

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Daly & Ting Analyst: Narinder Dosanjh Bill Number: AB 2175  
Related Bills: See Legislative History Telephone: 845-5275 Amended Date: April 1, 2014  
Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Renter's Tax Assistance Act

### SUMMARY

This bill would under the Revenue and Taxation Code, create the Renter's Tax Assistance Act.

### RECOMMENDATION

No position.

### Summary of Amendments

The April 1, 2014, amendments removed intent language, added an author, and added the provisions discussed in this analysis.

This is the department's first analysis of the bill.

### REASON FOR THE BILL

The reason for the bill is to create the Renter's Tax Assistance Act within the Senior Citizens Property Tax Assistance and Postponement Law.

### EFFECTIVE/OPERATIVE DATE

This bill would become effective and operative January 1, 2015.

### ANALYSIS

#### STATE LAW

State law authorizes the Franchise Tax Board (FTB) to administer several non-tax programs, one of which is the Homeowners and Renters Assistance (HRA) program. The program has been unfunded beginning with fiscal year 2009/2010. As a result, the program remains inactive to date.

Board Position:

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

Executive Officer

Date

Selvi Stanislaus

04/18/14

Should funding for the HRA program be reestablished, existing state law provides partial reimbursement of the previous fiscal year's property taxes on a personal residence paid directly by a homeowner and indirectly by a renter. Relief for homeowners and renters is based on a percentage of the amount of property tax paid in a given year. The percentage on which the reimbursement amount is based varies inversely with the applicant's income level and ranges from 4 percent to 96 percent.

To be eligible for assistance, claimants must be 62 years of age, blind, or disabled. In addition, the claimant's total household income for the prior calendar year cannot exceed an inflation-adjusted maximum amount. Total household income consists of adjusted gross income (as computed for tax purposes) increased by income that is nontaxable for California tax purposes. Also, the gross household income cannot exceed an inflation-adjusted maximum amount. Gross household income is total household income plus all non-cash business expenses such as depreciation, amortization, and depletion.

When funding is available, claimants may file for assistance from July 1st through October 15th, inclusive. However, the FTB may accept claims through June 30<sup>th</sup> of the year following the year for which assistance is claimed.

Current state law allows a nonrefundable credit for qualified renters in the following amounts:

- \$60 for single or married filing separately with an adjusted gross income (AGI) of \$36,955 or less, and
- \$120 for married filing jointly, head of household, or qualified widow or widower with an AGI of \$73,910 or less.

Current state law requires the amount of AGI to be adjusted annually for inflation.

### THIS BILL

This bill would establish the Renter's Tax Assistance Act. Under the terms of the Act, the FTB would be the administering agency for renter's assistance claims. The assistance amount would be determined based on the claimant's total household income as follows:

<b>Total Household Income</b>	<b>Statutory Property Tax Equivalent (SPTE)</b>	<b>Multiplier</b>
\$0 to \$11,490	\$250	139%
\$11,490.01 to \$12,337	\$250	136%
\$12,337.01 to \$12,925	\$250	133%
\$12,925.01 to \$13,513	\$250	131%
\$13,513.01 to \$14,101	\$250	128%
\$14,101.01 to \$14,688	\$250	125%

\$14,688.01 to \$15,275	\$250	122%
\$15,275.01 to \$15,863	\$250	119%
\$15,863.01 to \$16,451	\$250	116%
\$16,451.01 to \$17,038	\$250	113%
\$17,038.01 to \$17,626	\$250	110%
\$17,626.01 to \$18,213	\$250	106%
\$18,213.01 to \$42,588	\$250	100%

The total household income ranges would be adjusted annually for inflation based on the percentage change in California Consumer Price Index as provided to the FTB by the Department of Industrial Relations.

The bill would define income as the federal adjusted gross income plus all of the following cash items:

- Public assistance and relief.
- Nontaxable amount of pensions and annuities.
- Social security benefits (except Medicare).
- Railroad retirement benefits.
- Unemployment insurance payments.
- Veterans' benefits.
- Exempt interest received from any source.
- Gifts and inheritances in excess of three hundred dollars (\$300), other than transfers between members of the household. Gifts and inheritances include noncash items.
- Amounts contributed on behalf of the contributor to a tax-sheltered retirement plan or deferred compensation plan.
- Temporary workers' compensation payments.
- Sick leave payments.
- Nontaxable military compensation.
- Nontaxable scholarship and fellowship grants.
- Nontaxable gain from the sale of a residence.
- Life insurance proceeds to the extent that the proceeds exceed the expenses incurred for the last illness and funeral of the deceased spouse of the claimant.
- If an alternative minimum tax is required to be paid, the amount of alternative minimum taxable income in excess of the regular taxable income.
- Annual winnings from the California Lottery in excess of six hundred dollars for the current year.

This bill would also define the following terms and phrases:

- “Household income” means all income received by all persons of a household. In the case of a nonresident claimant, “household income” also includes all income of the claimant during the year.
- “Claimant” means an individual who was the renter of a rented residence on or before the last day of the year. A claimant shall not lose his or her eligibility if he or she is temporarily confined to a hospital or medical institution for medical reasons where the residential dwelling was the principal place of residence of the claimant prior to such confinement.
- “Rented residence” means premises rented and occupied by the claimant as his or her principal place of residence during the calendar year for which assistance is claimed. If the claimant’s principal place of residence is less than 12 months during the calendar year for which assistance is claimed, the amount of assistance should be prorated based on guidelines set by the FTB.
- “Rent” means the amount paid solely for the right of occupancy of a residence and utility payments required to be paid by the rental agreement. At least fifty dollars (\$50) per month must be paid by each renter claimant.

This bill would provide, when two or more individuals pay rent for the same premise and each individual meets the qualification under this Act, each individual will be entitled to the refund. A husband and wife residing in the same premises will be entitled to one refund. However, when a claimant dies after filing the timely claim, the amount will be disbursed to the surviving spouse.

This bill would require the FTB to develop a form and instructions to administer the Act.

This bill would require each claimant applying for assistance to file a claim with the FTB on a form supplied by the FTB. Claimants may file for assistance from July 1st through October 15<sup>th</sup>, inclusive. However, the FTB may accept claims through June 30<sup>th</sup> of the year following the year for which assistance is claimed. A claimant who, because of a medical incapacity, is prevented from filing a timely claim, may file a claim within six months after the end of his or her medical incapacity or three years succeeding the end of the fiscal year which assistance is claimed, whichever date is earlier.

### IMPLEMENTATION CONSIDERATIONS

Establishing and administering the renter’s assistance program would have a significant impact on the department’s programs and operations.

### **LEGISLATIVE HISTORY**

AB 2097 (Morrell, 2013/2014) would allow a nonrefundable credit for qualified renters in the following amount: \$60 for single or married filing separately with an AGI of \$36,955 or less, and \$120 for married filing jointly, head of household, or qualified widow or widower with an AGI of \$73,910 or less. AB 2097 is in the Assembly Revenue and Taxation Committee.

## 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.

*Michigan* allows renters or lessees of homesteads to claim a credit based on 20 percent of the gross rent paid for taxable years after 1993. A person who rents or leases a homestead, subject to a service charge instead of property taxes, can claim a credit based on 10 percent of the gross rent paid. Only the renter or lessee can claim a credit on property that is rented or leased as a homestead. The maximum credit is \$1,200.

*Massachusetts* allows senior circuit breaker credit for owner or renter 65 years or older who have gross income of \$55,000 for single, \$69,000 for head of household, and \$82,000 for married couples and pay either real property taxes or rent for residences. The credit amount is the amount of real estate tax payment or 25 percent of the rent constituting real estate tax payment exceeds 10 percent of the taxpayer's total net income. The maximum credit for the 2013 tax year is \$1,030.

*New York* allows a real property tax credit for residents who have household gross income of \$18,000 or less and pay either real property taxes or rent for their residences. If all members of the household are under age 65, the maximum credit is \$75. If at least one member of the household is age 65 or older, the maximum credit is \$375.

*Illinois* and *Minnesota* do not have a comparable credit. *Florida* does not have a personal income tax.

## FISCAL IMPACT

This bill would require the development of new forms, instructions, and procedures, extensive system programming and is expected to generate a large number of claimant contacts. The cost to establish and maintain the assistance program is expected to be significant. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

## ECONOMIC IMPACT

### Revenue Estimate

Estimated Revenue Impact of AB 2175 As Amended April 1, 2014 Assumed Enactment After June 30, 2014 (\$ in Millions)		
2014-15	2015-16	2016-17
- \$380	- \$800	- \$900

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

## **SUPPORT/OPPOSITION**

Support: California Apartment Association (Sponsor).  
California Rural Legal Assistance Foundation.  
Western Center on Law and Poverty

Opposition: None provided.

## **ARGUMENTS**

Proponents: Some may say that this bill would provide assistance to individuals that could enhance their financial security, and boost the state's economy.

Opponents: Some may argue that the existing credit for qualified renters provides assistance and establishing a claim program would unnecessarily divert state revenues from other critical state services.

## **POLICY CONCERNS**

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same item of expense.

## **LEGISLATIVE STAFF CONTACT**

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