applies to new construction completed on or after January 1, 1995.

History.—Added by Stats. 2003, Ch. 471 (SB 1062), in effect January 1, 2004.

Chapter 3.5. Change in Ownership and New Construction After the Lien Date *

Article 1. Definitions and General Provisions. §§ 75–75.9.
2. Assessments on the Supplemental Roll. §§ 75.10–75.16.
2.5. Application of Inflation Rate. § 75.18.
3. Exemptions. §§ 75.20–75.23.
4. Notice of Assessment. §§ 75.30–75.32.
5. Transmittal of Supplemental Assessments to the Auditor. §§ 75.40–75.43.
6. Collection of Supplemental Taxes and Payment of Refunds. §§ 75.50–75.55.
6.5. Reimbursement for County Costs. §§ 75.60–75.66.
7. Disposition of Revenues. §§ 75.70–70.71.
8. Effective Date. § 75.80.

Article 1. Definitions and General Provisions

§ 75. Legislative Intent.
§ 75.1. Application.
§ 75.2. "Current roll."
§ 75.3. "The roll being prepared."
§ 75.4. "Current tax rate."
§ 75.5. "Property."

* Chapter 3.5 was added by Stats. 1983, Ch. 498, in effect July 28, 1983.

Note.—Section 237 of Stats. 1983, Ch. 498, provided no payment by state to local agencies or school districts because of this act. Sec. 238 thereof provided the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

§ 75.6. "Fiscal year."
§ 75.7. "Supplemental roll."
§ 75.8. "New base year value."
§ 75.9. "Taxable value."

75. **Legislative intent.** It is the intent of the Legislature in enacting this chapter to fully implement Article XIII A of the California Constitution and to promote increased equity among taxpayers by enrolling and making adjustments of taxes resulting from changes in assessed value due to changes in ownership and completion of new construction at the time they occur. The Legislature finds and declares that under the law in effect prior to the enactment of this chapter, recognition of these increases is delayed from four to 16 months, which results in an unwarranted reduction of taxes for some taxpayers with a proportionate and inequitable shift of the tax burden to other taxpayers.

It is also the intent of the Legislature that the provisions of this chapter shall be limited to assessments on the supplemental roll which are authorized by the provisions of this chapter and none of its provisions shall be applied, construed, or used as a basis for interpreting legislative intent when determining the effect of any other provision of this division. The Legislature finds and declares that the supplemental assessment system created by this chapter involves practical tax administration considerations which require unique solutions. Except as expressly provided in Article 2.5 (commencing with Section 75.18), these solutions are not appropriate to the general assessment of property under the provisions of Chapter 3 (commencing with Section 401) of Part 2 and the adoption of the supplemental roll assessment system is not intended to affect the valuation or assessment provisions applicable to the regular assessment roll.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, substituted "making adjustments of taxes resulting from changes" for "taxing increases" after "and" in the first sentence. Stats. 1984, Ch. 946, in effect September 10, 1984, substituted "16" for "sixteen" after "to" in the second sentence, first paragraph and added the second paragraph thereto.

Note.—Section 30 of Stats. 1984, Ch. 946, provided notwithstanding Section 2229, R. & T.C., the requirements of that section do not apply to the exemption of property for purposes of ad valorem property taxation provided by Section 217.1 of the Revenue and Taxation Code, as amended by this act. No appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act. Section 31 thereof provided no appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code because Chapter 1102 of the Statutes of 1983 provided that 5 percent of the revenues collected from taxes on the supplemental roll, as well as ten million dollars ($10,000,000) appropriated to the Supplemental Roll Administrative Cost Fund, be used to reimburse counties for any increased costs resulting from the enactment of Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code. Section 32 thereof provided the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

75.1. **Application.** Except where the context or the specific provisions of this chapter otherwise require, all of the following apply:

(a) The definitions in this article govern the construction of this chapter.

(b) The other provisions of this division apply to assessments made pursuant to this chapter.

(c) The taxes due pursuant to this chapter are in addition to any other taxes due under this division.

75.2. **"Current roll."** "Current roll" means the roll for the fiscal year during which the change in ownership occurs or the new construction is completed.

75.3. **"The roll being prepared."** "The roll being prepared" means the roll for the fiscal year following the fiscal year in which the change in ownership occurs or the new construction is completed.

75.4. **"Current tax rate."** "Current tax rate" means the tax rate applicable to the current roll, including any rate in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, added ", including . . . Constitution" after "current roll".

75.5. **"Property."** "Property" means and includes manufactured homes subject to taxation under Part 13 (commencing with Section 5800) and real property, other than the following:

(a) Fixtures that are normally valued as a separate appraisal unit from a structure.

(b) Newly created taxable possessory interests, established by month-to-month agreements in publicly owned real property, having a full cash value of fifty thousand dollars ($50,000) or less.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, substituted ", other than fixtures," for "other than trade fixtures" after "property", and added "and mobilehomes . . . Section 5800)" after "structure". Stats. 1984, Ch. 946, in effect September 10, 1984, deleted "; other than fixtures, which are normally valued as a separate appraisal unit from a structure and" after "property". Stats. 1987, Ch. 261, effective July 27, 1987, operative August 1, 1987, added ", other than fixtures which are normally valued as a separate appraisal unit from a structure," after "real property". Stats. 1994, Ch. 1222, in effect January 1, 1995, substituted "manufactured homes" for "mobilehomes" after "structure, and". Stats. 2000, Ch. 406 (AB 1966), in effect September 12, 2000, added "manufactured homes subject to taxation under Part 13 (commencing with Section 5800) and" after "includes", and added "the following:" after "other than" in the first paragraph; created new subdivision (a) with the balance of the former first sentence commencing with "Fixtures", substituted "that" for "which" after "Fixtures", and deleted ", and manufactured homes subject to taxation under Part 13 (commencing with Section 5800)" after "structure" therein; and added subdivision (b).

Note.—See note following Section 75.

Construction.—This section, which prior to September 10, 1984, provided that for the purposes of supplemental assessment real property did not include fixtures, did not amount to an unauthorized exemption in violation of Article XIII, Section 1 of the Constitution. *Shafer* v. *State Board of Equalization,* 174 Cal.App.3d 423.

75.6. **"Fiscal year."** "Fiscal year" means a fiscal year beginning July 1 and ending June 30.

75.7. **"Supplemental roll."** "Supplemental roll" means the roll prepared or amended in accordance with the provisions of this chapter and containing properties which have changed ownership or had new construction completed.

75.8. **"New base year value."** "New base year value" means the full cash value of property on the date it changes ownership or of new construction on the date it is completed.

75.9. **"Taxable value."** "Taxable value" means the base year full value adjusted for any given lien date as required by law or the full cash value for the same date, whichever is less. In the case of real property which, prior to the date of the change in ownership or completion of new construction, was assessed by the board pursuant to Section 19 of Article XIII of the California Constitution, "taxable value" means that portion of the state-assessed value determined by the board to be properly allocable to the property which is subject to the supplemental assessment.

History.—Added by Stats. 1983, Ch. 1102, in effect September 27, 1983. Stats. 1987, Ch. 498, in effect January 1, 1988, deleted "and includes" after "means" in the first sentence, and added the second sentence.

Article 2. Assessments on the Supplemental Roll

§ 75.10. New base year value.
§ 75.11. Supplemental assessments.
§ 75.12. New construction; notice to assessor.
§ 75.13. Supplemental assessment not an escape assessment.
§ 75.14. Supplemental assessment; limitation.
§ 75.15. Taxable fixtures.
§ 75.16. Computing the value of fixtures. [Repealed.]

75.10. **New base year value.** (a) Commencing with the 1983–84 assessment year and each assessment year thereafter, whenever a change in ownership occurs or new construction resulting from actual physical new construction on the site is completed, the assessor shall appraise the property changing ownership or the new construction at its full cash value (except as provided in Section 68 and subdivision (b) of this section) on the date the change in ownership occurs or the new construction is completed. The value so determined shall be the new base year value of the property or the new construction.

(b) For purposes of this chapter, ''actual physical new construction'' includes the removal of a structure from land. The new base year value of the remaining property (after the removal of the structure) shall be determined in the same manner as provided in subdivision (b) of Section 51.

(c) For purposes of this section, ''actual physical new construction'' includes the discovery of previously unknown reserves of oil or gas.

History.—Stats. 1984, Ch. 946, in effect September 10, 1984, added "(a)" before "commencing", and added "resulting from actual physical new construction on the site" after construction in the first sentence thereof, and added subdivision (b). Stats. 1985, Ch. 441, effective July 31, 1985, added "(except as provided in Section 68 and subdivision (b) of this section)" after "value" in the first sentence of subdivision (a), added subdivision (b), and relettered former subdivision (b) as (c). Stats. 1997, Ch. 940 (SB 542), in effect January 1, 1998, substituted "subdivision (b)" for "subdivision (c)" after "provided in" in the second sentence of subdivision (b).

Note.—See note following Section 75.

Construction.—The supplemental assessment provisions of this section do no more than affect the time at which existing real property taxes are calculated and imposed, implementing Article XIII A of the Constitution, and neither impose new ad valorem taxes in violation of Article XIII A, Sections 3 or 4, nor tax property which has not been taxed in the past. *Shafer* v. *State Board of Equalization,* 174 Cal.App.3d 423.

75.11. **Supplemental assessments.** (a) If the change in ownership occurs or the new construction is completed on or after January 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. In the case of a change in ownership of the full interest in the real property, the second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared. If the change in ownership is of only a partial interest in the real property, the second supplemental assessment shall be the difference between the sum of the new base year value of the portion transferred plus the taxable value on the roll being prepared of the remainder of the property and the taxable value on the roll being prepared of the whole property. For new construction, the second supplemental assessment shall be the value change due to the new construction.

(b) If the change in ownership occurs or the new construction is completed on or after June 1 but before the succeeding January 1, then the supplemental assessment placed on the supplemental roll shall be the difference between the new base year value and the taxable value on the current roll.

(c) If there are multiple changes in ownership or multiple completions of new construction, or both, with respect to the same real property during the same assessment year, then there shall be a net supplemental assessment placed on the supplemental roll, in addition to the assessment pursuant to subdivision (a) or (b). The net supplemental assessment shall be the most recent new base year value less the sum of (1) the previous entry or entries placed on the supplemental roll computed pursuant to subdivision (a) or (b), and (2) the corresponding taxable value on the current roll or the taxable value to be entered on the roll being prepared, or both, depending on the date or dates the change of ownership occurs or new construction is completed as specified in subdivisions (a) and (b).

(d) No supplemental assessment authorized by this section shall be valid, or have any force or effect, unless it is placed on the supplemental roll on or before the applicable date specified in paragraph (1), (2), or (3), as follows:

(1) The fourth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred.

(2) The eighth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occured, if the penalty provided for in Section 504 is added to the assessment.

(3) The eighth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred, if the change in ownership was unrecorded and a change in ownership statement required by Section 480 or preliminary change in ownership report, as required by Section 480.3, was not timely filed.

(4) Notwithstanding paragraphs (1), (2), and (3), there shall be no limitations period on making a supplemental assessment, if the penalty provided for in Section 503 is added to the assessment.

For the purposes of this subdivision, ‘‘assessment year’’ means the period beginning annually as of 12:01 a.m. on the first day of January and ending immediately prior to the succeeding first day of January.

(e) If, before the expiration of the applicable period specified in subdivision (d) for making a supplemental assessment, the taxpayer and the assessor agree in writing to extend the period for making a supplemental assessment, correction, or claim for refund, a supplemental assessment may be made at any time prior to the expiration of that extended period. The extended period may be further extended by successive written agreements entered into prior to the expiration of the most recent extension.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, substituted “May 31” for “June 30” after “before” in the first sentence of subdivision (a), and substituted “June 1” for “July 1” after “or after” in subdivision (b). Stats. 1984, Ch. 946, in effect September 10, 1984, added “In the case of . . . property”, before “the second” in the third sentence of subdivision (a), and added the fourth and fifth sentences. Stats. 1992, Ch. 663, in effect September 14, 1992, added subdivisions (d) and (e). Stats. 1993, Ch. 589, in effect January 1, 1994, substituted “changes” for “change” after “multiple”, substituted “or multiple . . . respect to” for “occurrences of, or new construction completions to,” after “ownership”, and deleted “or both” after “real property” in the first sentence of subdivision (c). Stats. 1994, Ch. 544, in

effect January 1, 1995, substituted "(1) or (2)" for "(1), (2), or (3)" after "paragraph" in subdivision (d); substituted "either a . . . was completed" for "the event giving rise to the supplemental assessment occurred" after "in which" in paragraphs (1) and (2) of subdivision (d), and deleted former paragraph (3) of subdivision (d) which provided "(3) The eighth July 1 following the July 1 of the assessment year in which the event giving rise to the supplemental assessment occurred, if the change of ownership or change in control was unrecorded and a change in ownership statement required by Section 480, 480.1, or 480.2 was not filed."; and added second sentence to second paragraph of subdivision (d), "No limitations period . . . been completed." after "first day of March." Stats. 1995, Ch. 499, in effect January 1, 1996, operative January 1, 1997, substituted "January" for "March" throughout text; added "a preliminary . . . 480.3," after "or 480.2" in paragraph (1) of subdivision (d), and added "a preliminary . . . 480.3," after "or 480.2" in paragraph (2) of subdivision (d). Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, substituted "(1), (2), or (3)," for "(1) or (2)," after "paragraph" in the first sentence of the first paragraph of subdivision (d), added paragraphs (3) and (4) therein, and deleted the former second sentence of the second paragraph which provided, "No limitations period specified in paragraph (1) or (2) shall commence unless the filing or transmittal specified in the relevant paragraph has been completed." Stats. 2001, Ch. 407 (SB 1181), in effect January 1, 2002, substituted "the event giving rise to the supplemental assessment occurred" for "either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in ownership report was filed pursuant to Section 480.3, or the new construction was completed" after "in which" in the first sentence of paragraph (1), substituted "eighth" for "sixth" after "The", and substituted "the event giving rise to the supplemental assessment occurred" for "either a statement reporting the change in ownership was filed pursuant to Section 480, 480.1, or 480.2, a preliminary change in ownership report was filed pursuant to Section 480.3, or the new construction was completed" after "in which" in the first sentence of paragraph (2) of subdivision (d). Stats. 2003, Ch. 471 (SB 1062), in effect January 1, 2004, deleted "or change in control" after "change in ownership" in the first sentence of subparagraph (3) and substituted "limitation" for "limitations" after "shall be no" in the first sentence of subparagraph (4) of subdivision (d).

Note.—Section 3 of Stats. 1992, Ch. 663 stated that it is the intent of the Legislature that the amendments made to this section shall not be construed to alter in any way the application of the limitations period for escape assessments, established in Section 532 of the Revenue and Taxation Code, and interpreted in the case of *Blackwell Homes* v. *County of Santa Clara,* 226 Cal.App.3d 1009.

Note.—Section 21 of Stats. 1995, Ch. 499, provides that the change in the property tax lien date made by that act shall apply with respect to the January 1, 1997, lien date and each lien date thereafter.

Note.—See note following Section 75.

Note.—Section 12 of Stats. 2001, Ch. 407 (SB 1181) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Construction.—The supplemental assessment provisions of this section do no more than affect the time at which existing real property taxes are calculated and imposed, implementing Article XIII A of the Constitution, and neither impose new ad valorem taxes in violation of Article XIII A, Sections 3 or 4, nor tax property which has not been taxed in the past. *Shafer* v. *State Board of Equalization*, 174 Cal.App.3d 423. Unless a county places supplemental assessments on the supplemental roll within the time limitations of subdivision (d) of this section, the county is forever barred from seeking those supplemental assessments. *Montgomery Ward & Co., Inc.* v. *Santa Clara County,* 47 Cal.App.4th 1122.

75.12. **New construction; notice to assessor.** (a) For the purposes of this chapter, new construction shall be deemed completed on the earliest of the following dates:

(1) The date upon which the new construction is available for use by the owner, unless the owner does not intend to occupy or use the property. The owner shall notify the assessor prior to, or within 30 days of, the date of commencement of construction that he or she does not intend to occupy or use the property. If the owner does not notify the assessor as provided in this subdivision, the date shall be conclusively presumed to be the date of completion.

(2) If the owner does not intend to occupy or use the property, the date the property is occupied or used with the owner's consent.

(3) If the property cannot be functionally used or occupied on the date it is available for use considering the type of property and any special facts and circumstances affecting use or occupancy, the date the property can be functionally used or occupied.

(b) For the purposes of this section:

(1) ''Occupy or use'' means the occupancy or use by the owner, including the rental or lease of the property, except as provided in paragraph (2).

(2) Property shall not be considered occupied or used by the owner or with the owner's consent if the occupancy or use is incidental to an offer for a change of ownership, including, but not limited to, use of the property as a model home.

(c) The board, after consultation with the California Assessors Association, shall adopt rules and regulations defining the date of completion of new construction in accordance with this section. The rules and regulations shall not define the date of completion in a manner that the date of completion of all new construction is postponed until the following lien date.

(d) Nothing in this section shall preclude the reassessment of that property on the assessment roll for January 1 following the date of completion.

(e) The owner of any property who notifies the assessor pursuant to subdivision (a) that he or she does not intend to occupy or use the property shall notify the assessor within 45 days of the earliest date that any of the following occur:

(1) The property changes ownership pursuant to an unrecorded contract of sale.

(2) The property is leased or rented.

(3) The property is occupied or used by the owner for any purpose other than provided in subdivision (b).

(4) The property is occupied or used with the owner's consent for any purpose other than provided in subdivision (b).

(f) The failure to provide the assessor the notice required by subdivision (e), whether requested or not, shall result in a penalty in the amount specified in Section 482.

History.—Repealed and added by Stats. 1984, Ch. 946, in effect September 10, 1984. Stats. 1985, Ch. 542, effective September 9, 1985, deleted the former second paragraph of subdivision (c), which provided that rules and regulations adopted pursuant to the section would not be subject to review and approval of the Office of Administration Law. Stats. 1995, Ch. 449, in effect January 1, 1996, operative January 1, 1997, deleted "such" after "completion in" in subdivision (c), substituted "that" for "any such" after "reassessment of", and substituted "January" for "March" after "roll for" in subdivision (d).

Note.—See note following Section 75.

Construction.—The provisions of this section do not violate Article XIII A, Section 1 of the Constitution, since the Legislature may distinguish or defer assessment in favor of a particular class to promote a legitimate state interest. Neither do they violate the equal protection clauses of the federal and state Constitutions, since the Legislature has broad power in making classifications and drawing lines to implement a reasonable system of taxation *Shafer* v. *State Board of Equalization.* 174 Cal.App.3d 423.

75.13. **Supplemental assessment not an escape assessment.** Any supplemental assessment shall not be deemed to be an escaped assessment subject to Section 4837.5.

History.—Stats. 1983, Ch. 1224, in effect January 1, 1984, substituted "4837.5" for "532.5" after "Section". Stats. 1984, Ch. 946, in effect September 10, 1984, deleted "made within one year of the date of the change in ownership or the completion of new construction" after the first "assessment".

Note.—See note following Section 75.

75.14. **Supplemental assessment; limitation.** A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment limitations of Article XIII A of the California Constitution. All property subject to the assessment limitations of Article XIII A of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

History.—Added by Stats. 1983, Ch. 1102, in effect September 27, 1983.

75.15. **Taxable fixtures.** (a) For fixtures, other than fixtures that are included in a change in ownership or that are included in a structure and are assessed at the completion of the new construction of a structure pursuant to Section 75.12, taxpayers shall report to the assessor once each year at the time the annual property statement is due, on the fixtures added to real property and fixtures removed from real property, the dates of those additions and removals, and the cost of each in the applicable period as follows:

(1) In 1997, the prior 10-month period from March 1 to January 1.

(2) In 1998 and each year thereafter, the prior 12-month period from January 1 to January 1.

This reporting requirement shall not apply to fixtures added or removed on or after the first day of the month following the effective date of the act adding this sentence to this subdivision. One supplemental tax bill shall be prepared for those fixtures based on the cost of the fixtures added and subtracted from real property, the date of each addition or subtraction, and the appropriate tax rate computed pursuant to Section 75.41.

The taxes due from the resulting tax bill shall be collected in the same manner and at the same times as other supplemental tax bills mailed on the same date.

(b) For the purposes of the supplemental roll, taxpayers shall report pursuant to this section only those fixtures which are taxable on the supplemental roll.

(c) This section shall become operative on March 1, 1987.

History.—Added by Stats. 1984, Ch. 946, in effect September 10, 1984, operative March 1, 1987, Stats. 1985, Ch. 186, effective January 1, 1986, substituted "cost" for "values" in the first sentence after "the" and after "on the" in the second sentence of subdivision (a). Stats. 1987, Ch. 261, in effect July 27, 1987, operative August 1, 1987, deleted ", beginning in 1987," after "report" in the first sentence, and added the second sentence of the first paragraph of subdivision (a); and deleted ", and shall apply to supplemental taxes for the 1987–88 fiscal year and fiscal years thereafter". Stats. 1995, Ch. 499, in effect January 1, 1996, operative January 1, 1997, substituted "in" for "of" after "a change", substituted "that" for "which" after "or", added "applicable period as follows:" after "each in the", created new paragraph (1) in subdivision (a) with the balance of the former first sentence and added "in 1997, the" before "prior", substituted "10-month" for "12-month" and substituted "January" for "March" therein; added paragraph (2) to subdivision (a) and substituted "This" for "That" in the second paragraph of subdivision (a).

Construction.—Computer system weighing 16 tons, assembled into a particular configuration and, although involved, removable from the realty without damage to the system or realty was not a fixture by virtue of its weight where the system was deliberately constructed so as to make it mobile, thus negating the application of this section, *Allstate Insurance Co.* v. *Los Angeles County.* 161 Cal.App.3d 877.

Note.—Section is applicable to supplemental taxes for 1987–88 fiscal year and fiscal years thereafter. See also note following Section 75.

75.16. **Computing the value of fixtures.** [Repealed by Stats. 1987, Ch. 261, in effect July 27, 1987, operative August 1, 1987.]

Article 2.5. Application of Inflation Rate *

§ 75.18. Application of inflation rate.

75.18. **Application of inflation rate.** On and after July 1, 1997, if the actual date of the most recent change in ownership or completion of new construction entered on the supplemental roll occurs between January 1 and June 30, then the new base year value shall be adjusted on the January 1 following the change in ownership or completion of new construction by the inflation factor, which shall be determined as provided in subdivision (a) of Section 51.

History.—Stats. 1984, Ch. 1164, in effect January 1, 1985, substituted "determined as provided in subdivision (a) of Section 5" for "the percentage change in the cost of living, as defined in Section 2212, provided that any increases shall not exceed 2 percent of the new base year value" after "be". Stats. 1995, Ch. 499, in effect January 1, 1996, operative January 1, 1997, substituted "1997" for "1983" after "July 1" and substituted "January" for "March" twice.

Construction.—The provisions of this section do not constitute an ad valorem tax increase in violation of Article XIII A of the Constitution. *Shafer* v. *State Board of Equalization.* 174 Cal.App.3d 423.

Article 3. Exemptions

§ 75.20. Exemptions granted not affected.
§ 75.21. Applicable to supplemental assessments; claim; filing date.
§ 75.22. Determination of eligibility.
§ 75.23. Supplemental assessment; limitation. [Repealed.]

75.20. **Exemptions granted not affected.** A supplemental assessment pursuant to this chapter shall not affect an exemption which had been granted the property for either the current roll or the roll being prepared.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, substituted "which had been granted the property" for "for which the property or the assessee was otherwise eligible on the lien date" after "exemption".

75.21. **Applicable to supplemental assessments; claim; filing date.** (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), that the assessee is eligible for the exemption, and that, in those instances in which the provisions of this division require the filing of a claim for the exemption, the assessee makes a claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and, in those instances in which the provisions of this division require the filing of a claim for the exemption, the assessee makes a claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) In those instances in which the provisions of this division require the filing of a claim for the exemption, except as provided in subdivision (d), (e), or (f), any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file a claim or an amendment to a current claim, in that form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment, in order to receive a 100-percent exemption.

* Article 2.5 was added by Stats. 1983, Ch. 1102, in effect September 27, 1983.

(1) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption was available, but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each supplemental assessment, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eighty-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each supplemental assessment, if an appropriate application for exemption is thereafter filed.

(2) With respect to property as to which the welfare exemption or veterans' organization exemption was available, all provisions of Section 254.5, other than the specified dates for the filing of affidavits and other acts, are applicable to this section.

(3) With respect to property as to which the veterans', homeowners', or disabled veterans' exemption was available, but for which a timely application for exemption was not filed, that portion of tax attributable to 80 percent of the amount of exemption available shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(4) With respect to property as to which any other exemption was available, but for which a timely application for exemption was not filed, the following amounts shall be canceled or refunded:

(A) Ninety percent of any tax or penalty or interest thereon, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(B) Eighty-five percent of any tax or penalty or interest thereon, or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each supplemental assessment, if an appropriate application for exemption is thereafter filed.

Other provisions of this division pertaining to the late filing of claims for exemption do not apply to assessments made pursuant to this chapter.

(d) For purposes of this section, any claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption previously filed by the owner of a dwelling, granted and in effect, constitutes the claim or claims for that exemption required in this section. In the event that a claim for the homeowners' exemption, veterans' exemption, or disabled veterans' exemption is not in effect, a claim for any of those exemptions for a single

supplemental assessment for a change in ownership or new construction occurring on or after June 1, up to and including December 31, shall apply to that assessment; a claim for any of those exemptions for the two supplemental assessments for a change in ownership or new construction occurring on or after January 1, up to and including May 31, one for the current fiscal year and one for the following fiscal year, shall apply to those assessments. In either case, if granted, the claim shall remain in effect until title to the property changes, the owner does not occupy the home as his or her principal place of residence on the lien date, or the property is otherwise ineligible pursuant to Section 205, 205.5, or 218.

(e) Notwithstanding subdivision (c), an additional exemption claim may not be required to be filed until the next succeeding lien date in the case in which a supplemental assessment results from the completion of new construction on property that has previously been granted exemption on either the current roll or the roll being prepared.

(f) (1) Notwithstanding subdivision (c), an additional exemption claim is not required to be filed in the instance where a supplemental assessment results from a change in ownership of property where the purchaser of the property owns and uses or uses, as the case may be, other property that has been granted the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, or welfare exemption on either the current roll or the roll being prepared and the property purchased is put to the same use.

(2) In all other instances where a supplemental assessment results from a change in ownership of property, an application for exemption shall be filed pursuant to the provisions of subdivision (c).

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, added the subdivision letters; substituted "shall" for "may" after "Exemptions", substituted "assessment" for "assessments" after "supplemental", and added the balance of the first sentence after "assessment" in subdivision (a); added subdivision (b). Stats. 1985, Ch. 186, effective January 1, 1986, substituted "that" for "and" after "subdivision (b)", deleted "and makes a timely claim for" after "eligible for", and added "and that in those instances . . . the assessee makes a claim for the exemption" in subdivision (a); substituted "an exemption and in those . . . the addressee makes a" for "and makes a timely" after "is eligible for" in subdivision (b); substituted "in those instances . . . for exemption, any" for "any", added "or an amendment to a current claim" after "assessment shall file a claim" after "claim", and added ", in order to receive 100 percent exemption" after "assessment" in subdivision (c); added subsections (1), (2), and (3); and added the seventh paragraph. Stats. 1986, Ch. 608, effective January 1, 1987, substituted "75.52" for "72.52" after "Section" in the first sentence of subdivision (c)(1), and added "that portion of tax attributable to" before "80 percent", substituted "the amount of exemption available" for "any tax or penalty or interest thereon" after "80 percent of", and substituted "75.52" for"72.52" after "Section" in the first sentence of subdivision (c)(2). Stats. 1987, Ch. 498, in effect January 1, 1988, added "or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each supplemental assessment," after "thereon" in the first sentence of subdivision (c)(1), and deleted the former second sentence thereof, which provided that "Notwithstanding the above provision, any tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount shall be canceled or refunded, provided that is imposed upon property entitled to relief under the above provision for which an appropriate claim for exemption has been filed.". Stats. 1988, Ch. 1271, in effect September 26, 1988, added "except as provided in subdivision (d)" after the first "exemption" in subdivision (c); added subdivision (d). Stats. 1993, Ch. 855, in effect January 1, 1994, substituted "that" for "such" after "claim, in" in subdivision (c); added "the following . . . refunded:" after "filed,", established subparagraph (A) and substituted "Ninety" for "90" after "(A)", and deleted "shall be canceled or refunded," after "assessment" in (A), in paragraph (1) of subdivision (c); added subparagraph (B) to paragraph (1) of subdivision (c); added paragraph (2) to subdivision (c); relettered former paragraph (2) of subdivision (c) as (3); and relettered former paragraph (3) of subdivision (c) as (4), added "the following . . . refunded:" after "filed", established subparagraph (A) and substituted "Ninety" for "90" after "(A)", and deleted "shall be canceled or refunded," after "thereon" in (A), in paragraph (4) of subdivision (c); and added subparagraph (B) to paragraph (4) of subdivision (c); and deleted the former first sentence of the second paragraph of paragraph (4) of subdivision (c) which provided that "Where a late application for exemption has not been filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, no exemption is available." Stats. 1994, Ch. 1222, in effect January 1, 1995, added "or (e)" after "(d)" and added "a" after "receive" in subdivision (c); added ", veterans' exemption . . . exemption" after "homeowners' exemption", substituted "that" for "the homeowners'" in the first sentence, added ", veterans'

exemption . . . exemption" after "exemption", substituted "any of those exemptions" for "the homeowners' exemption" after "claim for" twice in the second sentence, and added "205, 205.5, or" after "Section" in the third sentence of subdivision (d); and added subdivision (e). Stats. 1995, Ch. 499, in effect January 1, 1996, operative January 1, 1997, substituted "100-percent" for "100 percent" after "receive a" in subdivision (c); substituted "December 31" for "February 29" after "and including", and substituted "January" for "March" after "occurring on or after" in the second sentence of subdivision (d). Stats. 1998, Ch. 591 (SB 2237), in effect January 1, 1999, added "for the next succeeding lien date" after "claim for the exemption" in the first sentence of subdivision (a); added "the next succeeding lien date for" after "makes a claim for" in the first sentence of subdivision (b); deleted former subdivision (c) relating to filing late claims for exemption; and relettered former subdivision (d) as subdivision (c); and deleted former subdivision (e), which provided an exception to former subdivision (c). Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, deleted "for the next succeeding lien date" after "claim for the exemption" in the first sentence of subdivision (a); deleted "for the next succeeding lien date" after "makes a claim" in the first sentence of subdivision (b); added subdivision (c); relettered former subdivision (c) as (d); and added subdivisions (e) and (f). Stats. 2001, Ch. 159 (SB 662), in effect January 1, 2002, substituted "a claim for the" for "claims for" after "filing of" in the first sentences of subdivisions (a), (b), and (c); substituted "a claim" for "no claim" after "event that" and substituted "is not" for "is" before "in effect" in the second sentence of subdivision (d); substituted "an additional" for "no additional" after "(c)," and substituted "may not" for "shall" after "claim" in the first sentence of subdivision (e); and substituted "an additional" for "no additional" after "(c)," and substituted "may not" for "shall" after "claim" in the first sentence of paragraph (1) of subdivision (f). Stats. 2003, Ch. 316 (AB 1744), in effect January 1, 2004, substituted "is not" for "may not be" after "exemption claim", and deleted "until the next succeeding lien date" after "to be filed" in the first sentence of subdivision (f), and deleted the former second sentence thereof which provided that "If a timely application for exemption is not filed on the next succeeding lien date, then the provisions of paragraph (1) of subdivision (c) shall apply."

Note.—Section 6 of Stats. 1992, Ch. 20X, First Extraordinary Session, in effect September 28, 1992, provided that notwithstanding subdivision (c) of this Section, an application for the welfare exemption shall be deemed timely filed with the assessor of a county of the ninth class if both of the following conditions are met:

(a) The application is filed on or before the date on which the second installment of taxes on the applicant's supplemental tax bill becomes delinquent.

(b) The second installment of taxes on the applicant's supplemental tax bill becomes delinquent on August 31, 1992.

Sec. 7 thereof provided that the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances in the County of Contra Costa with respect to the administration of the property tax welfare exemption.

Reimbursement.—Section 2 of Stats. 1993, Ch. 855, in effect January 1, 1994, provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

75.22. **Determination of eligibility.** A property shall be eligible for exemption from the supplemental assessment if the person claiming the exemption meets the qualifications for the exemption established by this part no later than 90 days after the date of the change in ownership or the completion of new construction.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, substituted "A property shall be eligible" for "Eligibility" before "for", and substituted "if the person . . . . no later than" for "shall be determined within" before "90 days". Stats. 1984, Ch. 946, in effect September 10, 1984, substituted "after" for "of" after "days".

Note.—See note following Section 75.

75.23. **Supplemental assessment; limitation.** [Repealed by Stats. 1983, Ch. 1102, in effect September 27, 1983.]

Article 4. Notice of Assessment

§ 75.30. Notice to auditor. [Repealed.]
§ 75.31. Notice to assessee.
§ 75.32. Failure to receive notice.

75.30. **Notice to auditor.** [Repealed by Stats. 2003, Ch. 471 (SB 1062), in effect January 1, 2004.]

75.31. **Notice to assessee.** (a) Whenever the assessor has determined a new base year value as provided in Section 75.10, the assessor shall send a notice to the assessee showing the following:

(1) The new base year value of the property that has changed ownership, or the new base year value of the completed new construction that shall be added to the existing taxable value of the remainder of the property.

(2) The taxable value appearing on the current roll, and if the change in ownership or completion of new construction occurred between January 1 and May 31, the taxable value on the roll being prepared.

(3) The date of the change in ownership or completion of new construction.

(4) The amount of the supplemental assessments.

(5) The exempt amount, if any, on the current roll or the roll being prepared.

(6) The date the notice was mailed.

(7) A statement that the supplemental assessment was determined in accordance with Article XIII A of the California Constitution that generally requires reappraisal of property whenever a change in ownership occurs or property is newly constructed.

(8) Any other information which the board may prescribe.

(b) In addition to the information specified in subdivision (a), the notice shall inform the assessee of the procedure for filing a claim for exemption that is to be filed within 30 days of the date of the notice.

(c) (1) The notice shall advise the assessee of the right to an informal review and the right to appeal the supplemental assessment, and, unless subject to paragraph (2) or (3), that the appeal shall be filed within 60 days of the date of mailing printed on the notice or the postmark date therefor, whichever is later. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(2) For counties in which the board of supervisors has adopted the provisions of subdivision (c) of Section 1605, and the County of Los Angeles, the notice shall advise the assessee of the right to appeal the supplemental assessment, and that the appeal shall, except as provided in paragraph (3), be filed within 60 days of the date of mailing printed on the tax bill or the postmark date therefor, whichever is later. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(3) (A) If the taxpayer does not receive a notice in accordance with paragraph (1) at least 15 days prior to the deadline to file the application described in Section 1603, the affected party or his or her agent may file an application within 60 days of the date of mailing printed on the tax bill or the postmark thereof, whichever is later, along with an affidavit declaring under penalty of perjury that the notice was not timely received.

(B) Notwithstanding any other provision of this subdivision, an application for reduction in a supplemental assessment may be filed within 12 months following the month in which the assessee is notified of that assessment, if the affected party or his or her agent and the assessor stipulate that there is an error in assessment as the result of the exercise of the

assessor's judgment in determining the full cash value of the property and a written stipulation as to the full cash value and the assessed value is filed in accordance with Section 1607.

(d) The notice shall advise the assessee of both of the following:

(1) The requirements, procedures, and deadlines with respect to an application for the reduction of a base year value pursuant to Section 80, or the reduction of an assessment pursuant to Section 1603.

(2) The criteria under Section 51 for the determination of taxable value, and the requirement of Section 1602 that the custodial officer of the local roll make the roll, or a copy thereof, available for inspection by all interested parties during regular office hours.

(e) The notice shall advise the assessee that if the supplemental assessment is a negative amount the auditor shall make a refund of a portion of taxes paid on assessments made on the current roll, or the roll being prepared, or both.

(f) The notice shall be furnished by the assessor to the assessee by regular United States mail directed to the assessee at the assessee's latest address known to the assessor.

(g) The notice given by the assessor under this section shall be on a form approved by the State Board of Equalization.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, substituted "May 31" for "June 30" after "March 1 and" in subsection (2) of subdivision (a), added "on the current roll or the roll being prepared" after "any" in subsection (5) thereof, and substituted "the notice was mailed" for "of the notice" after "date" in subsection (6) thereof; substituted "60 days" for "30 days" after "within" in the first and second sentences of subdivision (c); and substituted "auditor" for "tax collector" before "shall" in subdivision (d). Stats. 1984, Ch. 946, in effect September 10, 1984, substituted "taxable" for "base year" after "existing" in subsection (1) of subdivision (a); added ", unless subject to subdivision (d)," after ", and" in the first sentence and added ", unless governed by subdivision (d)" after "notice" in the second sentence of subdivision (c). Added a new subdivision (d); and relettered former subdivisions (d) and (e) as (e) and (f), respectively. Stats. 1985, Ch. 985, effective January 1, 1986, substituted "filed" for "received" after "must be" in the first sentence of subdivision (c) and in the first sentence of subdivision (d). Stats. 1990, Ch. 126, in effect June 11, 1990, deleted ", except that the application shall be filed within 60 days of notice, unless governed by subdivision (d)" after "1605" in the second sentence of subdivision (c), and substituted "in which . . . Section 1605" for "of the first class" after "counties" in the first sentence of subdivision (d). Stats. 1992, Ch. 1029, in effect January 1, 1993, added new subdivision (e); and relettered former subdivisions (e) and (f) as subdivisions (f) and (g), respectively. Stats. 1995, Ch. 499, in effect January 1, 1996, operative January 1, 1997, substituted "that" for "which" in paragraphs (1), (7), and (8) of subdivision (a) and in subdivision (b); substituted "January" for "March" after "occurred between" in paragraph (2) of subdivision (a); and added "an informal revision and the right to" after "assessee of the right to" in the first sentence of subdivision (c). Stats. 2000, Ch. 647 (SB 2170), in effect January 1, 2001, designated the former first paragraph of subdivision (c) as paragraph (1) of subdivision (c), substituted "paragraph (2) or (3)" for "subdivision (d)" after "subject to", substituted "shall" for "must" after "the appeal", and substituted "mailing printed on the notice or the postmark date therefor, whichever is later" for "the notice" after "the date of" in the first sentence therein; designated former subdivision (d) as paragraph (2) of subdivision (c), substituted "shall, except as provided in paragraph (3)," for "must" after "that the appeal", and substituted "mailing printed on the tax bill or the postmark date therefor, whichever is later" for "the mailing of the tax bill" after "the date of" in the first sentence therein; added paragraph (3) to subdivision (c); relettered former subdivisions (e), (f), and (g) as (d), (e), and (f), respectively; and added subdivision (g). Stats. 2001, Ch. 744 (SB 1182), in effect January 1, 2002, added "the date of" after "60 days of" in the first sentence of paragraph (1), added "and the County of Los Angeles," after "Section 1605," in the first sentence of paragraph (2), and substituted "paragraph (1)" for "this section" after "accordance with" in the first sentence of subparagraph (A) of paragraph (3) of subdivision (c). Stats. 2003, Ch. 471 (SB 1062), in effect January 1, 2004, substituted "approved" for "prescribed" after "on a form" in the first sentence of subdivision (g).

Note.—See note following Section 75.

75.32. **Failure to receive notice.** The failure of the assessee to receive a notice required by Section 75.31 shall not affect the validity of any assessment or the validity of any taxes levied pursuant to this chapter.

History.—Added by Stats. 1984, Ch. 946, in effect September 10, 1984.

Note.—See note following Section 75.

Article 5. Transmittal of Supplemental Assessments to the Auditor

§ 75.40. Transmittal of supplemental assessment to auditor.
§ 75.41. Computation of tax.
§ 75.42. Enrollment on supplemental roll.
§ 75.43. Refunds.

75.40. **Transmittal of supplemental assessment to auditor.** When the period for claiming exemption has expired, and any exemptions have been processed, the assessor shall transmit the supplemental assessment to the auditor including the following information:

(a) Name and address, if known, of the assessee.

(b) The parcel number or legal description of the property.

(c) The tax rate area in which the property is located.

(d) The new base year value of the property with the value for the land separated from the value for improvements.

(e) The value of the property on the current roll, or the roll being prepared, or both.

(f) The exemption applicable, if any.

(g) The net supplemental assessment after exemption.

(h) The date of the change of ownership or completion of new construction.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, deleted "or filing an application for reduction" after "exemption" in the first sentence, added "actual" before "amount" in subsection (h), and added subsection (i). Stats. 1984, Ch. 946, in effect September 10, 1984, added "supplemental" before "assessment" in subsection (g); deleted former subsection (h), and relettered former subsection (i) as subsection (h).

75.41. **Computation of tax.** (a) The auditor shall apply the current year's tax rate, as defined in Section 75.4, to the supplemental assessment or assessments, computing the amount of taxes that would be due for a full year. If the tax rate for the "roll being prepared" is known, the rate may be used with respect to the fiscal year to which it applies, rather than the current year's tax rate as defined in Section 75.4. If the tax rate for the "roll being prepared" is not known, the current year's tax rate as defined in Section 75.4 shall be used. For property on the supplemental roll, the taxes due shall be computed in two equal installments.

(b) The taxes due shall be adjusted by a proration factor to reflect the portion of the tax year remaining as determined by the date on which the change in ownership occurred or the new construction was completed. In computing the portion of the tax year remaining, the change in ownership or completion of new construction shall be presumed to have occurred on the first day of the month following the date on which change in ownership or completion of new construction occurred.

(c) (1) If the presumed date specified in subdivision (b) is February 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.42; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(2) If the presumed date specified in subdivision (b) is March 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.33; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(3) If the presumed date specified in subdivision (b) is April 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.25; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(4) If the presumed date specified in subdivision (b) is May 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.17 and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(5) If the presumed date specified in subdivision (b) is June 1, the taxes on the supplemental assessment for the current roll shall be multiplied by 0.08 and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(6) If the presumed date specified in subdivision (b) is July 1, no supplemental assessment shall be made on the current roll, and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(7) If the presumed date specified in subdivision (b) is on or after August 1, and on or before January 1, the following table of factors shall be used:

If the presumed date is:	The taxes on the supplemental assessment on the current roll shall be multiplied by:
August 1	0.92
September 1	0.83
October 1	0.75
November 1	0.67
December 1	0.58
January 1	0.50

(d) After computing the supplemental taxes due, if the total is twenty dollars ($20) or less, the auditor may cancel the amount as provided by Section 4986.8.

(e) If the supplemental assessment is a negative amount, the auditor shall follow the procedures of this section to determine the amount of refund to which the assessee may be entitled.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, substituted "For property . . . before" for "In the event that the change in ownership or completion of new construction occurs prior to" before "January 1" in the second sentence of subdivision (a); and added "presumed" before "date", substituted "April 1" for "March" after "is", substituted ".25" for "3/12 (.25)" after "by", and substituted "1.00" for "12/12 (1.00)" after "by" in subsection (1) of subdivision (c), added "presumed" before "date", substituted "May 1" for "April" after "is", substituted ".17" for "2/12 (.17)" after "by", and substituted "1.00" for "12/12 (1.00)" after "by" in subsection (2) thereof, added "presumed" before

"date", substituted "June 1" for "May" after "is", substituted ".08" for "1/12 (.08)" after "by", and substituted "1.00" for "12/12 (1.00)" after "by" in subsection (3) thereof, added "presumed" before "date", substituted "July 1" for "June" after "is", and substituted "1.00" for "12/12 (1.00)" after "by" in subsection (4) thereof, and added "presumed" before "date", substituted "August 1, and on or" for "July 1" after "after" and revised the table of factors in subsection (5) thereof. Stats. 1984, Ch. 512, in effect July 17, 1984, deleted "if the tax bill is delinquent on or before January)," before "the taxes" in the second sentence of subdivision (a). Stats. 1984, Ch. 946, in effect September 10, 1984, added ", as defined in Section 75.4," before "to" in the first sentence and substituted "supplemental" for "secured" before "roll" in the second sentence of subdivision (a). Stats. 1985, Ch. 1273, effective January 1, 1986, added subdivision (d) and relettered former subdivision (d) as (e). Stats. 1990, Ch. 126, in effect June 11, 1990, substituted "on the tax bill . . . ($20)" for ", if the amount is ten dollars ($10)" in subdivision (d). Stats. 1991, Ch. 532, in effect January 1, 1992, added the second sentence to subdivision (a); added "supplemental" after "computing the", deleted "on the tax bill" after "due", deleted "amount of all taxes due" after "total", and substituted "amount" for "taxes" after "cancel the" in subdivision (d); and substituted "may be" for "is" after "assessee" in subdivision (e). Stats. 1993, Ch. 905, in effect October 8, 1993, substituted "may" for "shall" after "rate" in the second sentence of subdivision (a); added the third sentence to subdivision (a), and added "0" before the factors in paragraph (5) of subdivision (c). Stats. 1995, Ch. 499, in effect January 1, 1996, operative January 1, 1997, substituted "February" for "April" after "(b) is" in paragraph (1); substituted "March" for "May" after "(b) is" in paragraph (2); substituted "April" for "June" after "(b) is" and substituted "0.25" for "0.08" after "multiplied by" in paragraph (3); added paragraphs (4) and (5); renumbered former paragraphs (4) and (5) as (6) and (7), respectively; substituted "January" for "March" after "or before" and deleted from the table of factors, "February 1 . . . 0.42" and "March 1 . . . .33" in paragraph (7) of subdivision (c). Stats. 1996, Ch. 1087, in effect January 1, 1997, substituted "0.42" for "0.25" after "current roll shall be multiplied by" in paragraph (1) of subdivision (c).

Note.—See note following Section 75.

75.42. **Enrollment on supplemental roll.** The information transmitted to the auditor by the assessor, together with the extended taxes due, or extension of the refund, shall be enrolled on the supplemental roll.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, substituted "extension of the negative amount" for "refund to be paid" after "or". Stats 1984, Ch. 946, in effect September 10, 1984, substituted "refund" for "negative amount" before ", shall".

Note.—See note following Section 75.

75.43. **Refunds.** (a) If a refund is due the assessee, the auditor shall make the refund within 90 days of the date of enrollment of the negative assessment on the supplemental roll. Refunds shall be made from taxes collected on assessments made on the supplemental roll.

(b) If the refund is not made as provided in subdivision (a), interest shall be paid at a rate provided by Section 5151, computed from a date 30 days after the date of enrollment of the negative assessment to the date the refund is mailed when the interest is ten dollars ($10) or more on amounts refunded under Section 5096.

(c) Refunds made under this chapter shall be limited to the amount by which the tax, penalty, or interest paid exceeds the amount of tax, penalty, or interest which is lawfully due and owing based upon the new base year value.

History.—Added by Stats. 1984, Ch. 946, in effect September 10, 1984. Stats. 1985, Ch. 1273, effective January 1, 1986, substituted "90" for "30" after "within" in the first sentence of subdivision (a), and added "when the interest is ten dollars ($10) or more on amounts refunded under Section 5096" after "mailed" in subdivision (b). Stats. 1986, Ch. 608, effective January 1, 1987, added subdivision (c).

Note.—See note following Section 75.

Article 6. Collection of Supplemental Taxes *

§ 75.50. Transmittal of supplemental assessments on supplemental roll to tax collector.
§ 75.51. Mailing of supplemental tax bills.
§ 75.52. Due date.
§ 75.53. Delinquency.
§ 75.54. Effect of lien.
§ 75.55. Refunds. [Repealed.]
§ 75.55 Cancellation; exemption.

75.50. **Transmittal of supplemental assessments on supplemental roll to tax collector.** The auditor shall transmit supplemental assessments

* Article 6 Heading was amended by Stats. 1984, Ch. 946, in effect September 10, 1984.

entered on the supplemental roll to the tax collector for preparation of supplemental tax bills, and charge the tax collector with the taxes extended thereon.

History.—Stats. 1984, Ch. 946, in effect September 10, 1984, deleted "or refunds to be paid" before "and".

Note.—See note following Section 75.

75.51. **Mailing of supplemental tax bills.** The tax collector shall mail or electronically transmit a supplemental tax bill to the assessee, including the following information either on the bill or in a separate statement accompanying the bill:

(a) The information supplied by the assessor to the auditor pursuant to Section 75.40.

(b) The amount of the supplemental taxes due.

(c) The date the notice is mailed.

(d) The date on which the taxes will become delinquent and the penalties for delinquency.

(e) A statement that the supplemental taxes were determined in accordance with Article XIII A of the California Constitution which generally requires reappraisal of property whenever a change in ownership occurs or property is newly constructed.

(f) The tax rates or the dollar amounts of taxes levied by each revenue district and taxing agency on the property covered by the tax bill.

(g) All of the following:

(1) Information specifying that if the taxpayer disagrees with a change in the assessed value as shown on the tax bill, the taxpayer has the right to an informal assessment review by contacting the assessor's office.

(2) (A) Except as provided in subparagraph (B), information specifying that if the taxpayer and the assessor are unable to agree on proper assessed value pursuant to an informal assessment review, the taxpayer has the right to file an application for reduction in assessment for the following year with the county board of equalization or the assessment appeals board, as applicable, and the time period during which the application will be accepted.

(B) For counties in which the board of supervisors has adopted the provisions of subdivision (c) of Section 1605, information advising that the assessee has a right to appeal the supplemental assessment, and that the appeal is required to be filed within 60 days of the date of the mailing or electronic transmittal of the tax bill. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(3) The address of the clerk of the county board of equalization or the assessment appeals board, as applicable, at which forms for an application for reduction may be obtained.

History.—Stats. 1994, Ch. 705, in effect January 1, 1995, added subdivision (g). Stats. 1995, Ch. 498, in effect January 1, 1996, deleted "for the following year" after "assessment review" and deleted "by March 1" after "assessor's office" in paragraph (1) of subdivision (g). Stats. 1996, Ch. 800, in effect January 1, 1997, substituted "All of the following:" for "Information specifying all of the following:", added "Information specifying" before "That if" and substituted "that" for "That" in the first sentence of paragraph (1), added "(A) Except as provided in subparagraph (B), information specifying" before "That if" and added subparagraph (B) to paragraph (2) of subdivision (g). Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000, added "or electronically transmit" after "shall mail" in the first sentence of the first paragraph and

added "or electronic transmittal" after "the mailing" in the first sentence and added "the" after "For" in the second sentence of subparagraph (B) of paragraph (2) of subdivision (g). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "and the time period during which the application will be accepted" for "during the period from July 2 to September 15, inclusive" after "as applicable," in the first sentence of subparagraph (A) of paragraph (2) of subdivision (g).

75.52. **Due date.** (a) Taxes on the supplemental bill are due on the date mailed and shall become delinquent as follows:

(1) If the bill is mailed within the months of July through October, the first installment shall become delinquent at 5 p.m. on December 10 of the same year. The second installment shall become delinquent at 5 p.m. on April 10 of the next year.

(2) If the bill is mailed within the months of November through June, the first installment shall become delinquent at 5 p.m. on the last day of the month following the month in which the bill is mailed. The second installment shall become delinquent at 5 p.m. on the last day of the fourth calendar month following the date the first installment is delinquent.

(b) If the taxes due are not paid on or before the date and time they become delinquent, a penalty of 10 percent shall attach to them.

(c) The cost enumerated in Section 2621 shall be collected after the second installment is delinquent.

(d) If a delinquent date specified in subdivision (a) falls on a Saturday, Sunday, or legal holiday, the time of delinquency is at 5 p.m. or at the close of business, whichever is later, on the next following business day. If the board of supervisors, by adoption of an ordinance or resolution, closes the county's offices for business prior to the time of delinquency on the ''next business day'' or for that whole day, that day shall be considered a legal holiday for purposes of this section.

History.—Stats. 1984, Ch. 512, in effect July 17, 1984, deleted "(a)" before "taxes", substituted "as follows" for "on the last day of the month following the month in which the bill is mailed" after "delinquent", deleted former subdivisions (b) and (c), and added subsections (a) and b). Stats. 1984, Ch. 946, in effect September 10, 1984, added "at 5 p.m." before "on December 10" in the first sentence and before "on April 10" in the second sentence of subsection (a); added "at 5 p.m." before "on the last day" in the first sentence and "on the last day" in the second sentence of subsection (b); and added subsections (c) and (d) thereto. Stats. 1994, Ch. 705, in effect January 1, 1995, added subdivision letter designation (a) before first paragraph and substituted subdivision letter designations (a) and (b) for (1) and (2), respectively therein; relettered former subdivisions (c) and (d) as (b) and (c), respectively; and added subdivision (d).

Note—See note following Section 75.

75.53. **Delinquency.** If all delinquent amounts which are a lien on real property are not paid in full by the time fixed in the publication of the notice of impending default for failure to pay real property taxes next following the date of delinquency of the second installment of the supplemental taxes, the property shall be subject to the provisions of Section 3436.

History.—Stats. 1984, Ch. 946, in effect September 10, 1984, added "which are a lien on real property" after "amounts"; substituted "the time fixed . . . state" for "June 30" after "by"; added "of the second . . . taxes," after "delinquency", and substituted "subject to the provisions of" for "sold to the state as provided in" after "be". Stats. 1986, Ch. 1420, effective January 1, 1987, substituted "impending default for failure to pay real property taxes" for "intent to sell to the state" after "notice of".

Note—See note following Section 75.

75.54. **Effect of lien.** (a) Taxes on the supplemental roll become a lien against the real property on the date of the change in ownership or completion of new construction unless by other provisions of law the taxes are not a lien on real property.

(b) With respect to taxes that are not a lien on real property that have become delinquent on the supplemental roll, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll for collection of the tax. If taxes that are not a lien on real property remain unpaid at the time set for declaration of tax default, following a delinquency in the payment of the second installment of the taxes, the taxes and any penalties and costs thereon shall be transferred to the unsecured roll for collection.

(c) Notwithstanding subdivision (a), in the event there is a subsequent change in ownership following an initial change in ownership or completion of new construction, that occurs before the mailing of the supplemental tax billing attributable to the initial change in ownership or completion of new construction, then the lien for supplemental taxes is extinguished and that portion of the supplemental assessment attributable to the assessee from the date of the initial change in ownership or completion of new construction to the date of the subsequent change in ownership shall be entered on the unsecured roll or on the supplemental roll as an unsecured assessment in the name of the person who would have been the assessee if the additional change in ownership had not occurred, and thereafter that portion of the tax shall be treated and collected like other taxes on the unsecured roll. The remaining portion of the supplemental tax attributable to the initial change in ownership becomes a lien against the real property on the date of the subsequent change in ownership which lien shall also secure any increase or decrease in supplemental taxes resulting from the determination of the new base year value required to be made following the subsequent change in ownership.

(d) In lieu of determining, as provided in subdivision (c), the portion of the supplemental assessment attributable to the person who would have been the assessee if the additional change in ownership had not occurred, a county may elect to compute that portion of the supplemental assessment attributable to the assessee from the first day of the month following the date of the initial change in ownership or completion of new construction to the date of the subsequent change in ownership.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, added "supplemental" after "entered on the " in the second sentence. Stats. 1984, Ch. 946, in effect September 10, 1984, added "(a)" before "Taxes"; added "unless by other provisions . . . property." after "construction"; deleted the former second sentence of subdivision (a) which provided that "if there is another change in ownership before the supplemental billing is made, the supplemental assessment shall be entered on the supplemental unsecured roll in the name of the person who would have been the assessee if the additional changes in ownership had not occurred, and thereafter shall be treated and collected like other taxes on the unsecured roll."; and added subdivisions (b) and (c). Stats. 1986, Ch. 1457, effective January 1, 1987, added subdivision (d). Stats. 1990, Ch. 992, in effect January 1, 1991, substituted "declaration of tax default" for "sale to the state" after "set for" in the second sentence of subdivision (b).

Note.—See note following Section 75.

75.55. **Refunds.** [Repealed by Stats. 1984, Ch. 946, in effect September 10, 1984.]

75.55. **Cancellation; exemption.** (a) A county board of supervisors may, by ordinance, provide for the cancellation of any supplemental tax bill in which the amount of taxes to be billed is less than the cost of assessing and

collecting them. In no event shall any supplemental tax bill be canceled pursuant to this subdivision if the amount of taxes on that bill exceeds fifty dollars ($50).

(b) Except where a county board of supervisors has adopted an ordinance pursuant to subdivision (a), a county board of supervisors may, by ordinance, provide for the cancellation by the assessor of any supplemental assessment where that assessment would result in an amount of taxes due which is less than the cost of assessing and collecting them. In no event shall any supplemental assessment be canceled pursuant to this subdivision if the amount of taxes resulting from that supplemental assessment would exceed fifty dollars ($50).

(c) Notwithstanding this section, no taxable real property shall be exempt from property taxes assessed on the lien date, as provided in Section 2192, unless the property is otherwise exempt under this division.

History.—Added by Stats, 1986, Ch. 1457, effective January 1, 1987. Stats. 1990, Ch. 1494, in effect September 30, 1990, added subdivision (b) and relettered former subdivision (b) as (c). Stats. 1991, Ch. 441, in effect January 1, 1992, added ", or fifty dollars . . . accessories" after "($20)" in the second sentences of subdivisions (a) and (b), and added subdivision (d). Stats. 1996, Ch. 800, in effect January 1, 1997, substituted "that" for "which" in subdivisions (b) and (c), and added "or on the supplemental roll as an unsecured assessment" after "unsecured roll" in the first sentence of subdivision (c). Stats. 2002, Ch. 775 (SB 2092), in effect January 1, 2003, substituted "assessing and collecting them" for "administration" after "the cost of" in the first sentence and deleted "twenty dollars ($20), or" after "that bill exceeds" and deleted "in the case of eligible mobilehome accessories" after "fifty dollars ($50)" in the second sentence of subdivision (a); substituted "them" for "those taxes" after "asssessing and collecting" in the first sentence and deleted "twenty dollars ($20), or" after "assessment would exceed" and deleted "in the case of eligible mobilehome accessories" after "fifty dollars ($50)" in the second sentence of subdivision (b); and deleted former subdivision (d) which provided that "For purposes of this section, 'eligible mobilehome accessories' means mobilehome accessories, as defined in Section 18008.5 of the Health and Safety Code, with a base year value or full value of five thousand dollars ($5,000) or less, that are installed on or added to mobilehomes purchased prior to July 1, 1980, and subject to vehicle license fees pursuant to Part 5 (commencing with Section 10701) of Division 2."

Article 6.5. Reimbursement for County Costs *

§ 75.60. Allocation for administration.
§ 75.65. Supplemental Roll Administrative Cost Fund.
§ 75.66. No further appropriation and no reimbursement.

75.60. **Allocation for administration.** (a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

(1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing,

* Article 6.5 was added by Stats. 1983, Ch. 1102, in effect September 27, 1983.

collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.

(2) ''Eligible county or city and county'' means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:

(A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.

(B) For any survey of a county assessment roll for the 1996–97 fiscal year and each year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).

(3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define ''significant assessment problems'' for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

History.—Stats. 1984, Ch. 946, in effect September 10, 1984, added ", regardless of the date . . . incurred." after "chapter" in the second sentence. Stats. 1986, Ch. 1457, effective January 1, 1987, added the subdivision letters; substituted "the board of supervisors of an eligible county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll," for "for the 1983–84 and 1984–85 fiscal years, the county board of supervisors" after "law," added "equal to the actual administrative costs, but" after "amount", and substituted "which have been collected due to" after "revenues" in the first sentence of subdivision (a); and added subdivision (b). Stats. 1988, Ch. 560, in effect January 1, 1989, deleted "additional" after "percent of the", added "on or after January 1, 1987," after "collected", and deleted "increased" after "due to the" in the first sentence of subdivision (a); and added the second sentence to subdivision (b)(1). Stats. 1995, Ch. 498, in effect January 1, 1996, deleted former first sentence of paragraph (2) of subdivision (b) which provided, " 'Eligible county' means a county which has been certified by the State Board of Equalization as an eligible county."; substituted "both of . . . to exist" for "the" after "only if" in the first sentence of paragraph (2); created new subparagraph (A) with the balance of the first sentence beginning with "the average" and substituted "The" for "the" before "average", therein; deleted "level of" after "average", added "level" after "assessment", substituted "95" for "90" after "at least", substituted "board's most recent" for "board in the" after "determined by the", substituted "of that county performed" for "made" after "survey", and deleted balance of former second sentence after "Government Code" in subparagraph (A) of paragraph (2); deleted former third sentence in subparagraph (A) of paragraph (2) which provided, "Each certification of a county shall be used only until the next survey made by the board; deleted former fourth sentence in subparagraph (A) of paragraph (2) which provided, "If a county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of that survey"; and added subparagraph (B) to paragraph (2) of subdivision

(b). Stats. 1996, Ch. 171, in effect July 17, 1996, added the first sentence of paragraph (2) of subdivision (b); added "For any survey of a county assessment roll for the 1996–97 fiscal year thereafter," before the former first sentence of subdivision (b)(2)(B), and substituted "the sum" for "The sum" after "thereafter" in subparagraph (B) of paragraph (2) of subdivision (b); and added the third paragraph. Stats. 1996, Ch. 1087, in effect January 1, 1997, substituted "county or city and county" for "county" throughout the text; and numbered the former third paragraph as paragraph (3) of subdivision (b), and added the second, third, and fourth sentences thereof.

Note.—See note following Section 75.

75.65. **Supplemental Roll Administrative Cost Fund.** (a) There is hereby appropriated from the General Fund to the Supplemental Roll Administrative Cost Fund (hereafter referred to as "the fund"), which is hereby created, the sum of ten million seventy-five thousand four hundred ninety dollars ($10,075,490).

(b) Money in the fund shall be allocated to counties to pay for the costs of administering this chapter in the 1983–84 fiscal year, where such costs are in excess of the amount of property tax revenue allocated for administrative costs pursuant to Section 75.60.

(c) The Controller shall allocate those funds upon certification by the board and the Department of Finance that the claim by the county for reimbursement of excess administrative cost is predicated on prudent administrative practice and does not incorporate expenses which are not essential to the administration of this chapter.

(d) Counties may submit claims for reimbursement for excess administrative costs of administering the provisions of this chapter to the board no later than January 15, 1984. The board shall review those claims and forward them with recommendations to the Department of Finance by March 1, 1984. If approved by the Department of Finance, the claim shall be submitted to the Controller for payment from the fund. The claim shall be paid no later than April 15, 1984.

(e) The Department of Finance shall develop guidelines for county claims pursuant to this article, which shall be developed in consultation with the board and with representatives of county assessors, county auditors and county tax collectors. The guidelines shall be issued by December 1, 1983.

History.—Stats. 1984, Ch. 846, in effect January 1, 1985, substituted "ten million seventy-five thousand four hundred ninety dollars ($10,075,490)." for "ten million dollars ($10,000,000)" in the first sentence of subdivision (a).

Note.—Section 2 of Stats. 1984, Ch. 846, in effect January 1, 1985, provided any claim for reimbursement which a county submitted to the State Board of Equalization between January 20, 1984, and March 1, 1984, inclusive, shall be paid by the Controller from the Supplemental Roll Administrative Cost Fund in the amount certified to the Controller by the Department of Finance.

75.66. **No further appropriation and no reimbursement.** It is the intent of the Legislature that no further appropriation shall be made, other than that provided by Section 75.65, and no reimbursement is required by this chapter pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231, because the county has authority pursuant to Section 75.60 to allocate additional revenues generated pursuant to this chapter to pay for administrative costs mandated by this chapter.

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Article 7. Disposition of Revenues

§ 75.70. Allocations to school districts.
§ 75.71. Allocations for 1985–86 fiscal year and thereafter.
§ 75.72. Distribution of penalties, costs, or other charges.

75.70. **Allocations to school districts.** (a) Notwithstanding any other provision of law, for the 1983–84 fiscal year, each county auditor shall allocate to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, and without respect to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, an amount equal to the additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments for the current roll under this chapter. Additional revenues generated by a rate or rates levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution shall be allocated to the fund for which the tax rate or rates were levied.

(b) For the 1984–85 fiscal year, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county the amount determined pursuant to Section 75.60.

(3) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each community college district and county superintendent of schools within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each city within the county an amount equal to the total amount of additional revenue generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount

determined pursuant to paragraphs (1) and (2), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(6) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing board is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(7) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year.

(8) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 30 calendar days after the close of the preceding monthly or four-weekly accounting period.

(c) For the 1985–86 fiscal year, and each fiscal year thereafter, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate and pay to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(3) Allocate and pay to each county superintendent of schools and community college district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount

determined pursuant to paragraph (1), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate and pay to each city within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate and pay to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(6) Allocate and pay the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for the purposes of the advance apportionment of state aid in the then current fiscal year.

(7) Allocate and pay additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations and payments shall be made on a timely basis but no later than 30 calendar days after the close of the preceding monthly or four-weekly accounting period. For a county with a population of 500,000 or less, the allocations may be made on a biannual basis.

(d) For purposes of the certification made by the Superintendent of Public Instruction pursuant to subdivision (a), the average daily attendance of the following districts shall be deemed to be zero:

(1) In the case of multicounty districts, the portions of the districts located other than in the county of control.

(2) Any district which received two thousand four hundred dollars ($2,400) or one hundred twenty dollars ($120) per average daily attendance, whichever is greater, in the prior fiscal year.

(e) The Superintendent of Public Instruction shall certify the appropriate counts of average daily attendance pursuant to subdivision (a) to each county auditor no later than July 15 of each applicable fiscal year.

(f) On or before November 15 and April 15, the auditor of each county shall furnish to the Superintendent of Public Instruction the estimated amount of tax receipts pursuant to this section of each school district situated within his or her county.

(g) In the event property tax revenues under this chapter are generated by a change in ownership or completed new construction which occurred on or before May 31, 1984, but are collected subsequent to the 1983–84 fiscal year, the revenues for the current roll shall be allocated to school districts as if they had been collected and allocated during this 1983–84 fiscal year. Any of the aforementioned revenues which are collected in the 1984–85 fiscal year shall be applied to school apportionments for the 1984–85 fiscal year.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, added the subdivision letters; substituted "as certified . . . respect" for "prior" after "attendance," added "the rate . . . applied to" after "generated by", and substituted "chapter" for "article" after "under this" in the first sentence, and added the second sentence to the first paragraph of subdivision (a); added the second paragraph to subdivision (a); and added subdivisions (b), (c), and (d). Stats. 1984, Ch. 447, in effect July 16, 1984, deleted "and the 1984–85" after "1983–84", substituted "year" for "years" after "fiscal", added "and without respect to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code," after "Part 0.5," the first sentence of subdivision (a); added new subdivision (b) and (c); and relettered former subdivisions (b), (c), and (d) as (d), (e), and (f), respectively. Stats. 1984, Ch. 946, in effect September 10, 1984, added "monthly or four-weekly" after "preceding" in the second paragraph of subdivision (a), and added subdivision (g). Stats. 1984, Ch. 1266, in effect September 19, 1984, deleted "monthly or four-weekly" after "preceding" in the second paragraph of subdivision (a); added the second sentence to subdivision (b)(6); substituted "special district's" for "city's" after "each" in the first sentence of subdivision (c)(5), and added the second sentence thereto; and deleted former subsection (g). Stats. 1984, Ch. 1325, in effect September 25, 1984, added "for the current roll" after "assessments in the first sentence of the first paragraph, and added "monthly or four-weekly" after "preceding" in the second paragraph of subdivision (a); added "monthly or four-weekly" after "proceeding" in the second paragraph of subdivision (b)(8); added "monthly or four-weekly" before "proceeding" in the second paragraph of subdivision (c)(7); and added subdivision (g). Stats. 1985, Ch. 441, effective July 31, 1985 added "November 15 and" after "On or before" in subdivision (f). Stats. 1985, Ch. 1273, effective January 1, 1986, deleted the former second paragraph of subdivision (a), and substituted "30 calendar" for "10 working" after "no later than" in the second paragraph of subdivision (b)(8) and in the second paragraph of subdivision (c)(7). Stats. 1987, Ch. 275, in effect January 1, 1988, added "and pay" after "Allocate" in the first sentence of subdivisions (c)(2), (c)(3), (c)(4), (c)(5), (c)(6) and (c)(7), and added "and payments" after "allocations" in the second paragraph of subdivision (c)(7). Stats. 1988, Ch. 830, in effect January 1, 1989, added "preceding" before "monthly" and deleted "preceding" before "accounting" in the first sentence of subdivision (c)(7), and added the second sentence thereto.

75.71. **Amount of allocations.** Notwithstanding any other provision of law, the amounts allocated pursuant to this chapter to a special district, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be reduced pursuant to Section 98.6 and shall be disbursed directly to the district by the county auditor.

History.—Stats. 1984, Chs. 447 and 448, in effect July 16, 1984, repealed and added section.

Note.—Sec. 16 of Stats. 1984, Ch. 448, provided legislative intent. Sec. 17 thereof, provided that no appropriation or reimbursement is required by this act.

75.72. **Distribution of penalties, costs, or other charges.** Any penalties, costs, or other charges resulting from delinquency of supplemental taxes shall be distributed pursuant to Part 8 (commencing with Section 4651).

History.—Added by Stats. 1984, Ch. 946, in effect September 10, 1984. Stats. 1985, Ch. 106, effective January 1, 1986, deleted "of this division" after "Section 4651)".

Note.—See note following Section 75.

Article 8. Effective Date

§ 75.80. Effective date.

75.80. **Effective date.** This chapter shall apply to changes in ownership occurring, and new construction completed, on or after July 1, 1983.

History.—Stats. 1983, Ch. 1102, in effect September 27, 1983, substituted "chapter" for "article" after "This".

Chapter 4. Assessment Appeals

§ 80. Application for reduction in base-year value.
§ 80.1 Assessment appeals; opinions of value.
§ 81. Base value other than 1975 base value.

80. **Application for reduction in base-year value.** (a) An application for reduction in the base-year value of an assessment on the current local roll may be filed during the regular filing period for that year as set forth in Section 1603 or Section 1840, subject to the following limitations:

(1) The base-year value determined by a local board of equalization or by the State Board of Equalization, originally or on remand by a court, or by a court shall be conclusively presumed to be the base-year value for any 1975 assessment which was appealed.

(2) The base-year value determined pursuant to paragraph (1) of subdivision (a) of Section 110.1 shall be conclusively presumed to be the base-year value unless an equalization application is filed no later than the regular filing period following the 1980 lien date. Once an application is filed, the base-year value determined pursuant to that application shall be conclusively presumed to be the base-year value for that assessment.

(3) The base-year value determined pursuant to paragraph (2) of subdivision (a) of Section 110.1 shall be conclusively presumed to be the base-year value, unless an application for equalization is filed during the regular equalization period for the year in which the assessment is placed on the assessment roll or in any of the three succeeding years. Once an application is filed, the base-year value determined pursuant to that application shall be conclusively presumed to be the base-year value for that assessment.

(4) The base-year value determined pursuant to Section 51.5 shall be conclusively presumed to be the base-year value unless an application for equalization is filed during the appropriate equalization period for the year in which the error is corrected or in any of the three succeeding years. Once an application is filed, the base-year value determined pursuant to that application shall be conclusively presumed to be the base-year value for that assessment.

(5) Any reduction in assessment made as the result of an appeal under this section shall apply for the assessment year in which the appeal is taken and prospectively thereafter.

(b) This section does not prohibit the filing of an application for appeal where a new value was placed on the roll pursuant to Section 51.

(c) An application for equalization made pursuant to Section 620 or Section 1605 when determined, shall be conclusively presumed to be the base-year value in the same manner as provided herein.

History.—Stats. 1987, Ch. 537, in effect January 1, 1988, added hyphen in "base-year" throughout text substituted "that" for "such" before "assessment" in the second sentence of subsection (a)(2) and in the second sentence of subsection (a)(3), relettered former subsection (a)(4) as (a)(5), and added subsection (a)(4).

Note.—Section 1(a) of Stats. 1987, Ch. 537, provided that the Legislature finds and declares that fairness and equity require that county assessors have express authority to make corrections to property tax base-year values whenever it is discovered that a base-year value does not reflect applicable constitutional or statutory valuation standards or the base-year value was omitted. Any limitations imposed upon the assessor's authority to correct these errors would result in a system of taxation which, on the one hand, denies the benefits of Article XIII A of the California Constitution to some taxpayers where the barred error or correction would reduce the base-year value and, on the other hand, encourages even the most honest person to engage in deception and concealment in order to delay discovery of changes in ownership or new construction beyond the point where a correction of the base-year value can be made. Further, the failure to place any value on the assessment roll for property which completely escapes taxation because of limitations on the authority to correct errors would violate the constitutional requirement that all property in the state shall be subject to taxation. Nothing in this act violates either the spirit or the letter of Article XIII A of the California Constitution since all corrections permitted by it must be consistent with applicable constitutional and statutory valuation standards.

Construction.—The conclusive presumption in subdivision (a)(3) does not itself bar refund claims or refund actions. A conclusive presumption is an evidentiary concept, and misapplication of an evidentiary rule in an action is merely an error of substantive law which does not render a judgment void for lack of jurisdiction. *Plaza Hollister Limited Partnership* v. *San Benito County,* 72 Cal.App.4th 1. Under subdivision (a) (5), a taxpayer is entitled to a reduction in assessments only for the year in which the appeal is taken and prospectively, but not retroactively. Thus, while new 1981 base-year values were established in conjunction with a 1984 application for reduction of assessment which was granted, they did not affect any assessment prior to 1984. And since it filed an application for reduction of the 1984 assessment only, under Section 5097, the taxpayer was limited to a refund of taxes extending from the 1984 assessment. *Osco Drug, Inc.* v. *Orange County,* 221 Cal.App.3d 189. A stipulated judgment between a county and a property taxpayer was void to the extent that it retroactively applied a reduction in base-year value resulting from an assessment appeal to assessment years predating the assessment appeal. Subdivision (a)(5) provides that any reduction in assessment made as the result of an appeal under the statute applies for the assessment year in which the appeal is taken and prospectively thereafter. *Plaza Hollister Limited Partnership* v. *San Benito County,* 72 Cal.App.4th 1.

Taxpayer requested correction of the base year value of its possessory interest within four years of the date of change in ownership but did not timely file claims for refund. Under subdivision (a) (5), the only claim for refund that could be made was for the year in which the appeal was taken, and taxpayer made no claim for refund for that year. In the alternative, subdivision (a)(5) constituted a complete defense. *Metropolitan Culinary Services, Inc.* v. *Los Angeles County,* 61 Cal.App.4th 935.

Application not required.—Ordinarily, to obtain a reduced assessment, the taxpayer must file an assessment appeal in accordance with this section and Section 1603. However, after a property owner has been granted a reduction under Section 51, that section dispenses with the usual requirement to file an assessment appeal. *El Dorado Palm Springs, Ltd.* v. *Board of Supervisors,* 104 Cal.App.4th 1262.

80.1. **Assessment appeals; opinions of value.** (a) On and after January 1, 1998, no person shall prepare an opinion of value on real property, intended for submission in an assessment appeal involving residential property with an assessed value of one million dollars ($1,000,000) or less, for an owner of real property for compensation or in expectation of compensation, unless that opinion of value is designated either as (1) an appraisal report prepared in accordance with the standards specified in Section 11319 of the Business and Professions Code or (2) an opinion of value, and bears the following notation: "The value expressed in this opinion should not be construed as an appraisal report, which must be prepared in accordance with Uniform Standards of Professional Appraisal Practice."

(b) Nothing in this section shall be construed to permit an appraiser licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code to prepare an opinion of value that is not in accordance with the standards adopted pursuant to that part or specified in Section 11319 of the Business and Professions Code.

(c) Nothing in this section shall be construed to prevent an owner of real property from preparing and submitting information on that property. For purposes of this section, ‘‘owner of real property’’ includes employees of the owner.

(d) Nothing in this section shall preclude property managers from providing relevant information on operational aspects of properties under their management.

(e) This section shall not apply to agents or instrumentalities of local, state, or federal government.

(f) This section shall remain in effect only until January 1, 2001, and as of that date is repealed.

History.—Added by Stats. 1997, Ch. 182 (AB 1319), in effect January 1, 1998.

81. **Base value other than 1975 base value.** Where real property has been assessed using a base value other than the 1975 base value, the applicant in equalization proceedings pursuant to Chapter 1 (commencing with Section 1601) of Part 3 may establish the correct base year value applicable to the current year's assessment, subject to the limitations of Section 80.

Chapter 5. Taxpayer Reporting

§ 90. Reporting of change in ownership information.

90. **Reporting of change in ownership information.** Assessees shall report change in ownership information to the assessor as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2.

Chapter 5.5. Property Tax Rates *

§ 93. Ad valorem property tax; limitation.

93. **Ad valorem property tax; limitation.** (a) Notwithstanding any other provision of law, except as provided in subdivisions (b) and (c), no local agency, school district, county superintendent of schools, or community college district shall levy an ad valorem property tax, other than that amount which is equal to the amount needed to make annual payments for the interest and principal on general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978 or the amount levied pursuant to Part 10 (commencing with Section 15000) of Division 1 and Sections 39308, 39311, 81338, and 81341 of the Education Code. In determining the tax rate required for the purposes specified in this subdivision, the amount of the levy shall be increased to compensate for any allocation and payment of tax revenues required pursuant to subdivision (b) of Section 33670 and subdivision (d) of Section 33675 of the Health and Safety Code.

(b) A county shall levy an ad valorem property tax on taxable assessed value at a rate equal to four dollars ($4) per one hundred dollars ($100) of assessed value, and at an equivalent rate when the ratio prescribed in Section 401 is changed from 25 percent to 100 percent. The revenue from that tax shall be distributed, subject to the allocation and payment as provided in subdivision (d) of Section 33675 of the Health and Safety Code, to local agencies, school districts, county superintendents of schools, and community college districts in accordance with the provisions of the Government Code through the 1978–79 fiscal year and in accordance with applicable provisions

* Chapter 5.5 was added by Stats. 1980, Ch. 1256, in effect January 1, 1981.

of the Revenue and Taxation Code in each fiscal year thereafter. Revenues from property tax delinquency penalties, and accrued legal interest paid on judgments for the recovery of unpaid property taxes rendered by courts of this state, shall be distributed pursuant to Sections 4653.6, 4655.4, and 4658.4 of the Revenue and Taxation Code, or their successors.

(c) Any jurisdiction may levy an ad valorem property tax rate in the excess of the rate permitted in subdivision (b) in order to produce revenues in an amount which is equal to the amount needed to make annual payments for the interest and principal on any bonded indebtedness for the acquisition or improvement of real property which is approved by a two-thirds vote of its voters after June 4, 1986.

History.—Stats. 1981, Ch. 261, in effect January 1, 1982, added the balance of the first sentence of subdivision (b) after "of assessed value". Stats. 1986, Ch. 1457, effective January 1, 1987, added "and (c)" after "(b)," in the first sentence of subdivision (a), substituted "that" for "such" after "from" in the second sentence of subdivision (b), and added subdivision (c). Stats. 1989, Ch. 1230, in effect January 1, 1990, added "through the 1978–79 . . . year thereafter" after "Government Code" in the second sentence of, and added the third sentence to subdivision (b).

Note.—Section 2 of Stats. 1989, Ch. 1230 stated that the Legislature finds and declares that property tax delinquency penalties, and accrued legal interest paid on judgments for the recovery of unpaid property taxes rendered by courts of this state, are separate and distinct from property tax revenues, and that it is the intent of the Legislature in enacting this act to nullify the holding of the court in *City of Los Angeles* v. *County of Los Angeles,* (1983) 139 Cal.App.3d 999. Sec. 3 thereof provided that notwithstanding the amendments to this section made by this act, the allocation of funds pursuant to subdivision (b) of this section in fiscal years 1978–79 to 1988–89, inclusive, and in fiscal year 1989–90 to December 31, 1989, inclusive, shall be deemed correct, and no reductions or increases in those allocations shall be required by reason of this act. Sec. 4 thereof provided no reimbursement is required pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that the revenues provided to counties by this act exceed any additional costs which might be incurred by counties as a result of this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Construction.—Government Code Section 26912 and former Revenue and Taxation Code Section 2237, now Revenue and Taxation Code Sections 93 and 95 et seq., which were enacted to implement Article XIII A of the Constitution and under which counties could levy the 1 percent property tax allowed under Article XIII A and distribute the revenues to local agencies but only to those agencies that levied a property tax during the 1977–78 fiscal year, were constitutional. *City of Rancho Cucamonga* v. *Mackzum,* 228 Cal.App.3d 929.

For purposes of determining the amount of property tax that was to be reallocated from a county to a newly incorporated city (Government Code Section 56842), the county properly excluded from its calculation of the total property tax revenue the interest generated by property taxes after they had been collected. The disposition of property tax revenue can have no effect upon the amount collected, even though penalties and interest for delinquent taxes are classified as property tax. Moreover, the fact that a 1989 amendment to subdivision (b) does not mention interest earned on property taxes in general is not evidence of a legislative intent that such interest earned on property taxes generally be classified as property tax. The amendment was intended to nullify case law concerning the classification of interest collected on delinquent taxes, not to address interest on idle funds derived from property taxes. *City of Highland* v. *San Bernardino County,* 4 Cal.App.4th 1174.

This section and Section 4653.6 do not require penalties on Mello-Roos special taxes to go to the county general fund, since special taxes are not ad valorem property taxes. Thus, delinquency penalties collected by a county in conjunction with special taxes for a city and a community facilities district must be distributed to the city and the district. *City of Camarillo* v. *Ventura County,* 26 Cal.App.4th 1351.

Chapter 6. Allocation of Property Tax Revenues **

§ 95. Definitions. [Repealed.]
§ 95.1. "Excess tax school entity." [Repealed.]
§ 95.5. District. [Repealed.]
§ 95.6. Auditing of apportionments and allocations of property tax revenue. [Repealed.]
§ 96. 1979–80 fiscal year allocations. [Repealed.]
§ 97. Subsequent fiscal year allocations. [Repealed.]

** Chapter 6 was added by Stats. 1979, Ch. 282, p. 1026, in effect July 24, 1979, and repealed by Stats. 1994, Ch. 1167, in effect January 1, 1995. Stats. 1994, Ch. 155, in effect July 11, 1994, amended former Sections 97.02, 97.03, 97.035, 97.036, and 97.04, and amended and renumbered former Section 97.036 as 97.034. Stats. 1994, Ch. 241, in effect July 21, 1994, amended former Sections 97.35 and 97.38. Stats. 1994, Ch. 1166, in effect September 30, 1994, amended former Section 97.5 and added former Sections 97.032 and 97.033. Stats. 1994, Ch. 1289, in effect September 30, 1994, added former Section 97.23.

§ 97.01. 1992–93 fiscal year allocations. [Repealed.]
§ 97.02. 1993–94 fiscal year allocations. [Repealed.]
§ 97.03. Property tax reduction per county. [Repealed.]
§ 97.032. 1994–95 fiscal year property tax reductions. [Repealed.]
§ 97.033. County of Marin allocation. [Repealed.]
§ 97.034. Reductions: special districts. [Repealed.]
§ 97.035. 1993–94 fiscal year property tax reductions. [Repealed.]
§ 97.036. Property tax transfers. [Repealed.]
§ 97.038. Memorial districts. [Repealed.]
§ 97.04. Alternative allocation method. [Repealed.]
§ 97.05. Alameda Contra Costa Transit District allocations. [Repealed.]
§ 97.07. Oakland/Berkeley Fire property tax revenue loss. [Repealed.]
§ 97.09. County of Santa Cruz allocations. [Repealed.]
§ 97.1. 1981–82 fiscal year allocations. [Repealed.]
§ 97.2. Corrections to base year allocations for fiscal years 1978–79 to 1982–83. [Repealed.]
§ 97.23. Chino Basin Municipal Water District. [Repealed.]
§ 97.3. Computations for Orange County. [Repealed.]
§ 97.31. 1985–86 fiscal year allocations to special districts. [Repealed.]
§ 97.32. Computation modifications. [Repealed.]
§ 97.35. Computation modifications—TEA formula. [Repealed.]
§ 97.35. Computation modifications—TEA formula. [Repealed.]
§ 97.35. Computation modifications—TEA formula. [Repealed.]
§ 97.36. Computation modifications—TEA formula. [Repealed.]
§ 97.37. Computation modifications—TEA formula. [Repealed.]
§ 97.38. Computation modifications—TEA formula. [Repealed.]
§ 97.39. Definition exclusion. [Repealed.]
§ 97.4. No adjustments to apportionments. [Repealed.]
§ 97.41. County of Santa Clara. [Repealed.]
§ 97.43. Allocations: limitations. [Repealed.]
§ 97.43. Allocations: limitations. [Repealed.]
§ 97.5. ‘‘Property tax apportionment factors.’’ [Repealed.]
§ 97.51. ‘‘Property tax apportionment factors’’—modifications. [Repealed.]
§ 97.52. Property tax apportionment factors. [Repealed.]
§ 97.53. County costs: limitation. [Repealed.]
§ 97.54. Apportionment of revenues: Nevada County; North San Juan Fire Protection District. [Repealed.]
§ 97.6. Maximum tax rate pursuant to Section 93(a) for other than bonded indebtedness. [Repealed.]
§ 97.65. Purposes for which ad valorem property taxes may be levied. [Repealed.]
§ 97.7. Welfare and Institutions Code computation. [Repealed.]
§ 97.75. Computation of state assistance payments; allocation and apportionment of property tax revenues. [Repealed.]
§ 97.8. Computation of state assistance payments; allocation and apportionment of property tax revenues. [Repealed.]
§ 97.85. Removal of the 1982–83 fiscal year business inventory exemption subvention. [Repealed.]
§ 97.9. Allocation of redevelopment increment. [Repealed.]
§ 98. Allocation of ‘‘annual tax increment’’. [Repealed.]
§ 98.5. Redevelopment increment. [Repealed.]
§ 98.6. Reduction in amount allocated to special district. [Repealed.]
§ 98.65. Allocations: Sacramento County special districts. [Repealed.]
§ 98.66. Allocations: Santa Cruz County special districts. [Repealed.]
§ 98.67. Allocations: Monterey County special districts. [Repealed.]
§ 98.68. Allocations: Shasta County special districts. [Repealed.]
§ 98.7. Increase in amount of state assistance payments. [Repealed.]
§ 98.8. Additional funds for special district. [Repealed.]
§ 98.9. County allocations. [Repealed.]
§ 98.10. County allocations—railway companies. [Repealed.]
§ 99. Effect of jurisdictional changes on computations. [Repealed.]
§ 99.1. Effect of jurisdictional changes on special districts. [Repealed.]

§ 99.2. Effect of jurisdictional changes filed between January 2, 1978, and July 28, 1980, on special districts. [Repealed.]
§ 99.3. Effects of jurisdictional changes on County of Marin. [Repealed.]
§ 99.4. Transfer of property tax revenues between local agencies. [Repealed.]
§ 99.5. Computations for transfer of property tax revenues between local agencies. [Repealed.]
§ 99.6. Effect of jurisdictional change in County of Riverside. [Repealed.]
§ 99.9. Application of 1980 amendments to Section 99. [Repealed.]
§ 100. Tax rate reduction. [Repealed.]

Chapter 6. Allocation of Property Tax Revenue **

Article 1. Definitions and Administration. §§ 95–95.4.
2. Basic Revenue Allocations. §§ 96–96.8.
3. Revenue Allocation Shifts for Education. §§ 97–97.68.
4. Tax Equity Allocations for Certain Cities. §§ 98–98.1.
5. Jurisdictional Changes and Negotiated Transfers. §§ 99–99.2.
6. Miscellaneous Provisions. §§ 100–100.7.

Article 1. Definitions and Administration

§ 95. Definitions.
§ 95.2. Property tax administrative costs—1990–91.
§ 95.3. Property tax administrative costs.
§ 95.31. State-County Property Tax Administration Loan Program.
§ 95.35. State-County Property Tax Administration Grant Program.
§ 95.4. County costs: limitations.

95. **Definitions.** For the purpose of this chapter:

(a) ‘‘Local agency’’ means a city, county, and special district.

(b) ‘‘Jurisdiction’’ means a local agency, school district, community college district, or county superintendent of schools. A jurisdiction as defined in this subdivision is a ‘‘district’’ for purposes of Section 1 of Article XIII A of the California Constitution.

For jurisdictions located in more than one county, the county auditor of each county in which that jurisdiction is located shall, for the purposes of computing the amount for that jurisdiction pursuant to this chapter, treat the portion of the jurisdiction located within that county as a separate jurisdiction.

(c) ‘‘Property tax revenue’’ includes the amount of state reimbursement for the homeowners’ exemption. ‘‘Property tax revenue’’ does not include the amount of property tax levied for the purpose of making payments for the interest and principal on either of the following:

(1) General obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, including tax rates levied pursuant to Part 10 (commencing with Section 15000) of Division 1 of, and Sections 39308 and 39311 and former Sections 81338 and 81341 of the Education Code, and Section 26912.7 of the Government Code.

** Chapter 6 was added by Stats. 1994, Ch. 1167, in effect January 1, 1995. Section 28 of Stats. 1994, Ch. 1167, provided that it is the intent of the Legislature in enacting this act only to clarify and reorganize those statutes with respect to the allocation of property tax revenues, and to eliminate portions of those statutes that have been fully implemented or are no longer applicable. This act shall not be construed to invalidate or otherwise affect any otherwise proper action taken under the authority of Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code prior to the operative date of this act, or any requirement of that chapter as that chapter read prior to the operative date of this act.

(2) Bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

(d) ''Taxable assessed value'' means total assessed value minus all exemptions other than the homeowners' and business inventory exemptions.

(e) ''Jurisdictional change'' includes a change of organization, as defined in Section 35027 of the Government Code, an incorporation, as defined in Section 35037 of the Government Code, a municipal reorganization, as defined in Section 35042 of the Government Code, a change of organization, as defined in Section 56021 of the Government Code, a formation, as defined in Section 56042 of the Government Code, and a reorganization, as defined in Section 56068 of the Government Code. ''Jurisdictional change'' also includes any change in the boundary of those special districts that are not under the jurisdiction of a local agency formation commission.

''Jurisdictional change'' also includes a functional consolidation where two or more local agencies, except two or more counties, exchange or otherwise reassign functions and any change in the boundaries of a school district or community college district or county superintendent of schools.

(f) ''School entities'' means school districts, community college districts, the Educational Revenue Augmentation Fund, and county superintendents of schools.

(g) Except as otherwise provided in this subdivision, ''tax rate area'' means a specific geographic area all of which is within the jurisdiction of the same combination of local agencies and school entities for the current fiscal year.

In the case of a jurisdictional change pursuant to Section 99, the area subject to the change shall constitute a new tax rate area, except that if the area subject to change is within the same combinations of local agencies and school entities as an existing tax rate area, the two tax rate areas may be combined into one tax rate area.

Existing tax rate areas having the same combinations of local agencies and school entities may be combined into one tax rate area. For the combination of existing tax rate areas, the factors used to allocate the annual tax increment pursuant to Section 98 shall be determined by calculating a weighted average of the annual tax increment factors used in the tax rate areas being combined.

(h) ''State assistance payments'' means:

(1) For counties, amounts determined pursuant to subdivision (b) of Section 16260 of the Government Code, increased by the amount specified for each county pursuant to Section 94 of Chapter 282 of the Statutes of 1979, with the resultant sum reduced by an amount derived by the calculation made pursuant to Section 16713 of the Welfare and Institutions Code.

(2) For cities, 82.91 percent of the amounts determined pursuant to subdivisions (b) and (i) of Section 16250 of the Government Code, plus for any city an additional amount equal to one-half of the amount of any

outstanding debt as of June 30, 1978, for ''museums'' as shown in the Controller's ''Annual Report of Financial Transactions of Cities for Fiscal Year 1977–78.''

(3) For special districts, 95.24 percent of the amounts received pursuant to Chapter 3 (commencing with Section 16270) of Part 1.5 of Division 4 of Title 2 of the Government Code, Section 35.5 of Chapter 332 of the Statutes of 1978, and Chapter 12 of the Statutes of 1979.

(i) ''City clerk'' means the clerk of the governing body of a city or city and county.

(j) ''Executive officer'' means the executive officer of a local agency formation commission.

(k) ''City'' means any city whether general law or charter, except a city and county.

(*l*) ''County'' means any chartered or general law county. ''County'' includes a city and county.

(m) ''Special district'' means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. ''Special district'' includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area. ''Special district'' includes the Bay Area Air Quality Management District. ''Special district'' does not include a city, a county, a school district or a community college district. ''Special district'' does not include any agency that is not authorized by statute to levy a property tax rate. However, any special district authorized to levy a property tax by the statute under which the district was formed shall be considered a special district. Additionally, a county free library established pursuant to Article 1 (commencing with Section 19100) of Chapter 6 of Part II of Division 1 of Title 1 of the Education Code, and for which a property tax was levied in the 1977–78 fiscal year, shall be considered a special district.

(n) ''Excess tax school entity'' means an educational agency for which the amount of the state funding entitlement determined under Section 2558, 42238, 84750, or 84751 of the Education Code, as appropriate, is zero.

Decisions Under Former Section 95, Definitions.

Construction.—The phrase ''Notwithstanding any other provision of law . . . '' in Section 93 and the definition in subdivision (k) of ''city'' to include both general law and charter cities indicate that the Legislature intended to preempt the field of ad valorem property taxation. *City of Rancho Cucamonga* v. *Mackzum,* 228 Cal.App.3d 929.

95.2. **Property tax administrative costs—1990–91.** (a)(1) Notwithstanding any other provision of law, for the 1990–91 fiscal year, for the purposes of the computations required by Section 96.1 or its predecessor section, the amount of property tax presumed to have been received by the county in the prior year shall be increased by the amount of the 1989–90 property tax administrative costs proportionately attributable to incorporated cities as determined pursuant to paragraph (2).

(2) The auditor shall determined the 1989–90 fiscal year property tax administrative costs proportionately attributable to incorporated cities by adding the 1989–90 fiscal year property tax-related costs of the assessor, tax collector, and auditor, including applicable administrative overhead costs as permitted by federal Office of Management and Budget Circular A-87 standards, and multiplying the sum of those amounts by the ratio of property tax revenue received by all incorporated cities divided by the total property tax revenue for all local jurisdictions in the county for that fiscal year.

(3) The county shall use the additional revenue received pursuant to this subdivision only to fund the actual costs of assessing, collecting, and allocating property taxes. At least once each fiscal year, the county auditor shall report the amount of these actual costs and allowable overhead costs to the legislative body and any other jurisdiction or person that request the information. To the extent that actual costs for assessing, collecting, and allocating property taxes plus allowable overhead costs are less than the amount determined pursuant to paragraph (2), the county auditor shall apportion the difference to each incorporated city as otherwise required by this section.

(4) The county may retain up to one-half of any increased property tax allocation to which a jurisdiction may be otherwise entitled, until the county receives its additional revenues pursuant to this subdivision.

(5) It is the intent of the Legislature in enacting this subdivision to recognize that since the adoption of Article XIII A of the California Constitution by the voters, county governments have borne an unfair and disproportionate part of the financial burden of assessing, collecting, and allocating property tax revenues for cities. It is further the intent of the Legislature that the adjustments provided for by this subdivision shall constitute charges by a county for the assessment, collection, and allocation of property taxes and shall not exceed the actual costs reasonable borne by a county for those activities.

(b) If so directed by the board of supervisors, the auditor shall determine the 1989–90 fiscal year property tax administrative costs proportionately attributable to local jurisdictions other than the county or city and county, and cities, by adding the property tax-related costs of the assessor, tax collector, and auditor, including applicable administrative overhead costs as permitted by federal Office of Management and Budget Circular A-87 standards, and multiplying the sum of those amounts by the ratio of property tax revenue received by jurisdictions other than the county, city and county, and cities, divided by the total property tax received by all local jurisdictions in the county for that fiscal year. Notwithstanding any other provision of law, this amount may be calculated for each fiscal year commencing with the 1989–90 fiscal year, and the auditor shall, commencing in fiscal year 1990–91, if so directed by the board of supervisors, submit an invoice to these jurisdictions for services rendered in the prior fiscal year.

(c) Notwithstanding subdivision (b), no invoice as described in that subdivision shall be submitted to any school district, community college district, or county office of education, nor shall any of those entities be required to pay any invoice, for property tax administrative costs for services rendered in the 1990–91 fiscal year, or in any subsequent fiscal year. This subdivision shall not be construed to prevent the auditor of any county from collecting from school districts, community college districts, and county offices of education, in accordance with subdivision (b), property tax administrative costs for services rendered to those entities in the 1989–90 fiscal year.

95.3. **Property tax administrative costs.** (a) Notwithstanding any other provision of law, for the 1990–91 fiscal year and each fiscal year thereafter, the auditor shall divide the sum of the amounts calculated with respect to each jurisdiction, Educational Revenue Augmentation Fund (ERAF), or community redevelopment agency pursuant to Sections 96.1 and 100, or their predecessor sections, and Section 33670 of the Health and Safety Code, by the countywide total of those calculated amounts. The resulting ratio shall be known as the ''administrative cost apportionment factor'' and shall be multiplied by the sum of the property tax administrative costs incurred in the immediately preceding fiscal year by the assessor, tax collector, county board of equalization and assessment appeals boards, and auditor to determine the fiscal year property tax administrative costs proportionately attributable to each jurisdiction, ERAF, or community redevelopment agency. For purposes of this paragraph, property tax administrative costs shall also include applicable administrative overhead costs allowed by the federal Office of Management and Budget Circular A-87 standards, but shall not include any amount reimbursed pursuant to Section 75.60 and former Section 98.6, or include any amount in excess of the amounts reimbursable pursuant to Section 75.60, unless a county meets the conditions of paragraph (2) of subdivision (b) of Section 75.60. However, no amount of funds appropriated to counties for purposes of property tax administration in Item 9100-102-001 of the Budget Act of 1994 or any subsequent Budget Act shall result in any deduction from those property tax administrative costs that are eligible for reimbursement pursuant to this subdivision.

(b) (1) Each proportionate share of property tax administrative costs determined pursuant to subdivision (a), except for those proportionate shares determined with respect to a school entity or ERAF, shall be deducted from the property tax revenue allocation of the relevant jurisdiction or community redevelopment agency, and shall be added to the property tax revenue allocation of the county. For purposes of applying this paragraph for the 1990–91 fiscal year, each proportionate share of property tax administrative costs shall be deducted from those amounts allocated to the relevant jurisdiction or community redevelopment agency after January 1, 1991.

(2) It is the intent of the Legislature that the portion of those shares of property tax administrative costs that are calculated by the auditor for each fiscal year pursuant to subdivision (a) for school entities and the county's ERAF, that is attributable to the county's costs in providing boards and hearing officers for the review of property tax assessment appeals, be calculated by local officials and reimbursed by the state in the time and manner specified by a future act of the Legislature that makes an appropriation for purposes of that reimbursement.

(c) Reductions made pursuant to this section to property tax revenue allocations shall be made without regard to Section 907 of the Government Code.

(d) Any additional amounts of property tax revenue allocated to the county pursuant to this section shall be used only to fund costs incurred by the county in assessing, equalizing, and collecting property taxes, and in allocating property tax revenues, and shall constitute charges for those services, not exceeding the actual and reasonable costs incurred by the county in performing those services.

(e) It is the intent of the Legislature in enacting this section to recognize that since the adoption of Article XIII A of the California Constitution by the voters, county governments have borne an unfair and disproportionate part of the financial burden of assessing, collecting, and allocating property tax revenues for other jurisdictions and for redevelopment agencies. The Legislature finds and declares that this section is intended to fairly apportion the burden of collecting property tax revenues and is not a reallocation of property tax revenue shares or a transfer of any financial or program responsibility.

(f) Commencing with the 1992–93 fiscal year and each fiscal year thereafter, this section shall supersede and replace Section 95.2, as authority for a county to recover property tax administrative costs.

(g) This section shall apply to the entire 1993–94 fiscal year, regardless of the operative date of the act adding the predecessor to this section, and to each fiscal year thereafter.

History.—Stats. 1996, Ch. 1073, in effect September 30, 1996, added ", Educational Revenue Augmentation Fund (ERAF)," after "each jurisdiction" in the first sentence, added "county board of equalization and assessment appeals boards," after "tax collector" and added ", ERAF," after "each jurisdiction" in the second sentence of subdivision (a); relettered former subdivision (b) as (b)(1) and added "or ERAF" after "entity" in the first sentence thereof, and added paragraph (2); added ", equalizing," after "in assessing" in subdivision (d); and substituted "section" for "subdivision" after "pursuant to this" in subdivision (d) and after "declares that this" in subdivision (e).

Construction.—In calculating its payment of revenues to the agency, the county properly deducted or withheld under this section those administrative costs attributable to each redevelopment plan from the tax increment allocated to each plan. *Community Redevelopment Agency* v. *Los Angeles County,* 89 Cal.App.4th 719. This section allows a county to recoup a proportionate share of actual administrative costs expended in the assessment, collection, and allocation of property tax revenues to local jurisdictions without any agreement or limitation, except for school entities. *Arbuckle-College City Fire Protection District* v. *Colusa County,* 105 Cal.App.4th 1155.

95.31. **State-County Property Tax Administration Loan Program.** (a) (1) Notwithstanding any other provision of law, any eligible county may, upon the recommendation of the county assessor, and by resolution of the board of supervisors of that county adopted not later than December 1 of the fiscal year for which it is to first apply, elect to participate in the State-County Property Tax Administration Loan Program.

(2) Except as specified in paragraph (3), for the purposes of this section, an eligible county shall mean a county in which additional property tax revenue allocated to school entities would reduce the amount of General Fund moneys apportioned to school entities. However, eligibility shall be terminated when, in combination with resources in the Educational Revenue Augmentation Fund, additional property tax revenues allocated to school entities will not result in a reduction in the General Fund apportionments.

(3) Notwithstanding paragraph (2), both the County of Solano and the County of San Benito shall be deemed eligible counties that may, upon the recommendation of the county assessor, and by resolution of the board of supervisors of the county adopted on or before March 31, 1996, elect to participate in the State-County Property Tax Administration Loan Program.

(4) Notwithstanding paragraph (1), any county in which a new assessor is elected in 1998 may, upon the recommendation of the county assessor, and by resolution of the board of supervisors of the county adopted on or before January 31, 1999, elect to participate in the State-County Property Tax Administration Loan Program commencing with the 1998–99 fiscal year.

(b) (1) In each fiscal year from the 1995–96 fiscal year to the 2001–02 fiscal year, inclusive, an eligible county participating in the State-County Property Tax Administration Loan Program may receive a loan for up to the amount listed in paragraph (3). The loan shall be repaid by June 30 of the fiscal year following the year in which the loan is made. However, at the discretion of the Director of Finance, the loan may be renewed once for an additional 12-month period at the request of the participating county board of supervisors. For the Counties of Fresno, Orange, San Benito, and Solano any loan agreement signed on or before July 31, 1996, shall be deemed a loan agreement for the 1995–96 fiscal year for the purposes of this section. For any county in which a new assessor is elected in 1998, any loan agreement signed on or before January 31, 1999, shall be deemed a loan agreement for the 1998–99 fiscal year for the purposes of this section.

(2) If an eligible county elects to participate in the State-County Property Tax Administration Loan Program, it shall enter into a contractual agreement with the Department of Finance. At a minimum, the contractual agreement shall include the following:

(A) The loan amount, as determined by the Director of Finance.

(B) Repayment provisions, including the interception of Motor Vehicle License Fee Account moneys apportioned pursuant to Section 11005 to repay the General Fund.

(C) A listing of the proposed use of the additional resources including, but not limited to:

(i) Proposed new positions.

(ii) Increased automation costs.

(D) An agreement to provide to the Department of Finance, by March 31 of the fiscal year in which the loan is made, a report projecting the impact of the increased funding in the current and subsequent fiscal year.

(3) Upon request of the Department of Finance, the Controller shall provide a loan to the following counties for up to the amount specified by the Director of Finance, not to exceed the following amounts:

Jurisdiction	Amount
Alameda	$2,152,429
Alpine	3,124
Amador	80,865
Butte	381,956
Calaveras	109,897
Colusa	53,957
Contra Costa	2,022,088
Del Norte	36,203
El Dorado	302,795
Fresno	1,165,249
Glenn	59,197
Humboldt	210,806
Imperial	231,673
Inyo	100,080
Kern	1,211,318
Kings	138,653
Lake	117,376
Lassen	54,699
Los Angeles	13,451,670
Madera	212,991
Marin	790,490
Mariposa	46,476
Mendocino	160,435
Merced	298,004
Modoc	24,022
Mono	47,778
Monterey	795,819
Napa	366,020
Nevada	234,292
Orange	6,826,325
Placer	628,047
Plumas	80,606
Riverside	2,358,068
Sacramento	1,554,245
San Benito	90,408
San Bernardino	2,139,938
San Diego	5,413,943
San Francisco	1,013,332
San Joaquin	818,686
San Luis Obispo	736,288
San Mateo	2,220,001

Jurisdiction	Amount
Santa Barbara	926,817
Santa Clara	4,213,639
Santa Cruz	565,328
Shasta	342,399
Sierra	7,383
Siskiyou	91,164
Solano	469,207
Sonoma	1,035,049
Stanislaus	866,155
Sutter	147,436
Tehama	97,222
Trinity	24,913
Tulare	501,907
Tuolumne	126,067
Ventura	1,477,789
Yolo	278,309
Yuba	88,968

(4) The Department of Finance shall consider any or all of the following items in determining the extent to which a county has satisfied the terms and repaid the loan, pursuant to the contract, as offered under this part:

(A) County performance as indicated by the State Board of Equalization's sample survey required pursuant to Section 15640 of the Government Code.

(B) Performance measures adopted by the California Assessors' Association.

(C) Reduction of backlog of assessment appeals and Proposition 8 declines in value.

(D) County compliance with mandatory audits required by Section 469.

(E) Reduction of backlogs in new construction, changes in ownership, and supplemental roll.

(F) Other measures, as determined by the Director of Finance.

(5) The Director of Finance shall notify the Controller of any participating county that fails to comply with the terms of the agreement, including the repayment of the loan. When the Controller receives notice from the Director of Finance, the Controller shall make an apportionment to the General Fund on behalf of the participating county in the amount of that required payment for the purpose of making that payment. The Controller shall make that payment only from moneys credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund to which the participating county is entitled at that time under Chapter 5 (commencing with Section 11001) of Part 5 of Division 2, and shall thereupon reduce, by the amount of the payment, the subsequent allocation or allocations to which the county would otherwise be entitled under that chapter.

(c) (1) Funds appropriated for purposes of this section shall be used to enhance the property tax administration system by providing supplemental resources. Amounts provided to any county as a loan pursuant to this section shall not be used to supplant the current level of funding. In order to participate in the State-County Property Tax Administration Loan Program, a participating county shall maintain a base staffing, including contract staff, and total funding level in the county assessor's office, independent of the loan proceeds provided pursuant to this act, equal to the levels in the 1994–95 fiscal year exclusive of amounts provided to the assessor's office pursuant to Item 9100-102-001 of the Budget Act of 1994. However, in a county in which the 1994–95 funding level for the assessor's office was higher than the 1993–94 level, the 1993–94 fiscal year staffing and funding levels shall be considered the base year for purposes of this section. Commencing with the 1996–97 fiscal year, if a county was otherwise eligible but was unable to participate in this program in the 1995–96 fiscal year because it did not meet the funding level and staffing requirements of this paragraph, that county shall maintain a base staffing, including contract staff, and total funding level in the county assessor's office equal to the levels in the 1995–96 fiscal year.

(2) Prior to the assessor's recommendation for participation in the State-County Property Tax Administration Loan Program, the assessor shall consult with the county tax collector, and any other county agency directly involved in property tax administration, to discuss the needs of the program for the duration of the contractual agreement.

(d) A participating county may establish a tracking system whereby a work or function number is assigned to each appraisal or administrative activity. That system should provide statistical data on the number of production units performed by each employee and the positive and negative change in assessed value attributable to the activities performed by each employee.

(e) Notwithstanding Section 95.3, no amount of funds provided to an eligible county pursuant to this section shall result in any deduction from those property tax administrative costs that are eligible for reimbursement pursuant to Section 95.3.

(f) At the request of the Department of Finance, the board shall assist the Department of Finance in evaluating contracts entered into pursuant to this section.

History.—Added by Stats. 1995, Ch. 914, in effect October 16, 1995. Stats, 1996, Ch. 308, in effect July 19, 1996, relettered former subdivision (a) as (a)(1), relettered the former second sentence of subdivision (a) as (a)(2), and substituted "Except as specified in paragraph 3, for the" for "For the" before "purposes" therein, and added paragraph (3) to subdivision (a); and added the fourth sentence to paragraph (1) of subdivision (b) . Stats. 1996, Ch. 1087, in effect January 1, 1997, added subdivision (f). Stats. 1997, Ch. 420 (AB 719), in effect September 22, 1997, substituted "fiscal year . . . inclusive," for "of the 1995–96, 1996–97, and 1997–98 fiscal years" after "In each" in the first sentence of paragraph (1) of subdivision (b); relettered former subdivision (c) as (c)(1), added the fifth sentence to former subdivision (c), and added paragraph (2) to subdivision (c). Stats. 1998, Ch. 876 (SB 1649), in effect January 1, 1999, added paragraph (4) to subdivision (a) and added the fifth sentence to paragraph (1) of subdivision (b). Stats. 2000, Ch. 602 (AB 1036), in effect January 1, 2001, substituted "State-County Property Tax Administration Loan Program" for "State-County Property Tax Administration Program" throughout text, and substituted "2001-02" for "2000-01" after "to the" in the first sentence of paragraph (1) of subdivision (b).

95.35. **State-County Property Tax Administration Grant Program.** (a) The Legislature finds and declares that there is a significant and compelling state financial interest in the maintenance of an adequately funded system of property tax administration. This financial interest derives from the fact that 53 percent of all property tax revenues collected statewide serve to offset the General Fund obligation to fund K-12 schools, and extends not only to assessment and maintenance of the tax rolls, but also to all aspects of the system which include, but are not limited to, collection, apportionment, allocation, and processing and defending appeals. The Legislature further finds and declares that the combination of limitations on county revenue authority, increasing county financial obligations, and the shift of county property taxes to schools has created a financial disincentive for counties to adequately fund property tax administration. This disincentive is most clearly evidenced by the fact that counties, on average, receive 19 percent of statewide property tax revenues while they are obligated to pay an average of 73 percent of the costs of administration. The Legislature also finds and declares that the State-County Property Tax Loan Program contained in Section 95.31 was in recognition of the state's financial interest, and the success of that program has demonstrated the appropriateness of an ongoing commitment of state funds to reduce the burden of property tax administration on county finances. Therefore, it is the intent of the Legislature, in enacting this act, to establish a grant program known as the State-County Property Tax Administration Grant Program that will continue the success of the State-County Property Tax Loan Program and maintain the commitment to efficient property tax administration.

(b) Notwithstanding any other provision of law, in the 2002–03 fiscal year and each fiscal year thereafter to the 2006–07 fiscal year, inclusive, any county board of supervisors may, upon the recommendation of the assessor, adopt a resolution to elect to participate in the State-County Property Tax Administration Grant Program. Any resolution so adopted shall comply with the terms and conditions contained in paragraph (2) of subdivision (c). If adopted, a copy of the resolution shall be sent to the Department of Finance, which shall, upon approval, transmit a copy of the resolution to the Controller.

(c) (1) Any county electing to participate in this program may be qualified to receive a grant in an amount, up to and including, the applicable amount listed in paragraph (3). However, the grant eligibility of a county may be terminated at the discretion of the Department of Finance if a county does not meet the conditions specified in paragraph (4).

(2) The resolution to participate in this program shall include a detailed listing of the proposed uses by the county of the grant moneys, including, but not limited to:

(A) The proposed positions to be funded.

(B) Any increased automation costs.

(C) The specific tasks and functions that will be performed during the fiscal year with these funds.

(3) Upon transmittal of the electing resolution by the Department of Finance, the Controller shall, provided sufficient moneys have been appropriated by the Legislature for purposes of this section, provide a grant to the electing county for the applicable amount specified in the following schedule:

Jurisdiction	Amount
Alameda	$2,152,429
Alpine	3,124
Amador	80,865
Butte	381,956
Calaveras	109,897
Colusa	53,957
Contra Costa	2,022,088
Del Norte	36,203
El Dorado	302,795
Fresno	1,165,249
Glenn	59,197
Humboldt	210,806
Imperial	231,673
Inyo	100,080
Kern	1,211,318
Kings	138,653
Lake	117,376
Lassen	54,699
Los Angeles	13,451,670
Madera	212,991
Marin	790,490
Mariposa	46,476
Mendocino	160,435
Merced	298,004
Modoc	24,022
Mono	47,778
Monterey	795,819
Napa	366,020
Nevada	234,292
Orange	6,826,325
Placer	628,047
Plumas	80,606
Riverside	2,358,068
Sacramento	1,554,245
San Benito	90,408
San Bernardino	2,139,938
San Diego	5,413,943

Jurisdiction	Amount
San Francisco	1,013,332
San Joaquin	818,686
San Luis Obispo	736,288
San Mateo	2,220,001
Santa Barbara	926,817
Santa Clara	4,213,639
Santa Cruz	565,328
Shasta	342,399
Sierra	7,383
Siskiyou	91,164
Solano	469,207
Sonoma	1,035,049
Stanislaus	866,155
Sutter	147,436
Tehama	97,222
Trinity	24,913
Tulare	501,907
Tuolumne	126,067
Ventura	1,477,789
Yolo	278,309
Yuba	88,968

(4) The Department of Finance shall consider the following items in determining whether a county may continue to receive a grant under this section:

(A) The county's performance as indicated by the State Board of Equalization's sample survey required by Section 15640 of the Government Code.

(B) Any performance measures adopted by the California Assessors' Association, the California Association of Clerks and Elections Officials, the State Association of County Auditor-Controllers, and the California Association of County Treasurers and Tax Collectors.

(C) The county's reduction of backlogs of assessment appeals and declines in taxable value below adjusted base year value.

(D) The county's compliance with mandatory audits required by Section 469 or the county's delivery of tax bills as required by Section 2610.5.

(E) The county's reduction of backlogs of determinations regarding new construction, changes in ownership, and supplemental assessments.

(F) Any other measure, as determined by the Director of Finance and transmitted to a county prior to its receiving a grant.

(d) (1) Funds appropriated for purposes of this section shall be used to enhance the property tax administration system. Amounts provided to any county as a grant pursuant to this section may not be used to supplant the current level of county funding for property tax administration, exclusive of funds received pursuant to the predecessor State-County Property Tax Loan

Program. In order to participate in the State-County Property Tax Administration Grant Program, a participating county shall maintain a base staffing, including contract staff, and total funding level in the county assessor's office, independent of the grant proceeds provided pursuant to this section, equal to the levels in the 1994–95 fiscal year, exclusive of amounts provided to the assessor's office pursuant to Item 9100–102–001 of the Budget Act of 1994. However, in a county in which the 1994–95 fiscal year funding level for the assessor's office was higher than the 1993–94 fiscal year level, the 1993–94 fiscal year staffing and funding levels shall be considered the base year for purposes of this section. If a county was otherwise eligible but was unable to participate in the State-County Property Tax Loan Program in the 1995–96 fiscal year because it did not meet the funding level and staffing requirements of this paragraph, that county shall maintain a base staffing, including contract staff, and total funding level in the county assessor's office equal to the levels in the 1995–96 fiscal year.

(2) Prior to the assessor's recommendation for participation in the State-County Property Tax Administration Grant Program, the assessor shall consult with the county tax collector, and any other county agency directly involved in property tax administration, to develop an identifiable plan for the use of these funds during the period specified in the resolution by the board of supervisors. This plan shall be subject to modification and approval of the board of supervisors.

(e) In any fiscal year in which the assessor of a county elects not to participate in the grant program or submits to the board of supervisors a grant proposal that is less than the applicable amount specified in paragraph (3) of subdivision (c), any other department of that county that is responsible for the administration, allocation, or adjudication of property tax, as defined in Section 95.3, may submit to the board of supervisors an application for the remainder of the allowable grant amount set forth in paragraph (3) of subdivision (c). Any grant proposal submitted pursuant to this subdivision shall include the information specified in paragraph (2) of subdivision (c), and will be subject to the performance standards set forth in paragraph (4) of subdivision (c).

(f) If the funds appropriated by any Budget Act for the purposes set forth in this section exceed sixty million dollars ($60,000,000), the excess shall be allocated among participating counties in proportion to each county's applicable grant share listed in the schedule set forth in paragraph (3) of subdivision (c). Any additional funds allocated pursuant to this subdivision shall be transferred by the Controller to the boards of supervisors of participating counties at the same time as the transfer of funds pursuant to paragraph (3) of subdivision (c), and the funds transferred shall be available for allocation by the board of supervisors within the county only for the purposes of administration, allocation, or adjudication of property taxes, as defined in Section 95.3. Any county receiving funds pursuant to this

subdivision shall be required to comply with the same reporting requirements as those required for grant funds received pursuant to subdivision (c).

(g) A participating county may establish a tracking system whereby a work or function number is assigned to each appraisal or administrative activity. This tracking system should provide statistical data on the number of production units performed by the county and the positive and negative change in assessed value attributable to the activities performed by each employee.

(h) At the request of the Department of Finance, the State Board of Equalization shall assist the Department of Finance in evaluating grants made pursuant to this section.

(i) Notwithstanding Section 95.3, any funds provided to an eligible county pursuant to this section shall not result in any reduction of those county property tax administrative costs that are reimbursable pursuant to Section 95.3.

History.—Added by Stats. 2001, Ch. 521 (AB 589), in effect January 1, 2002. Stats. 2002, Ch. 214 (SB 2086), in effect January 1, 2003, substituted "subdivision (c)" for "subdivision (b)" before "paragraph (4) of" in the second sentence of subdivision (e) and deleted "paragraph (3) of" after "received pursuant to" in the third sentence of subdivision (f).

95.4. **County costs: limitations.** Amounts invoiced pursuant to subdivision (b) of Section 95.2 or its predecessor shall not include the amount of any costs incurred by the county auditor pursuant to Section 33672.5 of the Health and Safety Code.

Article 2. Basic Revenue Allocations

§ 96. 1979–80 fiscal year allocation.
§ 96.1. Subsequent fiscal year allocations.
§ 96.15. Subsidiary districts merged with cities.
§ 96.16. County of Orange allocations.
§ 96.165. County of Orange allocations; post court action invalidation.
§ 96.18. County of San Diego allocations.
§ 96.19. County of Riverside allocations.
§ 96.2. Property tax apportionment factors.
§ 96.21. County of Solano allocations.
§ 96.22. 1988–89 fiscal year allocations to city zoos.
§ 96.23. County of Nevada allocations.
§ 96.25. County of Plumas allocations.
§ 96.27. Santa Clara County Central Fire Protection District allocations.
§ 96.3. Pension system costs—1983–85.
§ 96.31. Purposes for which ad valorem property taxes may be increased.
§ 96.4. Allocations: Redevelopment Project Areas.
§ 96.5. Allocation: "annual tax increment."
§ 96.52. Santa Barbara County Fire District allocations.
§ 96.6. Redevelopment increment.
§ 96.7. Independent local health special districts.
§ 96.8. Effective tax rate reduction.

96. **1979–80 fiscal year allocation.** For the 1979–80 fiscal year only, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 96.2 or their predecessors by the county auditor, subject to the allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, as follows:

(a) For each tax rate area, each local agency shall be allocated an amount of property tax revenue equal to the sum of the amount of property tax revenue allocated pursuant to Section 26912 of the Government Code to each local agency for the 1978–79 fiscal year, as allocated to that tax rate area pursuant to paragraph (1) of subdivision (f) of former Section 98, modified by any adjustments required by Section 99, and the amount of state assistance payments allocated to that tax rate area pursuant to paragraph (2) of subdivision (f) of Section 96.5.

(b) The auditor shall determine the school entities' share of the 1979–80 property tax revenue by subtracting the state assistance payments allocated to local agencies within the county for the 1978–79 fiscal year from the aggregate amount of property tax revenue allocated pursuant to Section 26912 of the Government Code to all school entities within the county for the 1978–79 fiscal year. The amount of the difference shall be the school entities' share of property taxes for fiscal year 1979–80, and shall be allocated to the school entities in the same proportion as the allocation made to those entities for the 1978–79 fiscal year. The amount for each school entity shall be allocated among its tax rate areas pursuant to paragraph (3) of subdivision (f) of Section 96.5.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivisions (a) and (b) shall be allocated pursuant to Section 96.5.

(d) For the purposes of computing property tax allocations for the 1978–79 fiscal year and each year thereafter, the county auditor shall recompute the 1978–79 property tax allocation for any city that levied a utility users' tax prior to 1978 but repealed that tax prior to December 31, 1977. For these cities, the term "property tax revenues for the 1975–76, 1976–77, and 1977–78 fiscal years" shall be deemed to include the aggregate of property tax and utility users' tax for those respective years.

96.1. **Subsequent fiscal year allocations.** (a) Except as otherwise provided in Article 3 (commencing with Section 97), and in Article 4 (commencing with Section 98), for the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 96.2 by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner:

(1) For each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99 or 99.02.

(2) The difference between the total amount of property tax revenue and the amounts allocated pursuant to paragraph (1) shall be allocated pursuant to Section 96.5, and shall be known as the "annual tax increment."

(3) For purposes of this section, the amount of property tax revenue referred to in paragraph (1) shall not include amounts generated by the increased assessments under Chapter 3.5 (commencing with Section 75).

(b) Any allocation of property tax revenue that was subjected to a prior completed audit by the Controller, pursuant to the requirements of Section 12468 of the Government Code, where all findings have been resolved, shall be deemed correct.

(c) (1) Guidelines for legislation implementation issued and determined necessary by the State Association of County Auditors, and when adopted as regulations by either the Controller or the Department of Finance pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, shall be considered an authoritative source deemed correct until some future clarification by legislation or court decision.

(2) If a county auditor knowingly does not follow the guidelines referred to in paragraph (1), that county auditor shall inform the Controller of the reason or reasons for not following the guidelines. If the Controller disagrees with the stated reason or reasons for not following the guidelines, the provisions of paragraph (3) do not apply.

(3) If, by audit begun on or after July 1, 2001, or discovery by an entity on or after July 1, 2001, it is determined that an allocation method is required to be adjusted and a reallocation is required for previous fiscal years, the cumulative reallocation or adjustment may not exceed 1 percent of the total amount levied at a 1 percent rate of the current year's original secured tax roll. The reallocation shall be completed in equal increments within the following three fiscal years, or as negotiated with the Controller in the case of reallocation to the Educational Revenue Augmentation Fund or school entities.

(4) If it is determined that an allocation method is required to be adjusted as provided in paragraph (3), the county auditor shall, in the fiscal year following the fiscal year in which this determination is made, correct the allocation method in accordance with statute.

History.—Stats. 2001, Ch. 381 (AB 169), in effect January 1, 2002, designated the first paragraph as subdivision (a) and renumbered former subdivision (a) as new paragraph (1), renumbered former subdivision (b) as new paragraph (2) and substituted "paragraph (1)" for "subdivision (a)" after "pursuant to" therein, renumbered former subdivision (c) as new paragraph (3) and substituted "paragraph (1)" for "subdivision (a)" after "to in" therein; and added subdivisions (b) and (c). Stats. 2003, Ch. 62 (SB 600), in effect January 1, 2004, substituted "99.02" for "99.2" after "Section 99 or" in the first sentence of paragraph (1) of subdivision (a).

Decisions Under Former Section 97, Subsequent Fiscal Year Allocations.

Construction.—The Legislature violated no constitutional or statutory provisions in enacting this section. *Arcadia Redevelopment Agency* v. *Ikemoto,* 16 Cal.App.4th 444.

Allocations.—In a mandate proceeding by a newly incorporated city against a county to correct alleged errors in the county's allocation of property taxes to the city, the base-year figure used to compute the auditor's ratio (Government Code Section 56842 (c) (1)) had to be adjusted for increases in assessed values realized between the base year and the year in which the city received its first distribution three years later. Although there is no statutory provision for adjustment of the base-year figure, such an adjustment accords with common sense and the overall statutory plan for property tax allocation. Under this section, current tax allocations are determined by starting with the prior year's property tax revenue, and a new city has no prior property tax revenue history to adjust. Thus, Section 56842 creates a computation by which a hypothetical previous year's revenue can be determined. It would be contrary to the overall statutory objective to apply this "prior year" tax calculation to the subsequent year without adjustment. *City of Highland* v. *San Bernardino County.* 4 Cal.App.4th 1174.

96.15. **Subsidiary districts merged with cities.** (a) Notwithstanding any other provision of this chapter, in the event a qualifying city as defined in subdivision (d) of Section 98 or subdivision (f) of Section 98.02 becomes the successor agency to a special district as a result of a merger described in Section 57087.3 of the Government Code, the auditor shall allocate to that qualifying city, in addition to any other amount of ad valorem property tax revenue required to be allocated to that city pursuant to this chapter, the amount of ad valorem property tax revenue that otherwise would be allocated to that district pursuant to this article.

(b) It is the intent of the Legislature in enacting this section to confirm and clarify a county auditor's duty and authority, established by subdivision (d) of Section 57087.3 of the Government Code, to allocate to a qualifying city the ad valorem property tax revenue of a subsidiary district that has been merged with the city.

History.—Added by Stats. 1996, Ch. 211, in effect July 22, 1996.

96.16. **County of Orange allocations.** (a) Notwithstanding any other provisions of this chapter, in the County of Orange, for the 1996–97 fiscal year, the amount of property tax revenue deemed allocated in the prior fiscal year to a flood control district or a harbors, beaches and parks fund shall be reduced by four million dollars ($4,000,000) each, and the amount of property tax revenue deemed allocated in the prior fiscal year to the county shall be increased by an amount equal to the combined amount of those reductions. For each of the 1997–98 to 2015–16 fiscal years, inclusive, the auditor shall allocate property tax revenues in those amounts that fully reflect the modifications required by the preceding sentence.

(b) For the 2016–17 fiscal year and each fiscal year thereafter, the auditor shall allocate property tax revenues in those amounts that would be determined if subdivision (a) had not applied to any prior fiscal year.

(c) This section shall not take effect unless and until (1) a plan of adjustment is confirmed in Case No. SA-94-22272-JR in the United States Bankruptcy Court for the Central District of California or (2) a trustee is appointed pursuant to Chapter 10 (commencing with Section 30400) of Division 3 of Title 3 of the Government Code.

History.—Added by Stats. 1995, Ch. 745, in effect January 1, 1996.

Note.—Section 6 of Stats. 1995, Ch. 745 provided the following:

"(a) In implementing Section 96.16 of the Revenue and Taxation Code, the County of Orange shall not adversely affect Santa Ana River flood control projects.

(b) If any of the revenues from the property tax reallocation specified in Section 33670.9 of the Health and Safety Code or Section 96.16 of the Revenue and Taxation Code are not forthcoming, the County of Orange shall use county general fund moneys to cover any resulting shortfall, as necessary."

Sec. 7 thereof provided that county revenues in the amount of the revenues allocated, transferred to, or deposited with, the County of Orange pursuant to the provisions of this act, shall not be used or expended for any purpose other than the satisfaction in full, adequate provision for the satisfaction in full, or other consensual treatment of the outstanding and allowed claims of county vendors, employees, holders of short-term debt of the county, holders of certificates of participation of the county on account of past due lease obligations, holders of expenses of administration in the county's bankruptcy case, or costs and expenses ancillary to the satisfaction of these claims, and otherwise to perform the county's obligations pursuant to a confirmed plan of adjustment.

96.165. **County of Orange allocations; post court action invalidation.** (a) Notwithstanding any other provision of this chapter, for each fiscal year for which this section is operative, the auditor for a county of the second class shall determine those amounts of ad valorem property tax revenue deemed allocated in the prior fiscal year to jurisdictions within that county in those amounts that would be determined if all of the following were true:

(1) Chapter 745 of the Statutes of 1995 had not been enacted.

(2) The amount of ad valorem property tax revenue allocated in the 1995–96 fiscal year to a flood control district or a harbors, beaches, and parks fund was reduced by four million dollars ($4,000,000).

(3) The amount of ad valorem property tax revenue allocated in the 1995–96 fiscal year was increased by the total amount of the reductions specified by paragraph (2).

(b) (1) For the fiscal year after the last fiscal year for which this section is operative, the auditor for a county of the second class shall allocate ad valorem property tax revenues to jurisdictions within the county in those amounts that would be determined if subdivision (a) had never applied to any preceding fiscal year.

(2) Notwithstanding any other provision of this section, no action shall be taken pursuant to this section that adversely affects any flood control project with respect to the Santa Ana River.

(c) This section is operative for each fiscal year beginning after the date on which a court of appellate jurisdiction renders a final determination invalidating Chapter 745 of the Statutes of 1995, and is inoperative for each fiscal year beginning after the date on which the Department of Finance determines that the amounts of property tax revenue transfers to a county of the second class made pursuant to Chapter 745 of the Statutes of 1995, and not repaid, together with the amounts of property tax revenue transfers to a county of the second class made pursuant to this section, equal the amounts of property tax revenue transfers to a county of the second class that would have been made pursuant to Chapter 745 of the Statutes of 1995 had it remained in full force and effect.

History.—Added by Stats. 1998, Ch. 724 (AB 2699), in effect January 1, 1999.

Note.—Section 10 of Stats. 1998, Ch. 724 (AB 2699) provided that the Legislature finds and declares that a general statute within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable due to the uniquely severe fiscal crisis suffered by the County of Orange, and, therefore, this special statute is necessary.

Section 11 thereof provided that the provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Section 13 thereof provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

96.18. **County of San Diego allocations.** (a) (1) Notwithstanding any other provision of this chapter, the Auditor for the County of San Diego shall, in allocating ad valorem property tax revenues in accordance with

subdivision (a) of Section 96.1 in each of the 1999–2000, 2000–01, and 2001–02 fiscal years, do both of the following:

(A) Decrease the total amount of ad valorem property tax revenue otherwise deemed allocated to the County of San Diego in the prior fiscal year by an amount, not to exceed three million dollars ($3,000,000), as specified in an ordinance or resolution as described in subdivision (b).

(B) Increase the total amount of ad valorem property tax revenue otherwise deemed allocated to the county free library in the prior fiscal year by an amount equal to the amount of the decrease required by subparagraph (A).

(2) Notwithstanding any other provision of this chapter, in each of the 1999–2000, 2000–01, and 2001–02 fiscal years only, the auditor shall allocate the ''annual tax increment'' pursuant to Section 96.5 in those amounts that would be so allocated if no reduction or increase had been required in any fiscal year pursuant to paragraph (1). In the 2002–03 fiscal year and each fiscal year thereafter, the auditor shall allocate the ''annual tax increment'' pursuant to Section 96.5 in those amounts that fully reflect any increase or decrease required in any fiscal year by paragraph (1).

(b) Subdivision (a) shall not become operative unless the Board of Supervisors for the County of San Diego adopts, with the approval of a majority of its entire membership, an ordinance or resolution declaring that the subdivision is operative. Any ordinance or resolution that is adopted pursuant to the preceding sentence shall do both of the following:

(1) Specify either the amount that is to be reallocated in accordance with paragraph (1) of subdivision (a) in each fiscal year described in that subdivision, or a procedure for determining that reallocation amount for each of those same fiscal years.

(2) Prohibit the total of the amounts reallocated in accordance with paragraph (1) of subdivision (a) from exceeding nine million dollars ($9,000,000).

History.—Added by Stats. 1999, Ch. 824 (AB 494), in effect October 10, 1999.

Note.—Section 2 of Stats. 1999, Ch. 824 (AB 494), provided that the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe fiscal difficulties being faced by the county free library in the County of San Diego in adequately funding a minimum level of library services. Sec. 3 thereof provided that this act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are: In order to provide the elected officials of the County of San Diego a timely opportunity to provide for that basic level of funding for the county free library system that will encourage literacy and education and reduce crime within the County of San Diego, it is necessary that this act take effect immediately.

96.19. **County of Riverside allocations.** Notwithstanding any other provision of law, the property tax apportionment factors applied in allocating property tax revenues in the County of Riverside for each fiscal year to the 1999-2000 fiscal year, inclusive, are deemed to be correct. However, for the 2000-01 fiscal year and each fiscal year thereafter, property tax apportionment factors applied in allocating property tax revenues in the County of Riverside shall be determined on the basis of property tax apportionment factors for prior fiscal years that have been fully corrected and

adjusted, pursuant to the review and recommendation of the Controller, as would be required in the absence of the preceding sentence.

History.—Added by Stats. 2000, Ch. 604 (AB 1615), in effect January 1, 2001.

Note.—Section 2 of Stats. 2000, Ch. 604 (AB 1615) provided that the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique difficulties faced by the County of Riverside in attempting in good faith to properly allocate property tax revenues pursuant to ambiguous legal requirements, and the uniquely severe fiscal and public service consequences that would be faced by the County of Riverside in the absence of the relief provided by this act.

96.2. **Property tax apportionment factors.** Except as otherwise provided in Section 96.21 or 96.22, for the purpose of apportioning property tax revenues each fiscal year:

(a) The amount of property tax revenue allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 96.1, modified by any adjustments made pursuant to Section 99 or 99.2 and subdivision (e) of Section 96.5, shall be combined to compute the total amount of property tax revenue allocated to the jurisdiction with respect to the tax rate area.

(b) The total amount of property tax revenue allocated to each jurisdiction with respect to all tax rate areas as determined pursuant to subdivision (a) shall be added to compute a total amount of property tax revenue for a jurisdiction in all tax rate areas.

(c) Each amount determined pursuant to subdivision (b) shall be divided by the total of all those amounts computed. The quotient determined shall be used to apportion actual property tax collections and shall be known as the ‘‘property tax apportionment factors.’’

(d) For the 1980–81 fiscal year and each fiscal year thereafter, prior years' property tax revenues shall be apportioned using the factors determined pursuant to subdivision (c) for the immediately preceding fiscal year.

(e) Notwithstanding this section, property tax revenues may be apportioned by tax rate area.

Decisions Under Former Section 97.5, Property Tax Apportionment Factors.

Construction.—The 1992 amendment to this section to include community redevelopment agencies specifically and to subject them to the apportionment of property tax revenues under Section 97 applies retroactively. *Arcadia Redevelopment Agency* v. *Ikemoto,* 16 Cal.App.4th 444.

96.21. **County of Solano allocations.** (a) Notwithstanding any other provision of this chapter, in the County of Solano, the apportionment of property tax revenues made pursuant to Section 96.2 or its predecessor section, for the 1987–88 fiscal year only, shall be modified as follows:

(1) The auditor shall increase by the sum of two hundred sixty-three thousand dollars ($263,000) the total amount of property tax revenues apportioned to the City of Suisun.

(2) The auditor shall reduce by the sum of ninety thousand dollars ($90,000) the total amount of property tax revenue apportioned to the Solano County General Fund.

(3) The auditor shall reduce by the total sum of one hundred seventy-three thousand dollars ($173,000) the total amount of property tax revenue apportioned to all of the following: the Solano County Free Library; the

Greater Vallejo Recreation District; the Solano County Water Conservation District; the Solano County Accumulated Capital Outlay Fund; the Solano County Aviation; the Solano County Recreation; the Solano County Zone of Benefit 1; the Solano County Library Special Tax Zone 1; the Fairfield-Suisun Cemetery District; the Solano County portion of the Bay Area Air Quality Management District; and the Cities of Benicia, Dixon, Fairfield, Vacaville, Rio Vista, and Vallejo. The reduction required by this paragraph shall be made by the auditor by computing that percentage of the total amount of property tax revenue allocated to all of the jurisdictions and funds specified in this paragraph which equals one hundred seventy-three thousand dollars ($173,000) and by reducing the total amount of property tax revenue allocated to each of those jurisdictions and funds by that percentage.

(b) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall increase the total amount of property tax revenue apportioned to the City of Suisun pursuant to Section 96.2 by the same percentage by which the total amount of property tax revenue to be apportioned to the city pursuant to Section 96.2 in the 1987–88 fiscal year was increased by the application of subdivision (a).

(c) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall reduce the total amount of property tax revenue apportioned to each jurisdiction and fund specified in paragraphs (2) and (3) subdivision (a) as follows:

(1) The auditor shall compute for each jurisdiction and fund that percentage of the total amount of the property tax revenue reduction required by subdivision (a) for the 1987–88 fiscal year which is equal to the total amount of its property tax revenue reduction for that fiscal year.

(2) The auditor shall reduce the total amount of the property tax revenue apportioned to each jurisdiction and fund for the applicable fiscal year by the amount determined by multiplying the percentage computed for the jurisdiction or fund in paragraph (1) by the total amount of the increase computed in subdivision (b).

96.22. **1988–89 fiscal year allocation to city zoos.** (a) Notwithstanding any other provision of this chapter, in any county with an eligible city, the apportionment of property tax revenues made pursuant to Section 96.2 or its predecessor section, for the 1988–89 fiscal year only, shall be modified as follows:

(1) The auditor shall increase the total amount of property tax revenues apportioned to an eligible city by an amount equal to 20 percent of the ‘‘additional amount’’ provided to that city pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) The auditor shall reduce by the amount determined in paragraph (1) the total amount of property tax revenues apportioned to an eligible local agency authorized to maintain vehicular recreation areas pursuant to Section 5541.1 of the Public Resources Code.

(b) For the 1988–89 fiscal year only, the allocation of annual tax increment pursuant to subdivision (e) of Section 98 or its predecessor section to the eligible city and the eligible local agency shall be adjusted correspondingly to reflect the modifications made by subdivision (a).

(c) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1989–90 fiscal year and each fiscal year thereafter, the amounts that are allocated to any eligible city and any eligible local agency pursuant to subdivision (a) shall be included in the ''amount of property tax revenue allocated pursuant to this chapter in the prior year.''

(d) For the purposes of this section, ''eligible city'' means any city which received an additional amount of state assistance payments in accordance with paragraph (2) of subdivision (h) of Section 95.

(e) The amount allocated to an eligible city pursuant to this section shall be expended for zoo purposes only.

96.23. **County of Nevada allocation.** (a) Notwithstanding any other provision of this chapter, in the County of Nevada, the apportionment of property tax revenues made pursuant to Section 96.2 or its predecessor section shall be modified for the 1993–94 fiscal year only, as follows:

(1) The auditor shall increase by the sum of fifty-six thousand six hundred eighty-four dollars ($56,684) the total amount of property tax revenues apportioned to the North San Juan Fire Protection District.

(2) The auditor shall reduce by the sum of thirty-one thousand seven hundred eighty-three dollars ($31,783) the total amount of property tax revenues apportioned to the Nevada County General Fund.

(3) The auditor shall reduce by the sum of twenty-four thousand nine hundred one dollars ($24,901) the total amount of property tax revenues apportioned to all of the following local agencies within Nevada County: Nevada County Solid Waste; the Nevada Irrigation District; the City of Nevada City; the City of Grass Valley; Higgins Area Fire Protection District; Truckee Fire Protection District; the Truckee Sanitary District; the Nevada Cemetery District; the Truckee Cemetery District; the Nevada Resource Conservation District; the San Juan Ridge County Water District; the Washington County Water District; the Tahoe Forest Hospital; the Donner Summit Public Utility District; the Tahoe Airport District; the Gold Flat Fire Protection District; the Alta Oaks Sunset Fire Protection District; the Forty Niner Fire Protection District; the Opher Hill Fire Protection District; the Consolidated Fire District; the Peardale-Chicago Park Fire Protection District; the Rough and Ready Fire Protection District; the Watt Park Fire Protection District; the Truckee Donner Park and Recreation District; the Tahoe Truckee Sanitation District; the Penn Valley Fire District; County Service Area 1A; County Service Area 2; County Service Area 3; County Service Area 4; County Service Area 5; County Service Area 10; County Service Area 11; County Service Area 16; and the Lake of the Pines Ranchos Community Services District. The reduction required by this paragraph shall be made by the auditor by computing that percentage of the total amount of

property tax revenues allocated in fiscal year 1993–94 to all of the jurisdictions and funds specified in this paragraph that equals twenty-four thousand nine hundred one dollars ($24,901) and by reducing the total amount of property tax revenues allocated to each of those jurisdictions and funds by that percentage.

(b) (1) For purposes of the calculations made pursuant to Section 96.1 in the 1994–95 fiscal year, the amount allocated to the North San Juan Fire Protection District in the 1993–94 fiscal year pursuant to paragraph (1) of subdivision (a) shall be included in the ''amount of property tax revenue allocated pursuant to this chapter in the prior year.''

(2) For the 1994–95 fiscal year and each fiscal year thereafter, the North San Juan Fire Protection District shall be allocated a share of the annual tax increment equal to 2.56 percent of the total of the annual tax increment amounts calculated under Section 96.5 for each of the tax rate areas comprising the North San Juan Fire Protection District. The auditor shall commensurately reduce on a pro rata basis the shares of the annual tax increment to be allocated to other local agencies, as defined in subdivision (a) of Section 95, within those tax rate areas.

96.25. **County of Plumas allocations.** Notwithstanding any other provision of law, the property tax apportionment factors applied in allocating property tax revenues in the County of Plumas for each fiscal year through the 1993–94 fiscal year shall be deemed correct. However, commencing with the 1994–95 fiscal year, property tax apportionment factors applied in allocating property tax revenue in the County of Plumas shall be determined on the basis of apportionment factors for prior fiscal years that have been corrected or adjusted as would be required in the absence of the preceding sentence.

History.—Added by Stats. 1995, Ch. 179, in effect January 1, 1996.

96.27. **Santa Clara County Central Fire Protection District allocations.** Notwithstanding any other provision of law, the property tax apportionment factors applied in allocating property tax revenues in the County of Santa Clara for the Santa Clara County Central Fire Protection District for each fiscal year from the 1988–89 fiscal year through the 1996–97 fiscal year shall be deemed correct, except to the extent that those apportionment factors reflect any calculation errors made in implementing Article 3 (commencing with Section 97). However, commencing with the 1997–98 fiscal year, property tax apportionment factors applied in allocating property tax revenue in the County of Santa Clara shall be determined on the basis of property tax apportionment factors for prior fiscal years that have been fully corrected or adjusted as would be required in the absence of the preceding sentence.

History.—Added by Stats. 1999, Ch. 567 (AB 236), in effect January 1, 2000.

Note.—Section 4 of Stats. 1999, Ch. 567 (AB 236) provided that the Legislature finds and declares that special laws are necessary and that general laws cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe and retroactive fiscal difficulties and disruptions that will be suffered by the Los Altos County Fire Protection District, the Santa Clara County Central Fire Protection District, the

Saratoga Fire Protection District, the South Santa Clara County Fire District, the Carpinteria-Summerland Fire Protection District, the Montecito Fire Protection District, and the Orcutt Fire Protection District if this act does not become operative.

96.3. **Pension system costs—1983–85.** (a) For the 1983–84 and 1984–85 fiscal years, no local agency shall impose a property tax rate pursuant to subdivision (a) of Section 93 for other than bonded indebtedness that is in excess of the rate, if any, imposed in the 1982–83 fiscal year or imposed for the 1983–84 fiscal year pursuant to a budget resolution adopted on or before July 1, 1983, that contemplated the levy of an additional property tax rate for pension system costs, whichever rate is higher, for other than bonded indebtedness. This section shall be deemed to be a maximum tax rate pursuant to Section 20 of Article XIII of the California Constitution.

(b) If a local agency imposes a rate in excess of the maximum rate authorized by subdivision (a), the amount of property tax allocated to that local agency pursuant to this chapter shall be reduced by one dollar ($1) for each one dollar ($1) of property tax revenue attributable to the excess rate.

(c) Any property tax revenue that has been subtracted from a local agency's allocation pursuant to subdivision (b) shall be allocated to elementary, high school, and unified school districts within the agency's jurisdiction in proportion to the average daily attendance of each of those districts.

(d) As used in this section, "bonded indebtedness" means any bond obligation of a local government which was approved by the voters of such jurisdiction prior to July 1, 1978.

96.31. **Purposes for which ad valorem property taxes may be increased.** (a) For the 1985–86 fiscal year and each fiscal year thereafter, no jurisdiction shall impose a property tax rate pursuant to subdivision (a) of Section 93, unless it is imposed for one or more of the following purposes:

(1) To make annual payments for the interest and principal on general obligation bonds approved by the voters before July 1, 1978, and on bonded indebtedness for the acquisition and improvement of real property approved by the voters by a two-thirds vote after June 4, 1986.

(2) To make payments to the State of California under contracts for the sale, delivery, or use of water entered into pursuant to California Water Resources Development Bond Act in Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 of the Water Code or to make payments to the United States or another public agency under voter-approved contracts for the sale, delivery, or use of water or for the repayment of voter-approved obligations for the construction, maintenance, or operation of water conservation, treatment, or distribution facilities, provided that the indebtedness was approved by the voters before July 1, 1978.

(3) To make payments pursuant to lease-purchase programs approved by the voters before July 1, 1978, provided that the jurisdiction imposed the property tax rate in the 1982–83 fiscal year.

(4) To make payments in support of pension programs approved by the voters before July 1, 1978, provided that the local agency imposed the property tax rate in the 1982–83 or 1983–84 fiscal year.

(5) To make payments in support of paramedic, library, or zoo programs approved by the voters before July 1, 1978, provided that the jurisdiction imposed the property tax rate in the 1982–83 fiscal year.

(6) To make payments for the interest and principal on an indebtedness, pursuant to Section 5544.2 of the Public Resources Code, approved by the voters before July 1, 1978, provided that the local agency imposed the property tax rate in the 1982–83 fiscal year.

(b) In the 1985–86 fiscal year and any fiscal year thereafter, a jurisdiction shall not impose a property tax rate, pursuant to subdivision (a) of Section 93, in excess of the rate it imposed in the 1982–83 or 1983–84 fiscal year. Notwithstanding the limit imposed by this subdivision, a higher property tax rate may be imposed whenever necessary to make payments for any of the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). However, no property tax rate increase in excess of the rate imposed in the 1984–85 fiscal year shall be imposed if the purpose of the rate increase is to fund a reduction in the rates charged for water at the time of the property tax rate increase.

(c) Notwithstanding subdivisions (a) and (b), a charter city may levy an ad valorem property tax rate to make payments in support of a retirement system for fire and police employees if all of the following criteria are met:

(1) The retirement system is part of the city's charter and was approved by the voters before July 1, 1978.

(2) The city did not levy a separate ad valorem property tax rate to support the retirement system in the 1983–84 fiscal year.

(3) The retirement system provides for a cost-of-living adjustment that is indexed to a consumer price index and does not limit the annual increases which may be paid to members after their retirement.

(4) The retirement system is not currently available to newly hired fire and police employees and will not be available in the future.

(5) Before January 1, 1985, the city unsuccessfully litigated a limit to the cost-of-living adjustment that may be paid to members of the retirement system after their retirement.

(6) After July 1, 1985, the city conducted an election and a question authorizing the levying of an ad valorem property tax for the purpose of making payments in support of the retirement system received the affirmative votes of at least 60 percent of those voting on that question.

The proceeds of an ad valorem property tax rate levied pursuant to this subdivision shall be used only to pay for the obligations of a retirement system described by this subdivision. The proceeds shall not be used to finance more than 75 percent of the annual obligations of this retirement system. A city shall not levy an ad valorem property tax pursuant to this subdivision after June 30, 2034.

(d) If a jurisdiction imposes a rate in excess of the maximum rate authorized by subdivision (a), (b), or (c), the amount of property tax allocated to the jurisdiction pursuant to this chapter shall be reduced by one dollar ($1) for each one dollar ($1) of property tax revenue attributable to the excess rate. Any property tax revenue that has been subtracted from a jurisdiction's allocation pursuant to this subdivision shall be allocated to elementary, high school, and unified school districts within the jurisdiction's jurisdiction in proportion to the average daily attendance of each district.

(e) This section shall be deemed to be a limit on the maximum property tax rate pursuant to Section 20 of Article XIII of the California Constitution.

96.4. **Allocations—Redevelopment project areas.** (a) Notwithstanding any other provision of this part or Part 8 (commencing with Section 4651) of Division 1, when all loans, advances, or indebtedness incurred to finance or refinance a redevelopment project subject to a reimbursement agreement validated by Section 33608 of the Health and Safety Code have been paid as provided in subdivision (b) of Section 33670 of the Health and Safety Code, the portion of taxes specified in subdivision (b) of this section that is produced by property within the redevelopment project area and that would otherwise have been allocated and distributed to the city, shall instead be allocated and distributed as follows:

(1) Fifty percent of these tax revenues shall be distributed to the affected school entities specified in Section 95 until the school entities have received the amount, including interest, specified in this subdivision. The amount of taxes allocated under this subdivision shall be equal to the aggregate amount of taxes that would have otherwise been received by the school entities in the years 2006 to 2014, inclusive, but for the reimbursement paid to the city pursuant to the agreement specified in Section 33608 of the Health and Safety Code, plus simple interest on the unpaid balance at an annual rate of 7 percent, accruing from and after January 1, 2006, until payment in full.

(2) The balance of these tax revenues shall be paid to the city, including the remainder of the portion of taxes specified in subdivision (b) available after the distribution made pursuant to paragraph (1).

(b) This section applies to that portion of the property tax revenues from property within the redevelopment project area subject to Section 33608 of the Health and Safety Code that is in excess of the property tax revenues that would be produced by the rate upon which the tax is levied each year by or for the city upon the total sum of the assessed value of the taxable property in the redevelopment project area as shown upon the assessment roll used in connection with the taxation of the property by the city, last equalized prior to the effective date of the ordinance approving the final redevelopment plan for that redevelopment project area.

(c) For purposes of all other allocations of property taxes under this code, the amount allocated to school entities by this section shall be treated as having been allocated to the city.

(d) The county auditor may assess the city for, and the city shall pay to the county auditor, the actual costs of making the reallocation and payment of property taxes required by this section.

96.5. **Allocation of "annual tax increment."** The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivision (a) of Section 96.1 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99 or 99.02, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar ($1) per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all those amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 96.1 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in paragraph (4) of subdivision (b) of former Section 97.3, as that section read on January 1, 1994, in the 1984–85 fiscal year only, in subdivision (d) of former Section 97.32, as that section read on January 1, 1994, in the 1985–86 fiscal year only, and in paragraph (4) of subdivision (b) of former Sections 97.35, 97.37, and 97.38 in the 1989–90 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all those jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99 or 99.02.

(f) Any agency that has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of

Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(g) For purposes of the calculations made pursuant to this section or its predecessor for the 1993–94 and 1998–99 fiscal years, the amount of property tax revenue allocated to the county, a city, a special district, a school district, community college district, or an Educational Reserve Augmentation Fund in the prior fiscal year shall be that amount as determined pursuant to Section 96.1, as modified or as provided in Article 3 (commencing with Section 97).

96.52. **Santa Barbara County Fire District allocations.** Notwithstanding any other provision of law, the property tax apportionment factors applied in allocating property tax revenues in the County of Santa Barbara for the Carpinteria-Summerland Fire Protection District, the Montecito Fire Protection District, and the Orcutt Fire Protection District for the 1993–94 fiscal year through and including the 1996–97 fiscal year shall be deemed correct. However, commencing with the 1997–98 fiscal year, property tax apportionment factors applied in allocating property tax revenue for these fire protection districts in the County of Santa Barbara shall be determined on the basis of apportionment factors for prior fiscal years that have been corrected or adjusted as would be required in the absence of the preceding sentence.

History.—Added by Stats. 1999, Ch. 567 (AB 236), in effect January 1, 2000.

Note.—Section 4 of Stats. 1999, Ch. 567 (AB 236) provided that the Legislature finds and declares that special laws are necessary and that general laws cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe and retroactive fiscal difficulties and disruptions that will be suffered by the Los Altos County Fire Protection District, the Santa Clara County Central Fire Protection District, the Saratoga Fire Protection District, the South Santa Clara County Fire District, the Carpinteria-Summerland Fire Protection District, the Montecito Fire Protection District, and the Orcutt Fire Protection District if this act does not become operative.

96.6. **Redevelopment increment.** (a) Notwithstanding any other provision of law, for the purposes of this chapter, the apportionment of property tax revenues required by Article 1 (commencing with Section 95) to Article 4 (commencing with Section 98), inclusive, shall not involve the subtraction of the redevelopment increment, calculated pursuant to subdivision (b) of Section 33670 of the Health and Safety Code, from any jurisdiction that is not within the boundaries of a redevelopment project area. For each fiscal year, if, in performing the calculations set forth in subdivision (a) and in subdivision (b) of Section 33670 of the Health and Safety Code, the auditor determines that there is redevelopment increment to be allocated to a redevelopment agency, the auditor shall withdraw that redevelopment increment determined pursuant to Section 33670 of the Health and Safety Code from those ad valorem property tax revenue allocations to be made to each a jurisdiction within the boundaries of the relevant redevelopment project area. Each of those jurisdiction's share of that redevelopment increment shall be computed on the basis of the factors or rates which are developed pursuant to Section 96.5. In order to determine each jurisdiction's share of that redevelopment increment, the factors or rates for all tax rate

areas that are part of a redevelopment project shall be applied to the current assessed value of the taxable property within the redevelopment project area, less the assessed valuation on the assessment roll last equalized prior to the effective date of the ordinance establishing the redevelopment project. Nothing in this section shall be construed as prohibiting a county from making the allocation and payment of funds as provided for by subdivision (b) of Section 33670 of the Health and Safety Code prior to the apportionment of property tax revenues to any jurisdiction.

(b) The amendment of subdivision (a) made by the act adding this subdivision does not constitute a change in, but is declaratory of, existing law. However, any apportionment of property tax revenues made prior to the effective date of the act adding this subdivision that is inconsistent with the provisions of subdivision (a), as amended by the act adding this subdivision, shall be deemed correct.

(c) (1) For the 2001–02 fiscal year, and each succeeding fiscal year thereafter, if the auditor of the County of Stanislaus determines that the withdrawal of the redevelopment increment from jurisdictions within the boundaries of the relevant redevelopment project area, on a project area basis as outlined in subdivision (a), results in jurisdictions receiving larger allocations of taxes than they otherwise would have received in the absence of redevelopment, the auditor may then determine if there is a redevelopment increment on a tax rate area basis and make withdrawals of the redevelopment increment from jurisdictions on a tax rate area basis to ensure that tax allocations to jurisdictions in the relevant redevelopment project are consistent with constitutional provisions and court rulings requiring that tax allocations to jurisdictions may never be more than they otherwise would have received without redevelopment.

(2) Any apportionment of property tax revenues made prior to January 1, 2003, that is inconsistent with this subdivision shall be deemed correct.

History.—Stats. 1999, Ch. 184 (SB 392), in effect January 1, 2000, added the second sentence, substituted "Each of those jurisdiction's share of that redevelopment increment" for "Any redevelopment increment that is subtracted from a jurisdiction within a redevelopment project area" before "shall be computed" in the former second sentence, substituted "share of that" for "liability for the" after "each jurisdiction's" and added "all" before "tax rate areas" in the former third sentence of subdivision (a); deleted former subdivisions (b) and (c), which provided for the Legislature's intent; and added new subdivision (b). Stats. 2002, Ch. 500 (SB 1329), in effect January 1, 2003, added subdivision (c).

Note.—Section 4 of Stats. 2002, Ch. 500 (SB 1329), provided that the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances in Humboldt, Sonoma, and Stanislaus Counties.

96.7. **Independent local health special districts.** In the case of any county taking over the responsibilities of an independent local health special district created pursuant to Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as enacted by Chapter 60 of the Statutes of 1939, for purposes of computations pursuant to this chapter, the amount of state assistance payments with respect to that county shall be increased by five hundred four thousand nine hundred fifty-seven dollars ($504,957).

96.8. **Effective tax rate reductions.** (a) On or before August 1, 1982, and on or before August 1 of each year thereafter, any jurisdiction may

request that the amount computed for it pursuant to this chapter be reduced for the current fiscal year by a specified amount. Upon receiving a request as so described, the county auditor shall compute an effective tax rate reduction by dividing the amount of property tax revenue to be reduced by the taxable assessed value on the secured roll of the jurisdiction and multiplying the quotient by 100. The effective tax rate reduction shall be applied to the taxable assessed value on each secured roll tax bill for property within the jurisdiction, and the resulting amount shall be subtracted from the property tax owed by the taxpayer which is attributable to the tax rate provided by subdivision (b) of Section 2237. This subtracted amount shall be shown on each such tax bill with a notation reading: ''Tax reduction by (name of jurisdiction).'' The same effective tax rate reduction shall be applied in a comparable manner to the taxable assessed value on the next succeeding unsecured roll tax bill for property within the jurisdiction, except that for the 1981–82 fiscal year any such rate reduction used on that year's unsecured roll shall be equal to the 1980–81 rate divided by four.

(b) Notwithstanding any other provision of law, if a school entity acts pursuant to subdivision (a), the state shall not increase school apportionments to that school entity to make up the reduction in property tax revenues.

(c) Effective tax rate reductions made pursuant to this section shall not be taken into account in computing property tax allocations pursuant to this chapter, except that for the 1981–82 fiscal year any rate reduction used on that year's unsecured roll shall be equal to the 1980–81 rate divided by four.

Article 3. Revenue Allocation Shifts for Education

§ 97. 1992–93 Fiscal Year Allocations.
§ 97.1. 1993–94 Fiscal Year Allocations.
§ 97.2. Property Tax Reduction Per County.
§ 97.21. Fire Protection Special Districts.
§ 97.22. Alameda Contra Costa Transit District Allocations.
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§ 97.313. Reduction Transfers: Eligible Counties.
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§ 97.33. Oakland/Berkeley Property Tax Revenue Loss.
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§ 97.361. County Allocation Reductions; supplemental roll.
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§ 97.38. Computations: Marin County and Mono County Community College Districts.
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§ 97.4. County Allocations.
§ 97.41. Qualifying County Service Area Allocations.
§ 97.43. Educational Revenue Augmentation Fund cap.
§ 97.44. County of San Luis Obispo Allocations.
§ 97.45. 2003–04 Fiscal Year Allocations.
§ 97.46. County Offices of Education and Community College Factors.
§ 97.68. Sales and Use Tax Compensation Fund.

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97. **1992–93 Fiscal Year Allocations.** (a) Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section, for the 1992–93 fiscal year only, shall be modified as follows:

(1) The amount of property tax revenue deemed allocated to the county or city and county in the prior fiscal year shall be reduced by an amount equal to one dollar and ninety-two cents ($1.92) per each resident of the county or city and county. In addition, the amount of property tax revenue deemed allocated in the prior fiscal year to each city or city and county shall be reduced by an amount equal to one dollar and sixty-five cents ($1.65) per each resident of that city or city and county.

(2) The amount of property tax revenues not allocated to the county, city and county, and any city as a result of the reductions calculated pursuant to paragraph (1) shall be deposited in the Educational Revenue Augmentation Fund pursuant to paragraph (1) of subdivision (d) of Section 97.2.

(b) Notwithstanding any other provision of this chapter, for the 1993–94 fiscal year only, for purposes of the calculations and allocations made by each county pursuant to Section 96.1, the amount of property tax revenue deemed allocated in the prior fiscal year to the Educational Revenue Augmentation Fund shall be reduced by the total amount of the reductions required for each county or city and county and each city or city and county pursuant to paragraph (1) of subdivision (a).

(c) For the purpose of this section, the population of city, county, or city and county shall be the population determined pursuant to Section 11005.

97.1. **1993–94 Fiscal Year Allocations.** (a) Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant Section 96.1 or its predecessor section, as modified by Section 97.2 or its predecessor section for the 1992–93 fiscal year, shall be modified for the 1993–94 fiscal year as follows:

(1) The amount of property tax revenue deemed allocated to the county or city and county in the prior fiscal year shall be reduced by an amount equal to seventy-eight cents ($0.78) per each resident of the county or city and county. In addition, the amount of property tax revenue deemed allocated in the prior fiscal year to each city or city and county shall be reduced by an amount equal to ninety-nine cents ($0.99) per each resident of that city or city and county.

(2) The amount of property tax revenues not allocated to the county, city and county, and any city as a result of the reductions calculated pursuant to paragraph (1) shall be deposited in the Educational Revenue Augmentation Fund established pursuant to paragraph (1) of subdivision (d) of Section 97.2.

(b) For the purpose of this section, the population of a city, county, or city and county shall be the population determined pursuant to Section 11005.

97.2. **Property tax reduction per county.** Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section shall be modified for the 1992–93 fiscal year pursuant to subdivisions (a) to (d), inclusive, and for the 1997–98 and 1998–99 fiscal years pursuant to subdivision (e), as follows:

(a) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each county shall be reduced by the dollar amounts indicated as follows, multiplied by 0.953649:

County	Property Tax Reduction per County
Alameda	$ 27,323,576
Alpine	5,169
Amador	286,131
Butte	846,452
Calaveras	507,526
Colusa	186,438
Contra Costa	12,504,318
Del Norte	46,523
El Dorado	1,544,590
Fresno	5,387,570
Glenn	378,055
Humboldt	1,084,968
Imperial	998,222
Inyo	366,402
Kern	6,907,282
Kings	1,303,774
Lake	998,222
Lassen	93,045
Los Angeles	244,178,806
Madera	809,194
Marin	3,902,258
Mariposa	40,136
Mendocino	1,004,112
Merced	2,445,709
Modoc	134,650
Mono	319,793
Monterey	2,519,507
Napa	1,362,036
Nevada	762,585
Orange	9,900,654
Placer	1,991,265
Plumas	71,076
Riverside	7,575,353
Sacramento	15,323,634
San Benito	198,090
San Bernardino	14,467,099
San Diego	17,687,776
San Francisco	53,266,991
San Joaquin	8,574,869

County	Property Tax Reduction per County
San Luis Obispo	2,547,990
San Mateo	7,979,302
Santa Barbara	4,411,812
Santa Clara	20,103,706
Santa Cruz	1,416,413
Shasta	1,096,468
Sierra	97,103
Siskiyou	467,390
Solano	5,378,048
Sonoma	5,455,911
Stanislaus	2,242,129
Sutter	831,204
Tehama	450,559
Trinity	50,399
Tulare	4,228,525
Tuolumne	740,574
Ventura	9,412,547
Yolo	1,860,499
Yuba	842,857

(2) Notwithstanding paragraph (1), the amount of the reduction specified in that paragraph for any county or city and county that has been materially and substantially impacted as a result of a federally declared disaster, as evidenced by at least 20 percent of the cities, or cities and unincorporated areas of the county representing 20 percent of the population within the county suffering substantial damage, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of five million dollars ($5,000,000) determined for that county or city and county pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each county and city and county in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each county and city and county as described in subparagraph (A) its share of five million dollars ($5,000,000) on the basis of that county's population relative to the total population of all counties described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(b) (1) Except as provided in paragraph (2), the amount of property tax revenue deemed allocated in the prior fiscal year to each city, except for a newly incorporated city that did not receive property tax revenues in the 1991–92 fiscal year, shall be reduced by 9 percent. In making the above computation with respect to cities in Alameda County, the computation for a city described in paragraph (6) of subdivision (a) of Section 100.7, as added by Section 73.5 of Chapter 323 of the Statutes of 1983, shall be adjusted so that the amount multiplied by 9 percent is reduced by the amount determined for that city for ''museums'' pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) Notwithstanding paragraph (1), the amount of the reduction determined pursuant to that paragraph for any city that has been materially and substantially impacted as a result of a federally declared disaster, as certified by the Director of the Office of Emergency Services, occurring between October 1, 1989, and the effective date of this section, shall be reduced by that portion of fifteen million dollars ($15,000,000) determined for that city pursuant to subparagraph (B) of paragraph (3).

(3) On or before October 1, 1992, the Director of Finance shall do all of the following:

(A) Determine the population of each city in which a federally declared disaster has occurred between October 1, 1989, and the effective date of this section.

(B) Determine for each city as described in subparagraph (A) its share of fifteen million dollars ($15,000,000) on the basis of that city's population relative to the total population of all cities described in subparagraph (A).

(C) Notify each auditor of each county and city and county of the amounts determined pursuant to subparagraph (B).

(4) In the 1992–93 fiscal year and each fiscal year thereafter, the auditor shall adjust the computations required pursuant to Article 4 (commencing with Section 98) so that those computations do not result in the restoration of any reduction required pursuant to this section.

(c) (1) Subject to paragraph (2), the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall be reduced by 35 percent. For purposes of this subdivision, ''revenues that are pledged to debt service'' include only those amounts required to pay debt service costs in the 1991–92 fiscal year on debt instruments issued by a special district for the acquisition of capital assets.

(2) No reduction pursuant to paragraph (1) for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Special Districts (not including

any annual revenues from fiscal years following the 1989–90 fiscal year). With respect to any special district, as defined pursuant to subdivision (m) of Section 95, that is allocated property tax revenue pursuant to this chapter but does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, the auditor shall determine the total annual revenues for that special district from the information in the 1989–90 edition of the State Controller's Report on Financial Transactions Concerning Counties. With respect to a special district that did not exist in the 1989–90 fiscal year, the auditor may use information from the first full fiscal year, as appropriate, to determine the total annual revenues for that special district. No reduction pursuant to paragraph (1) for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(3) The auditor in each county shall, on or before January 15, 1993, and on or before January 30 of each year thereafter, submit information to the Controller concerning the amount of the property tax revenue reduction to each special district within that county as a result of paragraphs (1) and (2). The Controller shall certify that the calculation of the property tax revenue reduction to each special district within that county is accurate and correct, and submit this information to the Director of Finance.

(A) The Director of Finance shall determine whether the total of the amounts of the property tax revenue reductions to special districts, as certified by the Controller, is equal to the amount that would be required to be allocated to school districts and community college districts as a result of a three hundred seventy-five million dollar ($375,000,000) shift of property tax revenues from special districts for the 1992–93 fiscal year. If, for any year, the total of the amount of the property tax revenue reductions to special districts is less than the amount as described in the preceding sentence, the amount of property tax revenue, other than those revenues that are pledged to debt service, deemed allocated in the prior fiscal year to a special district, other than a multicounty district, a local hospital district, or a district governed by a city council or whose governing board has the same membership as a city council, shall, subject to subparagraph (B), be reduced by an amount up to 5 percent of the amount subject to reduction for that district pursuant to paragraphs (1) and (2).

(B) No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any special district, other than a countywide water agency that does not sell water at retail, shall exceed an amount equal to 10 percent of that district's total annual revenues, from whatever source, as shown in the most recent State Controller's Report on Financial Transactions Concerning Special Districts. No reduction pursuant to subparagraph (A), in conjunction with a reduction pursuant to paragraphs (1) and (2), for any countywide water agency that does not sell water at retail shall exceed an amount equal to 10 percent of that portion of that agency's general fund derived from property tax revenues.

(C) In no event shall the amount of the property tax revenue loss to a special district derived pursuant to subparagraphs (A) and (B) exceed 40 percent of that district's property tax revenues or 10 percent of that district's total revenues, from whatever source.

(4) For the purpose of determining the total annual revenues of a special district that provides fire protection or fire suppression services, all of the following shall be excluded from the determination of total annual revenues:

(A) If the district had less than two million dollars ($2,000,000) in total annual revenues in the 1991–92 fiscal year, the revenue generated by a fire suppression assessment levied pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(B) The total amount of all funds, regardless of the source, that are appropriated to a district, including a fire department, by a board of supervisors pursuant to Section 25642 of the Government Code or Chapter 7 (commencing with Section 13890) of Part 2.7 of Division 12 of the Health and Safety Code for fire protection. The amendment of this subparagraph by Chapter 290 of the Statutes of 1997 shall not be construed to affect any exclusion from the total annual revenues of a special district that was authorized by this subparagraph as it read prior to that amendment.

(C) The revenue received by a district as a result of contracts entered into pursuant to Section 4133 of the Public Resources Code.

(5) For the purpose of determining the total annual revenues of a resource conservation district, all of the following shall be excluded from the determination of total annual revenues:

(A) Any revenues received by that district from the state for financing the acquisition of land, or the construction or improvement of state projects, and for which that district serves as the fiscal agent in administering those state funds pursuant to an agreement entered into between that district and a state agency.

(B) Any amount received by that district as a private gift or donation.

(C) Any amount received as a county grant or contract as supplemental to, or independent of, that district's property tax share.

(D) Any amount received by that district as a federal or state grant.

(d) (1) The amount of property tax revenues not allocated to the county, cities within the county, and special districts as a result of the reductions calculated pursuant to subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund to be established in each county. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1991–92 fiscal year.

(2) The auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district and county office of education in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district and county office of education. In no event shall any additional money be allocated from the fund to a school district or county office of education upon that school district or county office of education becoming an excess tax school entity.

(3) The auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate the proportion of the Educational Revenue Augmentation Fund to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2).

(B) (i) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this clause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code. If, for the 2000-01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of this clause, the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110–250–0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999). This clause shall be operative for the 1999–2000 fiscal year only to the extent that moneys are appropriated for purposes of this clause in the Budget Act of 1999 by an appropriation that specifically references this clause.

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 or its predecessor section for the 1993–94 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation

Fund pursuant to Section 33681 of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(e) (1) For the 1997–98 fiscal year:

(A) The amount of property tax revenue deemed allocated in the prior fiscal year to any city subject to the reduction specified in paragraph (2) of subdivision (b) shall be reduced by an amount that is equal to the difference between the amount determined for the city pursuant to paragraph (1) of subdivision (b) and the amount of the reduction determined for the city pursuant to paragraph (2) of subdivision (b).

(B) The amount of property tax revenue deemed allocated in the prior fiscal year to any county or city and county subject to the reduction specified in paragraph (2) of subdivision (a) shall be reduced by an amount that is equal to the difference between the amount specified for the county or city and county pursuant to paragraph (1) of subdivision (a) and the amount of the reduction determined for the county or city and county pursuant to paragraph (2) of subdivision (a).

(2) The amount of property tax revenues not allocated to a city or city and county as a result of this subdivision shall be deposited in the Educational Revenue Augmentation Fund described in subparagraph (A) of paragraph (1) of subdivision (d).

(3) For purposes of allocations made pursuant to Section 96.1 for the 1998–99 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision shall be deemed property tax revenues allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

(f) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 97.03 of the Revenue and Taxation Code, as added by Senate Bill 617 of the 1991–92 Regular Session.

History.—Stats. 1995, Ch. 309, in effect August 3, 1995, added subparagraph letter designation (A) in paragraph (4), and added subparagraph (B) in paragraph (4) of subdivision (d). Stats. 1995, Ch. 500, in effect October 4, 1995, substituted "For" for "Commencing with" and substituted "allocations" for "allocation" in the first sentence, and added the third sentence in subparagraph (B) in paragraph (4) of subdivision (d). Stats. 1996, Ch. 1111, in effect, January 1, 1997, relettered subparagraph (B) as clause (i) of subparagraph (B); substituted " and 1996–97 fiscal years only," for "fiscal year and each fiscal year thereafter," and added ",subject to clauses (ii) and (iii)," after "the auditor shall" in former subparagraph (B); created new clause (ii) with the third sentence of former subparagraph (B); added clause (iii) of subparagraph (B); and added subparagraph (C) of paragraph (4) of subdivision (d). Stats. 1997, Ch. 290 (AB 1589), in effect August 18, 1997, substituted "In counties . . . fire protection." for "Any appropriation for fire protection received by a district pursuant to Section 25642 of the Government Code." in the first sentence of subparagraph (B) of paragraph (4) of subdivision (c); and substituted "fiscal year and each fiscal year thereafter," for "and 1996–97 fiscal years only," after "1995–96" in the first sentence of clause (i) of subparagraph (B) of paragraph (4) of subdivision (d). Stats. 1998, Ch. 89 (AB 598), in effect June 30, 1998 and operative July 1, 1998, substituted "subdivision (c) of Section 56836.08" for "Section 56712" after "county pursuant to" in the second sentence of clause (i) of subparagraph (B) of paragraph (4) of subdivision (d). Stats. 1999, Ch. 78 (AB 1115), in effect July 7, 1999, substituted "0.953649" for ".953649" after "multiplied by" in the first sentence of subdivision (a)(1); substituted "paragraphs" for "paragraph" after the second "pursuant to" in the first sentence of subparagraph (B) of paragraph (3) of subdivision (c); added "except the 1999–2000 fiscal year" after "thereafter" in the first sentence of clause (i) and added clause (iv) of subparagraph (B) of paragraph (4) of subdivision (d). Stats. 1999, Ch. 646 (AB 1600), in effect January 1, 2000, deleted "In counties that contract with the state to protect state responsibility areas," before "The" in the first sentence and added the second sentence of subparagraph (B) of paragragh (4) of subdivision (c); deleted "except the 1999–2000 fiscal year" after "year thereafter" in the first sentence of clause (i), added "Notwithstanding clause (i) of this subparagraph," before "for the", added "only" after "1999–2000 fiscal year," in the first sentence and added the second sentence of clause (iv) of subparagraph (B) of paragraph (4) of subdivision (d). Stats. 2000, Ch. 611 (SB 1396), in effect January 1, 2001, substituted "clause" for

"subparagraph" after "pursuant to this" in the second sentence and added the third sentence of clause (i), substituted "clause (i)" for "this subparagraph" twice in the first sentence of clause (ii), and substituted "clause (i) and clause (i) of" for "this subparagraph and" twice after "pursuant to" in the first sentence of clause (iii) of subparagraph (B) of paragraph (4) of subdivision (d).

Note.—Section 5 of Stats. 1997, Ch. 290 provided that the Legislature finds and declares that the amendments to this section do not constitute a change in, but are declaratory of, existing law.

Note.—Section 62 of Stats. 1998, Ch. 89 (AB 598) provided that this act shall become operative July 1, 1998. Section 63 thereof provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Section 64 thereof provided that this act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are: In order to ensure that special education funding reform is implemented appropriately pursuant to Chapter 854 of the Statutes of 1997, it is necessary that this act take effect immediately.

Decisions Under Former Section 97.03, Property Tax Reduction Per County.

Construction.—Subdivision (c) of this section is not invalid. Its terms are sufficiently defined so that the subdivision is not unconstitutionally vague, it does not conflict with Article XIII A of the Constitution, and it does not violate equal protection, even though small fire districts are exempt. *San Miguel Consolidated Fire Protection District* v. *Davis,* 25 Cal.App.4th 134. The 1992 legislation which reduced property taxes previously allocated to local governments and simultaneously placed an equal amount of property tax revenues into Educational Revenue Augmentation Funds (ERAF's) for distribution to school districts did not amount to the imposition of as state-mandated program or higher level of service. Thus, counties were not entitled to reimbursement under Article XIII B, Section 6 of the Constitution. *Sonoma County* v. *Commission on State Mandates,* 84 Cal.App.4th 1264.

97.21. **Fire protection special districts.** For the purpose of determining under Section 97.2 the total annual revenues of a special district that provides fire protection or fire suppression services and had less than two million dollars ($2,000,000) in total annual revenues in the 1991–92 fiscal year, all of the following shall, in addition to any other revenues otherwise excluded, be excluded from the determination of total annual revenues:

(a) The revenue generated by a special tax levied pursuant to Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

(b) The revenue generated by a special tax levied pursuant to Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code.

(c) The revenue generated by a special tax levied pursuant to Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

97.22. **Alameda Contra Costa Transit District Allocations.** For the purposes of paragraph (1) of subdivision (c) of Section 97.2, "multicounty district" includes District 2 of the Alameda Contra Costa Transit District. This section shall be deemed to have become operative July 1, 1992, and the auditor is hereby authorized to adjust the 1993–94 distributions to the Educational Revenue Augmentation Fund accordingly.

97.23. **Chino Basin Municipal Water District.** (a) Notwithstanding Section 97.2 or any successor to that section, the Chino Basin Municipal Water District may maintain a stream of property tax revenue as provided in former Section 97.03, as that section read on October 11, 1993, to meet the commitment of debt service obligated with respect to revenue bonds that

were issued in accordance with Chapter 1279 of the Statutes of 1993, on or after the effective date of that act and prior to the effective date of Chapter 155 of the Statutes of 1994.

(b) (1) In no event shall the total amount of the revenue stream maintained by the Chino Basin Municipal Water District pursuant to subdivision (a) exceed the total amount of the annual debt service payments for those revenue bonds described in subdivision (a).

(2) If the total amount of the revenue stream maintained by the Chino Basin Municipal Water District pursuant to subdivision (a) exceeds the total amount of the annual debt service payments for those revenue bonds described in subdivision (a), then the Chino Basin Municipal Water District shall reimburse the excess amount to the county auditor for deposit into the county's Educational Revenue Augmentation Fund.

(c) This section shall remain in effect only until the date upon which the revenue bonds described in subdivision (a) have been fully amortized, and as of that date is repealed.

History.—Added by Stats. 1995, Ch. 39, in effect January 1, 1996.

97.3. **Computation modifications—1993–94.** Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 96.1 or its predecessor section, as modified by Section 97.2 or its predecessor section for the 1992–93 fiscal year, shall be modified for the 1993–94 fiscal year pursuant to subdivisions (a) to (c), inclusive, as follows:

(a) The amount of property tax revenue deemed allocated in the prior fiscal year to each county and city and county shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions for counties and cities and counties determined pursuant to this section shall be one billion nine hundred ninety-eight million dollars ($1,998,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of the reduction for each county or city and county as follows:

(A) The proportionate share of the property tax revenue reduction for each county or city and county that would have been imposed on all counties under the proposal specified in the "May Revision of the 1993–94 Governor's Budget" shall be determined by reference to the document entitled "Estimated County Property Tax Transfers Under Governor's May Revision Proposal," published by the Legislative Analyst's Office on June 1, 1993.

(B) Each county's or city and county's proportionate share of total taxable sales in all counties in the 1991–92 fiscal year shall be determined.

(C) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (A) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(D) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (B) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(E) The Director of Finance shall add the amounts determined pursuant to subparagraphs (C) and (D) for each county and city and county, and divide the resulting figure by two. The amount so determined for each county and city and county shall be divided by a factor of 1.038. The resulting figure shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior fiscal year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee its determination of the amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify the auditor of each county and city and county of the amount of property tax revenue reduction determined for each county and city and county.

(5) Notwithstanding any other provision of this subdivision, the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 3 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993–94 fiscal year but for the implementation of that alternative procedure. For purposes of this paragraph, ‘‘qualifying school entity’’ means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95, and a county’s Educational Revenue Augmentation Fund as described in subdivision (d) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county or city and county shall not exceed the reduction calculated for that county or city and county pursuant to paragraph (2).

(6) Notwithstanding the provisions of paragraph (5), the amount of the reduction specified in paragraph (2) for a county of the 16th class that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 2 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue distributed to each qualifying school entity that would not have been distributed for the 1993–94 fiscal year, pursuant to the historical accounting method of that county of the 16th class, but for the implementation of that alternative procedure. For purposes of this paragraph, ‘‘qualifying school entity’’ means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95, and a county’s Educational Revenue

Augmentation Fund as described in subdivision (a) of this section and subdivision (d) of Section 97.2. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county shall not exceed the reduction calculated for that county pursuant to paragraph (2).

(b) The amount of property tax revenue deemed allocated in the prior fiscal year to each city shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions determined for cities pursuant to this section shall be two hundred eighty-eight million dollars ($288,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of reduction for each city as follows:

(A) The amount of property tax revenue that is estimated to be attributable in the 1993–94 fiscal year to the amount of each city's state assistance payment received by that city pursuant to Chapter 282 of the Statutes of 1979 shall be determined.

(B) A factor for each city equal to the amount determined pursuant to subparagraph (A) for that city, divided by the total of the amounts determined pursuant to subparagraph (A) for all cities, shall be determined.

(C) An amount for each city equal to the factor determined pursuant to subparagraph (B), multiplied by three hundred eighty-two million five hundred thousand dollars ($382,500,000), shall be determined.

(D) In no event shall the amount for any city determined pursuant to subparagraph (C) exceed a per capita amount of nineteen dollars and thirty-one cents ($19.31), as determined in accordance with that city's population on January 1, 1993, as estimated by the Department of Finance.

(E) The amount determined for each city pursuant to subparagraphs (C) and (D) shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee those amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify each county auditor of the amount of property tax revenue reduction determined for each city located within that county.

(c) (1) The amount of property tax revenue deemed allocated in the prior fiscal year to each special district, as defined pursuant to subdivision (m) of Section 95, shall be reduced by the amount determined for the district pursuant to paragraph (3) and increased by the amount determined for the district pursuant to paragraph (4). The total net amount of these changes is intended to equal two hundred forty-four million dollars ($244,000,000) in the 1993–94 fiscal year.

(2) (A) Notwithstanding any other provision of this subdivision, no reduction shall be made pursuant to this subdivision with respect to any of the following special districts:

(i) A local hospital district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code.

(ii) A water agency that does not sell water at retail, but not including an agency the primary function of which, as determined on the basis of total revenues, is flood control.

(iii) A transit district.

(iv) A police protection district formed pursuant to Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code.

(v) A special district that was a multicounty special district as of July 1, 1979.

(B) Notwithstanding any other provision of this subdivision, the first one hundred four thousand dollars ($104,000) of the amount of any reduction that otherwise would be made under this subdivision with respect to a qualifying community services district shall be excluded. For purposes of this subparagraph, a ''qualifying community services district'' means a community services district that meets all of the following requirements:

(i) Was formed pursuant to Division 3 (commencing with Section 61000) of Title 6 of the Government Code.

(ii) Succeeded to the duties and properties of a police protection district upon the dissolution of that district.

(iii) Currently provides police protection services to substantially the same territory as did that district.

(iv) Is located within a county in which the board of supervisors has requested the Department of Finance that this subparagraph be operative in the county.

(3) (A) On or before September 15, 1993, the county auditor shall determine an amount for each special district equal to the amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year multiplied by the ratio determined pursuant to paragraph (1) of subdivision (a) of former Section 98.6 as that section read on June 15, 1993. In those counties that were subject to former Sections 98.66, 98.67, and 98.68, as those sections read on that same date, the county auditor shall determine an amount for each special district that represents the current amount of its allocation determined pursuant to Section 96 or 96.1, and Section 96.5 or their predecessor sections for the 1993–94 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In that county subject to Section 100.4, the county auditor shall determine an amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.4 or their predecessor sections for the 1993–94 fiscal year that is attributable to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In

determining these amounts, the county auditor shall adjust for the influence of increased assessed valuation within each district, including the effect of jurisdictional changes, and the reductions in property tax allocations required in the 1992–93 fiscal year by Chapters 699 and 1369 of the Statutes of 1992. In the case of a special district that has been consolidated or reorganized, the auditor shall determine the amount of its current property tax allocation that is attributable to the prior district's or districts' receipt of state assistance payments pursuant to Chapter 282 of the Statutes of 1979. Notwithstanding any other provision of this paragraph, for a special district that is governed by a city council or whose governing board has the same membership as a city council and that is a subsidiary district as defined in subdivision (e) of Section 16271 of the Government Code, the county auditor shall multiply the amount that otherwise would be calculated pursuant to this paragraph by 0.38 and the result shall be used in the calculations required by paragraph (5). In no event shall the amount determined by this paragraph be less than zero.

(B) Notwithstanding subparagraph (A), commencing with the 1994–95 fiscal year, in the County of Sacramento, the auditor shall determine the amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 96.1, 96.5, or 100.6 for the 1994–95 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979.

(4) (A) (i) On or before September 15, 1993, the county auditor shall determine an amount for each special district that is engaged in fire protection activities, as reported to the Controller for inclusion in the 1989–90 edition of the Financial Transactions Report Concerning Special Districts under the heading of ''Fire Protection,'' that is equal to the amount of revenue allocated to that special district from the Special District Augmentation Fund for fire protection activities in the 1992–93 fiscal year. For purposes of the preceding sentence for counties of the second class, the phrase ''amount of revenue allocated to that special district'' means an amount of revenue that was identified for transfer to that special district, rather than the amount of revenue that was actually received by that special district pursuant to that transfer.

(ii) In the case of a special district, other than a special district governed by the county board of supervisors or whose governing body is the same as the county board of supervisors, that is engaged in fire protection activities as reported to the Controller, the county auditor shall also determine the amount by which the district's amount determined pursuant to paragraph (3) exceeds the amount by which its allocation was reduced by operation of former Section 98.6 in the 1992–93 fiscal year. This amount shall be added to the amount otherwise determined for the district under this paragraph. In any county subject to former Section 98.65, 98.66, 98.67, or 98.68 in that same fiscal year, the county auditor shall determine for each special district that is engaged in fire protection activities an amount that is equal to the amount determined for that district pursuant to paragraph (3).

(B) For purposes of this paragraph, a special district includes any special district that is allocated property tax revenue pursuant to this chapter and does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, but is engaged in fire protection activities and appears in the State Controller's Report on Financial Transactions Concerning Counties.

(5) The total amount of property taxes allocated to special districts by the county auditor as a result of paragraph (4) shall be subtracted from the amount of property tax revenues not allocated to special districts by the county auditor as a result of paragraph (3) to determine the amount to be deposited in the Education Revenue Augmentation Fund as specified in subdivision (d).

(6) On or before September 30, 1993, the county auditor shall notify the Director of Finance of the net amount determined for special districts pursuant to paragraph (5).

(d) (1) The amount of property tax revenues not allocated to the county, city and county, cities within the county, and special districts as a result of the reductions required by subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund established in each county or city and county pursuant to Section 97.2. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1992–93 fiscal year.

(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The county superintendent of schools shall determine the amount to be allocated to each school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district. For each county office of education, the allocation shall be made based on the historical split of base property tax revenue between the county office of education and school districts within the county. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated in inverse proportion to the amounts of property

tax revenue, excluding Educational Revenue Augmentation Fund moneys, per average daily attendance in each remaining school district, and on the basis of the historical split described above for each county office of education that is not an excess tax school entity, until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in subdivision (n) of Section 95. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a community college district upon that district becoming an excess tax school entity.

(4) (A) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per funded full-time equivalent student in each remaining community college district that is not an excess tax school entity until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(B) (i) For the 1995–96 fiscal year and each fiscal year thereafter, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall, subject to clauses (ii) and (iii), allocate those excess funds to the county superintendent of schools. Funds allocated pursuant to this clause shall be counted as property tax revenues for special education programs in augmentation of the amount calculated pursuant to Section 2572 of the Education Code, to the extent that those property tax revenues offset

state aid for county offices of education and school districts within the county pursuant to subdivision (c) of Section 56836.08 of the Education Code. If, for the 2000–01 fiscal year or any fiscal year thereafter, any additional revenues remain after the implementation of this clause, the auditor shall allocate those remaining revenues among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year.

(ii) For the 1995–96 fiscal year only, clause (i) shall have no application to the County of Mono and the amount allocated pursuant to clause (i) in the County of Marin shall not exceed five million dollars ($5,000,000).

(iii) For the 1996–97 fiscal year only, the total amount of funds allocated by the auditor pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 shall not exceed that portion of two million five hundred thousand dollars ($2,500,000) that corresponds to the county's proportionate share of all moneys allocated pursuant to clause (i) and clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 for the 1995–96 fiscal year. Upon the request of the auditor, the Department of Finance shall provide to the auditor all information in the department's possession that is necessary for the auditor to comply with this clause.

(iv) Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only, if, after making the allocations pursuant to paragraphs (2) and (3) and subparagraph (A), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate the funds to the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. The amount allocated pursuant to this clause shall not exceed eight million two hundred thirty-nine thousand dollars ($8,239,000), as appropriated in Item 6110–250–0001 of Section 2.00 of the Budget Act of 1999 (Chapter 50, Statutes of 1999).

(C) For purposes of allocating the Educational Revenue Augmentation Fund for the 1996–97 fiscal year, the auditor shall, after making the allocations for special education programs, if any, required by subparagraph (B), allocate all remaining funds among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise required to be shifted from those local agencies to the county's Educational Revenue Augmentation Fund for the relevant fiscal year. For purposes of ad valorem property tax revenue allocations for the 1997–98 fiscal year and each fiscal year thereafter, no amount of ad valorem property tax revenue allocated to the county, a city, or a special district pursuant to this subparagraph shall be deemed to be an amount of ad valorem property tax revenue allocated to that local agency in the prior fiscal year.

(5) For purposes of allocations made pursuant to Section 96.1 for the 1994–95 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than those amounts deposited in the Educational Revenue Augmentation Fund pursuant to any provision of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

History.—Stats. 1995, Ch. 309, in effect August 3, 1995, added subparagraph letter designation (A) in paragraph (4) and added subparagraph (B) in paragraph (4) in subdivision (d). Stats. 1995, Ch. 500, in effect October 4, 1995, substituted "For" for "Commencing with" and substituted "allocations" for "allocation" in the first sentence, and added the third sentence in subparagraph (B) in paragraph (4) of subdivision (d). Stats. 1996, Ch. 1111, in effect January 1, 1997, relettered subparagraph (B) as clause (i) of subparagraph (B); substituted "and 1996–97 fiscal years only," for "fiscal year and each fiscal year thereafter," and added ",subject to clauses (ii) and (iii)," after "the auditor shall" in subparagraph (B); created new clause (ii) from the former third sentence of former subparagraph (B)(i); added clause (iii) of subparagraph (B); and added subparagraph (C) of paragraph (4) of subdivision (d). Stats. 1997, Ch. 290 (AB 1589), in effect August 18, 1997, relettered the first sentence of subparagraph (A) as clause (I); added the second sentence of relettered clause (i); and created new clause (ii) from the former second, third, and fourth sentences of former subparagraph (A) of paragraph (4) of subdivision (c); and substituted "fiscal year and each fiscal year thereafter," for "and 1996–97 fiscal years only," after "1995–96" in clause (i) of subparagraph (B) of paragraph (4) of subdivision (d). Stats. 1998, Ch. 89 (AB 598), in effect June 30, 1998 and operative July 1, 1998, substituted "subdivision (c) of Section 56836.08" for "Section 56712" after "county pursuant to" in the second sentence of clause (i) of subparagraph (B) of paragraph (4) of subdivision (d). Stats. 1999, Ch. 78 (AB 1115), in effect July 7, 1999, substituted "Chapter 3" for "Chapter 2" after "authorized by" in the first sentence of paragraph (5) of subdivision (a), and added "except the 1999–2000 fiscal year" after "thereafter" in the first sentence of clause (i) and added clause (iv) of subparagraph (B) of paragraph (4) of subdivision (d). Stats. 1999, Ch. 649 (AB 838), in effect January 1, 2000, added ", and a county's Educational Revenue Augmentation Fund as described in subdivision (d) of this section and subdivision (d) of Section 97.2" after "Section 95.1" in the second sentence of paragraph (5) and added paragraph (6) of subdivision (a); deleted "except the 1999–2000 fiscal year" after "thereafter" in the first sentence of clause (i) and substituted "Notwithstanding clause (i) of this subparagraph, for the 1999–2000 fiscal year only" for "For the 1999–2000 fiscal year" before ", if, after making" in the first sentence, and deleted the former second sentence, which provided that this provision would only be operative to the extent that moneys were appropriated for the purpose of this clause in the Budget Act of 1999, and added the second sentence of clause (iv) of subparagraph (B) of paragraph (4) of subdivision (d). Stats. 2000, Ch. 611 (SB 1396), in effect January 1, 2001, substituted "clause" for "subparagraph" after "pursuant to this" in the second sentence and added the third sentence of clause (i), substituted "clause (i)" for "this subparagraph" twice in the first sentence of clause (ii), and substituted "clause (i) and clause (i) of" for "this subparagraph and" after "pursuant to" in the first sentence of clause (iii) of subparagraph (B) of paragraph (4) of subdivision (d). Stats. 2001, Ch. 159 (SB 662), in effect January 1, 2002, substituted "Section 95" for "Section 95.1" after "defined in" in the second sentence of paragraph (5) and substituted "Section 95" for "Section 95.1" after "defined in" in the second sentence of paragraph (6) of subdivision (a); substituted "edition" for "Edition" in the first sentence of clause (i) of subparagraph (A) of paragraph (4) of subdivision (c); substituted "that is not an excess tax school entity," for ", that is not an excess tax school entity" before "until all funds" in the fifth sentence of paragraph (2) and substituted "among" for "to" after "remaining revenues" in the third sentence of clause (i) of subparagraph (B) of paragraph (4) of subdivision (d).

Note.—Section 5 of Stats. 1997, Ch. 290 provided that the Legislature finds and declares that the amendments made to this act do not constitute a change in, but are declaratory of, existing law.

Note.—See note under Section 97.2.

Note.—Section 7 of Stats. 1999, Ch. 649 (AB 838) provides that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

97.31. **Reduction transfers: eligible counties.** (a) (1) The Director of Finance may direct the county auditor to reduce the amount of the transfer to the Educational Revenue Augmentation Fund determined pursuant to subdivision (a) of Section 97.3 for any eligible county in accordance with subdivision (b) of this section, and also shall reduce the amount of that transfer for certain counties in accordance with subdivision (c). The total amount of the reductions for all counties that may be authorized pursuant to subdivision (b) shall not exceed two million dollars ($2,000,000).

(2) For purposes of this section, an ''eligible county'' is a county with a population of less than 350,000 as reported in the 1990 federal census that had a fire element of the tax bill in 1977–78, that continues to fund some portion of those costs from the county general fund in 1993–94, and that

provides these services in the same manner as a special district less than countywide and has so indicated in the Controller's Report on Financial Transactions Concerning Counties.

(b) (1) For each eligible county, the county auditor may submit the following information to the Director of Finance not later than November 1, 1993:

(A) The amount of property tax allocated to the county fire district in the 1977–78 fiscal year.

(B) The amount allocated from the county budget to the county fire district in the 1978–79 fiscal year.

(C) The amount of property tax reduction for the county fire district attributable to the passage of Article XIII A of the California Constitution by the voters in the primary election in June 1978.

(D) The amount of money allocated from the county budget to the county fire district in the 1993–94 fiscal year.

(E) The amount allocated to the county fire district from the Special District Augmentation Fund in the 1992–93 fiscal year.

(2) For each eligible county that submits to the Director of Finance by November 1, 1993, the information described in paragraph (1), the Director of Finance shall make the following calculations:

(A) Multiply the amount of property tax allocated to the county fire district in the 1977–78 fiscal year by the change in the value of the property tax base for the county from the 1977–78 fiscal year to the 1978–79 fiscal year.

(B) Subtract the amount reported pursuant to subparagraph (C) of paragraph (1) from the amount determined pursuant to subparagraph (A).

(C) Multiply the amount determined pursuant to subparagraph (B) by an amount determined by the Director of Finance to be the change in assessed value for the county from the 1978–79 fiscal year to the 1993–94 fiscal year.

(D) Multiply the amount reported pursuant to subparagraph (E) of paragraph (1) by 1.038.

(E) Add the amount determined pursuant to subparagraph (C) to the amount determined pursuant to subparagraph (D).

(F) Subtract the amount determined pursuant to subparagraph (E) from the amount reported pursuant to subparagraph (D) of paragraph (1).

(3) The Director of Finance shall determine the sum of all the amounts determined pursuant to subparagraph (F) of paragraph (2).

(4) If the sum determined pursuant to paragraph (3) is greater than two million dollars ($2,000,000), then the Director of Finance shall proportionately reduce the amount for each county so that the total of the amounts for all counties does not exceed two million dollars ($2,000,000). If the sum determined pursuant to subdivision (e) does not exceed two million dollars ($2,000,000), then the Director of Finance shall not reduce the amount determined for each county.

(5) The Director of Finance shall by January 15, 1994, notify each county of its reduction in the amount to be transferred to the Educational Revenue Augmentation Fund pursuant to subdivision (a) of Section 97.3. The maximum amount of the reduction that may be authorized pursuant to this subdivision is one-half the amount determined pursuant to subparagraph (F) of paragraph (2).

(c) The amount to be transferred from a county to an Educational Revenue Augmentation Fund pursuant to subdivision (a) of Section 97.3 shall be reduced by one hundred thousand dollars ($100,000) for the County of Madera and by two hundred thousand dollars ($200,000) for the County of Tulare.

97.313. **Reduction transfers: eligible counties.** (a) Notwithstanding any other provision of this chapter, for the 1995–96 fiscal year only, the auditor of any qualified county shall, upon being so directed by the board of supervisors, increase the amount of property tax revenue allocated to that county by an amount of property tax revenue, not to exceed one million five hundred fifty thousand dollars ($1,550,000), that is attributable to the difference between the following amounts:

(1) The amount of the reduction that would have been determined by the Director of Finance for the qualified county pursuant to subdivision (b) of Section 97.31 in the absence of the two million dollar ($2,000,000) limitation of subdivision (a) and paragraph (4) of subdivision (b) of that section, and the maximum limitation of paragraph (5) of subdivision (b) of that same section.

(2) The amount of the reduction that was determined by the Director of Finance for the qualified county pursuant to subdivision (b) of Section 97.31.

If the board of supervisors directs the auditor, pursuant to this subdivision, to increase the amount of the property tax revenue allocation of the county, the board shall also direct the auditor to commensurately reduce the amount of the property tax revenue allocation to the Educational Revenue Augmentation Fund. The county shall expend any additional amount of property tax revenue that it receives pursuant to this subdivision solely for the purpose of funding public safety services.

(b) The Director of Finance shall determine for each qualified county the difference described in subdivision (a), and shall as soon reasonably possible after the effective date of the act adding this section, notify the board of supervisors of each qualified county in writing of the amount of the difference calculated for that county.

(c) For purposes of this section, ‘‘qualified county’’ means an ‘‘eligible county,’’ as defined in paragraph (2) of subdivision (a) of Section 97.31, that was subject to the reduction required by paragraph (4) of subdivision (b) of that same section.

(d) Except as otherwise required by law, the county auditor of a qualified county shall allocate property tax revenues for the 1996–97 fiscal year and each fiscal year thereafter in those amounts that fully reflect, as otherwise

required by this chapter, any increases or reductions in allocations that are directed by the board of supervisors pursuant to subdivision (a).

History.—Added by Stats. 1995, Ch. 501, in effect October 4, 1995.

Note.—Section 1 of Stats. 1995, Ch. 501, provided that:

The Legislature finds and declares all of the following:

(a) It is a fundamental and primary responsibility of local government to provide those public safety services that reasonably protect lives and property.

(b) The ability of local governments to provide an adequate level of public safety services has been seriously compromised by reductions in recent years in the amounts of funding available for local public services.

(c) There are local governments that will be unable, in the absence of assistance from the state, to meaningfully respond to the lack of funding for vital public safety services.

(d) Section 3 of this act is necessary to provide at least some meaningful financial assistance to those local governmental entities that may otherwise be forced by fiscal difficulties to compromise their most basic responsibilities to the public.

97.32. **Memorial districts.** Notwithstanding Section 97.3, a special district does not include, for purposes of the reductions required by that section, a memorial district formed pursuant to Article 1 (commencing with Section 1170) of Chapter 1 of Part 2 of Division 6 of the Military and Veteran's Code.

97.33. **Oakland/Berkeley Fire property tax revenue loss.** (a) Notwithstanding any other provision of this chapter, for the 1993–94 fiscal year, the amounts of property tax revenue that are required to be shifted pursuant to Section 97.3 from a city described in the second clause of paragraph (2) of subdivision (h) of Section 95 or a city described in paragraph (2) of subdivision (b) of Section 16700 of the Welfare and Institutions Code, and from the county in which those cities are located, to the Educational Relief Augmentation Fund, shall each be reduced by an amount equal to the sum of the property tax revenue loss incurred by the city or county as a result of the Oakland/Berkeley fire that occurred in October 1991. The auditor shall certify to the Department of Finance the amount of the property tax revenue loss for each city and the county as a result of those properties that were reassessed as a result of that fire. The property tax revenue loss shall be the difference between the property tax revenues, including property tax revenue attributable to tax rates levied pursuant to subdivision (b) of Section 1 of Article XIII A of the California Constitution, that would have been derived based on the original assessed value of those properties for the 1991–92 fiscal year prior to any reassessment for disaster relief, increased by 2 percent, and the property tax revenues derived from the assessed value of those properties for the 1992–93 fiscal year.

(b) In each of the 1994–95, 1995–96, and 1996–97 fiscal years, for the county and cities described in subdivision (a), one-third of the adjustments made pursuant to subdivision (a) for each described city and the county shall be added to the amount of property tax revenue deemed allocated to each city and the county in the prior fiscal year.

97.34. **Revenue reduction: water quality control compliance costs.** (a) Notwithstanding any other provision of this chapter, the amount of the revenue reduction resulting from the application of subdivision (c) of Section 97.2 to an amount equal to the amount of the water quality control

compliance costs of a qualified special district for the 1992–93 fiscal year shall, for purposes of property tax revenue allocations for the 1993–94 fiscal year, be added to the amount of property tax revenue deemed allocated to that district in the 1992–93 fiscal year. The water quality control compliance costs of a qualified special district for the relevant fiscal year shall also be deducted from the amount of property tax revenue subject to reduction with respect to that district under Section 97.3 for the 1993–94 fiscal year, and under any statute with respect to any subsequent fiscal year that would reduce the amount of property tax revenue deemed allocated in the prior fiscal year to that district for purposes of increasing the amount of property tax revenue to be allocated to another jurisdiction.

(b) For purposes of this section:

(1) A ''qualified special district'' means any special district that is required to comply with Chapter 12 (commencing with Section 13950) of Division 7 of the Water Code.

(2) ''Water quality control compliance costs'' mean those costs, including, but not limited to, reserves for nongrowth facility augmentation and replacement and environmental protection, that are determined by the county auditor in accordance with subdivision (a) to have been incurred by a qualified special district in complying with Chapter 12 (commencing with Section 13950) of Division 7 of the Water Code.

(c) The auditor may assess each qualified special district its share of the auditor's actual and reasonable costs of complying with this section. For purposes of this subdivision, each share of costs shall be determined in accordance with that district's proportional share of the total amount of water quality control compliance costs determined by the auditor for purposes of this section for each fiscal year.

97.35. **Community service districts.** Notwithstanding Section 97.3, the amount of property tax revenues of a community service district that is subject to reduction pursuant to that section shall not include those property tax revenues, up to the amount of ninety thousand dollars ($90,000), that are allocated by that district to ''police protection and personal safety'' activities, as indicated in the 1989–90 edition of the State Controller's Report on the Financial Transactions of Special Districts in California.

97.36. **County Allocation Reductions.** (a) Notwithstanding any other provision of this chapter, for the designated fiscal year, the amount of the revenue allocation reduction with respect to a qualified county that is attributable in that fiscal year to the reduction determined for that county for the 1993–94 fiscal year pursuant to paragraph (1) of subdivision (a) of Section 97.3 or its predecessor section shall be reduced by the amount of any increased revenues, allocated in the designated fiscal year in that county to a ''qualifying school entity'' as defined in paragraph (5) of subdivision (a) of Section 97.3 or its predecessor section, that would not have been so allocated but for that county being a qualified county.

(b) For purposes of this section:

(1) A ''qualified county'' means a county or city or county that has first implemented for the 1994–95 or any subsequent fiscal year the alternative procedure for the distribution of property tax levies that is authorized by Chapter 2 (commencing with Section 4701) of Part 8.

(2) For purposes of this section, ''designated fiscal year'' means the fiscal year in which the relevant qualified county first implemented the alternative method for the distribution of property tax levies that is authorized by Chapter 2 (commencing with Section 4701) of Part 8.

History.—Stats. 1996, Ch. 1058, in effect September 30, 1996, added "(a)" before "Notwithstanding" in the first sentence, substituted "designated" for "1994–95" after "for the", added "in that fiscal year" after "attributable", and substituted "designated" for "1994–1995" after "allocated in the" in subdivision (a); added (b) before "For purposes" in the former second sentence and substituted "section:" for "section," after "this"; substituted "(1)A" for "a" after "section:", and added "or any subsequent" after "1994–95" in paragraph (2) to subdivision (b).

97.361. **County Allocation Reductions; supplemental roll.** Any reduction amount determined for a county pursuant to subdivision (a) of Section 97.36 that is not applied to the benefit of that county in that county's designated fiscal year, as defined in Section 97.36, may not be so applied in a later fiscal year, regardless of any increase in the amount of revenues allocated in that county to qualifying school entities as a result of the county's adoption of the alternate procedure for the distribution of property tax levies authorized by Chapter 2 (commencing with Section 4701) of Part 8.

History.—Added by Stats. 1998, Ch. 528 (AB 1782) in effect January 1, 1999.

97.37. **Reductions: Limitations—libraries.** (a) Notwithstanding any other provision of this chapter, for the 1994–95 fiscal year and each fiscal year thereafter, the amount of property tax revenue deemed allocated in the prior fiscal year to a county free library system, or a library established as an independent special district, shall not be reduced for purposes of increasing the amount of property tax revenue to be allocated to another jurisdiction. This section does not apply to any adjustments in property tax allocations made pursuant to Section 19116 of the Education Code.

(b) (1) This section shall not be construed to preclude allocations of ad valorem property tax revenue to a county's Educational Revenue Augmentation Fund, rather than to a county free library system or a library established as an independent special district, that are required by the application to a library system or library district, as so described, of Sections 97.2 and 97.3. The Legislature finds and declares that this paragraph does not constitute a change in, but is declaratory of, existing law.

(2) This section does not apply to any adjustments in property tax allocations made pursuant to Section 19116 of the Education Code.

(c) (1) Notwithstanding any other provision of this chapter, for those county free library systems from which the auditor had not shifted ad valorem property tax revenue to an Education Revenue Augmentation Fund as of January 1, 1996, all of the following shall apply:

(A) No allocation of ad valorem property tax revenue to a county's Educational Revenue Augmentation Fund shall be required from a county

free library system that did not levy a property tax rate separate from the property tax rate of the county for the 1975–76, 1976–77, and 1977–78 fiscal years, was not entitled to an allocation of property tax revenue for the 1978–79 and 1979–80 fiscal years, and did not receive state assistance payments pursuant to Section 16260, 26912, or 26912.1 of the Government Code.

(B) No allocation of ad valorem property tax revenue to a county's Educational Revenue Augmentation Fund shall be required from a county free library system that, for the 1977–78 fiscal year, was organized as a joint powers agency pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(C) A county free library system established pursuant to Article 1 (commencing with Section 19100) of Chapter 6 of Part 11 of Division 1 of Title 1 of the Education Code, for which a separate property tax rate was levied in the 1977–78 fiscal year, shall be considered a special district. However, any county free library system that was not actually allocated property tax revenues pursuant to this chapter for the 1992–93 fiscal year and any portion of the 1993–94 fiscal year shall not be considered a special district for any purpose in the 1992–93 fiscal year and that portion of the 1993–94 fiscal year for which those revenues were not allocated.

(2) The Legislature finds and declares that this subdivision does not constitute a change in, but is declaratory of, existing law.

History.—Stats. 1996, Ch. 522, in effect January 1, 1997, added "system" after "county free library" in the first sentence, and added the second sentence. Stats. 1997, Ch. 290 (AB 1589), in effect August 18, 1997, added subdivision letter designation (a), added subdivision (b)(1), and created paragraph (2) of subdivision (b) from the former second sentence. Stats. 1997, Ch. 786 (SB 431), in effect October 8, 1997, added the second sentence of subdivision (a) and added subdivision (c).

97.38. **Computations—Marin County and Mono County Community College Districts.** Notwithstanding any contrary provision in paragraph (4) of subdivision (d) of Section 97.3, for the County of Marin, commencing with the 1993–94 fiscal year, and for the County of Mono, commencing with the 1994–95 fiscal year, if, after making the allocations pursuant to paragraph (2) of subdivision (d) of Section 97.3 as required by subparagraph (A) of paragraph (4) of subdivision (d) of Section 97.3 and after making the allocation pursuant to subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, the auditor determines that each community college district located entirely within that county is an excess school tax entity as defined in subdivision (n) of Section 95, the auditor shall then apply any remaining funds to decrease the amounts of those reductions calculated pursuant to Section 97.3 with respect to the county, cities, and special districts in proportion to the amount of the reduction otherwise calculated under Section 97.3 for each of those agencies.

History.—Stats. 1995, Ch. 308, in effect August 3, 1995, added "of subdivision (d) of Section 97.3" after "paragraph (2)", added "subparagraph (A) of" after "as required by", and added "of subdivision (d) of Section 97.3 and after making the allocation pursuant to subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3" after "paragraph (4)". Stats. 1995, Ch. 500, in effect Oct. 4, 1995, deleted "and" after "Section 97.3" and deleted "only" after "Marin" in the first sentence; added "and for the County of Mono . . . fiscal year," after "1993–94 fiscal year,"; substituted "decrease" for "reduce" after "remaining funds to"; and substituted "Section 97.3" for "this section" twice, after "pursuant to" and after "calculated under".

97.39. **Computations: Santa Clara County fire districts.** (a) Notwithstanding any other provision of law, the amount of each allocation that was made to the Educational Revenue Augmentation Fund of the County of Santa Clara in any fiscal year, up to and including the 1996–97 fiscal year, as the result of a reduction amount calculated pursuant to Section 97.2 or 97.3 for the Los Altos County Fire Protection District, the Santa Clara County Central Fire Protection District, the Saratoga Fire Protection District, or the South Santa Clara County Fire District, shall be deemed correct.

(b) No reduction or correction may be made, in response to a calculation error, to an allocation that was made to the Educational Revenue Augmentation Fund of the County of Santa Clara in any fiscal year, up to and including the 1996–97 fiscal year, as the result of a reduction amount calculated pursuant to Section 97.2 or 97.3 for a County of Santa Clara fire district listed in subdivision (a). However, in the 1997–98 fiscal year and each fiscal year thereafter, each allocation that is made to the Educational Revenue Augmentation Fund of the County of Santa Clara as the result of a reduction amount calculated pursuant to Section 97.2 or 97.3 for a County of Santa Clara fire district listed in subdivision (a) shall be made in that amount that fully reflects any reduction or correction that would be required to be made to a corresponding allocation in a prior fiscal year in the absence of this section.

History.—Added by Stats. 1999, Ch. 567 (AB 236), in effect January 1, 2000.

Note.—Section 4 of Stats. 1999, Ch. 567 (AB 236) provided that the Legislature finds and declares that special laws are necessary and that general laws cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe and retroactive fiscal difficulties and disruptions that will be suffered by the Los Altos County Fire Protection District, the Santa Clara County Central Fire Protection District, the Saratoga Fire Protection District, the South Santa Clara County Fire District, the Carpinteria-Summerland Fire Protection District, the Montecito Fire Protection District, and the Orcutt Fire Protection District if this act does not become operative.

97.4. **County allocations.** (a) Notwithstanding Section 97.2 or 97.3 or any other provision of this chapter, in implementing the changes in allocations of property tax revenues required by Sections 97, 97.1, 97.2, and 97.3, the county auditor may elect to determine and give effect to the changes in allocations of property tax revenues required by Sections 97, 97.1, 97.2, and 97.3 on a countywide, rather than tax rate area, basis. If the county auditor so elects, he or she shall ensure adequate recognition of year-to-year revenue growth so that the results of changes implemented on a countywide basis do not differ materially from the results which would be obtained from the use of a tax rate area basis.

(b)(1) Notwithstanding any other provision of law, for the 1992–93 fiscal year and each fiscal year thereafter, in any county in which property tax increment revenues are allocated to a redevelopment agency pursuant to Section 33670 of the Health and Safety Code, the county auditor shall deposit in the Educational Revenue Augmentation Fund an amount that is equal to the total amount of revenues that would be so deposited pursuant to Sections 97, 97.1, 97.2, and 97.3 if no reduction were made in that amount of revenues for purposes of allocations to a redevelopment agency pursuant to Section

33670 of the Health and Safety Code. Those revenues deposited in the Educational Revenue Augmentation Fund in accordance with this paragraph shall be allocated or transferred only to school districts, county offices of education, or community college districts, in accordance with subdivision (d) of either Section 97.2 or 97.3.

(2) The deposit of property tax revenue in the Educational Revenue Augmentation Fund in accordance with paragraph (1) shall not reduce or otherwise affect the amount of property tax revenue to be allocated to a redevelopment agency pursuant to subdivision (b) of Section 33670 of the Health and Safety Code, and any additional amount required to be allocated to the Educational Revenue Augmentation Fund pursuant to paragraph (1) shall be deducted from those amounts allocated to the county, cities, and special districts with respect to each tax rate area in which property tax increment revenues are allocated to a redevelopment agency. These reductions shall be made in proportion to the total amount of the reductions required with respect to the county and each city and special district in each of these redevelopment agency tax rate areas under Sections 97, 97.1, 97.2, and 97.3.

(3) This subdivision shall not require the modification of any property tax revenue allocation that was made by the county auditor for the 1992–93 fiscal year in a manner inconsistent with paragraph (1) or (2), if that allocation was implemented on or before June 30, 1993. However, property tax revenue allocations made in the 1993–94 fiscal year and any fiscal year thereafter shall be determined by the county auditor as if the allocations made for the 1992–93 fiscal year had been made in a manner consistent with paragraph (1).

97.41. **Qualifying county service area allocations.** (a)(1) Notwithstanding any other provision of this article, commencing with the 1995–96 fiscal year, the auditor shall allocate property tax revenue to a qualifying county service area, as defined in subdivision (b), in those amounts that would be determined if the amount of the reduction calculated for that county service area pursuant to subdivision (c) of Section 97.3 had been decreased by an amount that is equal to that fraction specified in paragraph (2) of the amount of revenue allocated to that county service area from the county's Special District Augmentation Fund for police protection activities in the 1992–93 fiscal year.

(2) For purposes of implementing paragraph (1), the applicable fractions are as follows:

(A) For the 1995–96 fiscal year, one-third.

(B) For the 1996–97 fiscal year, two-thirds.

(C) For the 1997–98 fiscal year and each fiscal year thereafter, the entire amount.

(b) For purposes of this section, ''qualifying county service area'' means a county service area that was formed prior to July 1, 1994, pursuant to the

County Service Area Law (Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code) and that is either of the following:

(1) A county service area, the governing board of which is the board of supervisors, that is engaged in police protection activities, as reported to the Controller for inclusion in the 1989–90 Edition of the Financial Transactions Report Concerning Special Districts under the heading of "Police Protection and Public Safety."

(2) A county service area, the sole purpose of which is to engage in police protection activities.

History.—Added by Stats. 1995, Ch. 502, in effect October 4, 1995.

97.43. **Educational Revenue Augmentation Fund cap.** (a) Notwithstanding any other provision of this article, for purposes of ad valorem property tax revenue allocations for the 2000–01 fiscal year and each fiscal year thereafter, the total amount of ad valorem property tax revenue allocated to the county's Educational Revenue Augmentation Fund shall not exceed the total amount of revenues allocated to that fund for the 1999–2000 fiscal year.

(b) In the 2000–01 fiscal year and each fiscal year thereafter, any amount of ad valorem property tax revenue that is not allocated to a county's Educational Revenue Augmentation Fund as a result of the limit established by subdivision (a) shall instead be allocated among the local agencies in the county in accordance with each local agency's proportionate share of the total amount of ad valorem property tax revenues that would be required to be allocated to the county's Educational Revenue Augmentation Fund in the absence of this section.

History.—Added by Stats. 1999, Ch. 84 (AB 1661), in effect July 12, 1999, operative according to Section 11 of Stats. 1999, Ch. 84 (AB 1661).

Note.—Section 10 of Stats. 1999, Ch. 84 (AB 1661) provided that the Legislature hereby finds and declares both of the following:

(a) None of the fiscal relief provided by this act should be construed to determine or otherwise affect any legal issue raised by an action in which a county, city, or special district, or any representative thereof, alleges that a state-mandated local program includes any state law requirement to shift ad valorem property tax revenues from local agencies in a county to an Educational Revenue Augmentation Fund.

(b) The Legislature does not intend that this act exemplify or limit the nature of any future act that affects state or local government finance.

Section 11 thereof provided that (a) Sections 1, 6, and 9 of this act shall not become operative unless an amendment to the California Constitution is placed on the ballot by the Legislature and is approved by the statewide electorate during the 2000 calendar year, to do both of the following:

(1) Specifically reference Sections 1, 6, and 9 of this act and state that those provisions shall not become operative unless the amendment is approved by the statewide electorate during the 2000 calendar year.

(2) Make a substantive legal change with respect to any, or any combination, of the following:

(A) The taxing powers of one or more classes of local governments.

(B) The manner in which state government revenues are subvened or otherwise allocated to local governments.

(C) The allocation in each county of ad valorem property tax revenues, local sales tax revenues, or any other local tax revenues.

97.44. **County of San Luis Obispo allocations.** (a) Notwithstanding any other provision of this article, in the County of San Luis Obispo, commencing with ad valorem property tax revenue allocations for the 1995–96 fiscal year, the auditor shall, subject to subdivision (b), do both of the following:

(1) Allocate to the County of San Luis Obispo, from those revenues that are otherwise required to be allocated to the county's Educational Revenue Augmentation Fund (ERAF), that amount of ad valorem property tax revenue that is attributable in the relevant fiscal year to three million seven hundred fifty thousand dollars ($3,750,000) of ad valorem property tax revenue derived for the 1993–94 fiscal year from the taxation of property assessed by the County of San Luis Obispo for that fiscal year.

(2) Transfer from the county to that county's ERAF that amount of revenue, otherwise to be allocated to the county pursuant to Section 100, that is attributable in the relevant fiscal year to three million seven hundred fifty thousand dollars ($3,750,000) of ad valorem property tax revenue derived for the 1993–94 fiscal year with respect to the County of San Luis Obispo from the taxation of property assessed by the State Board of Equalization.

(b) The allocations and transfers of revenue required by subdivision (a) are modifications of, and shall not be construed to be substitutions for, the allocation of property tax revenues as otherwise required by this chapter.

History.—Added by Stats. 1995, Ch. 501, in effect October 4, 1995.

Note.—Section 2 of Stats. 1995, Ch. 501, provided that:

The Legislature finds and declares all of the following:

(a) Current law, with respect to the shift of property tax revenues for the 1993–94 fiscal year from local agencies to school entities, requires the shift of only those revenues that are derived from the taxation of locally assessed property.

(b) In the County of San Luis Obispo, an unusually large percentage of those ad valorem property tax revenues allocated to the county are derived from the taxation of state assessed property.

(c) As a result, the impact of a property tax revenue shift, such as the shift required with respect to the 1993–94 fiscal year, falls disproportionately upon the County of San Luis Obispo.

(d) A modification of property tax revenue allocation requirements to provide for partial funding of school entities in the County of San Luis Obispo from property tax revenues derived from the taxation of state assessed property would remedy the inequities being suffered by that county.

Sec. 6 thereof provided that the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unusually large percentage of ad valorem property tax revenue annually allocated to the County of San Luis Obispo that is derived from the taxation of property assessed by the State Board of Equalization.

97.45. **2003-04 Fiscal Year Allocations.** Notwithstanding subdivision (d) of Section 97.2 and subdivision (d) of Section 97.3, the amount deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681.9 of the Health and Safety Code, if that section is added by Senate Bill 1045 of the 2003–04 Regular Session, shall be allocated as follows:

(a) To county offices, the amount that would be allocated pursuant to paragraph (1) of subdivision (d) of Section 97.2 and paragraph (1) of subdivision (d) of Section 97.3 multiplied by 1.85185.

(b) To community colleges, the amount that would be allocated pursuant to paragraph (1) of subdivision (d) of Section 97.2 and paragraph (1) of subdivision (d) of Section 97.3 multiplied by 1.85185.

(c) To school districts the remainder after the allocations made in subdivisions (a) and (b).

History.—Added by Stats. 2003, Ch. 552 (AB 300), in effect January 1, 2004.

Note.—Section 40 of Stats. 2003, Ch. 552 (AB 300) provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs that may be incurred by a local agency or school district because provisions of this act implement a federal law or regulation and results in costs mandated by the federal government, within the meaning of Section 17556 of the Government Code. However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

97.46. **County offices of education and community college factors.** Notwithstanding subdivision (d) of Section 97.2 and subdivision (d) of Section 97.3, the revenue deposited in the Educational Revenue Augmentation Fund pursuant to Section 33681.9 of the Health and Safety Code shall be allocated as follows:

(a) To county offices of education, the amount of those revenues that would be allocated pursuant to paragraph (1) of subdivision (d) of Section 97.2 and paragraph (1) of subdivision (d) of Section 97.3 multiplied by 1.85185.

(b) To community college districts, the amount of those revenues that would be allocated pursuant to paragraph (1) of subdivision (d) of Section 97.2 and paragraph (1) of subdivision (d) of Section 97.3 multiplied by 1.85185.

(c) To school districts the remainder after the allocations made in subdivisions (a) and (b).

History.—Added by Stats. 2003, Ch. 757 (AB 296), in effect January 1, 2004.

Note.—Section 15 of Stats 2003, Ch. 757 (AB 296) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

97.68. **Sales and Use Tax Compensation Fund.** Notwithstanding any other provision of law, in allocating ad valorem property tax revenue allocations for each fiscal year during the fiscal adjustment period, all of the following apply:

(a) (1) The total amount of ad valorem property tax revenue otherwise required to be allocated to a county's Educational Revenue Augmentation Fund shall be reduced by the countywide adjustment amount.

(2) The countywide adjustment amount shall be deposited in a Sales and Use Tax Compensation Fund that shall be established in the treasury of each county.

(b) For purposes of this section, the following definitions apply:

(1) "Fiscal adjustment period" has the same meaning as "revenue exchange period" as defined in subdivision (b) of Section 7203.1.

(2) "Countywide adjustment amount" means the combined total revenue loss of the county and each city in the county that is annually estimated by the Director of Finance, based on the taxable sales in that county in the prior fiscal year as determined by the State Board of Equalization and reported to the director on or before August 15 of each fiscal year during the fiscal adjustment period, to result for each of those fiscal years from the 0.5 percent reduction in local sales and use rate tax authority applied by Section 7203.1.

(c) For each fiscal year during the fiscal adjustment period, moneys in the Sales and Use Tax Compensation Fund shall be allocated among the county and the cities in the county, and those allocations shall be subsequently adjusted, as follows:

(1) The Director of Finance shall, on or before September 1 of each fiscal year during the fiscal adjustment period, notify each county auditor of that portion of the countywide adjustment amount for that fiscal year that is attributable to the county and to each city within that county.

(2) The county auditor shall allocate revenues in the Sales and Use Tax Compensation Fund among the county and cities in the county in the amounts described in paragraph (1). The auditor shall allocate one-half of the amount described in paragraph (1) in each January during the fiscal adjustment period and shall allocate the balance of that amount in each May during the fiscal adjustment period.

(3) After the end of each fiscal year during the fiscal adjustment period, other than a fiscal year subject to subdivision (d), the Director of Finance shall, based on the actual taxable sales for the prior fiscal year, recalculate each amount estimated under paragraph (1) and notify the county auditor of the recalculated amount.

(4) If the amount recalculated under paragraph (3) for the county or any city in the county is greater than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, transfer an amount of ad valorem property tax revenue equal to this difference from the Sales and Use Tax Compensation Fund to that local agency.

(5) If the amount recalculated under paragraph (3) for the county or any city in the county is less than the amount allocated to that local agency under paragraph (2), the county auditor shall, in the fiscal year next following the fiscal year for which the allocation was made, reduce the total amount of ad valorem property tax revenue otherwise allocated to that city or county from the Sales and Use Tax Compensation Fund by an amount equal to this difference and instead allocate this difference to the county Educational Revenue Augmentation Fund.

(6) If there is an insufficient amount of moneys in a county's Sales and Use Tax Compensation Fund to make the transfers required by paragraph (4), the county auditor shall transfer from the county Educational Revenue Augmentation Fund an amount sufficient to make the full amount of these transfers.

(d) (1) If Section 7203.1 ceases to be operative during any calendar quarter that is not the calendar quarter in which the fiscal year begins, the excess amount, as defined in paragraph (2), of the county and each city in the county shall be reallocated from each of those local agencies to the Educational Revenue Augmentation Fund.

(2) For purposes of this subdivision, ''excess amount'' means the product of both of the following:

(A) The total amount of ad valorem property tax revenue allocated to that local agency pursuant to paragraph (2) of subdivision (c).

(B) That percentage of the fiscal year in which Section 7203.1 is not operative.

(e) For the 2005–06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, may not reflect any portion of any property tax revenue allocation required by this section for a preceding fiscal year.

(f) This section may not be construed to do any of the following:

(1) Reduce any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, or Article 4 (commencing with Section 98), had this section not been enacted. The allocation made pursuant to subdivisions (a) and (c) shall be adjusted to comply with this paragraph.

(2) Require an increased ad valorem property tax revenue allocation to a community redevelopment agency.

(3) Alter the manner in which ad valorem property tax revenue growth from fiscal year to fiscal year is determined or allocated in a county.

History.—Added by Stats. 2003, Ch. 162 (AB 1766), in effect August 2, 2003. Stats. 2003, Ch. 757 (AB 296), in effect January 1, 2004, substituted "has the same meaning as 'revenue exchange period' as defined in subdivision (b) of Section 7203.1" for "means the period beginning with the 2004–05 fiscal year and continuing through the fiscal year in which the Director of Finance notifies the State Board of Equalization pursuant to subdivision (b) of Section 99006 of the Government Code" after "Fiscal adjustment period" in the first sentence of paragraph (1) of subdivision (b); and substituted "Section 97.2," for "Section 97.2 and" after the first "subdivision (d) of" and added "or Article 4 (commencing with Section 98)," after "Section 97.3", in the first sentence of paragraph (1) of subdivision (f).

Note.—Section 2 of Stats. 2003, Chapter 162 (AB 1766) provided that existing tax exchange or revenue sharing agreements, entered into prior to the operative date of this act, between local agencies or between local agencies and nonlocal agencies shall be deemed to be temporarily modified to account for the reduced sales and use tax revenues, resulting from the temporary reduction in the local sales and use tax rate, with those reduced revenues to be replaced in kind by property tax revenue from a Sales and Use Tax Compensation Fund or an Educational Revenue Augmentation Fund, on a temporary basis, as provided by this act.

Sec. 3 thereof provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Sec. 4 thereof provided that this act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are: In order to enact the necessary statutory changes to implement the Budget Act of 2003 to allow the state to provide essential public services that are needed to maintain the public peace, health, and safety, it is necessary that this act take effect immediately.

Note.—Section 15 of Stats 2003, Ch. 757 (AB 296) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Article 4. Tax Equity Allocations for Certain Cities

§ 98. Computation modifications—TEA formula.
§ 98.01. Computation modifications—TEA formula.
§ 98.02. Computation modifications—County of Ventura.
§ 98.03. Qualifying city exclusion.
§ 98.04. Computations: County of Santa Clara.
§ 98.1. Computations: County of Orange.

98. **Computation modifications—TEA formula.** (a) In each county, other than the County of Ventura, having within its boundaries a qualifying city, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of ''property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year,'' an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each fiscal year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its predecessor section, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall, for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 96.5 or its predecessor section to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the ''amount of property tax revenue allocated in the prior fiscal year.''

(c) ''TEA formula'' means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or

reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(G) For the seventh fiscal year and each fiscal year thereafter in which the city receives a distribution pursuant to this section, 7 percent of the amount determined in paragraph (5).

(d) ''Qualifying city'' means any city, except a qualifying city as defined in Section 98.1, that incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1 or its predecessor section in the 1988–89 fiscal year that is less than 7 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue determined in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.07, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.07, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue that was exchanged between the county and the qualifying city as a result of negotiation pursuant to Section 99.03.

(2) (A) (i) In any county other than the County of Santa Clara, the amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed tax, except any tax that was imposed after January 1, 1988. In the case of a tax that existed before January 1, 1988, this clause shall apply only with respect to an amount attributable to a reduction of the rate or base to a level lower than the rate or base applicable on January 1, 1988. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this clause as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(ii) No reduction may be made pursuant to clause (i) in the case in which a local tax is reduced or eliminated as a result of either a court decision or the approval or rejection of a ballot measure by the voters.

(B) In the County of Santa Clara, the net of the amounts determined and applied as follows:

(i) An amount determined and applied as described in clause (i) of subparagraph (A), but not subject to the prohibition of clause (ii) of subparagraph (A).

(ii) The additional amount of revenue that is collected by the qualifying city in the first fiscal year following the operative date of the city's increase in the rate or base of, or new imposition of, a locally imposed tax, on or after January 1, 1998. The amount so computed by the auditor shall constitute an increase in the amount of property tax revenue distributed to the qualifying

city pursuant to this section in each succeeding fiscal year, until the first fiscal year following the repeal of the increase or tax. That amount shall be aggregated with any additional amount computed pursuant to this clause as the result of the city's increase in the rate or base of, or new imposition of, a locally imposed tax in any subsequent year. Notwithstanding any other provision of this clause, in no fiscal year shall the total amount computed for the qualifying city pursuant to this clause exceed the total amount computed for the qualifying city pursuant to clause (i).

(3) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87 fiscal year by all special districts that are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city.

Notwithstanding this paragraph:

(A) Commencing with the 1994–95 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city becoming the successor agency to a special district that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 1994.

(B) Commencing with the 1997–98 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city withdrawing from a county free library system pursuant to Section 19116 of the Education Code.

(4) Any amount of property tax revenues that has been exchanged pursuant to Section 56842 of the Government Code between the City of Rancho Mirage and a community services district, the formation of which was initiated on or after March 6, 1997, pursuant to Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of the Government Code.

(g) Notwithstanding any other provision of this section, in no event may the auditor reduce the amount of ad valorem property tax revenue otherwise allocated to a qualifying city pursuant to this section on the basis of any additional ad valorem property tax revenues received by that city pursuant to a services for revenue agreement. For purposes of this subdivision, a "services for revenue agreement" means any agreement between a qualifying city and the county in which it is located, entered into by joint resolution of that city and that county, under which additional service responsibilities are exchanged in consideration for additional property tax revenues.

(h) In any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall increase the actual amount distributed to the qualifying city by the amount of property tax revenue allocated to the qualifying city pursuant to Section 19116 of the Education Code.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e), (f), and (g) would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(j) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(k) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section that is less than the amount the city would have been allocated without the application of the TEA formula.

(*l*) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

History.—Stats. 1996, Ch. 522, in effect January 1, 1997, added the third sentence to subdivision (f)(3), added subdivision (g), and relettered former subdivisions (g), (h), (i), and (j) as (h), (i), (j), and (k), respectively, and substituted "(e), (f), and (g)" for "(f) and (g)" after "modified by subdivisions" in subdivision (h). Stats. 1997, Ch. 835 (AB 922), in effect January 1, 1998, added "fiscal" after "and each" in the first sentence of paragraph (4) of subdivision (b); added subparagraph (A) designation, added "Except . . . subparagraph (B)," before "the amount" in the first sentence of newly lettered subparagraph (A), and added subparagraph (B) of paragraph (2), lettered the first, second, and third sentences of paragraph (3) as subparagraph (A), (B), and (C), respectively, substituted "subparagraph (A)" for "this paragraph" after "Notwithstanding" in the first sentences of newly lettered subparagraphs (B) and (C), and added paragraph (4) of subdivision (f). Stats. 2000, Ch. 419 (SB 1883), in effect January 1, 2001, added "fiscal" after "each" in the first sentences of paragraphs (1) and (2) of subdivision (b); designated former subparagraph (A) and (B) as clause (i) and (ii), respectively, of paragraph (2) of subdivision (f), substituted "In any county other than the County of Santa Clara," for "Except as otherwise provided in subparagraph (B)," before "the amount of" and deleted "general or special" after "locally imposed" in the first sentence, substituted "clause" for "paragraph" after "this" in the second sentence, and substituted "clause" for "paragraph" after "to this" in the fourth sentence of newly numbered clause (i), deleted "Except in the County of Santa Clara," before "no reduction", substituted "may" for "shall" after "reduction", and substituted "clause (i)" for "subparagraph (A)" after "pursuant to" in the first sentence of newly numbered clause (ii), and added new subparagraph (B) to paragraph (2), deleted subparagraph designation (A) from the first paragraph and designated former subparagraph (B) and (C) as (A) and (B), respectively, and added the second paragraph commencing with "Notwithstanding this paragraph:", deleted "Notwithstanding subparagraph (A)," before "commencing" in newly lettered subparagraph (A), and deleted "Notwithstanding subparagraph (B),“ before "commencing" in newly lettered subparagraph (B) of paragraph (3) of subdivision (f); and added new subdivision (g); and relettered former subdivisions (g), (h), (i), (j), and (k) as subdivisions (h), (i), (j), (k), and (*l*), respectively.

Note.—Section 2 of Stats. 2000, Ch. 419 (SB 1883) provided that the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of both of the following:

(a) The unique sequence of city tax repeals and impositions, not accounted for by generally applicable provisions regarding reductions in TEA formula allocations, undertaken in recent years by qualified cities in the County of Santa Clara.

(b) The failure of generally applicable provisions to account for the unique sequence of changes in recent years to local tax rates in the County of Santa Clara would, if left unaddressed, result in unintended, disparate reductions in the amount of TEA formula allocations to qualified cities in that county.

Section 4 thereof provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

98.01. **Computation modifications—TEA formula.** (a) An independent qualifying city shall receive a distribution of the following percentages of the TEA formula, as computed in subdivision (c) of Section 98, if the amount of that distribution, less the applicable reductions provided

for in subdivisions (e), (f), and (g) of Section 98, would be greater than the amount the city would have been allocated without the application of the TEA formula:

(1) Thirty-three and one-third percent of the amount determined in subparagraph (G) of paragraph (6) of subdivision (c) of Section 98, less any applicable reductions provided for in subdivisions (e), (f), and (g) of Section 98, for the first fiscal year in which the independent qualifying city receives an allocation pursuant to this section.

(2) Sixty-six and two-thirds percent of the amount determined in subparagraph (G) of paragraph (6) of subdivision (c) of Section 98, less any applicable reductions provided for in subdivisions (e), (f), and (g) of Section 98, for the second fiscal year in which the independent qualifying city receives an allocation pursuant to this section.

(3) One hundred percent of the amount determined in subparagraph (G) of paragraph (6) of subdivision (c) of Section 98, less any applicable reductions provided for in subdivisions (e), (f), and (g) of Section 98, for the third fiscal year in which the independent qualifying city receives an allocation pursuant to this section.

The amount not distributed as a result of this subdivision to the tax rate areas in each independent qualifying city, shall be allocated by the auditor to the county. The auditor may assess each independent qualifying city its proportional share of the actual costs of making the calculations required by this subdivision, and may deduct that assessment from the amount allocated pursuant to this subdivision. For purposes of this subdivision, an independent qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a) of Section 98.

(b) ''Independent qualifying city'' means a qualifying city, as defined in Section 98, in the County of Los Angeles which met the following criteria on January 1, 1988:

(1) Was not served by a special district which received a portion of the 1 percent property tax revenue, and provided any of the following services to the qualified city:

(A) Emergency medical services.

(B) Fire prevention services.

(C) Fire suppression.

(D) Libraries.

(E) Parks.

(F) Recreation services.

(G) Street lighting.

(2) Did not have redevelopment project areas which receive property tax revenues.

(3) The county general fund received greater than 65 percent of the 1 percent property tax revenues collected from tax rate areas within the qualifying city's boundaries.

98.02. **Computation modifications—County of Ventura.** (a) In the County of Ventura, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas, except excluded tax rate areas, within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Each qualifying city shall, for the 1989–90 fiscal year and each fiscal year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each year thereafter, distribute the amount determined pursuant to the TEA formula to all tax rate areas, except excluded tax rate areas, within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of the property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its predecessor section, the auditor shall, for all tax rate areas, except excluded tax rate areas, in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 98 to jurisdictions in the tax rate area, except an excluded tax rate area, using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to all tax rate areas, except excluded tax rate areas, of qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated to those tax rate areas in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas, except excluded tax rate areas, within the qualifying city, before the allocation and payment of funds in that fiscal year

to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the amount of funds allocated in each fiscal year to those tax rate areas, except excluded tax rate areas, within a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) (A) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(B) Of the total amount determined in subparagraph (A), the auditor shall compute a proportionate amount to be attributed to all tax rate areas, except excluded tax rate areas, within the community redevelopment agency. That proportionate amount shall be equal to that proportion which the amount determined in paragraph (2) in each fiscal year bears to the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in subparagraph (B) of paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year and each fiscal year thereafter in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(d) For purposes of this section, ''excluded tax rate area'' means either of the following:

(1) Any tax rate area included in territory annexed by the qualifying city and allocated a prescribed percentage of property tax revenue pursuant to an existing agreement between the qualifying city and the county.

(2) Any tax rate area described in paragraph (1) that was detached from the county library district and that is also allocated an additional prescribed percentage of property tax revenue pursuant to an existing agreement between the qualifying city and the county.

(e) (1) All existing agreements between the qualifying city and the county covering the allocation of property tax revenues to tax rate areas described in subdivision (d) shall remain in force.

(2) All existing agreements between the qualifying city and the county covering the allocation of property tax revenues to tax rate areas that were detached from the county library district but are not included in territory that was annexed by the qualifying city shall remain in force.

(3) All allocations to those tax rate areas described in subdivision (d), including allocations of annual tax increments, made pursuant to the existing agreements between the qualifying city and the county shall be governed by subdivision (a) of Section 96.1 and Section 96.5.

(4) All allocations to those tax rate areas described in paragraph (2), including allocations of annual tax increments, made pursuant to the existing agreements between the qualifying city and the county shall be governed by subdivision (a) of Section 96.1 and Section 96.5. However, the tax rate areas referred to in this paragraph shall also be distributed an amount of property tax revenue determined pursuant to the TEA formula that is over and above the amount allocated as provided in the preceding sentence.

(f) ''Qualifying city'' means any city that incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1 or its predecessor section in the 1988–89 fiscal year that is less than 4 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to all tax rate areas, except excluded tax rate areas, in the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.04, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.04, the city is not a qualifying city.

(g) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(h) (1) Notwithstanding subdivision (b), except as otherwise provided in paragraph (2), in any fiscal year in which a qualifying city receives a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special tax. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(2) No reduction shall be made pursuant to paragraph (1) in the case in which a local tax is reduced or eliminated as a result of either a court decision or the approval or rejection of a ballot measure by the voters.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (g) and (h), would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(j) Commencing with the 1999–2000 fiscal year and each fiscal year thereafter, the auditor shall compute an amount that is equal to 60 percent of the total amount transferred to all qualifying cities pursuant to this section. The auditor shall certify that amount to the Controller for allocation of funds to the county pursuant to subdivision (a) of Section 11005.

(k) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section that is less than the amount the city would have been allocated without the application of the TEA formula.

(*l*) (1) Notwithstanding any other provision of this section, commencing with the 1994–95 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city becoming the successor agency to a special district that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 1994.

(2) Notwithstanding any other provision of this section, in no event may the auditor reduce the amount of ad valorem property tax revenue otherwise allocated to a qualifying city pursuant to this section on the basis of any additional ad valorem property tax revenues received by that city pursuant to a services for revenue agreement. For purposes of this subdivision, a ''services for revenue agreement'' means any agreement between a qualifying city and the county in which it is located, entered into by joint resolution of that city and that county, under which additional service responsibilities are exchanged in consideration for additional property tax revenues.

(m) The amount not distributed as a result of this section to the tax rate areas, except excluded tax rate areas, in each qualifying city shall be allocated by the auditor to the county.

History.—Stats. 1997, Ch. 835 (AB 922), in effect January 1, 1998, added paragraph designation (1), added "except as . . . in paragraph (2)," after "subdivision (b)," in the first sentence of paragraph (1) and added paragraph (2) of subdivision (h). Stats. 1999, Ch. 550 (SB 275), in effect September 28, 1999, operative January 1, 2000, deleted former subdivision (j) which provided that "The amount not distributed to tax rate areas, except excluded tax rate areas, of a qualifying city as a result of this section shall be distributed by the auditor to the county." and added subdivision (j). Stats. 2000, Ch. 171 (SB 1581), in effect January 1, 2001, added "fiscal" after "and each" in the first sentence of the first paragraph of subdivision (a); and added paragraph designation (1) to the first paragraph of former subdivision (*l*), and added paragraph (2) to subdivision (*l*).

Note.—Section 33 of Stats. 1999, Ch. 550 (SB 275) provided that with certain exceptions, the provisions of this act shall become operative on January 1, 2000.

98.03. **Qualifying city exclusion.** For purposes of Section 98, the definition of qualifying city contained in subdivision (d) of that section shall not include the City of Foster City.

98.04. **Computations: County of Santa Clara.** Notwithstanding any other provision of law, commencing with the 1989–90 fiscal year and each fiscal year thereafter, in any given year, the amount allocated by the auditor in accordance with Section 98 or its predecessor section for a qualifying city in the County of Santa Clara shall not exceed 55 percent of the amount that otherwise would be allocated pursuant to that section.

98.1. **Computations: County of Orange.** (a) In the County of Orange, the computations made pursuant to Section 96.1 or its predecessor section, for the 1984–85 fiscal year only, shall be modified as follows:

(1) With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of ''property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year,'' an amount equal to the sum of amounts calculated pursuant to the TEA formula, as defined in subdivision (c).

(2) The amount excluded pursuant to paragraph (1) shall be subtracted from the allocations of all local agencies other than a qualifying city with tax rate areas within the boundaries of a qualifying city in proportion to each such local agency's share of the total 1983–84 property tax revenues, as defined in subdivision (c) of Section 95, allocated to all those tax rate areas.

(b)(1) Each qualifying city, as defined in subdivision (d), shall for the 1984–85 fiscal year only, be allocated by the auditor an amount determined pursuant to the TEA formula, as defined in subdivision (c).

(2) For each qualifying city, the auditor shall distribute the amount determined pursuant to the TEA formula to all tax rate areas within the city in proportion to each tax rate area's share of the total 1983–84 assessed value in the city.

(3) After making the allocations, pursuant to paragraphs (1) and (2) but before making the calculations pursuant to Section 96.5, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1 in the 1984–85 fiscal year to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall for the 1984–85 fiscal year only, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 96.5 or its predecessor section to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1985–86 fiscal year and fiscal years thereafter, the amounts allocated to qualifying cities pursuant to this subdivision (notwithstanding any deduction made pursuant to subdivision (e)) shall be deemed to be the ''amount of property tax revenue allocated pursuant to this chapter in the prior fiscal year.''

(c) ''TEA formula'' shall mean Tax Equity Allocation formula, and shall be calculated by the auditor by applying a tax rate of ten cents ($.10) for $100 assessed value to the 1983–84 assessed value of the qualifying city.

(d) ''Qualifying city'' shall mean any city in the County of Orange that existed but did not levy a property tax in the 1977–78 fiscal year.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to paragraph (1) of subdivision (a).

Article 5. Jurisdictional Changes and Negotiated Transfers

§ 99. Effect of jurisdictional changes on computations.
§ 99.01. Effect of jurisdictional changes on special districts.
§ 99.02. Computations for transfer of revenues between local agencies.
§ 99.03. Effect of jurisdictional change: Riverside County.
§ 99.1. Subsequent computations for transfer of revenues between local agencies.
§ 99.2. Application of 1980 amendments to Section 99.

99. **Effect of jurisdictional changes on computations.** (a) For the purposes of the computations required by this chapter:

(1) In the case of a jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215, the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1, or the annual tax increment determined pursuant to Section 96.5, for local

agencies whose service area or service responsibility would be altered by the jurisdictional change, as determined pursuant to subdivision (b) or (c).

(2) In the case of a city incorporation, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56810 of the Government Code and the adjustments in tax revenues that may occur pursuant to Section 56815 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 56810 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the incorporation.

(3) In the case of a formation of a district as defined in Section 2215, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56810 of the Government Code to the district and shall make the adjustment as determined by Section 56810 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the formation.

(b) Upon the filing of an application or a resolution pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory that is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to each local agency pursuant to Section 96.1 and Section 96.5.

(3) Within 45 days of notice of the filing of an application or resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the amount of, and allocation factors with respect to, property tax revenue estimated pursuant to paragraph (2) that is subject to a negotiated exchange.

(4) Upon receipt of the estimates pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. This negotiation period shall not exceed 60 days.

The exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years.

(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues. Prior to entering into negotiation on behalf of a district for the exchange of property tax revenue, the board shall consult with the affected district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.

(6) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 56658 of the Government Code until the local agencies included in the property tax revenue exchange negotiation, within the 60-day negotiation period, present resolutions adopted by each such county and city whereby each county and city agrees to accept the exchange of property tax revenues.

(7) In the event that the commission modifies the proposal or its resolution of determination, any local agency whose service area or service responsibility would be altered by the proposed jurisdictional change may request, and the executive officer shall grant, 15 days for the affected agencies, pursuant to paragraph (4) to renegotiate an exchange of property tax revenues. Notwithstanding the time period specified in paragraph (4), if the resolutions required pursuant to paragraph (6) are not presented to the executive officer within the 15-day period, all proceedings of the jurisdictional change shall automatically be terminated.

(8) In the case of a jurisdictional change that consists of a city's qualified annexation of unincorporated territory, an exchange of property tax revenues between the city and the county shall be determined in accordance with subdivision (e) if that exchange of revenues is not otherwise determined pursuant to either of the following:

(A) Negotiations completed within the applicable period or periods as prescribed by this subdivision.

(B) A master property tax exchange agreement among those local agencies, as described in subdivision (d).

For purposes of this paragraph, a qualified annexation of unincorporated territory means an annexation, as so described, for which proceedings before the relevant local agency formation commission are initiated, as provided in Section 56651 of the Government Code, on or after January 1, 1998, and on or before January 1, 2005.

(9) No later than the date on which the certificate of completion of the jurisdictional change is recorded with the county recorder, the executive officer shall notify the auditor or auditors of the exchange of property tax revenues and the auditor or auditors shall make the appropriate adjustments as provided in subdivision (a).

(c) Whenever a jurisdictional change is not required to be reviewed and approved by a local agency formation commission, the local agencies whose service area or service responsibilities would be altered by the proposed change, shall give notice to the State Board of Equalization and the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change and request the auditor and assessor to make the determinations required pursuant to paragraphs (1) and (2) of subdivision (b). Upon notification by the auditor of the amount of, and allocation factors with respect to, property tax subject to exchange, the local agencies, pursuant to the provisions of paragraphs (4) and (6) of subdivision (b), shall determine the amount of property tax revenues to be exchanged between and among the local agencies. Notwithstanding any other provision of law, no such jurisdictional change shall become effective until each county and city included in these negotiations agrees, by resolution, to accept the negotiated exchange of property tax revenues. The exchange may be limited to an exchange of property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years. Upon the adoption of the resolutions required pursuant to this section, the adopting agencies shall notify the auditor who shall make the appropriate adjustments as provided in subdivision (a). Adjustments in property tax allocations made as the result of a city or library district withdrawing from a county free library system pursuant to Section 19116 of the Education Code shall be made pursuant to Section 19116 of the Education Code, and this subdivision shall not apply.

(d) With respect to adjustments in the allocation of property taxes pursuant to this section, a county and any local agency or agencies within the county may develop and adopt a master property tax transfer agreement. The agreement may be revised from time to time by the parties subject to the agreement.

(e) (1) An exchange of property tax revenues that is required by paragraph (8) of subdivision (b) to be determined pursuant to this subdivision shall be determined in accordance with all of the following:

(A) The city and the county shall mutually select a third-party consultant to perform a comprehensive, independent fiscal analysis, funded in equal portions by the city and the county, that specifies estimates of all tax revenues

that will be derived from the annexed territory and the costs of city and county services with respect to the annexed territory. The analysis shall be completed within a period not to exceed 30 days, and shall be based upon the general plan or adopted plans and policies of the annexing city and the intended uses for the annexed territory. If, upon the completion of the analysis period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (B) shall apply.

(B) The city and the county shall mutually select a mediator, funded in equal portions by those agencies, to perform mediation for a period of not to exceed 30 days. If, upon the completion of the mediation period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (C) shall apply.

(C) The city and the county shall mutually select an arbitrator, funded in equal portions by those agencies, to conduct an advisory arbitration with the city and the county for a period of not to exceed 30 days. At the conclusion of this arbitration period, the city and the county shall each present to the arbitrator its last and best offer with respect to the exchange of property tax revenues. The arbitrator shall select one of the offers and recommend that offer to the governing bodies of the city and the county. If the governing body of the city or the county rejects the recommended offer, it shall do so during a public hearing, and shall, at the conclusion of that hearing, make written findings of fact as to why the recommended offer was not accepted.

(2) Proceedings under this subdivision shall be concluded no more than 150 days after the auditor provides the notification pursuant to paragraph (3) of subdivision (b), unless one of the periods specified in this subdivision is extended by the mutual agreement of the city and the county. Notwithstanding any other provision of law, except for those conditions that are necessary to implement an exchange of property tax revenues determined pursuant to this subdivision, the local agency formation commission shall not impose any fiscal conditions upon a city's qualified annexation of unincorporated territory that is subject to this subdivision.

(f) Except as otherwise provided in subdivision (g), for the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and each fiscal year thereafter for those local agencies that were affected by a jurisdictional change which was filed with the State Board of Equalization after January 1, 1978, but on or before January 1, 1979. The local agencies shall determine by resolution the amount of property tax revenues to be exchanged between and among the affected agencies and notify the auditor of the determination.

(g) For the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and each fiscal year thereafter, for a city incorporation that was filed pursuant to Sections 54900 to 54904 after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by the jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds of the amount of property tax revenue

projected in the final local agency formation commission staff report pertaining to the incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978–79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977–78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for that incorporation, the commission shall by October 10, determine pursuant to Section 54790.3 of the Government Code the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980–81 fiscal year and each fiscal year thereafter for incorporations approved by the voters in June 1979.

(h) For the purpose of the computations made pursuant to this section, in the case of a district formation that was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1, 1978, but before January 1, 1979, the amount of property tax to be allocated to the district for the 1979–80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(i) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1 or its predecessor section, or the annual tax increment determined pursuant to Section 96.5 or its predecessor section, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by the jurisdictional change, as determined as follows:

(1) The governing body of each district, county superintendent of schools, or county whose service areas or service responsibilities would be altered by the change shall determine the amount of property tax revenues to be exchanged between and among the affected jurisdictions. This determination shall be adopted by each affected jurisdiction by resolution. For the purpose of negotiation, the county auditor shall furnish the parties and the county board of education with an estimate of the property tax revenue subject to negotiation.

(2) In the event that the affected jurisdictions are unable to agree, within 60 days after the effective date of the jurisdictional change, and if all the jurisdictions are wholly within one county, the county board of education shall, by resolution, determine the amount of property tax revenue to be exchanged. If the jurisdictions are in more than one county, the State Board of Education shall, by resolution, within 60 days after the effective date of the jurisdictional change, determine the amount of property tax to be exchanged.

(3) Upon adoption of any resolution pursuant to this subdivision, the adopting jurisdictions or State Board of Education shall notify the county auditor who shall make the appropriate adjustments as provided in subdivision (a).

(j) For purposes of subdivision (i), the annexation by a community college district of territory within a county not previously served by a community college district is an alteration of service area. The community college district and the county shall negotiate the amount, if any, of property tax revenues to be exchanged. In these negotiations, there shall be taken into consideration the amount of revenue received from the timber yield tax and forest reserve receipts by the community college district in the area not previously served. In no event shall the property tax revenue to be exchanged exceed the amount of property tax revenue collected prior to the annexation for the purposes of paying tuition expenses of residents enrolled in the community college district, adjusted each year by the percentage change in population and the percentage change in the cost of living, or per capita personal income, whichever is lower, less the amount of revenue received by the community college district in the annexed area from the timber yield tax and forest reserve receipts.

(k) At any time after a jurisdictional change is effective, any of the local agencies party to the agreement to exchange property tax revenue may renegotiate the agreement with respect to the current fiscal year or subsequent fiscal years, subject to approval by all local agencies affected by the renegotiation.

History.—Stats. 1996, Ch. 522, in effect January 1, 1997, added the eighth sentence to subdivision (c). Stats. 1997, Ch. 692 (SB 466), in effect January 1, 1998, substituted "60" for "30" before "days" in the second sentence of paragraph (4), substituted "60" for "30" before "-day" in the first sentence of paragraph (6), added paragraph (8), and renumbered former paragraph (8) as paragraph (9) of subdivision (b); added subdivision (e); and relettered former subdivisions (e), (f), (g), (h), (i) and (j) as subdivisions (f), (g), (h), (i) , (j) and (k), respectively. Stats. 1999, Ch. 550 (SB 275), in effect September 28, 1999, operative January 1, 2000, substituted "auditor provides the notification pursuant to paragraph (3) of subdivision (b)" for "initiation of proceedings before the commission" after "150 days after the" in the first sentence of paragraph (2) of subparagraph (C) of subdivision (e). Stats. 2000, Ch. 761 (AB 2838), in effect January 1, 2001, substituted "Section 56810" for "Section 56824" four times and substituted "Section 56815" for "Section 56845" once in subdivision (a); added the second sentence to paragraph (5), and substituted "Section 56658" for "Section 56828" after "pursuant to" in paragraph (6) of subdivision (b); and deleted ", (5)," after "paragraph (4)" in the third sentence of subdivision (c).

Note—The Legislature finds and declares that due to unique facts and circumstances applicable to Los Angeles County, insofar as the withdrawal of cities and libraries from the Los Angeles County free library system, this special legislation is applicable only to Los Angeles County.

Note.—Section 33 of Stats. 1999, Ch. 550 (SB 275) provided that with certain exceptions, the provisions of this act shall become operative on January 1, 2000.

Decisions Under Former Section 99, Effect of Jurisdictional Changes on Computations.

Construction.—Although subdivision (b)(4) of this section does require the affected city and county to negotiate for up to 30 days to determine such revenue exchange, its terms do not require the parties to actually reach an agreement. However, under subdivision (b)(6), a certificate of filing cannot be issued until the local agencies, within the 30-day negotiation period, have adopted resolutions agreeing to an exchange of property tax revenues; and absent an agreement concerning the exchange of revenues and the issuance of a certificate, a local area formation commission is powerless to proceed further. *Greenwood Addition Homeowners Association* v. *City of San Marino,* 14 Cal.App.4th 1360.

99.01. **Effect of jurisdictional changes on special districts.** (a) For the purposes of Section 99, in the case of a jurisdictional change that will result in a special district providing one or more services to an area where those services have not been previously provided by any local agency, the following shall apply:

(1) The special district referred to in this subdivision and each local agency that receives an apportionment of property tax revenue from the area shall be considered local agencies whose service area or service responsibility will be altered by the jurisdictional change.

(2) The exchange of property tax among those local agencies shall be limited to property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to those local agencies.

(3) Notwithstanding the provisions of paragraph (5) of subdivision (b) of Section 99, any special district affected by the jurisdictional change may negotiate on its own behalf, if it so chooses.

(4) If a special district involved in the negotiation (other than the district which will provide one or more services to the area where those services have not been previously provided) fails to adopt a resolution providing for the exchange of property tax revenue, the board of supervisors of the county in the area subject to the jurisdictional change is located shall determine the exchange of property tax revenue for that special district.

(b) The provisions of subdivisions (a), (b), (c), (d), and (j) of Section 99 not in conflict with this section shall apply. The jurisdictional changes described in subdivisions (e), (f), (g), (h), and (i) of Section 99 shall not be affected by the provisions of this section.

99.02. **Computations for transfer of revenues between local agencies.** (a) For the purposes of the computations required by this chapter for the 1985–86 fiscal year and fiscal years thereafter, in the case of any transfer of property tax revenues between local agencies that is adopted and approved in conformity with subdivisions (b) and (c), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96.1 or its predecessor section, or the annual tax increment determined pursuant to Section 96.5 or its predecessor section, for those local agencies whose allocation would be altered by the transfer.

(b) Commencing with the 1985–86 fiscal year, any local agency may, by the adoption of a resolution of its governing body or governing board, determine to exchange any portion of its property tax revenues which is allocable to one or more tax rate areas within the local agency with one or more other local agencies having the same tax rate area or tax rate areas. Upon the local agency's adoption of the resolution, the local agency shall notify the board of supervisors of the county or the city council of the city within which the exchange of property tax revenues is proposed.

(c) If the board of supervisors or the city council concurs with the proposed exchange of property tax revenue, the board or council shall, by resolution, notify the county auditor of the approved exchange.

(d) Upon receipt of notification from the board of supervisors or the city council, the county auditor shall make the necessary adjustments specified in subdivision (a).

(e) Prior to the adoption or approval by any local agency of a transfer of property tax revenues pursuant to this section, each local agency that will be affected by the proposed transfer shall hold a public hearing to consider the effect of the proposed transfer on fees, charges, assessments, taxes, or other revenues. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within each affected local agency.

(f) No local agency shall reallocate property tax revenue pursuant to this section unless each of the following conditions exists:

(1) The transferring agency determines that revenues are available for this purpose.

(2) The transfer will not result in any increase in the ratio between the amount of revenues of the transferring agency that are generated by regulatory licenses, use charges, user fees, or assessments and used to finance services provided by the transferring agency.

(3) The transfer will not impair the ability of the transferring agency to provide existing services.

(4) The transfer will not result in a reduction of property tax revenues to school entities.

99.03. **Effect of jurisdictional change: Riverside County.** (a) For the purposes of Section 99, in the case of a jurisdictional change that results in a qualifying city, as defined in Section 98, providing its own fire protection services in accordance with Section 25643 of the Government Code in lieu of the county providing those services, the negotiated exchange of property tax revenues between the county and the qualifying city pursuant to subdivision (c) of Section 99 as a result of that jurisdictional change may also provide for a negotiated adjustment in the amount of property tax revenue distributed by the auditor to the qualifying city in accordance with Section 98. The negotiated adjustment may be made in any amount that does not exceed the amount of property tax revenue exchanged between the county and the qualifying city.

(b) This section applies only to exchanges of property tax revenue affecting the County of Riverside and qualifying cities within that county.

99.1. **Subsequent computations for transfer of revenues between local agencies.** (a) For the purposes of the computations required by this chapter for the 1986–87 fiscal year and fiscal years thereafter, in the case of any transfer of property tax revenues between local agencies that is adopted and approved in conformity with subdivisions (b) and (c), the county auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96.1 or its predecessor section, or the annual tax increment determined pursuant to Section 96.5 or its predecessor section, for those local agencies whose allocation would be altered by the transfer.

(b) Commencing with the 1986–87 fiscal year or any fiscal year thereafter, a local agency may, by the adoption of a resolution of its governing board, determine to exchange any portion of its property tax revenues that is allocable to one or more tax rate areas, with one or more other local agencies having the same tax rate area or tax rate areas. Upon the adoption of the resolution, the governing board of the local agency shall notify the board of supervisors of the affected county.

If the transfer of property tax revenues will alter the property tax revenue allocation of a city, the governing board of the local agency shall, upon adoption of the resolution, also notify the affected city.

(c) If the board of supervisors of the affected county concurs with the proposed exchange of property tax revenues, it shall, by resolution, approve the exchange and notify the county auditor. If the property tax allocation of a city would be affected by the exchange, the board shall not notify the county auditor pursuant to this subdivision until the city council of the affected city has, by resolution, approved the proposed exchange of property tax revenues.

(d) Upon receipt of notification from the board of supervisors pursuant to subdivision (c), the county auditor shall make the necessary adjustments specified in subdivision (a).

(e) Prior to the adoption by the governing board of a local agency of a resolution pursuant to subdivision (b), the local agency shall hold a public hearing to consider the effect of the proposed transfer. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code in one or more newspapers of general circulation within the local agency.

(f) No local agency shall reallocate property tax revenue pursuant to this section unless the transfer will not result in any increase in the ratio between the amount of revenues of the transferring agency that are generated by regulatory licenses, use charges, user fees, or assessments and the amount of revenues of the transferring agency used to finance services provided by it.

(g) This section applies only to exchanges affecting the Ventura Regional Sanitation District located within the County of Ventura.

99.2. **Application of 1980 amendments to Section 99.** No amendment made by any chapter of the Statutes of 1980, or any year thereafter, to Section 99 of the Revenue and Taxation Code shall be construed, except as expressly provided therein, to apply to a jurisdictional change initiated, pursuant to the applicable provisions of law governing those jurisdictional changes, prior to the effective date of the amendment. The provisions of Section 99 of the Revenue and Taxation Code in effect at the time the jurisdictional change is initiated shall govern the procedures for, and exchange of, property tax revenues between local agencies whose service area or service responsibility would be altered by that jurisdictional change, provided that there shall be no duty to impound any property tax revenues.

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100. **Unitary and operating nonunitary property.** Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value attributable to unitary and operating nonunitary property, as defined in Sections 723 and 723.1, that is assessed by the State Board of Equalization shall be allocated by county as provided in Section 756, and the assessed value and revenues attributable to that allocation shall be allocated within each county as follows:

(a) Each county shall establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area.

(b) Property assigned to the tax rate area created by subdivision (a) shall be taxed at a rate equal to the sum of the following two rates:

(1) A rate determined by dividing the county's total ad valorem tax levies for the secured roll, including levies made pursuant to Section 96.8, for the prior year, exclusive of levies for debt service, by the county's total ad valorem secured roll assessed value for the prior year.

(2) A rate determined as follows:

(A) By dividing the county's total ad valorem tax levies for unitary and operating nonunitary property for the prior year debt service only by the county's total unitary and operating nonunitary assessed value for the prior year.

(B) Beginning with the 1989–90 fiscal year, adjusting the rate determined pursuant to subparagraph (A) by the percentage change between the two preceding fiscal years in the county's ad valorem debt service levy for the secured roll, not including unitary and operating nonunitary debt service.

(c) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) by the use of the tax rate determined in paragraph (1) of subdivision (b) shall be allocated as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, each taxing jurisdiction shall be allocated an amount of property tax revenue equal to 102 percent of the amount of the aggregate property tax revenue it received from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(2) If the amount of property tax revenue available for allocation in the current fiscal year is insufficient to make the allocations required by paragraph (1), the amount of revenue to be allocated to each taxing

jurisdiction shall be prorated based on a factor determined by dividing the total amount of property tax revenue available to all taxing jurisdictions from unitary and operating nonunitary property in the current year, exclusive of revenue attributable to levies for debt service, by the total amount of property tax revenue received by all taxing jurisdictions from unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(3) If the amount of property tax revenue available for allocation to all taxing jurisdictions in the current fiscal year from unitary and operating nonunitary property, exclusive of revenue attributable to levies for debt service, exceeds 102 percent of the property tax revenue received by all taxing jurisdictions from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service, the amount of revenue in excess of 102 percent shall be allocated to all taxing jurisdictions in the county by a ratio determined by dividing each taxing jurisdiction's share of the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for debt service, by the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for debt service.

(d) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) by the use of the tax rate determined in paragraph (2) of subdivision (b) shall be allocated as follows:

(1) An amount shall be computed for each taxing jurisdiction and shall be determined by multiplying the amounts required in the current year pursuant to subdivisions (a) and (c) of Section 93 by that percentage that shall be determined by dividing the amount of property tax revenue the jurisdiction received in the prior year from unitary property and operating nonunitary property by the total amount of property tax revenue the jurisdiction received in the prior year from all property.

(2) The amount of property tax revenue available for allocation pursuant to this subdivision shall be allocated among taxing jurisdictions in the proportion that the amount computed for each taxing jurisdiction pursuant to paragraph (1) bears to the total amount computed pursuant to paragraph (1) for all taxing jurisdictions.

(3) If a taxing jurisdiction is levying a tax rate for debt service for the first time in the current fiscal year, for purposes of determining the percentage specified in paragraph (1), that percentage shall be the percentage determined by dividing the amount of property tax revenue received by that taxing jurisdiction in the prior year pursuant to subdivision (c) from unitary and operating nonunitary property by the total amount of property tax revenue received by that taxing jurisdiction in the prior year from all property within the taxing jurisdiction.

(e) For purposes of this section:

(1) ''The county's total ad valorem tax levies for the secured roll'' means all ad valorem tax levies for the county's secured roll, including the general tax levy, levies for debt service (including land only and land and improvement rates), and levies for redevelopment agencies.

(2) ''The county's total ad valorem secured roll'' means the county's local roll, after all exemptions except the homeowner's exemption, and the county's utility roll.

(3) ''Taxing jurisdiction'' includes a redevelopment agency.

(4) In a county of the second class, for the 1992–93 fiscal year and each fiscal year thereafter, ''taxing jurisdiction'' includes that fund that has been designated by the auditor as the ''Unallocated Residual Public Utility Tax Fund.'' All revenues allocated to that fund pursuant to this section shall be deposited in that fund and shall be distributed as follows:

(A) For the 1992–93 fiscal year to the 1996–97 fiscal year, inclusive, at the discretion of the county board of supervisors.

(B) For the 1997–98 fiscal year, 100 percent to the Orange County Fire Authority.

(C) For the 1998–99 fiscal year and each fiscal year thereafter, in accordance with the following schedule:

(i) Fifty-seven and forty-seven hundredths percent to the Orange County Fire Authority.

(ii) Forty-one and forty-seven hundredths percent to the Orange County Library District.

(iii) Forty-eight hundredths percent to the Buena Park Library District.

(iv) Fifty-eight hundredths percent to the Placentia Library District.

(f) The assessed value of the unitary and operating nonunitary property shall be kept separate for each state assessee throughout the allocation process.

(g) Each state assessee shall be issued only one tax bill for all unitary and operating nonunitary property within the county.

(h) This section does not apply to unitary property of regulated railway companies.

(i) This section does not apply to property that on July 1, 1987, was undeveloped and owned by a utility and located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this section shall not apply to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county's auditor-controller prior to January 1, 1988.

(j) (1) For property that on July 1, 1990, was undeveloped and owned by a utility and that is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement and that this subdivision applies to that property, and the city, county, or city and county transmits a copy of that resolution, including a

legal description of the property, to the county auditor prior to August 1, 1991, the allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 96.2, 97.31, 98, 98.01, and 98.04, shall be subject to the allocation required by paragraph (2).

(2) The county auditor shall annually allocate to a city, county, or city and county, that has adopted and transmitted a resolution pursuant to paragraph (1), the amount of property tax revenues derived with respect to the property described in paragraph (1) that would be allocated to that city, county, or city and county if that property were subject to assessment by the county assessor. In order to provide the allocations required by this paragraph, the county auditor shall make any necessary pro rata reductions in allocations to local agencies other than that city, county, or city and county adopting and transmitting a resolution pursuant to paragraph (1), of property tax revenues derived with respect to the property described in paragraph (1).

(k) (1) For property subject to this section that is owned by a utility that serves no more than two counties and is located within a city, county, or city and county that adopts a resolution stating that the property is subject to a development plan or agreement for new construction and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county auditor prior to January 1, 1995, the allocation of property tax revenues derived with respect to that property pursuant to Sections 96.1, 97.31, 98, 98.01, and 98.04, shall be subject to the requirements of paragraph (2) until December 31, 2004.

(2) If the city, county, or city and county has adopted and transmitted a resolution pursuant to paragraph (1), the county auditor shall annually allocate the property tax revenue attributable to the new construction described in the development plan or agreement, as if that new construction were subject to assessment by the county assessor, according to the following formula:

(A) An amount of property tax revenue to school entities, as defined in subdivision (f) of Section 95, equivalent to the same percentage the school entities received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located.

(B) An amount of property tax revenue to the county in which the property is located equivalent to the same percentage the county received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located. The county shall distribute those property tax revenues to the county general fund, the county library district, the county flood control district, the county sanitation districts, and the county service areas.

(C) The property tax revenue remaining after the allocations described in subparagraphs (A) and (B) are made shall be distributed to the city in which the property described in paragraph (1) is located.

(3) In order to provide the allocations required by paragraph (2), the county auditor shall make any necessary pro rata reductions in allocations of property taxes attributable to the property specified in paragraph (1) to jurisdictions other than those receiving an allocation under paragraph (2).

(4) The allocation required by this subdivision shall not apply to property tax revenues allocated on or after December 31, 2004.

History.—Added by Stats. 1994, Ch. 1167 (AB 3347), in effect January 1, 1995. Stats. 1998, Ch. 412 (SB 529), in effect January 1, 1999, added paragraph 4 to subdivision (e).

Note.—Section 2 of Stats. 1998, Ch. 412 (SB 529), provided that the Legislature finds and declares that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe and retrospective impacts upon local finances and local services that will be suffered in the County of Orange if this act does not take effect.

100.01. **County-assessed property rights, interests-assessed value.** Commencing with the 1995–96 fiscal year, the aggregate assessed value of all county-assessed property rights or interests as described in Section 401.8 shall be assigned to a separate, countywide tax rate area. The tax rate to be applied to this assessed value shall be the sum of the two rates determined pursuant to subdivision (b) of Section 100, and the property tax revenues so derived shall be allocated in accordance with the allocation procedures set forth in subdivisions (c) and (d) of Section 100.

History.—Added by Stats. 1995, Ch. 32, in effect June 28, 1995.

100.1. **County allocations—railway companies.** Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value attributable to unitary property, as defined in Section 723, of a regulated railway company that is assessed by the State Board of Equalization, shall be allocated to tax rate areas as follows:

(a) Each tax rate area shall receive an amount of assessed value equal to the amount of assessed value received in the prior fiscal year adjusted for changes in track mileage unless the total amount of assessed value to be allocated is insufficient, in which case, each tax rate area shall receive a pro rata share of the amount it received in the prior fiscal year adjusted for changes in track mileage.

(b) If the total amount of assessed value to be allocated is greater than the amount of assessed value allocated in the prior fiscal year adjusted for changes in track mileage, each tax rate area shall receive a pro rata share of the amount in excess of the prior year's assessed value of the regulated railway company adjusted for track mileage.

(c) If a tax rate area is divided, the prior fiscal year amount of assessed value of the unitary property of the regulated railway company shall be divided among the resulting tax rate areas in the same proportion that the track mileage on unitary property is divided among the resulting tax rate areas.

(d) The assessed value allocated to each tax rate area under subdivision (a), (b), or (c) shall be further allocated between land, improvements, and personal property in the same proportion as existed for each regulated railway company statewide in the 1987–88 assessment year.

(e) For purposes of this section:

(1) ''The amount of assessed value received in the prior fiscal year adjusted for changes in track mileage'' means the prior year's amount of assessed value in each tax rate area after it has been adjusted upward or downward in direct proportion to the change in the amount of track mileage on unitary property in the current year over the prior year.

(2) ''Track mileage'' means the number of miles of track adjusted to reflect the relative importance of mainline, branch, and other track.

100.2. **Supplemental revenues: apportionment.** Supplemental property tax revenues for 1985–86 and each year thereafter, generated by Sections 75 to 75.80, inclusive, shall be apportioned using the property tax apportionment factors for the current year.

100.3. **County of Santa Cruz allocations.** Notwithstanding any other provision of this chapter, in the County of Santa Cruz, the auditor shall, for the 1997–98 and future fiscal years, upon the written mutual agreement of the county and an enterprise district, deposit those property tax revenues that would otherwise be allocated to that enterprise special districts in a Supplemental Allocation Fund. The county board of supervisors shall allocate moneys in the fund to either enterprise special districts or the county's parks and recreation special district listed as County Service Area Number 11 in the State Controller's Annual Report of Financial Transactions concerning Special Districts of California, Fiscal Year 1994–95. A written mutual agreement as described in this section may terminate upon a specified date, on or after which all revenues that would be otherwise subject to that agreement shall instead be allocated to the enterprise special district, unless the term of the agreement is extended, or a new written mutual agreement is entered into by the county and the enterprise special district, prior to that specified date.

History.—Stats. 1997, Ch. 635 (AB 280), in effect January 1, 1998, substituted "1997–98 . . . enterprise district" for "1993–94, 1994–95, 1995–96, and 1996–97 fiscal years only" and added "that" before "enterprise special" in the first sentence, deleted "for the 1993–94, 1994–95, 1995–96, and 1996–97 fiscal years only" after "in the fund", deleted "County Library Fund" after "special districts or", and added the balance of the second sentence after "special districts or"; and added the third sentence.

100.4. **County of Marin allocations.** Notwithstanding any other provision of law, the allocations and apportionments made in a County of the Eighteenth Class of revenues generated by Sections 75 to 75.80, inclusive, for fiscal years to the 1999-2000 fiscal year, inclusive, are deemed to be correct.

History.—Added by Stats. 2000, Ch. 611 (SB 1396), in effect January 1, 2001.

Note.—Section 4 of Stats. 2000, Ch. 611 (SB 1396) provided that the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the specific good faith reliance of tax officials in the County of Marin upon previous administrative interpretations and accepted practices that have subsequently been reexamined and modified.

Section 5 therein provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

100.6. **Allocations: Special Districts, Sacramento County.** (a) For the 1989–90 and 1990–91 fiscal years, property tax revenue shall be allocated by the Sacramento County Auditor to special districts, as defined in subdivision (b), consistent with the holding of American River Fire Protection District v. Board of Supervisors (1989), 211 Cal.App.3d 1076, and as implemented in American River Fire Protection District, et al. v. Board of Supervisors of the County of Sacramento, et al., Sacramento Superior Court Case No. 431637, and for the 1991–92 fiscal year and each fiscal year thereafter, shall be allocated pursuant to subdivision (c), (d), and (e).

(b) The amount allocated for the 1990–91 fiscal year and each fiscal year thereafter pursuant to Section 96 or 96.1 or their predecessor sections, and Section 96.5 or its predecessor section to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, including that portion of any multicounty district located within the County of Sacramento, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the Board of Supervisors of Sacramento County or whose governing body is the same as the Board of Supervisors of Sacramento County, shall be governed by this section.

(c) For the 1991–92 fiscal year, the amount of property tax revenue that would otherwise be allocated to the special districts described in subdivision (b) pursuant to Section 75.70, or Section 96 or 96.1 or their predecessor sections, and Section 96.5 or its predecessor section, shall be reduced or otherwise adjusted by the difference between the following amounts:

(1) The reduction, if any, made to the amount of property tax revenues allocated to each special district pursuant to former Section 98.6 in the 1990–91 fiscal year as determined by the Sacramento County Auditor.

(2) The allocations approved by the Board of Supervisors of Sacramento County to each special district pursuant to former Section 98.6 in the 1990–91 fiscal year.

(d) Notwithstanding any other provision of law, for the 1992–93 fiscal year and each fiscal year thereafter, the Sacramento County Auditor shall allocate to the special districts described in subdivision (b) the total amount of property tax revenue allocated in the prior fiscal year as calculated in subdivisions (c) and (e).

(e) Notwithstanding subdivisions (a) and (b) of Section 96 or its predecessor section, for the 1991–92 fiscal year and each fiscal year thereafter, the annual tax increment as defined in subdivision (c) of Section 96.1 or its predecessor section for the special districts described in subdivision (b) in each tax rate area shall be the sum of the following amounts:

(1) Each special district's share of property tax revenues in each of the tax rate areas within their respective jurisdictions without regard to this subdivision.

(2) The ratio of the amount determined for each special district in subdivision (c) and the special district's property tax revenue for the 1990–91

fiscal year, multiplied by the special district's share of property tax revenues in each tax rate area for the 1990–91 fiscal year.

(f) Notwithstanding any other provision of law, this section shall not be operative in the 1993–94 fiscal year.

100.7. **County of San Bernardino allocation.** Notwithstanding any other law, commencing with the 1999–2000 fiscal year, the apportionment of property tax revenues in the County of San Bernardino shall be modified as follows:

(a) The auditor shall apportion an amount of property tax revenues to the Victor Valley Economic Development Authority that is equal to the amount that would be allocated to that authority if the base year for the George Air Force Base Project Area was changed to the 1997–98 fiscal year for purposes of Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code.

(b) The auditor shall reduce the amount of property tax revenues apportioned to all other jurisdictions within the George Air Force Base Project Area on a pro rata basis in an amount equal to the amount apportioned under subdivision (a).

(c) On or before June 30, 2004, and on or before June 30 of each fifth year thereafter, the Victor Valley Economic Development Authority shall remit to the Controller an amount of money equal to the amount of the increased aid provided by the state to school entities as a result of this section, plus interest. The interest shall accrue until the payment is made. The rate of interest shall be the rate of interest on the bonds of the authority. If there are no bonds, the rate of interest shall be the rate of interest earned by the Pooled Money Investment Board. The Department of Finance shall determine the amount to be remitted, after consultation with the authority.

History.—Added by Stats. 1999, Ch. 611 (AB 971), in effect January 1, 2000.

Note.—Section 3 of Stats. 1999, Ch. 611 (AB 971) provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

100.9. **County allocations—electrical generation facilities.** (a) Notwithstanding any other provision of law and except as provided in subdivision (b), for the 2003–04 fiscal year and each fiscal year thereafter, all of the following apply:

(1) The property tax assessed value of an electric generation facility that is assessed by the State Board of Equalization shall be allocated entirely to the county in which the facility is located, and shall be allocated to that tax rate area in the county in which the property is located.

(2) The tax rate applied to the assessed value allocated pursuant to paragraph (1) shall be the rate calculated pursuant to Section 93.

(3) The revenues derived from the application of the tax rate to the assessed value allocated to a tax rate area pursuant to paragraph (1) shall be allocated among the jurisdictions in that tax rate area, in those same

percentage shares that property tax revenues derived from locally assessed property are allocated to those jurisdictions in that tax rate area, subject to any allocation and payment of funds as provided in subdivision (b) of Section 33670 of the Health and Safety Code, and subject to any modifications or adjustments pursuant to Sections 99 and 99.2.

(b) Subdivision (a) does not apply to the assessed value or the revenues derived from that assessed value from either of the following:

(1) An electric generation facility that was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility.

(2) An electric generation facility that is owned by a company that is a state assessee for reasons other than its ownership of the generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within two or more counties.

History.—Added by Stats. 2002, Ch. 57 (AB 81), in effect January 1, 2003.

Note.—Section 3 of Stats. 2002, Ch. 57 (AB 81) provided that this act shall not be construed to affect the manner in which property to which this act applies is assessed by the State Board of Equalization. Section 4 thereof provided that notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Chapter 7. Excess Tax Revenues *

§ 100.1. Calculation of amount for state school building fund. [Repealed.]
§ 100.2. Reduction of cigarette tax subvention by excess sales tax. [Repealed.]
§ 100.3. Reduction of cigarette tax subvention by excess property tax. [Repealed.]
§ 100.4. Nonapplication of Sections 100.2 and 100.3. [Repealed.]
§ 100.4. Reduction of cigarette tax subvention and Business Inventory tax reimbursement. [Repealed.]

Chapter 8. The Deflator

[Repealed by Stats. 1984, Ch. 448, in effect July 16, 1984.]

§ 100.5. Reduction in amount of local assistance. [Repealed.]
§ 100.5. Reduction in amount of local assistance. [Repealed.]
§ 100.55. School entities; no reduction. [Repealed.]
§ 100.6. Further reduction in amount of local assistance. [Repealed.]
§ 100.7. Further reduction in amount of local assistance for cities and counties. [Repealed.]

* Chapter 7 repealed by Stats. 1992, Ch. 523.