



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SENATE JOINT RESOLUTION

CONSTITUTIONAL AMENDMENT

SC0037

Introduced 2/25/2009, by Sen. Chris Lauzen

SYNOPSIS AS INTRODUCED:

ILCON Art. IX, Sec. 11

ILCON Art. IX, Sec. 12

Proposes to amend the Revenue Article of the Illinois Constitution. Limits the maximum amount of any ad valorem tax on real property to 2% of the fair cash value of such property, to be collected by the counties and apportioned according to law to the districts within the counties. Sets forth various definitions and requirements with respect to the administration of property taxation. Effective upon being declared adopted.

LRB096 10928 HLH 21180 e

1 SENATE JOINT RESOLUTION
2 CONSTITUTIONAL AMENDMENT

3 RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL
4 ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES
5 CONCURRING HEREIN, that there shall be submitted to the
6 electors of the State for adoption or rejection at the general
7 election next occurring at least 6 months after the adoption of
8 this resolution a proposition to add Sections 11 and 12 to
9 Article IX of the Illinois Constitution as follows:

10 ARTICLE IX
11 REVENUE

12 (ILCON Art. IX, Sec. 11)

13 Section 11. LIMITATION ON PROPERTY TAXATION

14 (a) The maximum amount of any ad valorem tax on real
15 property shall not exceed 2% of the fair cash value of such
16 property, to be collected by the counties and apportioned
17 according to law to the districts within the counties.

18 The limitation provided for in subsection (a) does not
19 apply to ad valorem taxes or special assessments to pay the
20 principal and interest on:

21 (1) Bonded indebtedness issued prior July 1, 2008; or

22 (2) Bonded indebtedness issued on or after July 1,
23 2008, approved by two-thirds of the votes cast by the

1 voters voting on the proposition.

2 (ILCON Art. IX, Sec. 12)

3 Section 12. PROPERTY TAX DEFINITIONS AND REQUIREMENTS

4 (a) The "fair cash value" means either (i) the county
5 assessor's valuation of real property for the 2005 tax year, or
6 (ii) thereafter, the actual acquisition price of real property
7 when purchased, newly constructed, or a change in ownership has
8 occurred after the 2005 assessment. For purposes of this
9 Section, "newly constructed" does not include real property
10 that is reconstructed after a disaster, as declared by the
11 Governor, where the fair market value of the real property, as
12 reconstructed, is comparable to its fair market value prior to
13 the disaster.

14 However, the General Assembly may provide that, pursuant to
15 definitions and procedures established by the General
16 Assembly, any person 65 years of age or older who resides in
17 property that is eligible for a homestead exemption may
18 transfer the base year value of the property entitled to
19 exemption, with the adjustments authorized by subsection (b),
20 to any replacement dwelling of equal or lesser value located
21 within the same county and purchased or newly constructed by
22 that person as his or her principal residence within two years
23 of the sale of the original property. For purposes of this
24 Section, "any person 65 years of age or older" includes a
25 married couple one member of which is 65 years of age or older.

1 In addition, the General Assembly may authorize each county
2 board of supervisors to adopt an ordinance making the
3 provisions of this subsection relating to transfer of base year
4 value also applicable to situations in which the replacement
5 dwellings are located in that county and the original
6 properties are located in another county within this State.

7 (b) The full cash value base may be either (i) increased
8 each year by the lesser of 2% or the rate of inflation, or (ii)
9 reduced as shown in the consumer price index, or to reflect
10 substantial damage, destruction, or other factors causing a
11 decline in value.

12 (c) For purposes of subsection (a), the General Assembly
13 may provide for exemptions from the term "newly constructed".

14 (d) For purposes of this Section, the term "change in
15 ownership" does not include the acquisition of real property as
16 a replacement for comparable property if the person acquiring
17 the real property has been displaced from the property replaced
18 by eminent domain proceedings, by acquisition by a public
19 entity, or governmental action that has resulted in a judgment
20 of inverse condemnation. The real property acquired shall be
21 deemed comparable to the property replaced if it is similar in
22 size, utility, and function, or if it conforms to state
23 regulations defined by the General Assembly governing the
24 relocation of persons displaced by governmental actions.

25 (e)(1) Notwithstanding any other provision of this
26 Section, the General Assembly shall provide that the base year

1 value of property that is substantially damaged or destroyed by
2 a disaster, as declared by the Governor, may be transferred to
3 comparable property within the same county that is acquired or
4 newly constructed as a replacement for the substantially
5 damaged or destroyed property.

6 (2) Except as provided in paragraph (3), this subsection
7 shall apply to any comparable replacement property acquired or
8 newly constructed on or after July 1, 1985, and to the
9 determination of base year values for the 1985-86 fiscal year
10 and fiscal years thereafter.

11 (3) In addition to the transfer of base year value of
12 property within the same county that is permitted by paragraph
13 (1), the General Assembly may authorize each county board of
14 supervisors to adopt, after consultation with affected local
15 agencies within the county, an ordinance allowing the transfer
16 of the base year value of property that is located within
17 another county in the State and is substantially damaged or
18 destroyed by a disaster, as declared by the Governor, to
19 comparable replacement property of equal or lesser value that
20 is located within the adopting county and is acquired or newly
21 constructed within three years of the substantial damage or
22 destruction of the original property as a replacement for that
23 property. The scope and amount of the benefit provided to a
24 property owner by the transfer of base year value of property
25 pursuant to this paragraph shall not exceed the scope and
26 amount of the benefit provided to a property owner by the

1 transfer of base year value of property pursuant to subsection
2 (a). For purposes of this paragraph, "affected local agency"
3 means any city, special district, school district, or community
4 college district that receives an annual allocation of ad
5 valorem property tax revenues. This paragraph shall apply to
6 any comparable replacement property that is acquired or newly
7 constructed as a replacement for property substantially
8 damaged or destroyed by a disaster, as declared by the
9 Governor, occurring on or after October 20, 1991, and to the
10 determination of base year values for the 1991-92 fiscal year
11 and fiscal years thereafter.

12 (f) For the purposes of subsection (e):

13 (1) Property is substantially damaged or destroyed if
14 it sustains physical damage amounting to more than 50
15 percent of its value immediately before the disaster.
16 Damage includes a diminution in the value of property as a
17 result of restricted access caused by the disaster.

18 (2) Replacement property is comparable to the property
19 substantially damaged or destroyed if it is similar in
20 size, utility, and function to the property that it
21 replaces, and if the fair market value of the acquired
22 property is comparable to the fair market value of the
23 replaced property prior to the disaster.

24 (g) For purposes of subsection (a), the terms "purchased"
25 and "change in ownership" do not include the purchase or
26 transfer of real property between spouses, including, but not

1 limited to, all of the following:

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

6 (2) Transfers to a spouse that take effect upon the
7 death of a spouse.

8 (3) Transfers to a spouse or former spouse in
9 connection with a property settlement agreement or decree
10 of dissolution of a marriage or legal separation.

11 (4) The creation, transfer, or termination, solely
12 between spouses, of any co-owner's interest.

13 (5) The distribution of a legal entity's property to a
14 spouse or former spouse in exchange for the interest of the
15 spouse in the legal entity in connection with a property
16 settlement agreement or a decree of dissolution of a
17 marriage or legal separation.

18 (h) For purposes of subsection (a), the terms "purchased"
19 and "change in ownership" do not include the purchase or
20 transfer of the principal residence of the transferor in the
21 case of a purchase or transfer between parents and their
22 children, as defined by the General Assembly, and the purchase
23 or transfer of the first \$1,000,000 of the fair cash value of
24 all other real property between parents and their children, as
25 defined by the General Assembly. This subsection shall apply to
26 both voluntary transfers and transfers resulting from a court

1 order or judicial decree.

2 (i) The General Assembly may provide with respect to a
3 qualified contaminated property.

4 SCHEDULE

5 This Constitutional Amendment takes effect upon being
6 declared adopted in accordance with Section 7 of the Illinois
7 Constitutional Amendment Act.