SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author:	Caballero/ Solorio, et al.	Analyst:	Angela Raygoza	Bill Number:	AB 765
Related Bills:	See Prior Analysis	Telephone:	845-7814	Amended Date:	August 25, 2009
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Principal Residence Credit

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ___________________.

_____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

_____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended ____________________.

__X__ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO ____________________.

__X__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 24, 2009, STILL APPLIES.

__X__ OTHER – See comments below.

SUMMARY

This bill would restore funding for the principal residence credit by using an estimated average credit usage, and reducing the amount of aggregate credit available for allocation by that amount.

SUMMARY OF AMENDMENTS

The August 25, 2009, amendments would do the following:

- Restore funding for the principal residence credit for purchases, as specified;
- Remove language that would have required that home purchases made between March 1, 2010, and December 1, 2010, have an enforceable contract;
- Remove language that would have allowed the taxpayer to reserve the credit;
- Reduce total amount of credit available for allocation by 70 percent; and
- Add co-authors.

Board Position:			Asst. Legislative Director	Date
_______ S	_______ NA	_______ NP		
_______ SA	_______ O	_______ NAR	Patrice Gau-Johnson	08/26/09
_______ N	_______ OUA	___X___ PENDING		

As a result of the amendments, the “Effective/Operative Date,” “This Bill,” and “Fiscal Impact” discussions, as provided in the department’s analysis of the bill as amended August 25, 2009, have been revised. The implementation considerations in the department’s analysis dated June 24, 2009, have been resolved. The “Program Background” and “Economic Impact” discussions have been provided below for convenience. The remainder of the department’s analysis as of June 24, 2009, still applies.

EFFECTIVE/OPERATIVE DATE

As an urgency statute, this bill would be effective immediately upon enactment and specifically operative for purchases that occur on or after March 1, 2009, and before July 3, 2009, and for purchases that occur beginning on or after the effective date of this bill and before March 1, 2010.

SUMMARY OF SUGGESTED AMENDMENTS

The following suggested amendments are provided to resolve technical considerations and provide for an appropriation to fund the department’s costs to implement the bill.

Amendments 1 - 3 and 5 are provided to resolve technical errors.

Amendment 4 provides suggested language to fund the department’s costs to implement the bill’s provisions.

PROGRAM BACKGROUND

Newly enacted state law, SBX2 15 (Ashburn, Stats. 2009 Second Extraordinary Session, Ch. 11), provides a tax credit in the amount of 5 percent of the purchase price of a qualified principal residence or $10,000, whichever is less. The credit is allowed for one purchase of a qualified principal residence by an individual, for purchases made on or after March 1, 2009, and before March 1, 2010. Within one week of the sale of the qualified principal residence, the seller is required to provide to the purchaser and to the Franchise Tax Board (FTB) certification that the residence has never been previously occupied. Total credit is limited to $100 million, which is allocated on a first-come-first-served basis, based on receipt of certification from the seller.

As of July 1, 2009, FTB had received 11,925 applications representing an excess of $100 million in tax credits for new home purchases. Because some of the applications are duplicates, revised, or invalid, FTB has accepted as of July 2, 2009, approximately 12,000 applications to ensure there are sufficient valid applications to allocate the full $100 million.

ANALYSIS

THIS BILL

This bill would restore funding for the qualified principal residence credit for purchases on and after March 1, 2009, and before July 3, 2009. This bill would also allow the credit to be allocated for taxpayers who purchase a qualified principal residence on and after the effective date of this bill and before March 1, 2010, subject to the $100 million limit on the amount of credit that may be allocated, as revised.

This bill would require for each certification received from the seller the total amount of credit available for allocation be reduced by 70 percent of the credit allocated to the taxpayer. The credit may be allocated if the qualified principal residence was purchased prior to July 3, 2009, and the taxpayer submitted their certification for the home purchase credit by July 2, 2009.

For example, under this proposal the 70 percent rate would be applied as follows, a taxpayer could be allocated a $10,000 credit, but the total amount of credits available for allocation would be reduced by 70 percent of the credit allocated, or $7,000. As a result, additional taxpayers could be allocated the credit.

FISCAL IMPACT

Staff estimates a combined one-time cost of approximately $44,000 (1 PY) to develop, program, and test revisions to existing systems for the revised credit limit and new applications received for the credit. Accordingly, suggested language is provided in Amendment 4 to fund the department's costs associated with implementing this bill. If this bill is enacted without appropriation language, the department would be required to redirect resources, which would have an adverse impact on current revenue generating programs and procedures.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 765 As Amended August 25, 2009 Effective For Purchases Made On or After March 1, 2009, and Before March 1, 2010 Assumed Immediate Enactment ($ in Millions)		
2009-10	2010-11	2011-12
-$14	-$11	-$6

Revenue Discussion

The revenue impact of this bill would depend on the number of taxpayers that purchase a new or previously unoccupied single-family home and are currently unable to apply for the Qualified Principal Residence Purchase Credit due to the credit's $100 million allocation limitation.

Based on data from the California Builder Association for 2008 and using the Department of Finance's growth projections for new home starts as a proxy for growth in new home sales, it is estimated that approximately 33,500 new homes will be sold during 2009 in California. To exclude investment purchases, because qualified purchases must serve as a taxpayer's primary residence, projected new home sales for 2009 are reduced by 5 percent to 31,800 [33,500 x (1 - 5%)]. Next, because qualified purchases are limited to those made on or after March 1, total sales for 2009 are reduced by 17 percent (2 months ÷ 12 months) to approximately 26,400 [31,700 x (1 - 17%)].

Current law provides a 5 percent or $10,000 credit for qualified purchases up to $100 million in total credits. This equates to 10,000 purchases ($100 million ÷ $10,000 creditable amount).

This bill would require the FTB to track credits allocated based on an estimated usage. Thus, the credit allocation limit of $100 million (representing 10,000 taxpayers at $10,000) would be reduced by the average estimated usage amount. Based on a sample of the taxpayers approved for the home credit, their 2007 income tax liabilities, and incorporating 2009 tax law changes, it is estimated that on average, of the $3,333 individual annual limit ($10,000 ÷ 3), that 70 percent or $2,333 ($3,333 X 70%) would be used to reduce income tax liabilities. Applying this percentage to the $10,000 credit available, (30% x $10,000), $7,000 is estimated to be the average credit used over a three-year income tax period. [1] Of the $100 million currently approved to be used by 10,000 taxpayers, $70 million (10,000 taxpayers x $7,000) is estimated to be used to reduce taxes for tax year 2009, 2010, and 2011. Therefore, under this bill, $30 million would remain for credit usage. New credits generated under this bill would allow approximately 4,285 additional purchases to qualify ($30 million ÷ $7,000 credit amount). The department would accept an additional 4,285 applicants, allocate $10,000 (or $42.85 million) but would only account for $7,000 per taxpayer, thus resulting in an increase in credit usage of approximately $30 million (4,285 additional purchases x $7,000 estimated used to reduce taxes) over three years.

New home projections for 2009 are estimated to exceed 25,000; after subtracting the 10,000 purchases that are allowed under current law, the remaining 15,000 sales are anticipated to exceed the additional 4,285 purchases that would become eligible for the credit under this bill.

[1] Recently enacted law ABX3 3 (Evans, Stats. 2009, Ch. 18) temporarily adds .25% to each personal income tax rate for taxable years 2009 and 2010, .25% to the alternative minimum tax rate, and reduces the dependent exemption credit from $309 to $99.

Beginning with the tax year of the purchase, current law requires that no more than one-third of credits generated be used in each of the three taxable years. For 2009, this reduces credits used to $10 million ($30 million ÷ 3 years). The figures in the chart have been adjusted to reflect the cash flow impact on a fiscal-year basis. The revenue loss for fiscal year 2009-10 includes additional credits allocated and used for tax year 2009 and altered estimate payments for credits available for the 2010 tax year.

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FRANCHISE TAX BOARD'S PROPOSED AMENDMENTS TO AB 765
As Amended August 25, 2009

AMENDMENT 1

On page 2, line 5, after "qualified" insert:

principal

AMENDMENT 2

On page 2, line 7, after "paragraph" strikeout ","

AMENDMENT 3

On page 4, line 2, before "no later" insert:

received by the Franchise Tax Board

AMENDMENT 4

On page 4, after line 36 insert:

SEC. 2 The sum of forty-four thousand dollars ($44,000) is hereby appropriated to the Franchise Tax Board in augmentation of item 1730-001-0001 of the Governor's Budget, Chapter XX, Statutes of XXXX.

AMENDMENT 5

On page 4, line 37 strikeout "SEC. 2" and insert:

SEC. 3