

AMENDED IN ASSEMBLY MAY 12, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 428**

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**Introduced by Assembly Member Nazarian**

February 19, 2015

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An act to add and repeal Sections 17053.50 and 23650 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL’S DIGEST

AB 428, as amended, Nazarian. Income taxes credit: seismic retrofits.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow, for taxable years beginning on or after January 1, 2016, and before January 1, 2021, a tax credit under both laws in an amount equal to 30% of the qualified costs paid or incurred by a qualified taxpayer for any seismic retrofit construction on a qualified building, as defined. This bill would require a taxpayer to obtain a certification from the appropriate jurisdiction with authority for building code enforcement of the area in which the building is located that ~~the building is an at-risk property, as defined,~~ *seismic retrofit construction, as defined, has been completed*, and to provide that certification to the Franchise Tax Board upon the request of the Franchise Tax Board.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 17053.50 is added to the Revenue and Taxation Code, to read:

17053.50. (a) For taxable years beginning on or after January 1, 2016, and before January 1, 2021, there shall be allowed to a qualified taxpayer a credit against the “net tax,” as defined in Section 17039, in an amount equal to 30 percent of the qualified taxpayer’s qualified costs.

(b) For purposes of this section:

(1) “At-risk property” means a building that is deemed hazardous and in danger of collapse in the event of a catastrophic earthquake, including, but not limited to, soft story buildings, nonductile concrete residential buildings, and pre-1994 concrete residential buildings.

(2) “Qualified building” means a building that has been certified as an at-risk property by the local housing authority building code enforcement for the area within which the building is located. A qualified building includes a mobilehome registered by the Department of Housing and Community Development.

(3) “Qualified costs” means the costs paid or incurred by the qualified taxpayer for any completed seismic retrofit construction on a qualified building, including any engineering or architectural design work preceding the construction necessary to permit or complete the seismic retrofit construction. “Qualified costs” does not include either of the following: any of the following costs paid or incurred by the qualified taxpayer:

~~(A) The costs paid or incurred by the qualified taxpayer for ordinary repair or replacement of existing fixtures or items on or in the qualified building.~~

(A) Maintenance, including abatement of deferred or inadequate maintenance, and correction of violations unrelated to the seismic retrofit construction.

(B) Repair, including repair of earthquake damage.

(C) Seismic retrofit construction required by local building codes as a result of addition, repair, building relocation, change of use, or occupancy.

(D) Other work or improvement required by local building or planning codes as a result of the intended seismic retrofit construction.

1 (E) Rent reductions or other associated compensation,  
2 compliance actions, or other related coordination involving the  
3 qualified taxpayer and any other party, including a tenant, insurer,  
4 or lender.

5 (F) Replacement of existing building components, including  
6 equipment, except as needed to complete the seismic retrofit  
7 construction.

8 (G) Bracing or securing nonpermanent building contents.

9 (H) The offset of costs, reimbursements, or other costs  
10 transferred from the qualified taxpayers to others.

11 ~~(B)~~

12 (I) Any amount paid by the qualified taxpayer to the jurisdiction  
13 with authority for building code enforcement for issuing the  
14 certification required pursuant to subparagraph (A) of paragraph  
15 (1) of subdivision (c).

16 (4) “Qualified taxpayer” means a taxpayer that is an owner of  
17 a qualified building located in this state. A taxpayer that owns a  
18 proportional share of a qualified building in this state may claim  
19 the credit allowed by this section based on the taxpayer’s share of  
20 the qualified costs.

21 ~~(5) (A) “Seismic retrofit construction” means changes or~~  
22 ~~additions to the structure of a qualified building to mitigate seismic~~  
23 ~~damage, including:~~

24 ~~(i) Anchoring the structure to the foundation.~~

25 ~~(ii) Bracing cripple walls.~~

26 ~~(iii) Bracing hot water heaters.~~

27 ~~(iv) Installing automatic gas shutoff valves.~~

28 ~~(v) Repairing or reinforcing the foundation to improve the~~  
29 ~~integrity of the foundation against seismic damage.~~

30 ~~(vi) Anchoring fuel storage.~~

31 ~~(vii) Installing an earthquake-resistant bracing system for~~  
32 ~~mobilehomes that is certified by the California Department of~~  
33 ~~Housing and Community Development.~~

34 ~~(B) “Seismic retrofit construction” does not include construction~~  
35 ~~activities performed to bring a qualified building into compliance~~  
36 ~~with standard local building codes.~~

37 (5) “Seismic retrofit construction” means alteration of a  
38 qualified building or its components to substantially mitigate  
39 seismic damage. Seismic retrofit construction shall be for work  
40 performed voluntarily, and for which qualified costs were paid or

1 *incurred, on or after January 1, 2016. Seismic retrofit construction*  
2 *shall include, but not be limited to, the following:*

- 3 (A) *Anchoring the structure to the foundation.*
- 4 (B) *Bracing cripple walls.*
- 5 (C) *Bracing hot water heaters.*
- 6 (D) *Installing automatic gas shutoff valves.*
- 7 (E) *Repairing or reinforcing the foundation to improve the*  
8 *integrity of the foundation against seismic damage.*
- 9 (F) *Anchoring fuel storage.*
- 10 (G) *Installing earthquake resistant bracing system for*  
11 *mobilehomes that are registered with the California Department*  
12 *of Housing and Community Development.*

13 (c) To be eligible for the credit under this section, the following  
14 must apply:

- 15 (1) The qualified taxpayer shall do both of the following:
  - 16 (A) Obtain certification from the appropriate jurisdiction with  
17 authority for building code enforcement, upon a review of the  
18 building, that ~~the building is an at-risk property.~~ *completed*  
19 *construction satisfies the definition of seismic retrofit construction.*  
20 *The certification shall identify what part of the completed*  
21 *construction, if any, is not seismic retrofit construction.* Upon the  
22 request of the Franchise Tax Board, the qualified taxpayer shall  
23 provide a copy of the certification to the Franchise Tax Board.
  - 24 (B) Retain for his or her records a copy of the certification  
25 specified in subparagraph (A).
- 26 (2) The jurisdiction with authority for building code enforcement  
27 in which a qualified building is located has entered into an  
28 agreement with the state to provide certifications pursuant to this  
29 section and to not seek reimbursement pursuant to Section 6 of  
30 Article XIII B of the California Constitution for any costs incurred  
31 in providing those certifications.
- 32 (d) (1) The credit amount allowed in subdivision (a) shall be  
33 claimed by a qualified taxpayer at the rate of one-fifth of the credit  
34 amount for the taxable year in which the credit is allowed, and  
35 one-fifth of the credit amount for each of the subsequent four  
36 taxable years.
- 37 (2) In the case where the credit allowed under this section  
38 exceeds the “net tax,” as defined in Section 17039, for a taxable  
39 year, the excess credit may be carried over to reduce the “net tax”

1 in the following taxable year, and succeeding four taxable years,  
2 if necessary, until the credit has been exhausted.

3 (e) For purposes of computing the credit provided by this  
4 section, the qualified costs shall be reduced by any grant provided  
5 by a public entity for the seismic retrofit construction.

6 (f) This credit shall be in lieu of any other credit or deduction  
7 that the qualified taxpayer may otherwise claim pursuant to this  
8 part with respect to qualified costs.

9 (g) Section 41 shall not apply to the credit allowed pursuant to  
10 this section.

11 (h) This section shall remain in effect only until December 1,  
12 2021, and as of that date is repealed.

13 SEC. 2. Section 23650 is added to the Revenue and Taxation  
14 Code, to read:

15 23650. (a) For taxable years beginning on or after January 1,  
16 2016, and before January 1, 2021, there shall be allowed to a  
17 qualified taxpayer a credit against the "tax," as defined in Section  
18 23036, in an amount equal to 30 percent of the qualified taxpayer's  
19 qualified costs.

20 (b) For purposes of this section:

21 (1) "At-risk property" means a building that is deemed  
22 hazardous and in danger of collapse in the event of a catastrophic  
23 earthquake, including, but not limited to, soft story buildings,  
24 nonductile concrete residential buildings, and pre-1994 concrete  
25 residential buildings.

26 (2) "Qualified building" means a building that has been certified  
27 as an at-risk property by the local housing authority building code  
28 enforcement for the area within which the building is located. *A*  
29 *qualified building includes a mobilehome registered by the*  
30 *Department of Housing and Community Development.*

31 (3) "Qualified costs" means the costs paid or incurred by the  
32 qualified taxpayer for any *completed* seismic retrofit construction  
33 on a qualified building, including any engineering or architectural  
34 *design work preceding the construction necessary to permit or*  
35 *complete the seismic retrofit construction.* "Qualified costs" ~~does~~  
36 ~~do not include either of the following: any of the following costs~~  
37 ~~paid or incurred by the qualified taxpayer:~~

38 ~~-(A) The costs paid or incurred by the qualified taxpayer for~~  
39 ~~ordinary repair or replacement of existing fixtures or items on or~~  
40 ~~in the qualified building.~~

1 (A) Maintenance, including abatement of deferred or inadequate  
2 maintenance, and correction of violations unrelated to the seismic  
3 retrofit construction.

4 (B) Repair, including repair of earthquake damage.

5 (C) Seismic retrofit construction required by local building  
6 codes as a result of addition, repair, building relocation, change  
7 of use, or occupancy.

8 (D) Other work or improvement required by local building or  
9 planning codes as a result of the intended seismic retrofit  
10 construction.

11 (E) Rent reductions or other associated compensation,  
12 compliance actions, or other related coordination involving the  
13 qualified taxpayer and any other party, including a tenant, insurer,  
14 or lender.

15 (F) Replacement of existing building components, including  
16 equipment, except as needed to complete the seismic retrofit  
17 construction.

18 (G) Bracing or securing nonpermanent building contents.

19 (H) The offset of costs, reimbursements, or other costs  
20 transferred from the qualified taxpayers to others.

21 ~~(B)~~

22 (I) Any amount paid by the qualified taxpayer to the jurisdiction  
23 with authority for building code enforcement for issuing the  
24 certification required pursuant to subparagraph (A) of paragraph  
25 (1) of subdivision (c).

26 (4) “Qualified taxpayer” means a taxpayer that is an owner of  
27 a qualified building located in this state. A taxpayer that owns a  
28 proportional share of a qualified building in this state may claim  
29 the credit allowed by this section based on the taxpayer’s share of  
30 the qualified costs.

31 ~~(5) (A) “Seismic retrofit construction” means changes or~~  
32 ~~additions to the structure of a qualified building to mitigate seismic~~  
33 ~~damage, including:~~

34 ~~(i) Anchoring the structure to the foundation.~~

35 ~~(ii) Bracing cripple walls.~~

36 ~~(iii) Bracing hot water heaters.~~

37 ~~(iv) Installing automatic gas shutoff valves.~~

38 ~~(v) Repairing or reinforcing the foundation to improve the~~  
39 ~~integrity of the foundation against seismic damage.~~

40 ~~(vi) Anchoring fuel storage.~~

1 ~~(vii) Installing an earthquake-resistant bracing system for~~  
2 ~~mobilehomes that is certified by the California Department of~~  
3 ~~Housing and Community Development.~~

4 ~~(B) “Seismic retrofit construction” does not include construction~~  
5 ~~activities performed to bring a qualified building into compliance~~  
6 ~~with standard local building codes.~~

7 *(5) “Seismic retrofit construction” means alteration of a*  
8 *qualified building or its components to substantially mitigate*  
9 *seismic damage. Seismic retrofit construction shall be for work*  
10 *performed voluntarily, and for which qualified costs were paid or*  
11 *incurred, on or after January 1, 2016. Seismic retrofit construction*  
12 *shall include, but not be limited to, the following:*

13 *(A) Anchoring the structure to the foundation.*

14 *(B) Bracing cripple walls.*

15 *(C) Bracing hot water heaters.*

16 *(D) Installing automatic gas shutoff valves.*

17 *(E) Repairing or reinforcing the foundation to improve the*  
18 *integrity of the foundation against seismic damage.*

19 *(F) Anchoring fuel storage.*

20 *(G) Installing earthquake resistant bracing system for*  
21 *mobilehomes that are registered with the Department of Housing*  
22 *and Community Development.*

23 *(c) To be eligible for the credit under this section, the following*  
24 *must apply:*

25 *(1) The qualified taxpayer shall do both of the following:*

26 *(A) Obtain certification from the appropriate jurisdiction with*  
27 *authority for building code enforcement, upon a review of the*  
28 *building, that the ~~building is an at-risk property.~~ completed*  
29 *construction satisfies the definition of seismic retrofit construction.*  
30 *The certification shall identify what part of the completed*  
31 *construction, if any, is not seismic retrofit construction. Upon the*  
32 *request of the Franchise Tax Board, the qualified taxpayer shall*  
33 *provide a copy of the certification to the Franchise Tax Board.*

34 *(B) Retain for his or her records a copy of the certification*  
35 *specified in subparagraph (A).*

36 *(2) The jurisdiction with authority for building code enforcement*  
37 *in which a qualified building is located has entered into an*  
38 *agreement with the state to provide certifications pursuant to this*  
39 *section and to not seek reimbursement pursuant to Section 6 of*

1 Article XIII B of the California Constitution for any costs incurred  
2 in providing those certifications.

3 (d) (1) The credit amount allowed in subdivision (a) shall be  
4 claimed by a qualified taxpayer at the rate of one-fifth of the credit  
5 amount for the taxable year in which the credit is allowed, and  
6 one-fifth of the credit amount for each of the subsequent four  
7 taxable years.

8 (2) In the case where the credit allowed under this section  
9 exceeds the “tax,” as defined in Section 23036, for a taxable year,  
10 the excess credit may be carried over to reduce the “tax” in the  
11 following taxable year, and succeeding four taxable years, if  
12 necessary, until the credit has been exhausted.

13 (e) For purposes of computing the credit provided by this  
14 section, the qualified costs shall be reduced by any grant provided  
15 by a public entity for the seismic retrofit construction.

16 (f) This credit shall be in lieu of any other credit or deduction  
17 that the qualified taxpayer may otherwise claim pursuant to this  
18 part with respect to qualified costs.

19 (g) Section 41 shall not apply to the credit allowed pursuant to  
20 this section.

21 (h) This section shall remain in effect only until December 1,  
22 2021, and as of that date is repealed.

23 SEC. 3. This act provides for a tax levy within the meaning of  
24 Article IV of the Constitution and shall go into immediate effect.