**Franchise Tax Board**

# SUMMARY ANALYSIS OF AMENDED BILL

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| Author: | Nazarian | Analyst: | Jessica Deitchman | Bill Number: | AB 1510 |
| Related Bills: | See Prior Analysis | Telephone: | 845-6310 | Amended Date: | May 1, 2014 |
| | | Attorney: | Bruce Langston | Sponsor: | |

**SUBJECT:** Seismic Retrofit of At-Risk Property Credit

## SUMMARY

This bill would, under the Personal Income Tax Law and Corporation Tax Law, allow a credit for costs to seismically retrofit "at-risk" buildings.

## RECOMMENDATION

No position.

## SUMMARY OF AMENDMENTS

The May 1, 2014, amendments added language to define "seismic retrofit construction," change the department that will issue certifications, and require that qualified costs used in the calculation of the credit be reduced by grants received. Except for the "This Bill," "Implementation Considerations," and "Economic Impact" discussions, the remainder of the department's analysis of the bill as amended April 1, 2014, still applies. For convenience, the "Fiscal Impact" section has been restated for convenience.

This analysis only addresses the provisions of this bill that impact the department's programs and operations.

<u>THIS BILL</u>

For taxable years beginning on or after January 1, 2015, this bill would allow a qualified taxpayer a credit in an amount equal to 30 percent of the qualified taxpayer's qualified costs.

The bill would define the following phrases:

- "Qualified taxpayer" means a taxpayer that is an owner of a qualified building located in this state. A taxpayer that owns a proportional share of a qualified building in this state may claim the credit allowed by this bill based on the taxpayer share of the qualified costs.
- "Qualified costs" means the costs paid or incurred by the taxpayer for the seismic retrofit construction on a qualified building, not to include ordinary repair or replacement of existing fixtures or items on or in the qualified building.

| Board Position: | | | Legislative Director | Date |
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- "Qualified building" means a building that has been certified as an at-risk property by the local housing authority for the area within which the building is located.
- "At-risk property" means a building that is deemed hazardous and in danger of collapse in the event of a catastrophic earthquake, including, but not limited to, soft story buildings, concrete residential buildings, and pre-1980 concrete residential buildings.
- "Seismic retrofit construction" means changes or additions to the structure of a qualified building to mitigate seismic damage, including:
    - Anchoring the structure to the foundation
    - Bracing cripple walls
    - Bracing hot water heaters
    - Installing automatic gas shutoff valves
    - Installing earthquake-resistant bracing system for mobile homes that is certified by the California Department of Housing and Community Development

Seismic retrofit construction does not include construction preformed solely to bring a qualified building into compliance with standard local building codes.

To be eligible for the credit both of the following must apply:

- The qualified taxpayer must obtain, and retain, certification from the jurisdiction with authority for building code enforcement, upon a review of the building, that the building is an at risk property. Upon request, the qualified taxpayer would be required to provide a copy of the certification to the Franchise Tax Board (FTB).
- The jurisdiction with authority for building code enforcement in which a qualified building is located has entered into an agreement with the state to provide certifications pursuant to this section and to not seek reimbursement from the state for any costs incurred in providing those certifications.

The qualified taxpayer may claim one-fifth of the credit amount for the taxable year in which the credit is allocated and one-fifth of the credit amount for each of the subsequent four taxable years.

The qualified costs used to calculate the credit shall be reduced by any grant provided by a public entity for the seismic retrofit construction.

This bill would allow unused credits to be carried over for five years, if necessary, 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.

The bill is silent on the following issues, and raises the following questions:

- The bill requires that the taxpayer get "certification" from the "jurisdiction with authority for building code enforcement" in order to claim the credit. Would qualified costs be determined by the taxpayer? The FTB? The "jurisdiction with authority for building code enforcement?" What department or agency is the "jurisdiction with authority for building code enforcement?"
- Who determines what is a "qualified cost?" and what is "ordinary repair or replacement?"

It is recommended that the bill be amended to clearly express the author's intent.

The credit would be claimed in five equal amounts spread over the five taxable years beginning with the "taxable year that the credit is allocated." Because the bill language lacks an allocation method, it is unclear when the five year period for claiming the credit would begin. To ensure consistency with the author's intent and eliminate disputes between taxpayers and the department, this bill should be amended.

FISCAL IMPACT

Department staff is unable to determine the costs to administer this bill until the implementation concerns have been resolved. As the bill continues to move through the legislative process and the implementation concerns are resolved, costs will be identified and an appropriation will be requested, if necessary.

**ECONOMIC IMPACT**

Revenue Estimate

| Estimated Revenue Impact of AB 1510*<br>As Amended May, 1, 2014<br>Assumed Enactment After June 30, 2014<br>($ in Millions) | | |
|---|---|---|
| 2014-15 | 2015-16 | 2016-17 |
| - $1.4 | - $5.2 | - $8.7 |

*This estimate assumes that there will be no new mandates requiring retrofitting activities anywhere in the state. The costs could increase significantly if a state-wide mandate is put in place.

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

**SUPPORT/OPPOSITION**

Support: None provided.

Opposition: None provided.

**POLICY CONCERNS**

This bill would allow a credit for costs to seismically retrofit "at-risk" buildings that are currently deductible as business expenses, or increase the basis of a property. Generally, a credit is allowed in lieu of a deduction in order to eliminate multiple tax benefits for the same item of expense.

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

**LEGISLATIVE STAFF CONTACT**

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