

AMENDED IN SENATE JUNE 17, 2015

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~~ *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 those

~~certifications to the Franchise Tax Board upon the request of the Franchise Tax Board. 2017, and before January 1, 2022, 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 provided. The bill would require a taxpayer to obtain 2 certifications from the appropriate jurisdiction with authority for building code enforcement of the area in which the building is located: one that certifies that the building is an at-risk property and one that certifies that the seismic retrofit construction, as defined, has been completed. The bill would require the taxpayer to apply to the Franchise Tax Board for allocation of the credit and to provide a specified certification and for the Franchise Tax Board to allocate credits on a first-come-first-served basis. The bill would provide that the credit would have an aggregate cap under both laws of \$12,000,000 for each calendar year, as provided.~~

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, 2017, and before January 1, 2022, 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
- 15 certified as an at-risk property pursuant to subparagraph (A) of
- 16 paragraph (1) of subdivision (c). A qualified building includes a
- 17 mobilehome registered by the Department of Housing and
- 18 Community Development.

1 (3) *“Qualified costs” means the costs paid or incurred by the*
2 *qualified taxpayer for any completed seismic retrofit construction*
3 *on a qualified building, including any engineering or architectural*
4 *design work necessary to permit or complete the seismic retrofit*
5 *construction less the amount of any grant provided by a public*
6 *entity for the seismic retrofit construction. “Qualified costs” do*
7 *not include any of the following costs paid or incurred by the*
8 *qualified taxpayer:*

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

12 (B) *Repair, including repair of earthquake damage.*

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

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

19 (E) *Rent reductions or other associated compensation,*
20 *compliance actions, or other related coordination involving the*
21 *qualified taxpayer and any other party, including a tenant, insurer,*
22 *or lender.*

23 (F) *Replacement of existing building components, including*
24 *equipment, except as needed to complete the seismic retrofit*
25 *construction.*

26 (G) *Bracing or securing nonpermanent building contents.*

27 (H) *The offset of costs, reimbursements, or other costs*
28 *transferred from the qualified taxpayers to others.*

29 (I) *Any amount paid by the qualified taxpayer to the jurisdiction*
30 *with authority for building code enforcement for issuing the*
31 *certifications required pursuant to subparagraphs (A) and (B) of*
32 *paragraph (1) of subdivision (c).*

33 (4) *“Qualified taxpayer” means a taxpayer that is an owner of*
34 *a qualified building located in this state. A taxpayer that owns a*
35 *proportional share of a qualified building in this state may claim*
36 *the credit allowed by this section based on the taxpayer’s share*
37 *of the qualified costs.*

38 (5) (A) *“Seismic retrofit construction” means alteration of a*
39 *qualified building or its components to substantially mitigate*
40 *seismic damage. Seismic retrofit construction shall be for work*

1 performed, and for which qualified costs were paid or incurred,
2 on or after January 1, 2017. Seismic retrofit construction shall
3 include, but not be limited to, the following:

- 4 (i) Anchoring the structure to the foundation.
- 5 (ii) Bracing cripple walls.
- 6 (iii) Bracing hot water heaters.
- 7 (iv) Installing automatic gas shutoff valves.
- 8 (v) Repairing or reinforcing the foundation to improve the
9 integrity of the foundation against seismic damage.
- 10 (vi) Anchoring fuel storage.
- 11 (vii) Installing an earthquake resistant bracing system for
12 mobilehomes that are registered with the Department of Housing
13 and Community Development.

14 (B) Notwithstanding subparagraph (A), seismic retrofit
15 construction does not include construction performed to bring a
16 building into compliance with local building codes.

17 (c) To be eligible for the credit, the following shall apply:

18 (1) The qualified taxpayer shall do all of the following:

19 (A) Prior to the seismic retrofit construction, obtain certification
20 from the appropriate jurisdiction with local building code
21 enforcement authority that the building is an at-risk property.

22 (B) Obtain certification from the appropriate jurisdiction with
23 authority for building code enforcement, upon a review of the
24 building, that the completed construction satisfies the definition
25 of seismic retrofit construction. The certification shall identify
26 what part of the completed construction, if any, is not seismic
27 retrofit construction, and specify a dollar amount of qualified
28 costs.

29 (C) Request and be granted an allocation of the credit from the
30 Franchise Tax Board. To request an allocation, the taxpayer shall
31 sign and submit to the Franchise Tax Board an application to
32 receive a credit for the seismic retrofit construction and provide
33 a copy of the certification obtained pursuant to subparagraph (B).

34 (D) Retain for his or her records a copy of the certifications
35 specified in subparagraphs (A) and (B).

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 “net tax,” as defined in Section 17039, for a taxable*
10 *year, the excess credit may be carried over to reduce the “net tax”*
11 *in the following taxable year, and succeeding four taxable years,*
12 *if necessary, until the credit has been exhausted.*

13 *(e) (1) The total amount of credit that may be allocated pursuant*
14 *to this section and Section 23650 shall not exceed the sum of the*
15 *following:*

16 *(A) Twelve million dollars (\$12,000,000) for the 2017 calendar*
17 *year and each calendar year thereafter.*

18 *(B) The amount of previously unallocated credits allowed under*
19 *this section.*

20 *(2) Upon receipt of the application and certification described*
21 *in subparagraph (C) of paragraph (1) of subdivision (c), the*
22 *Franchise Tax Board shall notify the taxpayer of the amount, if*
23 *any, of credit allowed and allocate the credit to a qualified*
24 *taxpayer on a first-come-first-served basis.*

25 *(3) (A) The taxpayer shall claim the credit on a timely filed*
26 *original return.*

27 *(B) The determination of the Franchise Tax Board with respect*
28 *to the allocation of the credit, and whether a return has been timely*
29 *filed for purposes of this subdivision may not be reviewed in any*
30 *administrative or judicial proceeding.*

31 *(C) Any disallowance of a credit claimed due to a determination*
32 *under this subdivision, including the application of the limitation*
33 *specified in paragraph (1), shall be treated as a mathematical*
34 *error appearing on the return. Any amount of tax resulting from*
35 *that disallowance may be assessed by the Franchise Tax Board in*
36 *the same manner as provided by Section 19051.*

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

(g) *The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of this section, including any guidelines regarding the allocation of the credit allowed under this section. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any rule, guideline, or procedure prescribed by the Franchise Tax Board pursuant to this section.*

(h) *Section 41 shall not apply to the credit allowed pursuant to this section.*

(i) *This section shall remain in effect only until December 1, 2022, and as of that date is repealed.*

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

23650. (a) *For taxable years beginning on or after January 1, 2017, and before January 1, 2022, there shall be allowed to a qualified taxpayer a credit against the "tax," as defined in Section 23036, 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 pursuant to subparagraph (A) of paragraph (1) of subdivision (c). 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 necessary to permit or complete the seismic retrofit construction less the amount of any grant provided by a public entity for the seismic retrofit construction. "Qualified costs" do not include any of the following costs paid or incurred by the qualified taxpayer:*

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

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

30 (5) (A) “Seismic retrofit construction” means alteration of a
31 qualified building or its components to substantially mitigate
32 seismic damage. Seismic retrofit construction shall be for work
33 performed, and for which qualified costs were paid or incurred,
34 on or after January 1, 2017. Seismic retrofit construction shall
35 include, but not be limited to, the following:

36 (i) Anchoring the structure to the foundation.

37 (ii) Bracing cripple walls.

38 (iii) Bracing hot water heaters.

39 (iv) Installing automatic gas shutoff valves.

1 (v) *Repairing or reinforcing the foundation to improve the*
2 *integrity of the foundation against seismic damage.*

3 (vi) *Anchoring fuel storage.*

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

7 (B) *Notwithstanding subparagraph (A), seismic retrofit*
8 *construction does not include construction performed to bring a*
9 *building into compliance with local building codes.*

10 (c) *To be eligible for the credit, the following shall apply:*

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

12 (A) *Prior to the 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 (B) *Obtain certification from the appropriate jurisdiction with*
16 *authority for building code enforcement, upon a review of the*
17 *building, that the completed construction satisfies the definition*
18 *of seismic retrofit construction. The certification shall identify*
19 *what part of the completed construction, if any, is not seismic*
20 *retrofit construction and specify a dollar amount of qualified costs.*

21 (C) *Request and be granted an allocation of the credit from the*
22 *Franchise Tax Board. To request an allocation, the taxpayer shall*
23 *sign and submit to the Franchise Tax Board an application to*
24 *receive a credit for the seismic retrofit construction and provide*
25 *a copy of the certification obtained pursuant to subparagraph (B).*

26 (D) *Retain for his or her records a copy of the certifications*
27 *specified in subparagraph (A) and (B).*

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

34 (d) (1) *The credit amount allowed in subdivision (a) shall be*
35 *claimed by a qualified taxpayer at the rate of one-fifth of the credit*
36 *amount for the taxable year in which the credit is allowed, and*
37 *one-fifth of the credit amount for each of the subsequent four*
38 *taxable years.*

39 (2) *In the case where the credit allowed under this section*
40 *exceeds the "tax," as defined in Section 23036, for a taxable year,*

1 *the excess credit may be carried over to reduce the “tax” in the*
2 *following taxable year, and succeeding four taxable years, if*
3 *necessary, until the credit has been exhausted.*

4 *(e) (1) The total amount of credit that may be allocated pursuant*
5 *to this section and Section 17053.50 shall not exceed the sum of*
6 *the following:*

7 *(A) Twelve million dollars (\$12,000,000) for the 2017 calendar*
8 *year and each calendar year thereafter.*

9 *(B) The amount of previously unallocated credits allowed under*
10 *this section.*

11 *(2) Upon receipt of the application and certifications described*
12 *in subparagraph (C) of paragraph (1) of subdivision (c), the*
13 *Franchise Tax Board shall notify the taxpayer of the amount, if*
14 *any, of credit allowed and allocate the credit to a qualified*
15 *taxpayer on a first-come-first-served basis.*

16 *(3) (A) The taxpayer shall claim the credit on a timely filed*
17 *original return.*

18 *(B) The determination of the Franchise Tax Board with respect*
19 *to the allocation of the credit, and whether a return has been timely*
20 *filed for purposes of this subdivision may not be reviewed in any*
21 *administrative or judicial proceeding.*

22 *(C) Any disallowance of a credit claimed due to a determination*
23 *under this subdivision, including the application of the limitation*
24 *specified in paragraph (1), shall be treated as a mathematical*
25 *error appearing on the return. Any amount of tax resulting from*
26 *that disallowance may be assessed by the Franchise Tax Board in*
27 *the same manner as provided by Section 19051.*

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

31 *(g) The Franchise Tax Board may prescribe rules, guidelines,*
32 *or procedures necessary or appropriate to carry out the purposes*
33 *of this section, including any guidelines regarding the allocation*
34 *of the credit allowed under this section. Chapter 3.5 (commencing*
35 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
36 *Government Code does not apply to any rule, guideline, or*
37 *procedure prescribed by the Franchise Tax Board pursuant to this*
38 *section.*

39 *(h) Section 41 shall not apply to the credit allowed pursuant to*
40 *this section.*

(i) This section shall remain in effect only until December 1, 2022, and as of that date is repealed.

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

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 pursuant to subparagraph (A) of paragraph (1) of subdivision (c). 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 necessary to permit or complete the seismic retrofit construction. “Qualified costs” do not include any of the following costs paid or incurred by the qualified taxpayer:

(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.

(E) Rent reductions or other associated compensation, compliance actions, or other related coordination involving the

1 qualified taxpayer and any other party, including a tenant, insurer,
2 or lender.

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

6 ~~(G) Bracing or securing nonpermanent building contents.~~

7 ~~(H) The offset of costs, reimbursements, or other costs~~
8 ~~transferred from the qualified taxpayers to others.~~

9 ~~(I) Any amount paid by the qualified taxpayer to the jurisdiction~~
10 ~~with authority for building code enforcement for issuing the~~
11 ~~certifications required pursuant to subdivision (c).~~

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

17 ~~(5) (A) “Seismic retrofit construction” means alteration of a~~
18 ~~qualified building or its components to substantially mitigate~~
19 ~~seismic damage. Seismic retrofit construction shall be for work~~
20 ~~performed voluntarily, and for which qualified costs were paid or~~
21 ~~incurred, on or after January 1, 2016. Seismic retrofit construction~~
22 ~~shall include, but not be limited to, the following:~~

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

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

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

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

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

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

30 ~~(vii) Installing earthquake resistant bracing system for~~
31 ~~mobilehomes that are registered with the Department of Housing~~
32 ~~and Community Development.~~

33 ~~(B) Seismic retrofit construction does not include construction~~
34 ~~performed to bring a building into compliance with local building~~
35 ~~codes.~~

36 ~~(c) To be eligible for the credit under this section, the following~~
37 ~~shall apply:~~

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

39 ~~(A) Prior to seismic retrofit construction, obtain certification~~
40 ~~from the appropriate jurisdiction with local building code~~

1 enforcement authority that the building is an at-risk property. Upon
2 the request of the Franchise Tax Board, the qualified taxpayer shall
3 provide a copy of the certification to the Franchise Tax Board.

4 ~~(B) Obtain certification from the appropriate jurisdiction with~~
5 ~~authority for building code enforcement, upon a review of the~~
6 ~~building, that the completed construction satisfies the definition~~
7 ~~of seismic retrofit construction. The certification shall identify~~
8 ~~what part of the completed construction, if any, is not seismic~~
9 ~~retrofit construction. Upon the request of the Franchise Tax Board,~~
10 ~~the qualified taxpayer shall provide a copy of the certification to~~
11 ~~the Franchise Tax Board.~~

12 ~~(C) Retain for his or her records a copy of the certifications~~
13 ~~specified in subparagraphs (A) and (B).~~

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

20 ~~(d) (1) The credit amount allowed in subdivision (a) shall be~~
21 ~~claimed by a qualified taxpayer at the rate of one-fifth of the credit~~
22 ~~amount for the taxable year in which the credit is allowed, and~~
23 ~~one-fifth of the credit amount for each of the subsequent four~~
24 ~~taxable years.~~

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

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

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

36 ~~(g) Section 41 shall not apply to the credit allowed pursuant to~~
37 ~~this section.~~

38 ~~(h) This section shall remain in effect only until December 1,~~
39 ~~2021, and as of that date is repealed.~~

1 ~~SEC. 2.—Section 23650 is added to the Revenue and Taxation~~
2 ~~Code, to read:~~

3 ~~23650. (a) For taxable years beginning on or after January 1,~~
4 ~~2016, and before January 1, 2021, there shall be allowed to a~~
5 ~~qualified taxpayer a credit against the “tax,” as defined in Section~~
6 ~~23036, in an amount equal to 30 percent of the qualified taxpayer’s~~
7 ~~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 pursuant to subparagraph (A) of paragraph~~
16 ~~(1) of subdivision (c). A qualified building includes a mobilehome~~
17 ~~registered by the Department of Housing and Community~~
18 ~~Development.~~

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

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

28 ~~(B) Repair, including repair of earthquake damage.~~

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

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

35 ~~(E) Rent reductions or other associated compensation,~~
36 ~~compliance actions, or other related coordination involving the~~
37 ~~qualified taxpayer and any other party, including a tenant, insurer,~~
38 ~~or lender.~~

1 ~~(F) Replacement of existing building components, including~~
2 ~~equipment, except as needed to complete the seismic retrofit~~
3 ~~construction.~~

4 ~~(G) Bracing or securing nonpermanent building contents.~~

5 ~~(H) The offset of costs, reimbursements, or other costs~~
6 ~~transferred from the qualified taxpayers to others.~~

7 ~~(I) Any amount paid by the qualified taxpayer to the jurisdiction~~
8 ~~with authority for building code enforcement for issuing the~~
9 ~~certifications required pursuant to subdivision (c).~~

10 ~~(4) “Qualified taxpayer” means a taxpayer that is an owner of~~
11 ~~a qualified building located in this state. A taxpayer that owns a~~
12 ~~proportional share of a qualified building in this state may claim~~
13 ~~the credit allowed by this section based on the taxpayer’s share of~~
14 ~~the qualified costs.~~

15 ~~(5) (A) “Seismic retrofit construction” means alteration of a~~
16 ~~qualified building or its components to substantially mitigate~~
17 ~~seismic damage. Seismic retrofit construction shall be for work~~
18 ~~performed voluntarily, and for which qualified costs were paid or~~
19 ~~incurred, on or after January 1, 2016. Seismic retrofit construction~~
20 ~~shall include, but not be limited to, the following:~~

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

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

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

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

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

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

28 ~~(vii) Installing earthquake resistant bracing system for~~
29 ~~mobilehomes that are registered with the Department of Housing~~
30 ~~and Community Development.~~

31 ~~(B) Seismic retrofit construction does not include construction~~
32 ~~performed to bring a building into compliance with local building~~
33 ~~codes.~~

34 ~~(c) To be eligible for the credit under this section, the following~~
35 ~~shall apply:~~

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

37 ~~(A) Prior to seismic retrofit construction, obtain certification~~
38 ~~from the appropriate jurisdiction with local building code~~
39 ~~enforcement authority that the building is an at-risk property. Upon~~

1 the request of the Franchise Tax Board, the qualified taxpayer shall
2 provide a copy of the certification to the Franchise Tax Board.

3 ~~(B) Obtain certification from the appropriate jurisdiction with~~
4 ~~authority for building code enforcement, upon a review of the~~
5 ~~building, that the completed construction satisfies the definition~~
6 ~~of seismic retrofit construction. The certification shall identify~~
7 ~~what part of the completed construction, if any, is not seismic~~
8 ~~retrofit construction. Upon the request of the Franchise Tax Board,~~
9 ~~the qualified taxpayer shall provide a copy of the certification to~~
10 ~~the Franchise Tax Board.~~

11 ~~(C) Retain for his or her records a copy of the certifications~~
12 ~~specified in subparagraphs (A) and (B).~~

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

19 ~~(d) (1) The credit amount allowed in subdivision (a) shall be~~
20 ~~claimed by a qualified taxpayer at the rate of one-fifth of the credit~~
21 ~~amount for the taxable year in which the credit is allowed, and~~
22 ~~one-fifth of the credit amount for each of the subsequent four~~
23 ~~taxable years.~~

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

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

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

35 ~~(g) Section 41 shall not apply to the credit allowed pursuant to~~
36 ~~this section.~~

37 ~~(h) This section shall remain in effect only until December 1,~~
38 ~~2021, and as of that date is repealed.~~

- 1 ~~SEC. 3.—This act provides for a tax levy within the meaning of~~
2 ~~Article IV of the Constitution and shall go into immediate effect.~~

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