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## **Criticism, confusion over California's Proposition 19 property tax amendments**

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## GGU Law Review Blog



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### Criticism, confusion over California's Proposition 19 property tax amendments

**Proposition 19**, the California measure **narrowly approved** by voters last November, created a tax break for some and tax hikes for others. Proponents of the measure tout the new tax revenue stream for the state as well as benefits for some of its vulnerable residents. In contrast, those opposed argue it disproportionately benefits wealthy, white residents while hurting people of color and low-income Californians.

The measure amended the **California constitution** by adding new sections to Article XIII A, which relates to tax limitations. As of April 1, 2021, Proposition 19 removes certain restrictions for eligible homeowners who transfer their home's property tax bill to a new home. Starting February 16, 2021, the amendment also requires certain inherited family homes and farms to be reassessed at current market value, which may significantly increase property taxes for the inheritor and thus produce a new revenue stream for state and local governments.



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### Property tax assessment in California



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**Proposition 13** created California's underlying real property tax system. The 1978 state constitutional amendment restricts the ad valorem tax rate to 1% of the property's value on the date of purchase, this establishes the base year value, which is the sale price listed on the deed. Thereafter, the home value cannot exceed an annual inflation adjustment of 2%. The amendment prohibits reassessing the property for a new base year value unless the property is sold or construction is done to the property. While Proposition 13 was intended to relieve homeowners from significant annual increases to their property taxes, it has also been

**widely criticized** for reducing the state's revenue in the decades since it was passed.

Prior to Proposition 19's amendments, the California constitution allowed a person over 55 years of age or a severely and permanently disabled person to transfer the base year value of their home to a new home of equal or lesser value in the same county or another that allows out-of-county base year value transfers via ordinance. The constitution also allowed transferring a home by parents to their children, as well as by grandparents to their grandchildren, without being considered a "purchase" or "change in ownership," which would trigger reassessing the property's current market value and establish a new base year value for the purpose of property taxation. Instead, the property tax remained the same for the transferee.

## Replacement residence tax break

Proposition 19 further restricts increases to certain homeowners' property taxes in addition to Proposition 13 limitations. With the enactment of Proposition 19, also known as the Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act, eligible homeowners may transfer their property tax bill from one home to another of any value anywhere in the state. Eligible homeowners are those who are older than 55 years, severely disabled, or had homes destroyed by wildfire or natural disaster. They may take advantage of this provision up to three times in their lifetime.

In effect, the rule allows homeowners to move into a more expensive home while avoiding equally expensive property taxes. Qualifying homeowners may transfer the taxable value of their home, which is the base year value plus inflation adjustments, to a replacement home anywhere in the state that is purchased or newly constructed within two years of the sale of the previous

home. When the new home is of greater value, its taxable value will be calculated by adding the difference between the original home's value and the new home's value to the taxable value of the original home.

## Inheritance tax hike

The measure also limits the tax benefit for certain transfers of real property between family members. Proposition 19 repealed Proposition 58, which allowed parents and grandparents to transfer ownership of a family home or family farm to their children and grandchildren without changing the property tax bill.



Photo by Berenice Quirino.

Now, only homes used as the primary residence by the inheriting children or grandchildren would continue to be exempt from reassessment. Otherwise, if the property is not the inheriting family member's primary residence within a year of the transfer, the property will be reassessed for a new taxable value. This means that a child or grandchild who inherited a family home and chooses to keep it as either a second home, vacation home, or rental property would no longer have the benefit of inheriting the property tax as well. Rather, the property would be reassessed at current market value to establish a new base year value, which would **“likely hike property taxes by thousands of dollars when a home is transferred from parents to children, or in some cases, from grandparents to grandchildren.”**

## New funds for fire protection and counties



Lake County, north of Napa, during the 2016 Clayton Fire.  
Photo by Berenice Quirino.

Revenue generated by Proposition 19 will be allocated for fire protection, local governments, and schools. **According to the legislative analyst,** Proposition 19 has the potential to raise millions of dollars of revenue for local governments every year, eventually growing to hundreds of millions of dollars annually. The measure created the California Fire Response Fund, 80% of the money will be allocated for fire districts to address inequities that threaten response times to wildfires and medical emergencies. Schools would also benefit from higher property tax revenue.

## Criticism of Proposition 19

Some say Proposition 19 helps homeowners who are vulnerable due to age or disability as well as wildfire and natural disaster survivors. **Realtors spent tens of millions of dollars in their effort to pass Proposition 19** because the provision allowing homeowners to transfer their property tax bills would likely encourage more home sales and therefore generate more income for the real estate industry.

However, others say Proposition 19 merely **creates a tax loophole** for mostly older, white, wealthy California homeowners, which would in turn “make California’s tax system less equitable.” **For example, despite representing only 36% of California residents**, white homeowners constitute 62% of those eligible for the replacement home tax break. By comparison, Latinx residents represent 39% of California residents, yet they constitute only 19% of homeowners who benefit from Proposition 19. Furthermore, **Latinx and Black homeownership rates** are some of the lowest among ethnic groups in California, thus, smaller percentages of these groups would benefit from Proposition 19’s tax break compared to their white counterparts, reinforcing racial inequity in the state tax system.

**Most major California newspapers opposed Proposition 19**, including the San Francisco Chronicle and the Los Angeles Times, while those in the minority that supported the proposition include the Sacramento Bee and the San Diego Union-Tribune. Despite the relief it provides senior citizens and wildfire victims, according to a **Los Angeles Times editorial**, it grossly benefits only those who already had the spending power to buy homes in previous decades, “skew[ing] tax breaks further away from people who don’t own a home or who may be struggling to buy one.”

State and county officials also have their issues with Proposition 19. In a letter to the California Board of Equalization, the California Assessors’ Association wrote that “Proposition 19 is silent on many critical implementation issues,” stating that “[i]t is extraordinarily urgent that ambiguities in the law are resolved.” Los Angeles County Assessor Jeffrey Prang echoed these concerns and said the measure was “hastily written at the end of the legislative session with confusing and conflicting language.” He added, “[w]e spent the Christmas holiday combing through the measure to come up with an inventory of the deficiencies.” It is unclear, for example, how the inheritance provision would affect multiple siblings inheriting the family home. Because the law states the home must become the heirs’ primary residence, Prang said “[t]hat means they would all have to move into the house, which is absurd.”

## New legislation

Legislation has recently been introduced that would delay and clarify Proposition 19’s implementation. Sen. Patricia Bates, R-Laguna Niguel, introduced **Senate Bill 668**, which would delay implementing the property inheritance provision. Though it took effect on February 16, the bill would postpone the provision for two additional years. This would allow intergenerational property transfers to continue to occur without reassessment until February 16, 2023. The delay would also allow county assessors’ offices to adapt to the new provisions. Another bill introduced Sen. Robert M. Hertzberg, D-Van Nuys, **Senate Bill 539**, would also give greater clarity on how county assessors may administer the new law.

The confusion on Proposition 19’s implementation warrants a delay; however, it seems likely that to offset the potential negative consequences for low-income residents and people of color, more changes to the law must occur. While generating more income for wildfire protection is certainly necessary for California, where



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wildfires have destroyed large areas of forest and entire communities, as well as killed more than two dozen people in 2020 alone, the racial inequity Proposition 19 promotes merits further California constitutional amendments to offset its potentially negative impact.

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