

AMENDED IN ASSEMBLY MAY 21, 2015

AMENDED IN ASSEMBLY MAY 12, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 428

Introduced by Assembly Member Nazarian

February 19, 2015

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, prior to seismic retrofit construction, would require a taxpayer to obtain certification from the appropriate jurisdiction with local building code enforcement authority that the building has been certified as an at-risk property, as defined.* This bill would *also* 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 seismic retrofit construction, as defined, has been completed, and to provide ~~that certification~~ *those certifications* 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:

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

3 17053.50. (a) For taxable years beginning on or after January
4 1, 2016, and before January 1, 2021, there shall be allowed to a
5 qualified taxpayer a credit against the “net tax,” as defined in
6 Section 17039, in an amount equal to 30 percent of the qualified
7 taxpayer’s qualified costs.

8 (b) For purposes of this section:

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

14 (2) “Qualified building” means a building that has been certified
15 as an at-risk property ~~by the local building code enforcement for~~
16 ~~the area within which the building is located.~~ *pursuant to*
17 *subparagraph (A) of paragraph (1) of subdivision (c).* A qualified
18 building includes a mobilehome registered by the Department of
19 Housing and Community Development.

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

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

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

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

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

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

8 (F) Replacement of existing building components, including
9 equipment, except as needed to complete the seismic retrofit
10 construction.

11 (G) Bracing or securing nonpermanent building contents.

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

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

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

23 (5) (A) “Seismic retrofit construction” means alteration of a
24 qualified building or its components to substantially mitigate
25 seismic damage. Seismic retrofit construction shall be for work
26 performed voluntarily, and for which qualified costs were paid or
27 incurred, on or after January 1, 2016. Seismic retrofit construction
28 shall include, but not be limited to, the following:

29 ~~(A)~~

30 (i) Anchoring the structure to the foundation.

31 ~~(B)~~

32 (ii) Bracing cripple walls.

33 ~~(C)~~

34 (iii) Bracing hot water heaters.

35 ~~(D)~~

36 (iv) Installing automatic gas shutoff valves.

37 ~~(E)~~

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

40 ~~(F)~~

1 (vi) Anchoring fuel storage.

2 ~~(G)~~

3 (vii) Installing earthquake resistant bracing system for
4 mobilehomes that are registered with the ~~California~~ Department
5 of Housing and Community Development.

6 (B) *Seismic retrofit construction does not include construction*
7 *performed to bring a building into compliance with local building*
8 *codes.*

9 (c) To be eligible for the credit under this section, the following
10 ~~must~~ shall apply:

11 (1) The qualified taxpayer shall do ~~both~~ all of the following:

12 (A) *Prior to seismic retrofit construction, obtain certification*
13 *from the appropriate jurisdiction with local building code*
14 *enforcement authority that the building is an at-risk property.*
15 *Upon the request of the Franchise Tax Board, the qualified*
16 *taxpayer shall provide a copy of the certification to the Franchise*
17 *Tax Board.*

18 ~~(A)~~

19 (B) Obtain certification from the appropriate jurisdiction with
20 authority for building code enforcement, upon a review of the
21 building, that the completed construction satisfies the definition
22 of seismic retrofit construction. The certification shall identify
23 what part of the completed construction, if any, is not seismic
24 retrofit construction. Upon the request of the Franchise Tax Board,
25 the qualified taxpayer shall provide a copy of the certification to
26 the Franchise Tax Board.

27 ~~(B)~~

28 (C) Retain for his or her records a copy of the ~~certification~~
29 *certifications* specified in ~~subparagraph (A)~~; *subparagraphs (A)*
30 *and (B).*

31 (2) The jurisdiction with authority for building code enforcement
32 in which a qualified building is located has entered into an
33 agreement with the state to provide certifications pursuant to this
34 section and to not seek reimbursement pursuant to Section 6 of
35 Article XIII B of the California Constitution for any costs incurred
36 in providing those certifications.

37 (d) (1) The credit amount allowed in subdivision (a) shall be
38 claimed by a qualified taxpayer at the rate of one-fifth of the credit
39 amount for the taxable year in which the credit is allowed, and

1 one-fifth of the credit amount for each of the subsequent four
2 taxable years.

3 (2) In the case where the credit allowed under this section
4 exceeds the “net tax,” as defined in Section 17039, for a taxable
5 year, the excess credit may be carried over to reduce the “net tax”
6 in the following taxable year, and succeeding four taxable years,
7 if necessary, until the credit has been exhausted.

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

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

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

16 (h) This section shall remain in effect only until December 1,
17 2021, and as of that date is repealed.

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

20 23650. (a) For taxable years beginning on or after January 1,
21 2016, and before January 1, 2021, there shall be allowed to a
22 qualified taxpayer a credit against the “tax,” as defined in Section
23 23036, in an amount equal to 30 percent of the qualified taxpayer’s
24 qualified costs.

25 (b) For purposes of this section:

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

31 (2) “Qualified building” means a building that has been certified
32 as an at-risk property ~~by the local building code enforcement for~~
33 ~~the area within which the building is located.~~ *pursuant to*
34 *subparagraph (A) of paragraph (1) of subdivision (c).* A qualified
35 building includes a mobilehome registered by the Department of
36 Housing and Community Development.

37 (3) “Qualified costs” means the costs paid or incurred by the
38 qualified taxpayer for any completed seismic retrofit construction
39 on a qualified building, including any engineering or architectural
40 design work necessary to permit or complete the seismic retrofit

1 construction. “Qualified costs” do not include any of the following
2 costs paid or incurred by the qualified taxpayer:

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

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

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

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

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

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

20 (G) Bracing or securing nonpermanent building contents.

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

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

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

32 (5) (A) “Seismic retrofit construction” means alteration of a
33 qualified building or its components to substantially mitigate
34 seismic damage. Seismic retrofit construction shall be for work
35 performed voluntarily, and for which qualified costs were paid or
36 incurred, on or after January 1, 2016. Seismic retrofit construction
37 shall include, but not be limited to, the following:

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40 ~~(B)~~

1 (ii) Bracing cripple walls.

2 ~~(C)~~

3 (iii) Bracing hot water heaters.

4 ~~(D)~~

5 (iv) Installing automatic gas shutoff valves.

6 ~~(E)~~

7 (v) Repairing or reinforcing the foundation to improve the
8 integrity of the foundation against seismic damage.

9 ~~(F)~~

10 (vi) Anchoring fuel storage.

11 ~~(G)~~

12 (vii) Installing earthquake resistant bracing system for
13 mobilehomes that are registered with the Department of Housing
14 and Community Development.

15 (B) *Seismic retrofit construction does not include construction*
16 *performed to bring a building into compliance with local building*
17 *codes.*

18 (c) To be eligible for the credit under this section, the following
19 ~~must~~ shall apply:

20 (1) The qualified taxpayer shall do ~~both~~ all of the following:

21 (A) *Prior to seismic retrofit construction, obtain certification*
22 *from the appropriate jurisdiction with local building code*
23 *enforcement authority that the building is an at-risk property.*
24 *Upon the request of the Franchise Tax Board, the qualified*
25 *taxpayer shall provide a copy of the certification to the Franchise*
26 *Tax Board.*

27 ~~(A)~~

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

36 ~~(B)~~

37 (C) Retain for his or her records a copy of the ~~certification~~
38 *certifications* specified in ~~subparagraph (A)~~: *subparagraphs (A)*
39 *and (B).*

1 (2) The jurisdiction with authority for building code enforcement
2 in which a qualified building is located has entered into an
3 agreement with the state to provide certifications pursuant to this
4 section and to not seek reimbursement pursuant to Section 6 of
5 Article XIII B of the California Constitution for any costs incurred
6 in providing those certifications.

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

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

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

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

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

25 (h) This section shall remain in effect only until December 1,
26 2021, and as of that date is repealed.

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