Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Caballero/Solorio, et al.	Analyst:	Angela Raygoza	Bill Number:	AB 765
Related Bills:	See Prior Analysis	Telephone:	845-7814	Amended Date:	September 4, 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 August 25, 2009, STILL APPLIES.

X OTHER – See comments below.

SUMMARY

This bill would expand the usage of the qualified principal residence credit.

SUMMARY OF AMENDMENTS

The September 4, 2009, amendments would do the following:

- Clarify the certification submission process for the credit,
- Make an appropriation to fund the department's costs to implement the bill.

As a result of the amendments, the "This Bill" discussion, as provided in the department's analysis of the bill as amended August 25, 2009, has been revised. The "Fiscal Impact" and "Economic Impact" discussions have been provided below for convenience. The remainder of the department's analysis as of August 25, 2009, still applies.

Board Position:			Asst. Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Patrice Gau-Johnson	9/10/09
____ N	____ OUA	X PENDING		

Summary of Suggested Amendments

Amendments 1 and 2 are provided to correct technical errors and would clarify the timeframe to submit a certification for taxpayers that purchase a principal residence on or after the enactment date of this bill and prior to March 1, 2010.

ANALYSIS

THIS BILL

This bill would expand the number of the qualified principal residence purchased on and after March 1, 2009, and before July 3, 2009, that would be eligible for the credit. 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.

In addition, 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 within one week before or after the close of escrow but not later than July 2, 2009.

For example, under this bill 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. Under the bill, additional taxpayers could be allocated the credit.

This bill would clarify that taxpayers that purchased a qualified principal residence prior to July 3, 2009, would be allocated the credit if the certification was submitted to Franchise Tax Board (FTB) within one week before or after the close of escrow. For those taxpayers that purchase a principal residence after the date of enactment of this bill, this bill would specify that certification would be required to be submitted to the FTB within one week after the close of escrow.

This bill includes language to request an appropriation of $44, 000 to cover the one-time department costs detailed in the “Fiscal Impact” discussion below.

TECHNICAL CONSIDERATIONS

Amendment 1 and 2 would clarify the certification timeframe for taxpayers that purchase a qualified principal residence on or after the enactment date of this bill and prior to March 1, 2010.

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 September 4, 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.

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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[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.

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FRANCHISE TAX BOARD'S PROPOSED AMENDMENT TO AB 765 As Amended September 4, 2009

AMENDMENT 1

On page 3, line 8, after "one week" strikeout "of" and insert:

after

AMENDMENT 2

On page 3, line 8, after "escrow" strikeout "after" and insert:

of