STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Kiley

Analyst: Cristina Perfino

Attorney: Shane Hofeling

Sponsor:

Phone: (916) 845-4313

Related Bills: See Legislative History

Bill Number: AB 2166

Introduced: February 11, 2020

SUBJECT

Residential Fire Insurance Policy Premium Refundable Credit

SUMMARY

This bill would, under the Personal Income Tax Law (PITL), allow a qualified taxpayer a refundable tax credit for amounts paid or incurred on the purchase of a residential fire insurance policy covering the qualified taxpayer's qualified principal residence.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for this bill is to provide relief to California homeowners currently suffering from unexpected premium increases in their residential fire insurance policies that result in unaffordable prices.

ANALYSIS

Under the PITL, for each taxable year beginning on or after January 1, 2020, and before January 1, 2026, there shall be allowed a credit against the "net tax," in an amount equal to the difference between the following amounts:

- The annual premium amount paid or incurred during the taxable year by a qualified taxpayer for a residential fire insurance policy for coverage of the qualified taxpayer's qualified principal residence.
- The annual premium amount paid or incurred by the qualified taxpayer for the same qualified principal residence during the calendar year that is the later of the 2016 calendar year or the calendar year the residential fire insurance policy coverage was first obtained.

The bill would define the following:

"Qualified principal residence" means a single-family residence, whether detached or attached, that is the principal residence of the taxpayer and is eligible for the homeowner's exemption under Section 218.

"Qualified taxpayer" means a taxpayer who has paid or incurred a premium amount during the taxable year for a residential fire insurance policy for coverage of that taxpayer's qualified principal residence that is an amount equal to an increase of 5 percent or more above the premium amount paid or incurred by that taxpayer for a residential fire insurance policy for coverage of that same qualified principal residence of the taxpayer during the 2016 calendar year or the calendar year in which the taxpayer first purchased the residential fire insurance policy for coverage of that same qualified principal residence of the taxpayer, whichever calendar year is later.

"Residential fire insurance policy" means a residential fire insurance policy subject to Chapter 2 (commencing with Section 2030) of Part 1 of Division 2 of the Insurance Code for coverage of the qualified principal residence of the qualified taxpayer.

The bill specifies that any credit in excess of the tax liability would be credited against other amounts due, and the balance will be refunded to the taxpayer upon appropriation by the Legislature. The credit would be allowed in lieu of any other credit or deduction otherwise allowed for the amounts included in the calculation of this credit.

This credit would be effective until December 1, 2026, and be repealed as of that date.

This bill would require the Franchise Tax Board (FTB) to annually publish data on its internet website on the number of taxpayers that are allowed the credit.

In un-codified law this bill would, for purposes of complying with Section 41 of the Revenue and Taxation Code (R&TC):

- Define the goal, purpose, or objective of the tax credit as making property owners whole from unexpected premium increases in residential fire insurance policies that result in unaffordable policies.
- Specify that the performance indicator measuring whether the tax credit meets the goal, purpose, or objective is how many taxpayers are allowed the tax credit.
- Require the FTB to annually publish on its internet website the number of taxpayers allowed the tax credit, notwithstanding the general prohibition on disclosure under R&TC section 19542.

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, 2020, and before January 1, 2026.

Federal/State Law

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake. Federal law has no credit comparable to the Residential Fire Insurance Policy Premium Credit.

Under R&TC section 41, legislation that would create a new tax credit is required to include specific goals, purposes, objectives, and performance measures to allow the Legislature to evaluate the effectiveness of the credit.

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.

This bill would require regular annual appropriations by the Legislature to pay for the refundable portion of this credit. If there are insufficient funds available to cover all of the refunds due, the department would suspend payment of the refunds until additional funds were appropriated. Interest would have to be paid to refund recipients for the period the refund was delayed. This delay would result in additional contacts to the department by refund recipients, which would likely increase departmental costs. To avoid disputes between taxpayers and the department, and to ensure consistency with the author's intent, this bill should be amended.

This bill is silent on when the annual data publishing requirement would begin and end. Additionally It should be noted that complete information for a taxable year would be unavailable for approximately 18 months in order to include data from returns filed by the extended due date, meaning that complete information for 2020, the initial year of the credit, would be unavailable until approximately mid-year 2022. To ensure consistency with the author's intent, this bill should be amended.

Technical Considerations

The bill uses the terms “qualified taxpayer” and “taxpayer” interchangeably. For consistent use of terminology it is recommended that “taxpayer” be replaced with “qualified taxpayer” in paragraph (1) of subdivision (b) of Section 1, paragraph (2) of subdivision (a) of Section 2l, and subdivision (b) of Section 2 of this bill.

Policy Concerns

This bill lacks carryover language. As a result, any unused credit would be lost if the taxpayer is unable to use the entire credit amount in the year claimed and there is no appropriation for refunds. The author may wish to add language allowing a limited carryover period in the event that no appropriation for refunds is made.

LEGISLATIVE HISTORY

SB 944 (McGuire, et al., 2019/2020) under the PITL, would allow credits for home hardening and vegetation managements as specified. SB 944 is currently referred to the Senate Governance and Finance Committee. SB 295 (McGuire, et al., 2019/2020) would have created two home fire safety tax credits, the Qualified Home Hardening credit and the Qualified Vegetation Management credit. SB 295 failed to pass out of the Assembly by the constitutional deadline.

AB 1329 (Patterson, et al. 2015/2016) under the PITL, would have allowed a tax credit for certain costs paid to create defensible space on real property. AB 1329 failed to pass out of the Assembly by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

This bill would impact the department’s programming, printing, and processing costs. As the bill continues to move through the legislative process, costs will be identified.

ECONOMIC IMPACT

The bill states that for purposes of Section 41, the goal, purpose, or objective of this credit is to make property owners whole from unexpected premium increases of residential fire insurance policies that result in unaffordable policies. The Legislature’s evaluation of the credit’s success would be based on the number of taxpayers allowed the credits.

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 2166 as Introduced on February 11, 2020
Assumed Enactment after June 30, 2020

($ in Millions)

Fiscal Year	Revenue
2020-2021	-$24
2021-2022	-$22
2022-2023	-$28

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

Based on Census data on growth in the number of owner occupied dwellings in California, and fire insurance premium data from the California Department of insurance (DOI), it is estimated that residential fire insurance policies will be held on 370,000 qualified principal residences in 2020. It is estimated that 75 percent, or 275,000, of these insurance policies would be for residences that were obtained prior to 2017 and the remaining 95,000 would be for homes purchased after 2016. Using fire insurance premium data, the premiums for 2021 through 2025 were projected. Based on this information, approximately 85 percent or 310,000 insurance policies meet the 5 percent premium increase threshold. Applying an average premium increase of $41 per policy, the amount of the credit for taxable year 2020 would be $13 million.

The tax year estimates were converted to fiscal year estimates and then rounded to arrive at the amounts in the above table.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

Cristina Perfino
Legislative Analyst, FTB
(916) 845-4313
cristina.perfino@ftb.ca.gov

Tiffany Christiansen
Revenue Manager, FTB
(916) 845-5346
tiffany.christiansen@ftb.ca.gov

Annette Kunze
Legislative Director, FTB
(916) 845-6333
annette.kunze@ftb.ca.gov