

# What is the measure on November's ballot to repeal the "Gallagher Amendment"?

(summary prepared by Reeves Brown, 8/05/20)

## What is the Gallagher Amendment?

The Gallagher Amendment was referred to Colorado voters by the legislature in 1982 in response to voters' concerns about rising residential property taxes as a result of the state's rapid population growth in the 1970's. At that time, residential property in Colorado made up about 45% of total property value in the state, with other classes of property such as commercial property, agriculture land, vacant land, industrial property and public utilities making up the other 55%. The Gallagher Amendment proposed to freeze that ratio of the total value of residential property (45%) to the total value of non-residential property (55%) forever. Colorado voters adopted the Gallagher Amendment in 1982.

## What has been the impact of the Gallagher Amendment since voters adopted it in 1982?

Since voters adopted the Gallagher Amendment in 1982, the growth of residential property values has consistently and significantly outpaced the growth of the value of all other non-residential property in the state, so much so that, today, residential property makes up 80% of the total assessed value of all property statewide. And, because the Gallagher Amendment requires that residential property constitute no more or less than about 45% of total statewide valuation, the state legislature has been forced to continually reduce the property tax "assessment rate" on residential property from 21% in 1982 to 7.15% in 2020. Based on the growth of residential property relative to non-residential property since 2018, Gallagher is expected to further force that residential assessment rate down below 6% in the next reassessment calculation in 2021. Gallagher's continued erosion of the residential property tax assessment rate has resulted in Colorado having one of the lowest residential property tax rates of any state.

### Impact on Local Tax Bases

The 2018 Annual Report of the Colorado Division of Property Tax estimates that Residential property statewide is valued at \$874 billion. Given that the Gallagher Amendment has forced the Residential Assessment Rate to decline from 21% in 1982 to 7.15% in 2020 (a reduction of 13.85%), the corresponding erosion of the local residential property tax base statewide in 2018 amounted to \$121 billion. Over time, local voters in most taxing jurisdictions have chosen to raise their local mill levies to help mitigate this erosion of their local property tax base and sustain funding for local services.

### Impact on Business Owners

As the Gallagher Amendment has forced down the property tax assessment rate for Residential property, while the assessment rate for all other classes of property (e.g. commercial, vacant land, ag land, etc) has been frozen in the constitution at 29%, the owners of all other classes of property have assumed an increasingly larger share of the statewide property tax burden. Additionally, as local voters have approved increases in their local mill levy to mitigate Gallagher's erosion of their residential property tax base, while such increases often don't cost homeowners anything (since the increased number of mills is offset by the decrease in their residential property tax rate), these mill levy increases result in a real increase in the property tax bill for all non-residential property owners. Since the Gallagher Amendment was first adopted in 1982 (when business owners paid \$1.40 in property tax for every \$1.00 that homeowners paid), this shift in the property tax burden from homeowners to business owners has now resulted in business owners paying \$4.00 in property tax for every \$1.00 that homeowners pay on the same value of property.

Gallagher is expected to further reduce the Residential Assessment Rate by 18% in 2021 when the next 2-year reassessment calculation is performed, which will increase business owners' share of the property tax burden by another 25% as they will be expected to pay \$5.00 in property tax for every \$1.00 that homeowners pay. If local voters subsequently approve increases in local mill levies to offset Gallagher's next anticipated 18% reduction in the Residential Assessment Rate, and assuming an average of 60 mills per tax district, then owners of non-residential property could see a \$333 million increase in their annual property tax bill statewide.

### Impact on the State Budget

The Gallagher Amendment's erosion of local residential property tax bases across the state and the corresponding reduction in funding for local services has challenged local governments' ability to fund their share of the Local-State K-12 funding partnership, thus forcing the State to increase its investment to fund K-12. The state's share of the Local-State K-12 funding partnership has grown from 43% in 1989 to 66% in 2015, which has reduced funds available

for other state priorities such as the state's support for the cost of higher education tuition which has been reduced from 68% in 2000 to 35% in 2017.

### **What is the proposed Gallagher ballot measure and what does it do?**

In their 2020 session, the Colorado legislature – with strong bi-partisan support – referred the following proposal to the November ballot which asks Colorado voters to repeal the Gallagher Amendment:

*"Without increasing property tax rates, to help preserve funding for local districts that provide fire protection, police, ambulance, hospital, kindergarten through twelfth grade education, and other services, and to avoid automatic mill levy increases, shall there be an amendment to the Colorado constitution to repeal the requirement that the general assembly periodically change the residential assessment rate in order to maintain the statewide proportion of residential property as compared to all other taxable property valued for property tax purposes and repeal the nonresidential property tax assessment rate of twenty-nine percent?"*

The legislature's proposal would do three things:

1. It would repeal the "Gallagher Amendment" which has frozen the ratio of the total value of residential property (45%) to the total value of non-residential property (55%) since 1982, thus stopping the continued formulaic erosion of the residential assessment rate and freezing it at the current 7.15% rate in the same way that the assessment rate for every other class of property has historically been frozen at 29%.
2. It would repeal the constitution's reference to a "21%" residential assessment rate which was the initial baseline rate established in 1982. (If this reference were NOT repealed, then repealing the Gallagher Amendment's "45:55" formula alone would trigger the residential assessment rate to immediately jump from the current 7.15% back to the initial 21% rate. By repealing this "21%" reference, repealing the Gallagher Amendment will simply result in maintaining the CURRENT 7.15% residential assessment rate without future formulaic decreases.)
3. It would also remove from the constitution the assessment rates for all OTHER classes of non-residential property (e.g. commercial, agriculture land, industrial property, etc.), thus leaving all property tax assessment rates to be referenced only in STATUTE rather than the constitution. The effect of only referencing all assessment rates in statute would be that the LEGISLATURE would have the authority to potentially REDUCE any of those assessment rates in the future, whereas the TABOR Amendment would still require a statewide vote of the people to INCREASE the assessment rate on any class of property.

It's important to clarify that the proposed ballot measure would NOT raise or lower any property tax rate; it would simply stop the continued formulaic reduction of the residential rate in the future.