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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Dawn McFarland

Re: *Protect Homeowners and Close Corporate Tax Loopholes Act*

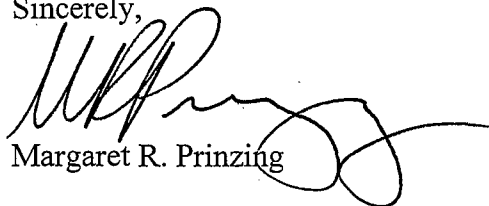
Dear Ms. McFarland:

Pursuant to Elections Code section 9001(a), I request that the Attorney General prepare a title and summary of a measure entitled the "Protect Homeowners and Close Corporate Tax Loopholes Act." The text of the measure, a check for \$200.00, the address at which I am registered to vote and the certifications required by Elections Code sections 9001(b) and 9608 are enclosed.

Please direct all correspondence and inquiries regarding this measure to:

Margaret R. Prinzing
Remcho, Johansen & Purcell, LLP
201 Dolores Avenue
San Leandro, CA 94577
Phone: (510) 346-6200
Fax: (510) 346-6201

Sincerely,



Margaret R. Prinzing

Enclosures
(00157598)

**PROTECT HOMEOWNERS AND CLOSE
CORPORATE TAX LOOPHOLES ACT**

SECTION 1. Title.

This Act shall be known as the "Protect Homeowners and Close Corporate Tax Loopholes Act."

SECTION 2. Findings and Declarations.

The People of the State of California find and declare that:

1. Since 2009, the Legislature and Governor have enacted billions in cuts to the state budget, eliminating health care and other vital services to our neediest citizens. They furloughed state workers and continue to raise tuition at every institution of public higher education.
2. Public schools are bearing the brunt of these cuts. Over the last four years, the State has cut billions from the K-12 school system, and California now ranks 46th in state per pupil spending. Schools have laid off thousands of classroom teachers and educational support staff. There will be no new textbooks for years. Entire athletic programs have been eliminated. Class sizes in many schools have grown to the point where high school classes may contain more than 40 students.
3. Police and fire services are threatened along with our state parks.
4. California's property tax system contains a gigantic loophole that allows corporations and commercial property owners to avoid paying their fair share. That loophole often allows businesses to change ownership without being reassessed, which homeowners cannot do. As a result, the burden of paying for things like police and fire services now falls more heavily on homeowners.
5. Unlike single-family residences, commercial buildings produce income for their owners. Furthermore, California commercial real property tax rates are among the lowest in the nation. It makes sense, therefore, to reassess commercial real property at current market value and use the increased revenues to restore vital services to our seniors and health care to our kids, protect funding of public safety, and also improve the funding of California's public schools.
6. Small businesses will be protected by new exemptions from the personal property tax.
7. Homeowners' property tax exemptions have remained the same since 1968, with no adjustment for inflation. Homeowners' property taxes should be reduced by doubling the Homeowner Property Tax exemption from \$7,000 to \$14,000. Qualified renters will also receive an increase in their tax credit.

SECTION 3. Purpose and Intent.

1. This measure is intended to reduce property taxes for homeowners on the dwelling they occupy by doubling the homeowners' exemption from \$7,000 to \$14,000.
2. This measure is not intended to alter or repeal any other exemption currently applicable to taxes on real property or to increase or otherwise affect the property taxes paid by homeowners on noncommercial real property.
3. In addition, the People enact this measure to do the following:
 - a. Ensure that commercial property is taxed at its fair market value.
 - b. Provide for periodic reassessment of non-residential, non-agricultural real property to market value.
 - c. Provide for the exclusion of \$1,000,000 in personal property tax for businesses, in order to give small businesses immediate tax relief.
 - d. Provide additional money for local school districts that will increase the minimum funding guaranteed by Proposition 98.
4. In enacting this measure, the People intend for the Legislature, the county assessors, and the State Board of Equalization to work together to develop an efficient and equitable process to reassess nonresidential commercial real property to its current fair market value.

SECTION 4. Section 2.5 is added to article XIII A of the California Constitution:

Sec. 2.5. (a) Notwithstanding section 2, for the lien date for fiscal year 2014-15, the "full cash value" of nonresidential real property that is not used for commercial agricultural production or is otherwise exempt under the Constitution or statute is the fair market value of that property as of that date. Following the lien date for fiscal year 2014-15, each county assessor shall reassess real property subject to this section to its current fair market value, as defined by statute, at least every three years.

(b) For purposes of this section:

- (1) "Nonresidential real property" means any real property other than a single-family or multifamily unit that is intended to be used primarily as a permanent residence and is used primarily as a permanent residence or that is zoned as a residence, and the land on which that unit is constructed, or any portion of the property used as a residence.*

- (2) *Nonresidential real property is “used for commercial agricultural production” if that real property is used and zoned for producing commercial agricultural commodities and is real property to which either of the following applies:*
- (A) *The real property is an unimproved parcel.*
 - (B) *The parcel of real property contains only living improvements.*
- (3) *“Unimproved parcel” means a parcel of real property to which both of the following apply:*
- (A) *The parcel is used and zoned for producing commercial agricultural commodities.*
 - (B) *The parcel does not contain any single-family residence or multifamily residence that was subdivided in accordance with the Subdivision Map Act, or any successor to that law, or that was described and conveyed in one or more deeds separating the parcel from all adjoining property.*
- (4) *“Otherwise exempt under the Constitution or statute” means any property which is exempt from taxation pursuant to the Constitution, or any property exempt by statute enacted consistent with and permissible under the Constitution.*

SECTION 5. Article XIII, section 2 of the California Constitution is amended to read:

Sec. 2. The Legislature may provide for property taxation of all forms of tangible personal property, shares of capital stock, evidences of indebtedness, and any legal or equitable interest therein not exempt under any other provision of this article, *provided, however, that for the lien date for fiscal year 2016-17 and each lien date thereafter, the first \$1,000,000 of tangible personal property shall be exempt from taxation.* The Legislature, two-thirds of the membership of each house concurring, may classify such personal property for differential taxation or for exemption. The tax on any interest in notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, or mortgages shall not exceed four-tenths of one percent of full value, and the tax per dollar of full value shall not be higher on personal property than on real property in the same taxing jurisdiction.

SECTION 6. Section 3 of Article XIII of the Constitution of the State of California is hereby amended to read:

Sec. 3. The following are exempt from property taxation:

- (a) Property owned by the State.
- (b) Property owned by a local government, except as otherwise provided in Section 11(a).
- (c) Bonds issued by the State or a local government in the State.
- (d) Property used for libraries and museums that are free and open to the public and property used exclusively for public schools, community colleges, state colleges, and state universities.
- (e) Buildings, land, equipment, and securities used exclusively for educational purposes by a nonprofit institution of higher education.
- (f) Buildings, land on which they are situated, and equipment used exclusively for religious worship.
- (g) Property used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit. This property is also exempt from special assessment.
- (h) Growing crops.
- (i) Fruit and nut trees until 4 years after the season in which they were planted in orchard form and grape vines until 3 years after the season in which they were planted in vineyard form.
- (j) Immature forest trees planted on lands not previously bearing merchantable timber or planted or of natural growth on lands from which the merchantable original growth timber stand to the extent of 70 percent of all trees over 16 inches in diameter has been removed. Forest trees or timber shall be considered mature at such time after 40 years from the time of planting or removal of the original timber when so declared by a majority vote of a board consisting of a representative from the State Board of Forestry, a representative from the State Board of Equalization, and the assessor of the county in which the trees are located.

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

(k)(1) *Prior to the 2014-15 tax year, \$7,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence, unless the dwelling is receiving another real property exemption. The Legislature may increase this exemption and may deny it if the owner received state or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.*

No increase in this exemption above the amount of \$7,000 shall be effective for any fiscal year unless the Legislature increases the rate of state taxes in an amount sufficient to provide the subventions required by Section 25.

(2) For the 2015-16 tax year and each tax year thereafter, \$14,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence, unless the dwelling is receiving another real property exemption. The Legislature may increase this exemption and may deny it if the owner received state or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.

No increase in this exemption above the amount of \$14,000 shall be effective for any fiscal year unless the Legislature increases the rate of state taxes in an amount sufficient to provide the subventions required by Section 25.

(3) If the Legislature increases the homeowners' property tax exemption, it shall provide increases in benefits to qualified renters, as defined by law, comparable to the average increase in benefits to homeowners, as calculated by the Legislature.

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

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

(n) Any debt secured by land.

(o) Property in the amount of \$1,000 of a claimant who—

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

(2) served either

(i) in time of war, or

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

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

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

An unmarried person who owns property valued at \$5,000 or more, or a married person, who, together with the spouse, owns property valued at \$10,000 or more, is ineligible for this exemption.

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

(p) Property in the amount of \$1,000 of a claimant who—

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

(2) does not own property in excess of \$10,000, and

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

(q) Property in the amount of \$1,000 of a claimant who—

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

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

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

Either parent of a deceased veteran may claim this exemption.

An unmarried person who owns property valued at \$5,000 or more, or a married person, who, together with the spouse, owns property valued at \$10,000 or more, is ineligible for this exemption.

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

SECTION 7. Section 8.55 is added to article XVI of the California Constitution:

Sec. 8.55. From the additional tax revenues collected as a result of Article XIII A, Section 2.5, each county shall be entitled to retain a reasonable amount to cover the

increased cost of reassessing commercial property every three years. Ninety percent of the remaining additional tax revenues shall be placed in the county treasury to be transferred on an annual basis to the state General Fund, and the remaining funds shall be allocated to local entities within each county according to law. The moneys so transferred to the State shall be considered taxes imposed by the State and, for purposes of Section 8 of this Article, shall be General Fund proceeds of taxes appropriated pursuant to Article XIII B.

SECTION 8. Government Code Section 13340 is amended to read:

Sec. 13340. (a) Except as provided in subdivision (b), on and after July 1, 2012, no moneys in any fund that, by any statute other than a Budget Act, are continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

(b) Subdivision (a) does not apply to any of the following:

(1) The scheduled disbursement of any local sales and use tax proceeds to an entity of local government pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.

(2) The scheduled disbursement of any transactions and use tax proceeds to an entity of local government pursuant to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code.

(3) The scheduled disbursement of any funds by a state or local agency or department that issues bonds and administers related programs for which funds are continuously appropriated as of June 30, 2012.

(4) Moneys that are deposited in proprietary or fiduciary funds of the California State University and that are continuously appropriated without regard to fiscal years.

(5) The scheduled disbursement of any motor vehicle license fee revenues to an entity of local government pursuant to the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code).

(6) *Moneys that are transferred to the General Fund pursuant to Section 8.55 of Article XVI of the California Constitution.*

SECTION 9. Section 100.8 is hereby added to the Revenue and Taxation Code, to read:

Sec. 100.8. (a) For the 2016-17 fiscal year and each fiscal year thereafter, the Controller shall determine and remit to each county its share of the total reduction of local property tax revenue resulting in that fiscal year from the personal property tax exemption established by Section 2 of Article XIII of the California Constitution. Each

county shall apportion its allocation under this subdivision among the jurisdictions in that county in the same manner as revenues derived from locally assessed property are required by law to be allocated among those same jurisdictions.

(b) For the 2015-16 fiscal year and each fiscal year thereafter, the Controller shall remit to each county the amounts required pursuant to Section 16120 of the Government Code to compensate each county for its share of property taxes lost as a result of the increase from \$7,000 to \$14,000 in the homeowner's tax exemption established by Section 3(k) of Article XIII. This transfer shall be in addition to the requirement of Section 25 of Article XIII of the Constitution to offset the loss resulting from the first \$7,000 of the homeowner's tax exemption established by Section 3(d) of Article XIII.

SECTION 10. Section 210 is hereby added to the Revenue and Taxation Code to read:

Sec. 210. (a) For purposes of providing aid to business as described in Section 2 of Article XIII of the California Constitution, for the lien date for fiscal year 2016-17 and each lien date thereafter, there is exempted from tax the first \$1 million (\$1,000,000) of the full value of personal property assessable to each taxpayer.

(b) The tax exemption described in subdivision (a) and in Section 2 of Article XIII of the California Constitution shall not apply to boats or airplanes unless they are used in the day-to-day operation of a business.

SECTION 11. Section 218 of the Revenue and Taxation Code is hereby amended to read:

Sec. 218. (a) The homeowners' property tax exemption is in the amount of the assessed value of the dwelling specified in this section, as authorized by subdivision (k) of Section 3 of Article XIII of the California Constitution. Prior to the 2014-15 tax year, that exemption shall be in the amount of seven thousand dollars (\$7,000) of the full value of the dwelling. For the 2014-15 tax year and each tax year thereafter, that exemption shall be in the amount of fourteen thousand dollars (\$14,000) of the full value of the dwelling.

(b)(1) The exemption does not extend to property that is rented, vacant, under construction on the lien date, or that is a vacation or secondary home of the owner or owners, nor does it apply to property on which an owner receives the veteran's exemption.

(2) Notwithstanding paragraph (1), if a person receiving the exemption is not occupying the dwelling on the lien date because the dwelling was damaged in a misfortune or calamity, the person shall be deemed to occupy that same dwelling as his or her principal place of residence on the lien date, provided the person's absence from the dwelling is temporary and the person intends to return to the dwelling when possible to do so. Except as provided in paragraph (3), when a dwelling has been totally destroyed,

and thus no dwelling exists on the lien date, the exemption provided by this section shall not be applicable until the structure has been replaced and is occupied as a dwelling.

(3) A dwelling that was totally destroyed in a disaster for which the Governor proclaimed a state of emergency, that qualified for the exemption provided by this section prior to the commencement date of the disaster and that has not changed ownership since the commencement date of the disaster, shall be deemed occupied by the person receiving the exemption on the lien date provided the person intends to reconstruct a dwelling on the property and occupy the dwelling as his or her principal place of residence when it is possible to do so.

(c) For purposes of this section, all of the following apply:

(1) "Owner" includes a person purchasing the dwelling under a contract of sale or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy of a dwelling.

(2) (A) "Dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. A two-dwelling unit shall be considered as two separate single-family dwellings.

(B) "Dwelling" includes the following:

(i) A single-family dwelling occupied by an owner thereof as his or her principal place of residence on the lien date.

(ii) A multiple-dwelling unit occupied by an owner thereof on the lien date as his or her principal place of residence.

(iii) A condominium occupied by an owner thereof as his or her principal place of residence on the lien date.

(iv) Premises occupied by the owner of shares or a membership interest in a cooperative housing corporation, as defined in subdivision (i) of Section 61, as his or her principal place of residence on the lien date. Each exemption allowed pursuant to this subdivision shall be deducted from the total assessed valuation of the cooperative housing corporation. The exemption shall be taken into account in apportioning property taxes among owners of share or membership interests in the cooperative housing corporations so as to benefit those owners who qualify for the exemption.

(v) The exemption provided for in subdivision (k) of Section 3 of Article XIII of the California Constitution shall first be applied to the building, structure, or other shelter and the excess, if any, shall be applied to any land on which it may be located.

SECTION 12. Section 405.6 is hereby added to the Revenue and Taxation Code:

Sec. 405.6. (a) As a transition to assessing all commercial real property at its fair market value, counties shall have a period of no more than three years from the effective date of Section 2.5 of Article XIII A to implement that section. In conducting the reassessments required pursuant to that section, counties shall first determine when a property was last reassessed and shall reassess properties in reverse order, beginning with those properties that have gone without reassessment for the longest period.

(b) Following reassessment pursuant to Section 2.5 of Article XIII A and subdivision (a) of this section, the current fair market value of nonresidential real property shall be deemed to be the assessed value of that property as valued by the county assessor at least once every three years.

SECTION 13. Section 17053.5 of the Revenue and Taxation Code is hereby amended to read:

Sec. 17053.5. (a)(1) For a qualified renter, there shall be allowed a credit against his or her "net tax," as defined in Section 17039. The amount of the credit shall be as follows:

(A)(i) *Prior to the 2015 tax year, f*For married couples filing joint returns, heads of household, and surviving spouses, as defined in Section 17046, the credit shall be equal to one hundred twenty dollars (\$120) if adjusted gross income is fifty thousand dollars (\$50,000) or less.

(ii) For the 2015 tax year and each tax year thereafter, for married couples filing joint returns, heads of household, and surviving spouses, as defined in Section 17046, the credit shall be equal to two hundred forty (\$240) if adjusted gross income is fifty thousand dollars (\$50,000) or less.

(B)(i) *Prior to the 2015 tax year, f*For other individuals, the credit shall be equal to sixty dollars (\$60) if adjusted gross income is twenty-five thousand dollars (\$25,000) or less.

(ii) For the 2015 tax year and each tax year thereafter, the credit shall be equal to one hundred twenty (\$120) if adjusted gross income is twenty-five thousand dollars (\$25,000) or less.

(2) Except as provided in subdivision (b), a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be

permitted one-half the credit allowed to married persons, prorated as provided in subdivision (e).

(B) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (e).

(b) For a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who satisfies both of the following:

(1) Was a resident of this state, as defined in Section 17014.

(2) Rented and occupied premises in this state which constituted his or her principal place of residence during at least 50 percent of the taxable year.

(d) "Qualified renter" does not include any of the following:

(1) An individual who for more than 50 percent of the taxable year rented and occupied premises that were exempt from property taxes, except that an individual, otherwise qualified, is deemed a qualified renter if he or she or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes that are substantially equivalent to property taxes paid on properties of comparable market value.

(2) An individual whose principal place of residence for more than 50 percent of the taxable year is with another person who claimed that individual as a dependent for income tax purposes.

(3) An individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph does not apply to an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(e) An otherwise qualified renter who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(f) A person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(g) The credit provided in this section shall be claimed on returns in the form as the Franchise Tax Board may from time to time prescribe.

(h) For purposes of this section, "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, unless the dwelling unit is a mobilehome. The credit is not allowed for any taxable year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners' exemption under Section 218 in that year.

(i) This section shall become operative on January 1, 1998, and applies to any taxable year beginning on or after January 1, 1998.

(j) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the adjusted gross income amounts set forth in subdivision (a). The computation shall be made as follows:

(1) The Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to the portion of the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100.

(3) The Franchise Tax Board shall multiply the amount in subparagraph (B) of paragraph (1) of subdivision (d) for the preceding taxable year by the inflation adjustment factor determined in paragraph (2), and round off the resulting products to the nearest one dollar (\$1).

(4) In computing the amounts pursuant to this subdivision, the amounts provided in subparagraph (A) of paragraph (1) of subdivision (a) shall be twice the amount provided in subparagraph (B) of paragraph (1) of subdivision (a).

SECTION 14. Amendment

The statutory provisions of this measure may be amended to further the purposes of the initiative by a statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, and signed by the Governor.

SECTION 15. Severability

If any of the provisions of this measure or the applicability of any provision of this measure to any person or circumstances shall be found to be unconstitutional or otherwise invalid, such finding shall not affect the remaining provisions or applications

of this measure to other persons or circumstances, and to that extent the provisions of this measure are deemed to be severable.