

# ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Torrico Analyst: Janet Jennings Bill Number: AB 2014

Related Bills: See Legislative History Telephone: 845-3495 Amended Date: April 8, 2010

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Energy Efficient Homes Credit

## SUMMARY

This bill would provide a tax credit for energy efficient home improvements, as specified.

## SUMMARY OF AMENDMENTS

The April 8, 2010, amendments removed language relating to the Public Utilities Code and added language relating to a credit to improve the energy efficiency of a principal residence. This is the department's first analysis of the bill.

## PURPOSE OF THE BILL

According to the legislative findings in the bill, the purpose of the bill is to reduce greenhouse gas emissions and create jobs in the energy efficiency, green construction, and home improvement fields.

## EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2010.

## POSITION

Pending.

## FEDERAL/STATE LAW

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business. However, expenses for purchasing property with a useful life in excess of a year, or purchases that add to the value or substantially extend the useful life of property owned by the taxpayer must be capitalized and depreciated over the recovery period of the property rather than deducted in the year purchased.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA        X   PENDING

Department Director

Date

Selvi Stanislaus

05/11/10

### Current Federal Law

**Residential Energy Property Credit:** Provides for an energy tax credit for homeowners who make energy efficient improvements to their existing homes. The law provides a credit rate to 30 percent of the cost of all qualifying improvements to a maximum credit limit of \$1,500 for improvements placed in service in 2009 and 2010. The credit applies to improvements such as adding insulation, energy efficient exterior windows, and energy-efficient heating and air conditioning systems.

**Residential Energy Efficient Property Credit:** Provides for a nonrefundable energy tax credit to help individual taxpayers pay for qualified residential alternative energy equipment, such as solar hot water heaters, geothermal heat pumps, and wind turbines. The law allows for a credit equal to 30 percent of the cost of qualified property.

### Current State Law

There is no current California tax credit related to improving home energy efficiency.

### THIS BILL

For taxable years beginning on or after January 1, 2010, this bill would provide a tax credit in an amount equal to the lesser of 50 percent of the qualified costs that are paid or incurred by a taxpayer or \$1,500. The tax credit would be for costs paid or incurred for the repair, rehabilitation, or improvement of a qualified principal residence made toward bringing the residence in compliance with the recommendations of an energy audit.

The bill defines the following terms:

- “Qualified costs” are costs paid or incurred by a taxpayer for the repair, rehabilitation, or improvement of a qualified principal residence made toward bringing the qualified principal residence in compliance with the recommendations of the energy audit.
- “Qualified principal residence” is a single family residence, whether detached or attached, that is the principal residence of the taxpayer.

This bill would require a taxpayer to provide satisfactory substantiation, in the form and manner requested the Franchise Tax Board, that the energy audit was complete and the recommended improvements were made.

The bill specifies that any unused credits may be carried over to the following years, until exhausted.

### IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

This bill fails to define “principal residence.” Lack of a definition could lead to disputes between taxpayers and the department. The author may wish to amend the bill to specify principal residence, within the meaning of Section 121 of the Internal Revenue Code.

The word “commission” is undefined. It is unclear if a self directed on-line energy survey would be considered an energy audit. If it is the author’s intent that the energy audit be conducted by professional personnel, the author may wish to amend the bill to specify the energy audit must be conducted by a Home Energy Rating System professional certified by the California Energy Commission.

The bill fails to specify a time limit between the energy audit and the improvements suggested by the audit. Energy audit recommendations could change over time with new technological advances. The author may wish to specify a time period for completion of corrections as suggested by the energy audit.

## **LEGISLATIVE HISTORY**

AB 154 (Nakanishi, 2007/2008) would have authorized, in conformity with federal law, a taxpayer who placed an energy efficient commercial building in service during the taxable year to deduct an amount equal to the cost of the building, subject to specified restrictions. This bill failed to pass by the constitutional deadline.

AB 155 (Nakanishi 2007/2008) would have allowed a refundable tax credit for the purchase or construction of a qualified energy efficient home. This bill failed to pass by the constitutional deadline.

ABX1 133 (Horton, 2001/2002), AB 654 (Horton, 2001/2002), and ABX2 25 (Horton 2001/2002) would have created a refundable credit for personal income taxpayers who purchase energy efficient residential appliances and a deduction for all taxpayers that install energy conservation ABX1 133 failed to pass before the first extraordinary session adjourned. AB 654 and ABX2 25 failed to pass out of the Assembly by the constitutional deadline.

## **OTHER STATES’ INFORMATION**

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

*Florida* only has a corporation income tax therefore this personal income tax credit is not applicable.

Review of *Illinois, Massachusetts, and Minnesota*, laws found no comparable tax credits.

*Michigan* provides energy efficiency /renewable energy tax credits for taxable years 2009 through 2012 in the amount of 10 percent of the amount paid, up to \$75 for single filers and \$150 for joint filers, subject to income limitations.

New York State offers various Green Building tax credits for tax years 2001 through 2009.

## **POLICY CONCERNS**

This bill fails to limit the number of years for the carryover period. The department would be required to retain the carryover on the tax forms indefinitely because an unlimited credit carryover period is allowed. Recent credits have been enacted with a carryover period limitation since experience shows credits typically are exhausted within eight years of being earned.

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of the credit by the Legislature.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

Estimated Revenue Impact of AB 2014 Operative for Tax Years Beginning On or After January 1, 2010 Enactment Assumed by September 30, 2010 (\$ in Millions)		
2010-11	2011-12	2012-13
-\$160	-\$90	-\$90

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

## **LEGISLATIVE STAFF CONTACT**

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