



Bill Analysis

Author: Dahle, et al.

Sponsor:

Bill Number: SB 952

Related Bills: See Legislative
History

Introduced: January 22, 2024,
Amended: April 4, 2024

SUBJECT

Fire Safe Home Tax Credits Act

SUMMARY

This bill would create, under the Personal Income Tax Law (PITL), two home fire safety tax credits for qualified home hardening and qualified vegetation management, collectively known as the Fire Safe Home Tax Credits Act (Act).

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The April 4, 2024, amendments made substantive changes to the credit reservation requirement, allowing the Franchise Tax Board (FTB) to determine the form and manner that the reservations are requested, and other nonsubstantive changes.

REASON FOR THE BILL

The reason for the bill is to increase wildfire preparedness by providing a tax incentive to property owners who live in fire-prone parts of the state and to compensate taxpayers for costly mitigation measures to prepare their homes for wildfire season.

ANALYSIS

This bill would, under the PITL, for taxable years beginning on or after January 1, 2025, and before January 1, 2030, establish the Act composed of a qualified home hardening credit and a qualified vegetation management credit. The total aggregate amount of credits allowed under this Act per taxable year would be \$500 million plus any unused credit amount from the preceding taxable year.

This bill would allow two credits to a qualified taxpayer who incurs qualified costs of performing qualified home hardening or qualified vegetation management, as defined, on a qualified property, as defined, during the taxable year subject to the following limitations.

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This bill would limit the Qualified Home Hardening Credit to fifty percent of qualified costs incurred, not to exceed:

- \$2,500 per taxable year, if the qualified property is located in a moderate fire hazard severity zone.
- \$5,000 per taxable year, if the qualified property is located in a high fire hazard severity zone.
- \$10,000 per taxable year, if the qualified property is a very high fire severity zone.

This bill would limit the Qualified Vegetation Management Credit to fifty percent of qualified costs incurred, not to exceed \$1,000.

This bill would provide the following definitions:

- “High fire hazard severity zone” means land classified by the Director of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code as within a high fire hazard severity zone.
- “Moderate fire hazard severity zone” means land classified by the Director of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code as within a moderate fire hazard severity zone.
- “Very high fire hazard severity zone” means either land classified by the Director of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code as within a very high fire hazard severity zone or an area designated by the Director of Forestry and Fire Protection pursuant to Section 51178 of the Government Code that is not a state responsibility area.
- “Qualified costs” means any actual out-of-pocket expense incurred and paid by the qualified taxpayer during the taxable year in which the credit allowed by this section is claimed, documented by receipt, for performing qualified home hardening. Qualified costs would specifically exclude costs of any inspection or certification fees, in-kind contributions, donations, or incentives and expenses paid by the qualified taxpayer from any grants awarded to the qualified taxpayer for performing qualified home hardening and qualified vegetation management.
- “Qualified home hardening” means the replacement or repair of structural features that are affixed to the qualified property and performed or implemented for the primary purpose of reducing risk to structures from wildland fire. “Structural features” includes any of the following structural features that meet the requirements of Chapter 7A of the California Building Code: roofs, exterior walls, vents, eave assemblies, decks, fences, driveways, and chimneys.

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- “Qualified property” means a dwelling or housing unit that is located in a moderate fire hazard severity zone, high fire hazard severity zone, or very high fire hazard severity zone that is owned by a qualified taxpayer that has been granted a property tax exemption pursuant to RTC section 218 in the taxable year that the credit is allowed.
- “Qualified taxpayer” means a taxpayer who owns a qualified property and whose adjusted gross income for the taxable year the credit is allowed is less than or equal to \$140,000 in the case of spouses filing a joint return, heads of households, and surviving spouses, as defined, or \$70,000 for a single individual or a spouse filing separately.
- “Qualified vegetation management” means any of the following activities that meet the requirements of Section 4291 of the Public Resources Code performed by the qualified taxpayer for the primary purpose of reducing risk to structures from wildland fire:
 - The creation of defensible space around structures.
 - The establishment of fuel breaks.
 - The thinning of woody vegetation.
 - The secondary treatment of woody fuels by lopping and scattering, piling, chipping, removing from site, or prescribed burning.

This bill would allow excess credits to be carried forward for up to nine taxable years, or until exhausted.

This bill would limit two taxpayers filing a joint return to claim one of each credit under this Act. If two taxpayers who could file a joint return, file separate returns, only one taxpayer may claim the credits allowed under this Act.

This bill would prohibit a qualified taxpayer from using the credits allowed under the Act to be reimbursed for a lien, even if the lien was related to payment for the cost of qualified home hardening or qualified vegetation management, as applicable, for the qualified property.

This bill would allow a qualified property to be eligible for one of each credit allowed under this Act per taxable year.

This bill would require a qualified taxpayer to obtain a tentative credit reservation in the form and manner prescribed by the FTB, during the month of July for each taxable year or within 30 days of the start of their taxable year if the qualified taxpayer’s taxable year begins after July.

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This bill would require a qualified taxpayer to provide all necessary information as determined by the FTB to obtain a reservation with respect to a qualified expenditure. The FTB would be required to approve tentative credit reservations for qualified expenditures incurred during the taxable year for the qualified taxpayers, subject to the credit cap.

The FTB would be allowed to prescribe rules, guidelines, or procedures necessary or appropriate to carry out the reservation and allocation of the credits allowed by the Act. The requirements of the Administrative Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code would not apply to any rule, guideline, or procedure so prescribed.

This bill would, for purposes of complying with Section 41 of the Revenue and Taxation Code (RTC), require the Legislative Analyst's Office to prepare and provide a written report. The report would be submitted to the Senate Committee on Governance and Finance, the Assembly Committee on Revenue and Taxation, and the Assembly Committee on Local Government and include the following:

- the number of taxpayers claiming either or both of the credits.
- the average credit amount claimed on a tax return.

The credits and provisions under this Act would remain in effect until December 1, 2030, and be repealed as of that date.

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, 2025, and before January 1, 2030.

Federal/State Law

Federal and state 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, hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise be undertaken.

Implementation Considerations

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

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This bill uses undefined terms, e.g., “in-kind contributions” and “incentives” in the definition of “qualified costs”. The absence of definitions could lead to taxpayer confusion. For clarity, the author may wish to amend the bill to define these terms.

The bill provides that a taxpayer shall not use either credit to reimburse for a lien, even if the lien was to pay for qualified costs. The FTB would not have access to lien information to make this determination.

The bill specifies, under both credits, that individuals eligible to file a joint return may only claim one of each credit. However, the bill fails to make the same limitation on two or more unrelated individuals that own the same property. Thus, those taxpayers that share ownership in a property but are ineligible to file a joint return may claim more than one credit on the same property. If this is contrary to the author’s intent, the bill should be amended.

To avoid delayed implementation, it is recommended that the author may wish to amend the bill to grant the FTB regulatory authority and a waiver from rulemaking procedures required under the Administrative Procedures Act.

Technical Considerations

For consistency of terminology, it is recommended that “paid or incurred” replace each instance of “incurred”, “incurred and paid”, and “purchased” and replace “paying or incurring” for “incurring.”

In addition, in Section 17052.13(b)(7) and 17052.14(b)(6) replace the term “spouse filing separately” with “married filing separately.”

The bill in Sections 17052.13(a)(3) and 17052.14(a)(2) provides language that is unnecessary since it is included in 17052.13(f)(1). The author may wish to amend this bill to remove this unnecessary language.

This bill has the following unnecessary language that the author may want to remove through an amendment:

- Remove all instances of the words “actual out-of-pocket” and “performing” from the bill language.
- Remove “legally” from Sections 17052.13(d)(1) and 17052.14(d)(1)
- Remove in its entirety Sections 17052.13(d)(2) and 17052.14(d)(2)

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Policy Considerations

This bill defines “qualified vegetation management” to mean “any of the following activities... performed by the qualified taxpayer”. However, this is not a requirement for qualified home hardening. If this is not the author’s intent, the language could be amended to mirror the qualified home hardening language by including “performed or implemented for the primary purpose of reducing risk to structures from wildland fire.”

LEGISLATIVE HISTORY

AB 582 (Connoly, 2023/2024) would, under the PITL, provide a maximum \$400 tax credit each taxable year, to a qualified taxpayer with a primary residence in high or very high fire hazard zone for certain expenses paid or incurred. AB 582 is currently being held under submission in the Assembly Appropriations Committee.

SB 295 (McGuire, et al., 2019/2020) would create two PITL tax credits, the Qualified Home Hardening credit, and the Qualified Vegetation Management credit, collectively known as the Fire Safe Home Tax Credits. SB 295 did not pass out of the Assembly Appropriations Committee by the constitutional deadline.

SB 944 (McGuire, et al., 2019/2020) would create, under PITL, two home fire safety tax credits for qualified home hardening and qualified vegetation management, collectively known as the Fire Safe Home Tax Credits Act. SB 944 did not pass out of the Senate Governance and Finance Committee by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The Franchise Tax Board’s costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be determined.

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ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of SB 952 as amended on April 4, 2024.
Assumed Enactment after June 30, 2024.

(\$ in Millions)

Fiscal Year	Revenue
2024-2025	-\$120
2025-2026	-\$240
2026-2027	-\$290

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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined

ARGUMENTS

To be determined

LEGISLATIVE CONTACT

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