

Amend Section 74.5 of the Revenue and Taxation Code to clarify the definition of “improvements utilizing earthquake hazard mitigation technologies”.

Source: Property Taxes Department

Current Section 74.5 was added to the Revenue and Taxation Code to implement Proposition 127, a 1990 ballot initiative which amended Section 2 of Article XIII A of the California Constitution to provide a new construction exclusion for seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies. Under Section 74.5(b), the definition of “improvements utilizing earthquake hazard mitigation technologies” refers to technologies approved by the State Architect pursuant to Health and Safety Code Section 16102, which reads as follows:

16102. (a) The State Architect shall develop and adopt by January 1, 1992, regulations for the application of earthquake hazard mitigation technologies to buildings which do all of the following: (1) Prescribe design criteria and performance standards with the objective of reasonably ensuring the limitation of earthquake damage or the continuous operational capability of buildings with earthquake hazard mitigation technologies, or both. (2) Determine the procedure for estimating the life cycle costs of a building designed and constructed according to the provisions of this chapter. (3) Establish the criteria for determining the suitability of earthquake hazard mitigation technology as compared to conventional construction considering project-specific design requirements and life cycle costs.

(b) The advisory board established pursuant to Section 16022 shall advise the State Architect in the development of regulations for this chapter.

Ultimately instead of adopting regulations, the State Architect instead developed guidelines and seismic performance standards to insure the seismic performance of buildings utilizing earthquake hazard mitigation technology. Since the regulations referred to in Health and Safety Code Section 16102 do not exist, questions have been raised about whether or not the new construction exclusion may be granted under Section 74.5(b).

The Board’s Policy, Planning, and Standards Division, the staff of the State Architect’s office and staff of the Seismic Safety Commission have formulated language to ensure taxpayers will be able to receive this new construction exclusion. The Seismic Safety Commission has already formally adopted this proposal and would like to co-sponsor this legislation with the Board of Equalization.

Section 74.5 of the Revenue and Taxation Code is amended to read:

74.5. (a) For purposes of paragraph (4) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, “newly constructed” and “new construction” does not include seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies, to an existing building or structure.

(b) For purposes of this section:

(1) “Seismic retrofitting improvements” means retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that pose serious danger. “Seismic retrofitting improvements” also means either structural strengthening or providing the means necessary to ~~reduce~~ resist seismic force levels that would otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. “Seismic retrofitting improvements” does not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure. “Seismic retrofitting” includes, but is not limited to, those items referenced in Appendix Chapters 5 and 6 of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(2) “Improvements utilizing earthquake hazard mitigation technologies” means improvements, to existing buildings identified by a local government as being hazardous to life in the event of an earthquake, that ~~utilize earthquake hazard mitigation technologies approved by the State Architect pursuant to Section 16102 of the Health and Safety Code.~~ involve strategies for earthquake protection of structures. Such improvements shall use technologies such as those referenced in Title 24, Part 2, of the California Building Code and similar seismic provisions in the Uniform Building Code.

(c) The property owner, primary contractor, civil or structural engineer, or architect shall certify to the building department those portions of the project that are seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. Upon completion of the project, the building department shall report the value of those portions of the project that are seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies to the county assessor.

(d) In order to receive the exclusion, the property owner shall notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. The State Board of Equalization shall prescribe the manner and form for claiming the

exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor on or before the following April 15.

(e) The exclusion from “newly constructed” and “new construction” under this section is not applicable to seismic safety reconstruction and improvements that qualify for the exclusion provided in subdivision (d) of Section 70.

(f) This section shall only apply to projects completed on or after January 1, 1991.