



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS Draft**

Date Introduced:	02/07/01	Bill No:	AB 184
Tax:	Property	Author:	Liu
Board Position:	Co-Sponsor	Related Bills:	

BILL SUMMARY

This bill would modify the definition of “improvements utilizing earthquake hazard mitigation technologies” for purposes of the seismic safety new construction exclusion.

ANALYSIS

Current Law

The law generally requires that when property undergoes “new construction” the assessed value of the property must be increased by an amount equal to the value added by the new construction. There are some improvements which are excluded from the definition of “new construction.” In these cases, while these improvements may increase the value of property, the additional value is exempt from property taxation.

Revenue and Taxation Code Section 74.5 implements Proposition 127, a 1990 ballot initiative that amended Section 2 of Article XIII A of the California Constitution to provide a new construction exclusion for (1) seismic retrofitting improvements and (2) improvements utilizing earthquake hazard mitigation technologies .

Section 74.5(b) defines “improvements utilizing earthquake hazard mitigation technologies” to mean “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.”

Section 16102 provides:

(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.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board’s formal position.

(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.

Proposed Law

This bill would amend Section 74.5 of the Revenue and Taxation Code to change the definition of "improvements utilizing earthquake hazard mitigation technologies" to mean "improvements to existing buildings identified by a local government as being hazardous to life in the event of an earthquake that involve strategies for earthquake protection of structures. These improvements shall use technologies such as those referenced in Part 2 (commencing with Section 101) of Title 24 of the California Building Code and similar seismic provisions in the Uniform Building Code."

In General

Property Tax System. Article XIII, §1 of the California Constitution provides that all property is taxable, at the same percentage of "fair market value," unless specifically exempted, or authorized for exemption, within the Constitution. Article XIII A, §2 of the California Constitution defines "fair market value" as the assessor's opinion of value for the 1975-76 tax bill, or, thereafter, the appraised value of property when purchased, newly constructed, or a change in ownership has occurred. This value is generally referred to as the "base year value". Barring actual physical new construction or a change in ownership, annual adjustments to the base year value are limited to 2% or the rate of inflation, whichever is less. Article XIII A, §2 provides for certain exclusions from the meaning of "change in ownership" and "newly constructed" as approved by voters via constitutional amendments.

New Construction. The constitution does not define the term "new construction." Revenue and Taxation Section 70 defines it, in part, to mean:

- Any addition to real property, whether land or improvements (including fixtures), since the last lien date.
- Any alteration of land or improvements (including fixtures) since the lien date that constitutes a "major rehabilitation" or that converts the property to a different use. A major rehabilitation is any rehabilitation, renovation, or modernization that converts an improvement or fixture to the substantial equivalent of a new improvement or fixture.

With respect to any new construction, the law requires the assessor to determine the added value upon completion. The value is established as the base year value for those specific improvements and is added to the property's existing base year value. When new construction replaces existing improvements, the value attributable to those

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preexisting improvements is deducted from the property's existing base year value. (R&T Code §71)

New Construction Exclusions. Over the years, Article XIII A, §2 of the Constitution has been amended to specifically exclude certain types of work from assessment as “new construction.” Consequently, while these improvements may increase the value of the property, the additional value is exempt from taxation.

Proposition	Election Ballot	Subject	R&T Code
8	November 1978	Reconstruction After Disaster	§70(c)
7	November 1980	Solar Energy Systems	§73
23	June 1984	Seismic Safety – Unreinforced Masonry Structures	§70(d)
31	November 1984	Fire Safety Systems	§74
110	June 1990	Disabled Accessibility Improvements – Homes	§74.3
127	November 1990	Seismic Safety - Retrofitting & Hazard Mitigation	§74.5
177	June 1994	Disabled Accessibility Improvements – All Property	§74.6
1	November 1998	Reconstruction After Environmental Contamination	§69.4

Seismic Safety Exclusions. As noted previously, there have been two constitutional amendments relating to improvements made for seismic safety purposes.

- **Revenue and Taxation Code Section 70(d).** Unreinforced masonry structures that must be improved to comply with local seismic safety ordinances are given a 15-year new construction exclusion.
- **Revenue and Taxation Code Section 74.5.** This provision applies to any qualifying construction other than work that would fall under the 15 year new construction exemption for unreinforced masonry structures provided under Section 70(d).

COMMENTS

1. **Sponsor and Purpose.** This measure is sponsored by the Seismic Safety Commission and the Board of Equalization to update the definition of “improvements

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utilizing earthquake hazard mitigation technologies” in conformance with existing practices.

2. **Current definition refers to regulations that do not exist.** The current definition is keyed to certain technologies approved by the State Architect. However, rather than adopting regulations referenced in Section 16102 of the Health and Safety Code, the State Architect instead developed guidelines and seismic performance standards to insure the seismic performance of buildings utilizing earthquake hazard mitigation technology.
3. **State Agencies collaborated on the proposed replacement definition.** The staff of the State Architect’s office, Seismic Safety Commission and the Board of Equalization worked together to formulate this new definition.

COST ESTIMATE

The Board would incur minor absorbable costs related to informing and advising local county assessors, the public, and staff of the law changes.

REVENUE ESTIMATE

This measure has no revenue impact.

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