

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Cedillo Analyst: Jeani Brent Bill Number: AB 601

Related Bills: See Prior Analysis Telephone: 845-3410 Amended Date: 04/19/1999

Attorney: Pat Kusiak Sponsor:

SUBJECT: Urban Adaptive Reuse Zones/Qualified Adaptive Reuse Buildings 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 DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 19, 1999.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 19, 1999 STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Government Code, this bill would authorize a new type of economic development area, called urban adaptive reuse zones (UARZ). The Trade and Commerce Agency (TCA) would be required to designate up to 20 UARZs from applications submitted by local governing bodies. The designations would be binding for ten years with the possibility of a five-year extension if specified vacancy rates exist at the end of the ten-year initial designation period.

Local legislative bodies may by ordinance designate buildings located within the UARZ as "qualified adaptive reuse buildings." To be designated, buildings must have been built before 1975 and have been 50% or more vacant, excluding first floor retail space, for a period of six months or longer. Qualified adaptive reuse buildings would be eligible for various regulatory, tax, program, and other incentives.

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would allow a tax credit in an amount equal to either of the following:

1. 20% of the amount paid or incurred during the taxable or income year for qualified adaptive reuse, or
2. 30% of the amount paid or incurred during the taxable year for qualified adaptive reuse that includes an affordable housing component or involves the rehabilitation of a building that is listed in the California Register of Historical Resources.

This bill would make various changes to other provisions of the Government Code and the Revenue and Taxation Code. These changes do not impact the department's programs or procedures and are not discussed in this analysis.

Board Position:

<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

Department/Legislative Director Date

Johnnie Lou Rosas **05/10/1999**

SUMMARY OF AMENDMENT

The April 19, 1999, amendment made various changes to the Government Code provisions that would not impact the department and eliminated the Health and Safety Code provisions.

The April 5, 1999, amendment added criteria regarding the length of the designation period of a UARZ. In addition, this amendment changed the name of the zone from urban incentive zone to urban adaptive reuse zone, made various changes to the Government Code provisions that would not impact the department, and eliminated the Public Resources Code provisions.

The department's analysis of the bill as introduced February 19, 1999, still applies. The implementation and technical considerations addressed in the department's prior analysis are included below for convenience.

IMPLEMENTATION CONSIDERATIONS

This bill raises the following implementation considerations:

1. The credit provisions state that the credit would be allowed for "qualified adaptive reuse," but do not specifically require that the building involved necessarily be one for which an agreement has been executed as provided under the Government Code provisions of the bill.
2. This bill does not specify for which taxpayer (i.e., building owner, lessor, contractor that does the work) the credit would be intended. If the bill does not specify, the potential would exist for multiple taxpayers to claim the credit.
3. This bill does not clearly define which expenditures would qualify as "qualified adaptive reuse." The Government Code provisions of the bill would include in that term any and all costs directly or remotely involved in:
 - A. conversion of a nonresidential building to include 25% of the floor space as residential units or 50% of the floor space as "live-work" units, or
 - B. a 50% increase in residential or "live-work" use of floor area of an existing residential or "live-work" building.
4. This bill does not define the terms "live-work" and "affordable housing component." This lack of definitions could lead to disputes between taxpayers and the department regarding the correct interpretation of these terms.
5. Credits that require qualified use of an asset or validation of the qualified use generally also require that the qualification or validation be made by a state agency familiar with the qualification criteria. Without validation by an appropriate state agency, the department would have difficulty administering this credit because the determination of the "qualified use" of buildings is beyond the department's administrative duties and expertise.
6. This bill defines "qualified expenditure" in the credit provision, but that term is not tied to the amount paid or incurred for which a credit would be allowed. Further, the paragraph that defines "qualified expenditure" appears to suggest that taxpayers might be allowed some sort of special expense deduction or depreciation deduction.

This language may relate to the possibility of "IRC 179" deductions for personal income taxpayers. However, the language is too ambiguous to determine its intended application, and should be clarified since existing tax law rules would generally require capitalization of the expenditures and recovery over the remaining useful life of the underlying building.

7. If this bill is amended to provide a sunset date, the bill also should be amended to limit the number of years the unused portion of any credit could be carried forward. Credits with unlimited carryovers must be maintained on tax forms and systems even long after the underlying credit has expired. Since tax credits are usually used within eight years, most recently enacted credits contain limited carryover provisions.

TECHNICAL CONSIDERATIONS

The B&CTL credit provision uses the term "taxable year." This term should be changed to "income year."