

SUMMARY ANALYSIS OF AMENDED BILL

Author: Dutton, et al. Analyst: Angela Raygoza Bill Number: SB 49
 Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: January 6, 2010
 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 _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would extend the cease operative date for the Principal Residence Credit, as specified.

SUMMARY OF AMENDMENTS

The January 6, 2010, amendments would extend the cease operative date of the Principal Residence Credit from December 1, 2010, to 12 months after the effective date of this bill.

As a result of the amendments, the “Effective/Operative Date,” “This Bill,” and “Economic Impact” discussions, as provided in the department’s analysis of the bill, as amended May 6, 2009, have been revised.

This analysis replaces the department’s analysis dated May 6, 2009.

Board Position:	Asst. Legislative Director	Date
<input type="checkbox"/> S <input type="checkbox"/> NA <input type="checkbox"/> NP <input type="checkbox"/> SA <input type="checkbox"/> O <input type="checkbox"/> NAR <input type="checkbox"/> N <input type="checkbox"/> OUA <input checked="" type="checkbox"/> PENDING	Patrice Gau-Johnson	01/27/10

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for purchases that occur on or after March 1, 2009, and before the date that is 12 months after the effective date of this bill. The purchase of a qualified principal residence that occurs on or after March 1, 2010, and before the date that is 12 months after the effective date of this bill, must be made pursuant to an enforceable contract to purchase the qualified principal residence executed prior to March 1, 2010.

ANALYSIS

THIS BILL

The Principal Residence Credit would be allowed for one purchase of a qualified principal residence by an individual and would apply to purchases made on or after March 1, 2009, and before the date that is 12 months after the effective date this bill.¹ This bill would require an enforceable contract for purchases occurring after March 1, 2010, and prior to the date that is 12 months after the effective date of this bill to purchase a qualified principal residence be executed prior to March 1, 2010.

In addition, this bill would eliminate the requirement for the seller to provide the Franchise Tax Board (FTB) with certification that the principal residence was previously unoccupied. Instead, this bill would require the seller to provide the taxpayer with certification that the qualified principal residence was previously unoccupied. The seller would be required to provide certification to the purchaser no later than one week after the close of escrow of the qualified principal residence. The taxpayer would be required to retain the certification and provide it to the FTB upon request.

This bill would eliminate the requirement that the credit would be claimed on a timely filed original return.

This bill would also eliminate the \$100 million limitation on the credit and the requirement that the credit be allocated by the FTB on a first-come, first-served basis.

Because this bill would eliminate the certification requirement, the FTB would no longer be required to determine the date the certification would be received. In addition, this bill would eliminate the provision to deny an administrative or judicial proceeding when the FTB makes a determination of the date a certification is received and whether a return has been filed.

This bill would eliminate the provision that would require the disallowance of a credit claimed under this bill to be treated as a mathematical error.

¹ California Revenue & Taxation Code section 17059 provides a Qualified Principal Residence Purchase Credit under the personal income tax law (PITL) to an individual who is a purchaser of a qualified principal residence. The credit applies to purchases made on or after March 1, 2009, and before March 1, 2010. The amount of the credit would be equal to the lesser of 5 percent of the purchase price of the qualified principal residence or \$10,000.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB 49 as Amended January 6, 2010 Operative for Purchases that Occur On or After March 1, 2009, and Before September 30, 2011, but Only for Enforceable Contracts Executed Prior to March 1, 2010 Enactment Assumed After September 30, 2010 (\$ in Millions)		
2010-11	2011-12	2012-13
-\$75	-\$40	-\$17

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

POLICY CONCERNS

This bill could be construed as an unlawful gift of public funds because taxpayers could file an amended 2009 income tax return to claim the principal residence credit for a purchase made prior to the enactment of this bill.²

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² The California Constitution (Article XVI Section 6) prohibits the legislature from making or authorizing any gift of public money or thing of value to any individual, municipal, or other corporation. Retroactively providing a tax benefit to a taxpayer, such as a credit, could be considered a gift of public money.