



## **Analysis of Amended Bill**

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Sponsor:

Bill Number: AB 2833

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Amended March 20, 2018

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Related Bills: See Legislative  
History

**Subject:** Renter's Credit/Modify & Make Refundable/FTB Calculate Amount of Credit Allowed by County & Publish Determinations on Internet Web site to Notify Taxpayers

### **Summary**

This bill would, under the Personal Income Tax Law (PITL), modify the Renter's Credit amounts and make the credit refundable.

**Recommendation – No position.**

### **Summary of Amendments**

The March 20, 2018, amendments removed provisions of the bill related to property taxation and replaced them with the provisions discussed in this analysis.

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

### **Reason for the Bill**

The reason for this bill is to provide financial relief for low- and middle-income families.

### **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, 2019.

### **State Law**

Current state law allows a nonrefundable credit for qualified renters in the following amounts for tax year 2017:

- \$60 for single or married filing separately with an adjusted gross income (AGI) of \$40,078 or less, and
- \$120 for married filing jointly, head of household, or qualified widow or widower with an AGI of \$80,156 or less.

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

There is no provision under current law for an annual adjustment to the credit amount or refund of excess credits.

### **This Bill**

For taxable years beginning on or after January 1, 2019, this bill would, under the PITL, modify the amounts of the Renter's Credit as follows:

- For taxpayers filing single or married filing separately, the credit amount would be the greater of \$60 or 10 percent of the median rent in the county of the property rented and occupied by the taxpayer as his or her principal place of residence for the longest period during the taxable year.
- For taxpayers filing married filing jointly, head of household, or qualified widow or widower, the credit amount would be the greater of \$120 or 20 percent of the median rent in the county of the property rented and occupied by the taxpayer as his or her principal place of residence for the longest period during the taxable year.

An otherwise qualified renter that rented and resided in locations in more than one county for an equal period of time during the taxable year would determine the credit based on the location in the county with the highest median rent.

The amount of the allowable Renter's Credit that exceeds the tax liability for the taxable year would be credited against other amounts due, if any, and the balance, if any, upon appropriation by the Legislature, would be refunded to the taxpayer. For purposes of determining the amount of the Renter's Credit, county assessors would be required to determine and provide to the Franchise Tax Board (FTB) the county's median rent for the previous year on or before January 1, 2020, and on or before January 1<sup>st</sup> annually thereafter.

On or before January 31, 2020, and annually on or before January 31<sup>st</sup> thereafter, the FTB would be required to calculate the amount of the renter's credit for each county for each taxable year based on the information provided by the county assessors beginning with the taxable year beginning January 1, 2019, and publish the Renter's Credit amount for each county on its Internet Web site.

### **Implementation Considerations**

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

Implementing this bill would require changes to existing tax forms and instructions, robust education and outreach, and substantial changes to information systems to limit improper payments.

This bill would require the FTB to calculate the amount of the credit and publish the amounts by county on its Internet Web site within 30 days of receiving the information from the county assessors on or before January 1. However, this due date is after the department develops

the forms and instructions for a taxable year. In addition, 30 days is a short timeframe to make systems and forms changes.

This bill would allow an increased credit amount based on the county the taxpayer resides in. It is unclear how the department would verify that the correct county was used to calculate the claimed credit, in order to prevent improper payments.

This bill would require regular annual appropriations by the Legislature to pay for the refundable portion of this credit. Disallowance of the credit to some taxpayers could result if the amount of credits claimed exceeds the amount of appropriated funds. This concern could be alleviated by specifying the funds for refund be continuously appropriated from the Tax Relief and Refund Account.

### **Legislative History**

AB 181 (Lackey, et al., 2017/2018) would have, contingent upon an appropriation, increased the amounts of the Renter's Credit. AB 181 failed to pass by the constitutional deadline.

AB 1100 (Chen, et al., 2017/2018) would have increased the amount of the homeowners' property tax exemption and modified the Renter's Credit. AB 1100 failed to pass by the constitutional deadline.

AB 1582 (Bonta, 2017/2018) would have modified the AGI limitation for purposes of determining the Renter's Credit. AB 1582 failed to pass by the constitutional deadline.

SB 1182 (Glazer, et al., 2017/2018) would, contingent upon an appropriation, increase the amount of the Renter's Credit. SB 1182 has been referred to the Senate Governance and Finance Committee.

SB 1212 (Anderson, 2017/2018) would increase the amount of the Renter's Credit. SB 1212 has been referred to the Senate Governance and Finance Committee.

AB 476 (Chang, 2015/2016) would have increased the amount of homeowners' property tax exemption and increased the Renter's Credit. AB 476 failed to pass by the constitutional deadline.

AB 2694 (Lackey, et al., 2015/2016) would have increased the Renter's Credit and temporarily eliminated the AGI thresholds for 2016-2019. AB 2694 failed to pass by the constitutional deadline.

SB 1103 (Cannella, 2015/2016) would have increased the Renter's Credit. SB 1103 failed to pass by the constitutional deadline.

### **Other States' Information**

The states surveyed include *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. 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.

*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, Massachusetts, and Minnesota* do not have a comparable credit.

### **Fiscal Impact**

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

### **Economic Impact**

#### Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2833 as amended March 20, 2018.  
For Taxable Years Beginning On or After January 1, 2019  
Assumed Enactment after June 30, 2018

(\$ in Millions)

Fiscal Year	Revenue
2018-2019	\$0
2019-2020	- \$190
2020-2021	- \$200

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

#### Revenue Discussion

The legislation states the credit would be the greater of \$120 or 20 percent of the median rent in the county for married filing joint, head of household and surviving spouse returns and the greater of \$60 or 10 percent of the median rent in the county for all other filers. Because 20 percent of the median rent exceeds \$120 and 10 percent of the median rent exceeds \$60 in every county, the estimate for this bill is based upon median rents.

Using census data on median rents by county and FTB Renter's Credit data by county for 2016, the Renter's Credit was recalculated using the proposed percentages specified in the bill resulting in an estimated \$280 million in taxable year 2016. This amount was adjusted to reflect changes in the economy resulting in Renter's Credits totaling \$320 million in the 2019 taxable year. This amount is reduced by the estimated Renter's Credits that would be allowed under current law of \$130 million resulting in a net revenue loss of \$190 million in the 2019 taxable year.

The tax-year estimates are converted to fiscal-year estimates, and then rounded to arrive at the amounts shown in the above table.

This estimate assumes the legislature appropriates monies from the Tax Relief and Refund account for any credits in excess of tax due.

### **Support/Opposition**

Support: None provided.

Opposition: None provided.

### **Arguments**

Proponents: Some may argue that increasing and making refundable the Renter's Credit would provide assistance to low- to middle-income taxpayers that struggle to pay for the rising cost of rent.

Opponents: Some may argue that there are more effective ways to assist taxpayers with increased rent costs than providing a refundable tax credit that may be prone to improper claims.

### **Policy Concerns**

The department is concerned that another refundable credit could increase the trend in refund fraud and identity theft. Historically, both the Internal Revenue Service and the FTB have experienced fraud and improper claims with refundable credits. These concerns are heightened because if a refund is determined to be fraudulent, the refund commonly cannot be recovered.

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

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