Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Chu	Analyst:	Davi Milam	Bill Number:	AB 697
Related Bills:	See Legislative History	Telephone:	845-2551	Amended Date:	March 26, 2015
		Attorney:	Bruce Langston	Sponsor	

SUBJECT:	Renter's Credit/ Low-Income Seniors in Specified Counties

SUMMARY

This bill, under the Personal Income Tax Law, would create a renter's credit for low-income seniors in certain counties.

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

RECOMMENDATION

No position.

Summary of Amendments

The March 26, 2015, amendments removed provisions of the bill related to water conservation and replaced them with the provisions discussed in this analysis. This is the department's first analysis of this bill.

REASON FOR THE BILL

The reason for this bill is to determine whether a personal income tax credit is a viable method to help low-income, senior renters remain in their homes.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2016, and before January 1, 2019.

FEDERAL/STATE LAW

In federal law, there is no provision comparable to the renter's credit.

Board Position:			Executive Officer	Date
___ S	___ NA	X NP	Selvi Stanislaus	5/4/15
___ SA	___ O	___ NAR		
___ N	___ OUA	___		

Current state law[1] 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 $37,768 or less, and
- $120 for married filing jointly, head of household, or qualified widow or widower with an AGI of $75,536 or less. A husband and wife may only claim one renter's credit.

The AGI amounts are adjusted annually for inflation based on the California Consumer Price Index.

A "qualified renter" is defined as an individual who: (1) is a California resident for all or part of the tax year, and (2) rented and occupied California premises constituting his or her principal place of residence for at least 50 percent of the taxable year.

The definition of “qualified renter" does not include individuals:

1. who, for more than 50 percent of the taxable year, rented and occupied premises that with certain exceptions, were exempt from property taxes.
2. whose principal place of residence for more than 50 percent of the taxable year is with any other person who claimed that individual as a dependent for income tax purposes.
3. who have been granted or whose spouse has been allowed the homeowner's property tax exemption during the taxable year, as specified.

Any qualified renter who is a nonresident for a portion of the taxable year is allowed 1/12 of the renter's credit for each full month that the individual resided in the state for the taxable year, once the requirement of renting in California for more than 50 percent of the taxable year has been met.

The California Constitution requires the Legislature to provide increases in benefits to qualified renters that are comparable to the average increase in benefits provided to homeowners under the homeowner's property tax exemption.

Existing state law requires any new tax credit legislation introduced on or after January 1, 2015, to include specific goals, purposes, objectives, and performance measures.[2]

THIS BILL

For each taxable year beginning on or after January 1, 2016, and before January 1, 2019, this bill would allow a credit in an amount equal to the increase in rent of a qualified residence for the taxable year compared to the previous taxable year that is paid or incurred by a qualified taxpayer.

---

[1] Revenue and Taxation Code (R&TC) section 17053.5.

[2] R&TC section 41.

For purposes of this credit, “qualified taxpayer” would mean a person with all of the following characteristics:

- 62 years of age or older.
- Rents a qualified residence as his or her primary residence, is named on the lease for the residence, and has rented that residence for a period of 12 months or more.
- Has a combined annual household income of fifty thousand dollars ($50,000) or less, more than one-third of which is spent on rent.

The bill would define “qualifying residence” to mean a property that is located in the County of Alameda, the City and County of San Francisco, the County of Ventura, and County of Santa Clara.

This bill also would provide the following:

- Any unused credit could be carried over eight years until exhausted.
- A credit would be disallowed under this bill if a renter’s credit has been claimed by a taxpayer pursuant to Revenue and Taxation Code (R&TC) section 17053.5.
- The credit would be repealed as of December 1, 2019.

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 credit amount would be equal to the increase in rent of a qualified residence for the taxable year compared to the previous taxable year. To avoid disputes over the amount of the credit, it is recommended that the bill be amended to clearly define the phrase “increase in rent.”

This bill could allow multiple “persons” that reside in the same property to claim the full amount of the credit for the same rent increase. For example:

- A person “named” on the lease could include any individual authorized to occupy the property.
- On a jointly filed return both spouses could be “qualified taxpayers.”

If this is contrary to the author’s intent, the bill should be amended.

The bill is silent on the following items, which the author may wish to clarify to avoid conflicts between taxpayers and the department:

- For married couples who file joint returns, must one or both spouses be 62 years of age or older?
- Must the “qualified taxpayer” occupy the property?
- When or how would the 12-month rental period be determined?

The following phrase and term are undefined:

- "Combined annual household income" is not an amount that appears on federal or state tax returns. Tax benefits, such as the renter's credit under existing law, generally are tied to AGI. These tax benefits are subject to a maximum AGI for qualifying married couples filing a joint return and heads of household and a lower maximum AGI for qualifying single filers. To avoid confusion and for ease of administration, the author may want to consider replacing the reference to "combined annual household income" with AGI.
- It is unclear what types of "property" would be eligible for the credit. Would the credit be allowed for a mobile home, vacant land, or property that has been granted a homeowners' exemption? The absence of a definition to clarify this term could lead to disputes with taxpayers and would complicate the administration of this credit.

This bill would prohibit a taxpayer from claiming the credit proposed by this bill and the current renter's credit. In the case of married couples who file joint returns, one taxpayer could claim the credit proposed by this bill and the taxpayer's spouse could claim the existing renter's credit. If this is inconsistent with the author's intent, the bill should be amended.

TECHNICAL CONSIDERATIONS

On page 3, line 10, the word "qualified" should be replaced with the term "qualifying" to correspond to the definition of "qualifying residence" in paragraph (2) of subdivision (b).

On page 3, line 15, the term "person" should be replaced with the term "individual" to correspond to terminology used in income tax law.

On page 3, line 17, it is recommended that the phrase "at the close of the taxable year" be inserted after the word "older" to clarify when the determination of the taxpayer's age is made.

On page 3, line 24; this bill would require that more than one-third of annual household income be spent on rent. To clarify that rent is paid or incurred on a qualifying residence, it is recommended that the word "spent" be replaced with the phrase "paid or incurred" and the phrase "of a qualifying residence" be inserted after the word "rent."

LEGISLATIVE HISTORY

AB 1229 (Campos, 2015/2016), would create a credit equal to the amount of foregone rent pursuant to the Senior Citizen Rent Increase Exemption program. AB 1229 is pending before the Assembly Revenue and Taxation Committee.

SB 1216 (Morrell, 2013/2014) and AB 2097 (Morrell, 20013/2014), would have increased the homeowners' property tax exemption and the renter's credit. SB 1216 and AB 2097 failed to pass out of the first house by the constitutional deadline.

AB 2738 (Wyland, 2005/2006), would have increased the homeowners' property tax exemption and the renter's credit for individuals 62 years or older. AB 2738 failed to pass out of the first house by the constitutional deadline.

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.

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

Massachusetts allows an owner or renter of residential property a credit, not to exceed $1,050, based on the amount the real estate tax payment, or 25 percent of the rent constituting real estate tax payment, exceeds 10 percent of the taxpayer's total income. In order to qualify for the credit, a taxpayer must be age 65 or older and must occupy the property as his or her principal residence. The amount of the credit is subject to limitations based on the taxpayer's total income and the assessed value of the real estate.

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.

Minnesota allows a Homeowner's Homestead Credit Refund, up to $2,620, and a Renter's Property Tax Refund, up to $2,030. Both credits are subject to limitations on household income. In addition, *Minnesota* allows homeowners a special property tax refund, up to $1,000, if the net property tax increased by more than 12 percent from 2014 to 2015, and the increase was at least $100.

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.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves 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

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 697 As Amended March 26, 2015 Assumed Enactment After June 30, 2015 ($ in Millions)		
2015-16	2016-17	2017-18
- $26	- $56	- $70

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

Revenue Discussion

According to the 2013 U.S. Census and the 2012 Franchise Tax Board data, there are approximately 725,000 individuals, age 62 and over, living in Alameda, San Francisco, Santa Clara, and Ventura counties. Using various published sources, it is estimated that 45 percent of these individuals rent versus own their homes. Finally, it is estimated that 6 percent of these individuals would meet the income qualifications and file a return claiming the renters' credit as defined in the bill. This population is grown by the Department of Finance growth rate and results in an estimated 19,500 returns that would be eligible to file to claim the credit. It is assumed of the 19,500 returns; only 75 percent of them would claim the credit in the first year, and by the third year 100 percent would claim the credit.

According to various rental websites, in 2014, the average annual rent paid was approximately $2,300 per month and the average annual rent increase was approximately 11 percent for these four counties. This results in an average annual rent increase of $260 per month or $3,120 per year for an estimated credit generation of $26 million, $56 million, and $70 million, respectively for the three fiscal years.

Taxpayers claiming the new renter's credit would no longer claim the current renter's credit as defined in R&TC section 17053.5. It is estimated that the average renter's credit currently claimed by these qualified individuals is $1.4 million and taken into consideration in the above revenue estimate.

The tax year estimates are converted to fiscal year estimates, and then rounded and reflected in the table above.

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file

ARGUMENTS

Proponents: Some may say that this bill would allow low-income seniors to afford to rent their homes, maintain their financial security, and boost the state economy.

Opponents: Some may argue that this bill is overly narrow and should be broadened in an effort to assist all low-income seniors rather than only those living within specified counties.

POLICY CONCERNS

This bill fails to limit the amount of the credit that may be taken. Generally, credits are limited as a percentage of amounts paid or incurred or on a per-taxpayer basis. This bill would allow a 100 percent credit, which would be unprecedented.

This bill could allow a credit on property that also has been granted the homeowners' property tax exemption. Thus, this bill could allow multiple tax benefits for the same property.

LEGISLATIVE STAFF CONTACT

Davi Milam
Legislative Analyst, FTB
(916) 845-2551
davi.milam@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Gail Hall
Legislative Director, FTB
(916) 845-6333
gail.hall@ftb.ca.gov