AMENDED IN ASSEMBLY MAY 18, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 2014

Introduced by Assembly Member Torrico

February 17, 2010

An act to add *and repeal* Section 17059.2 ~~to~~ *of* the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2014, as amended, Torrico. Income taxes: credits: energy efficient homes.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law.

This bill would, for taxable years beginning on or after January 1, 2010, *and before January 1, 2014,* allow a credit in a specified amount for bringing a qualified principal residence, as defined, into compliance with the recommendations for energy efficiency made by an energy audit*, that complies with the regulations in Phase II of the California Home Energy Rating System Program,* of the qualified principal residence.

This bill would make legislative findings and declarations as to the necessity of a special statute.

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. The Legislature finds and declares all of the following:

~~(a) The Legislature recently passed Assembly Bill 32 of the 2009–10 Regular Session, landmark environmental legislation that requires California to reduce its greenhouse gas emissions by approximately 30 percent by the year 2020.~~

(a) The Legislature recently passed the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), landmark environmental legislation that requires California to reduce greenhouse gas emissions to 1990 levels by 2020.

(b) Existing residential buildings are a significant contributor to greenhouse gas emissions, and the Legislature recognizes that energy savings and greenhouse gas emission reductions are needed in the existing residential building stock.

(c) Energy audits and improvements to existing building stock will greatly reduce greenhouse gas emissions, as well as create much needed jobs in the energy efficiency, green construction, and home improvement fields.

SEC. 2. Section 17059.2 is added to the Revenue and Taxation Code, to read:

17059.2. (a) (1) For each taxable year beginning on or after January 1, 2010, *and before January 1, 2014,* there shall be allowed as a credit against the "net tax," as defined by Section 17039, an amount as specified in paragraph (2) for ~~a~~ *qualified costs paid or incurred by a qualified* taxpayer who commissions an energy audit, *that complies with the regulations described in paragraph (3),* of his or her qualified principal residence and makes the recommended improvements to improve the energy efficiency of his or her qualified principal residence.

~~(2) The credit allowed by paragraph (1) shall be the lesser of 50 percent of the qualified costs that are paid or incurred by a taxpayer for the taxable year or one thousand five hundred dollars ($1,500).~~

(2) The credit under this section shall not exceed one thousand five hundred dollars ($1,500) per qualified taxpayer for each taxable year for which the credit is allowed.

(3) The energy audit shall comply with the regulations in Phase II of the California Home Energy Rating System Program established by the State Energy Resources Conservation and Development Commission, pursuant to Chapter 10.8 (commencing with Section 25942) of Division 15 of the Public Resources Code.

(b) (1) (A) The credit under this section shall be allowed for a taxable year only if claimed on a timely filed original return for that taxable year received by the Franchise Tax Board on or before the cut-off date established by the Franchise Tax Board for the taxable year.

(B) For purposes of this paragraph, the cut-off date for a taxable year shall be the last day of the calendar quarter within which the Franchise Tax Board estimates it will have received timely filed original returns for the taxable year claiming credits under this section that cumulatively total two hundred fifty thousand dollars ($250,000) for that taxable year.

(2) The date a return is received shall be determined by the Franchise Tax Board.

(3) (A) The determinations of the Franchise Tax Board with respect to the cut-off date, the date the return is received, and whether a return has been timely filed for purposes of this subdivision may not be reviewed in any administrative or judicial proceeding.

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

~~(b)~~

(c) For purposes of this section:

(1) “Qualified costs” means costs paid or incurred by a ~~taxpayer~~ *qualified taxpayer during the taxable year in which the credit is claimed* for the repair, rehabilitation, or improvement of a qualified principal residence ~~made toward bringing the qualified principal residence in compliance with the recommendations of~~ *recommended by* the energy audit, *even if the repair, rehabilitation, or improvement is not completed during the taxable year in which the credit is claimed*.

~~(2) "Qualified principal residence" means a single-family residence, whether detached or attached, that is the principal residence of the taxpayer.~~

(2) "Qualified principal residence" means a principal residence as defined in Section 121 of the Internal Revenue Code that is located in any of the counties specified in paragraph (3).

(3) "Qualified taxpayer" means a taxpayer who is a resident of any of the following counties:

(A) County of Alameda.

(B) County of Contra Costa.

(C) County of San Mateo.

(D) County of Santa Clara.

~~(c)~~

(d) (1) No credit shall be allowed by this section unless the *qualified* taxpayer provides satisfactory substantiation to, and in the form and manner requested by, the Franchise Tax Board, that the energy audit was conducted and the recommended *repairs, rehabilitations, and* improvements were made to the qualified principal residence *within three years of the completion of the audit*.

(2) The energy audit required by this section shall be conducted by a California Home Energy Rating System professional certified by the State Energy Resources Conservation and Development Commission.

~~(d)~~

(e) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and *the* succeeding *eight* years if necessary, until the credit is exhausted.

(f) If two or more qualified taxpayers are not married and jointly own a qualified principal residence, each taxpayer shall be allowed an amount equal to 50 percent of the credit specified in subdivision (a).

(g) The Franchise Tax Board may prescribe rules, guidelines, or procedures necessary or appropriate to carry out the purposes of 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) This section shall remain in effect only until December 1, 2014, and as of that date is repealed.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the need to establish a pilot program in the Counties of Alameda, Contra Costa, San Mateo, and Santa Clara to evaluate the effectiveness of the credit allowed by Section 1 of this act in order to promote energy efficient homes.

~~SEC. 3.~~

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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