

[Assembly Bill 2663](#) (Friedman)

Date: Enrolled

Program: Property Taxes

Sponsor: Author

Revenue and Taxation Code Section 62

Effective: Upon Enactment

Mark Durham (Chief) 916.319.9220

Glenna Schultz (Analyst) 916.274.3362

Chris Butler (Revenue) 916.323.3800

Summary: Provides a retrospective change in ownership exclusion for any transfer of real property between local registered domestic partners occurring between January 1, 2000 and June 26, 2015.

Fiscal Impact Summary: For every local registered domestic partner change in ownership reassessment reversal, the average local revenue loss per event is estimated to be \$560, multiplied by the number of years the taxpayer is found to have exceeded taxes due.

Existing Law: Under existing law,¹ real property is reassessed to its current fair market value whenever there is a "change in ownership." RTC section 62 provides numerous definitional exclusions from change in ownership for a variety of ownership interest transfers in real property and legal entities.

Registered Domestic Partners. Beginning January 1, 2000, the law² provides that a change in ownership does not include any transfer between registered domestic partners, defined³ as two natural persons over the age of 18 years who enter into a registered domestic partnership by filing a [Declaration of Domestic Partnership](#) form with the California [Secretary of State](#). Property tax law⁴ also describes the more common transfers of property interests between registered domestic partners that may be excluded, such as those resulting from death, dissolution of a registered domestic partnership, and creation of a trust.

Current law does not provide an exclusion from change in ownership for transfers of real property between domestic partners who are registered with a local government, only those registered with the California Secretary of State.

Disabled Child/Ward. Existing law⁵ provides that a change in ownership does not include a transfer of a principal residence to a disabled child or ward, whether minor or adult, or to a trust for the sole benefit of such person, upon the death of a parent or guardian if the following criteria are met:

- The transfer must be from a parent or guardian to a disabled child or ward as provided in Welfare and Institutions Code section [12304](#)(d). Specifically, the child/ward requires in-home supportive care of at least 20 hours per week to carry out specified tasks.
- The child or ward has met the disability definition for at least five years preceding the transfer.
- In the year in which the transfer occurs, the combined income of the child or ward and parent or guardian does not exceed \$20,000.

¹ RTC sections [60](#) and [61](#).

² RTC section [62](#)(p).

³ Family Code section [297](#).

⁴ RTC section 62(p).

⁵ RTC section 62(n) and Property Tax Rule [462.240](#)(h).

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

- The property was the principal place of residence of the child or ward for at least five years preceding the transfer and remains so after the transfer.

This exclusion is separate from the parent-child exclusion contained in RTC section [63.1](#).

Proposed Law:

Disabled Child/Ward Exclusion. This bill makes a nonsubstantive change to the disabled child/ward exclusion for the 1984-85 assessment year. Section 62(n) requires in pertinent part that any transferee whose property was reassessed in contravention of *the provisions of* this subdivision for the 1984-85 assessment year obtain a reversal of that reassessment upon application to the county assessor (emphasis added). This bill removes the phrase "the provisions of" from this sentence. This change has no effect on the proposed addition of subdivision (q) to section 62, which relates to local registered domestic partnerships.

Local Registered Domestic Partners. This bill provides a retrospective change in ownership exclusion for a transfer of real property between local registered domestic partners occurring between January 1, 2000 and June 26, 2015.

Eligibility Requirements. To be eligible for a reassessment reversal, the property owner must have been in a registered domestic partnership established by a city, county, city and county, or special district where the registrants were of the same sex at the time of registration and the registrants were not married or in a registered domestic partnership with any other person at the time of transfer.

Claim Must be Filed by June 30, 2022. To receive a reversal of the reassessment for a transfer of real property between local registered domestic partners between January 1, 2000 and June 26, 2015, a property owner must file a claim form with the assessor by June 30, 2022. The claimant must provide documentation that names the transferee and transferor as local registered domestic partners and reflects the creation of the local registered domestic partnership on a date prior to or concurrent with the date of the transfer for which a reassessment reversal is requested.

Application Fee. The county may charge a fee to recoup its costs related to processing the application and reversing the prior reassessment in an amount that does not exceed the actual costs incurred.

Effective Date of Reversal. The reassessment reversal granted pursuant to a claim applies commencing with the lien date of the assessment year⁶ in which the claim is filed.

No Property Tax Refunds for Prior Years. This bill expressly provides that property tax refunds will not be made for any prior assessment year.

In General: California's system of property taxation values property at its 1975 fair market value, with annual increases limited to the inflation rate, as measured by the California Consumer Price Index, or 2 percent, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or completion of new construction, the value of the property for property tax purposes is reassessed based on current market value (called the "base year value"). Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value." This system results in substantial property tax savings for long term property owners.

⁶ RTC section [118](#) defines "assessment year" as the period beginning with a lien date and ending immediately prior to the succeeding lien date.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

Proposition 13. Proposition 13 was an initiative approved by voters on June 6, 1978, adding article XIII A to the California Constitution, and established a new system of property taxation as previously described. Related to this bill, subdivision (a) of section 2 of the initiative provided:

The full cash value means the County Assessors valuation of real property as shown on the 1975-76 tax bill under "full cash value", or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 tax levels may be reassessed to reflect that valuation.

The initiative did not define "change in ownership" within its text. The ballot pamphlet did not define, nor did it discuss, the term "change in ownership." Because the language of the initiative failed to define this integral element, it fell to the Legislature to determine what constitutes a "change in ownership" and to define the term through legislation. Consequently, the statutory scheme defining "change in ownership" enacted after Proposition 13 was done so without specific constitutional mandate or authorization.

Task Force on Property Administration. Following the passage of Proposition 13, the Assembly Revenue and Taxation Committee appointed a task force to study existing property tax statutes in light of Proposition 13, and to recommend the appropriate changes to the Revenue and Taxation Code in light of the ambiguities of Proposition 13. The Task Force was a broad based 35-member panel that included legislative and Board staff, county assessors, attorneys in the public and private sectors, and trade associations. The Task Force issued its *Report of the Task Force on Property Tax Administration* to the Assembly Revenue and Taxation Committee on January 22, 1979.

Defining Change in Ownership. In defining change in ownership, the Task Force's goal was to distill the basic characteristics of a "change in ownership" and embody them in a single test, which could be applied evenhandedly to distinguish between "changes" and "non-changes." It ultimately concluded that a change in ownership is a transfer which has all three of the following characteristics:

- It transfers a present interest in real property.
- It transfers the beneficial use of the property.
- The property rights transferred are substantially equivalent in value to the fee interest.

The Legislature adopted this definition in RTC section 60. Following the recommendation of the Task Force, the Legislature also included specific examples in RTC section 61 of transfers constituting a change in ownership and specific examples in RTC section 62 of transfers not constituting a change in ownership. In addition, RTC section 63, which sets forth the interspousal exclusion, was included in the original statutory scheme, prior to inclusion of the interspousal exclusion in the California Constitution via Proposition 58 in 1986. The Task Force recognized that transfers between spouses satisfied the three elements for a change in ownership, but chose to specifically exclude these transfers from change in ownership anyway. The Task Force stated in its Report that it saw no reason to exclude some interspousal transfers, such as transfers involving joint tenancy or community property, but not other transfers, such as a transfer of separate property between spouses.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

Background:

Change in Ownership Exclusions. As previously stated, the term "change in ownership" was not defined by Proposition 13. Certain definitional "exclusions," including the interspousal exclusion, were embodied in the initial statutory definitions necessary to implement Proposition 13's change in ownership provisions. Some change in ownership exclusions are contained in statute, while others are contained in the Constitution.

Since Proposition 13, the Constitution has been amended twice to provide for additional change in ownership exclusions for certain family transfers.⁷ Under specified conditions, these transfers will not trigger a reassessment of the property to current fair market value. Instead, the property retains its prior base year value.

Other constitutional amendments have been approved by voters permitting a person to "transfer" his or her Proposition 13 base year value from one property to another property, thereby avoiding reappraisal of the newly purchased property to its fair market value if certain conditions are met. In essence, this is another form of a change in ownership exclusion. Those constitutional amendments include:

PROP.	ELECTION	BASE YEAR VALUE TRANSFERS	RTC
3	June 8, 1982	Replacement Property After Government Acquisition	\$68
50	June 3, 1986	Replacement Property After Disaster	\$69
60	Nov. 6, 1986	Persons Over 55 - Intracounty	\$69.5
90	Nov. 8, 1988	Persons Over 55 - Intercounty	\$69.5
110	June 5, 1990	Disabled Persons	\$69.5
1	Nov. 3, 1998	Contaminated Property	\$69.4

Therefore, as noted above, some change in ownership exclusions are contained in statute, while others are contained in the Constitution.

Disabled Child/Ward Exclusion. Subdivision (n) was added to the Revenue and Taxation Code by Assembly Bill 2890 (Stats. 1984, ch. 1010), effective January 1, 1985. To receive a reversal of a reassessment that occurred in the 1984-85 assessment year (March 1, 1984 – February 28, 1985⁸), the transferee had to file an application with the county assessor no later than 30 days after the later of either the transferee's receipt of notice of supplemental assessment or the end of the 1984-85 fiscal year (July 30, 1985).

State Domestic Partner Registry. Effective January 1, 2000, [Assembly Bill 26](#) (Stats. 1999, ch. 588) established a statewide domestic partner registry, granted hospital visitation rights to registered domestic partners, and provided for health benefit coverage for the registered domestic partners of state employees. In 2003, [Assembly Bill 205](#) (Stats. 2003, ch. 421) enacted the California Domestic Partner Rights and Responsibilities Act of 2003. Assembly Bill 205 provided that registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law as are granted to and imposed upon spouses.

⁷ Proposition 58 (November 4, 1986) for transfers of real property between parents and children and Proposition 193 (March 26, 1996) for transfers from grandparents to grandchildren.

⁸ Prior to January 1, 1997, the lien date was March 1.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

The change in ownership exclusion for domestic partners registered with the California Secretary of State was added to the Revenue and Taxation Code ([Senate Bill 565](#), Stats. 2005, ch. 416), commencing January 1, 2006.⁹ Transfers between registered domestic partners prior to January 1, 2006 were subject to reassessment. However, there were a few exceptions, expressly provided in administrative regulations that became effective on November 13, 2003. Specifically:

- Property Tax Rule [462.040](#) provides, generally, that in the case where property is owned by persons, such as registered domestic partners, in the form of a "joint tenancy," then transfers of joint tenancy interests between these co-owners, under specified conditions, may not constitute a change in ownership.
- Property Tax Rule 462.240(k)¹⁰ provided that any transfer of separate property inherited by a surviving domestic partner by intestate succession upon the death of a registered domestic partner did not constitute a change in ownership.

Subsequently, [Senate Bill 559](#) (Stats. 2007, ch. 555) amended RTC section 62(p) to provide retrospective relief for any transfer of real property between registered domestic partners that occurred between January 1, 2000, and January 1, 2006. This change provided that a reassessment that occurred between those dates could be reversed beginning with the lien date of the assessment year in which the claim was filed. Property tax relief was prospective only; Senate Bill 559 expressly provided that property tax refunds would not be made for any prior assessment year. To receive a reversal of a reassessment, a property owner had to file a claim form with the county assessor by June 30, 2009.¹¹

Commentary:

1. **Author's Statement.** Prior to 2006, a change in ownership between domestic partners was not eligible for the same exclusion that applied to married couples. Subsequent legislation addressed the discrepancy to allow domestic partners registered at the state level to qualify for the tax exclusion. However, domestic partners registered only with a county, city or other local jurisdiction, were ineligible for the exclusion. AB 2663 creates parity in the law so that every registered domestic partnership has equal access to full and equal benefits, regardless of where they originally registered. The bill creates an "amnesty" for those local registered domestic partnerships to receive a reversal of the reassessment.¹²
2. **Summary of Amendments.** The **August 17** amendment made a nonsubstantive change to the disabled child exclusion for the 1984-85 assessment year. The **April 10** amendments (1) describe circumstances to which the local registered domestic partner exclusion applies (section 62(q)(1)); (2) provide that the reversal applies on a prospective basis beginning with the lien date of the year in which the form is filed, stating specifically that no refunds shall be made for any prior year (section 62(q)(2)(E)); (3) require the Board to prescribe the claim form (section 62(q)(2)); (4) require the claim form to be filed by June 30, 2022 (section 62(q)(2)), and (5) permit the county to charge a fee for actual costs related to the application (section 62(q)(2)).

⁹ RTC section 62(p) specifically defines "registered domestic partners" by reference to Family Code section 297, which provides for the California Secretary of State registry.

¹⁰ The provisions of Rule [462.240](#), subdivision (k) were replaced with subdivision (l), which references RTC section 62(p).

¹¹ See Letter To Assessors No. [2007/043](#).

¹² <https://a43.asmdc.org/2018-legislation>.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

3. **California's Domestic Partners Registry became effective on January 1, 2000.** Persons eligible to register with the California Secretary of State as domestic partners include persons of the same sex in a committed relationship, as well as committed opposite-sex relationships where one partner is 62 years or older, that share a common residence.
4. **Current law provides a change in ownership exclusion for persons who are registered with the California Secretary of State.** Effective January 1, 2000, transfers of real property between registered domestic partners no longer trigger a reassessment of real property as provided in RTC section 62(p). This exclusion for registered domestic partners is limited to those who are registered with the California Secretary of State. Current law does not provide a change in ownership exclusion for local registered domestic partners.
5. **This bill would reverse any reassessment of real property due to a transfer of interests between local registered domestic partners that occurred after the creation of the Registry through June 26, 2015.** Generally, transfers of real property between co-owners with equal ownership in the property are subject to either a 0 percent, 50 percent, or 100 percent reappraisal to fair market value as of the date of the transfer. In these instances, the date of the transfer would typically have been the date of a partner's death or termination of a domestic partnership. The percentage of the property subject to reappraisal would have depended upon how the property was held and the manner in which the co-owner was added to the title of the property. Under this bill, any reappraisal that occurred during the specified time period due to a transfer between locally registered domestic partners would be reversed on a prospective basis.
6. **Restores Proposition 13 protected value.** For transfers of an interest in real property between local registered domestic partners that occurred January 1, 2000 through June 26, 2015, these property owners would pay the same amount of property taxes on their property as they did prior to the reassessment (plus any inflationary increases).
7. **Affected property owners must take action by June 30, 2022 by filing a claim with the county assessor.** The reversal of reassessment for transfers between domestic partners in a local registered domestic partnership is not automatic.
8. **The provisions of this bill are similar to other retrospective change in ownership exclusions where reassessments have been reversed on a prospective basis.** Specifically, RTC section 62(j) provides for transfers between co-owners occurring between 1975 and 1981, RTC section 62(n) for transfers between parents and disabled children occurring between 1975 and 1984, and RTC section 62(p) for transfers between domestic partners registered with the California Secretary of State occurring between 2000 and 2006.
9. **Any transfers of an interest in real property between local registered domestic partners that occur after June 26, 2015 would be subject to reassessment.** As drafted, Assembly Bill 2663 provides for retrospective relief for transfers occurring between January 1, 2000 and June 26, 2015, but no relief for transfers of real property between local registered domestic partners that occur *after* June 26, 2015. Current law does not provide a change in ownership exclusion for local registered domestic partners.
10. **The June 26, 2015 United States Supreme Court ruling did not change any of the Family Code sections related to registered domestic partners.** The June 26, 2015, United States Supreme Court ruling in *Obergefell v. Hodges* (2015) 135 U.S. 2584 (regarding the right to a same-sex

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

marriage and whether states must recognize same-sex marriages performed in other states) did not invalidate or change any of the California Family Code sections related to registered domestic partners. Domestic partnership registrations are different from marriage licenses. While registered domestic partners may have the same rights, protections, and benefits and be subject to the same responsibilities, obligations, and duties under law as are granted to and imposed upon spouses, registered domestic partners are not married and are not considered spouses.

Costs: The Board would incur some minor absorbable costs in informing local county assessors, the public, and staff of the law changes and prescribing the required claim form.

Revenue Impact: Background, Methodology, and Assumptions. Current property tax law excludes certain transfers of real property from classification as a change in ownership triggering reappraisal of the subject property, including domestic partners registered with the California Secretary of State. Assembly Bill 2663 extends this exclusion to registered domestic partnerships established by a local government for the period January 1, 2000 through June 26, 2015.

Regarding earlier legislation extending the rights and duties of marriage to persons registered as domestic partners in California, statistics are readily available from both the Secretary of State and the U.S. Census Bureau. However, staff found little data available with specific regard to local registered domestic partners.

Staff conducted a recent survey of local governments, returning the following results:

- The City and County of San Francisco reported over 14,000 local registered domestic partnerships established since 1997.
- The City of Oakland reported about 1,350 local registered domestic partnerships since the year 2000.
- Los Angeles County stated local registered domestic partnership numbers in the several thousands, but did not provide an exact number.
- Marin County reported 659 local registered domestic partnerships established since the year 2000.

These totals represent only a small number of local governments surveyed. The total number of local registered domestic partnerships throughout all of California is difficult to estimate. We also do not know how many local registered domestic partners may have also been registered with the California Secretary of State. Additionally, within that total at the local level, it is even more difficult to determine the total number of change in ownership reassessments over a fifteen-and-a-half year period. Further, when there was a real property transfer between local registered domestic partners, in some instances, a 100 percent reappraisal may have occurred when there were only two owners in joint tenancy. Alternatively, if the property were held by two owners in tenancy in common, a transfer to one of the tenants in common would have resulted in just a 50 percent reappraisal. Consequently, there are too many possible scenarios and not nearly enough hard data to determine the total number of change in ownership events under Assembly Bill 2663.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

While we cannot estimate the average impact per event on commercial change in ownership reassessments, we can attempt to provide an order of magnitude as Assembly Bill 2663 relates to residential property. Staff estimated the impact of a single reassessment on average based on available data for the affected period. According to the California Association of Realtors, the median California home price average between January 2000 and June 2015 was about \$386,000. This period covers both boom and bust periods in the California real estate market. The average assessed value of a property receiving the homeowners' exemption during the same period was \$274,000. The average assessed value difference then was about \$112,000 (\$386,000 - \$274,000). Multiplying by 1/2 to adjust for the effect of tenancy in common ownership brings the total amount of affected value to \$56,000 ($\$112,000 \times 1/2$), or \$560 on average per reassessment at the basic 1 percent property tax rate. This would be multiplied by the number of years the taxpayer is found to have exceeded taxes due under this bill.

Revenue Summary. Staff is unable to determine the impact on commercial reassessments under this proposal. Under Assembly Bill 2663, for every local registered domestic partnership change in ownership reassessment reversal of residential property, the average local revenue loss per event is \$560, multiplied by the number of years the taxpayer is found to have exceeded taxes due under this bill.

Qualifying Remarks. This estimate does not account for the effect of the annual inflation factor applied to real property assessments. Consequently, the earlier the reassessment during the affected period, the greater the impact of an annual inflation factor. This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.