



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

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

BILL SUMMARY

This bill would, for purposes of the seismic safety new construction exclusion, (1) modify filing requirements and (2) modify the definition of “improvements utilizing earthquake hazard mitigation technologies.”

ANALYSIS

Current Law

The law generally requires that when a property with existing improvements undergoes “new construction” the assessed value of the property must be increased by an amount equal to the value added by the new construction, i.e., by the amount of the new base year value of 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 not included in the base year value of the property.

Revenue and Taxation Code Section 70(d) implements Proposition 23, approved by voters in 1984, and Section 74.5 implements Proposition 127, approved by voters in 1990. These propositions amended Section 2 of Article XIII A of the California Constitution to provide a new construction exclusion for certain seismic safety improvements. Section 70(d) provides a 15-year new construction exclusion for improvements to *unreinforced masonry buildings* undertaken to comply with local ordinances on seismic safety. Section 74.5 provides a new construction exclusion for (1) seismic retrofitting improvements and (2) improvements utilizing earthquake hazard mitigation technologies. The exclusion provided by Section 74.5 is not limited to 15 years and applies to both masonry and nonmasonry buildings.

Filing Requirements

To receive these new construction exclusions, the statutory provisions require that claims be filed and certain documents provided. To receive the new construction exclusion under Section 70(d) a property owner must file a “certificate of compliance,” which is obtained from the local agency who required the improvements, by the “following April 15.” Local agencies do not issue a certificate of compliance until after the improvements are completed. To receive the new construction exclusion under Section 74.5, a property owner must 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

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.

retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies. Additionally, all documents needed to support the claim must be filed by the “following April 15.”

Qualifying Improvements

Section 74.5(b)(2) 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.

(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

Filing Requirements

This bill would amend Sections 70(d) and 74.5 of the Revenue and Taxation Code to eliminate the “following April 15th” deadline and instead provide that necessary documents must be filed not later than six months after completion of the project. Additionally, for purposes of the 15-year new construction exclusion of Section 70(d), the failure to file a certificate within the prescribed filing period would be deemed to be a waiver of the exclusion for that year.

Qualifying Improvements

This bill would also 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. These improvements shall 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.”

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.

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 qualifying as “new construction” and is added to the property’s existing base year value. When new construction replaces certain types of existing improvements, the value attributable to those 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 construction activity from assessment as “new construction.” Consequently, while these improvements may increase the value of the property, the additional value is not assessable.

| 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) |

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.

| | | | |
|------------|----------------------|--|--------------|
| 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.** The provision to update the definition of “improvements utilizing earthquake hazard mitigation technologies” in conformance with existing practices is jointly sponsored by the Seismic Safety Commission and the Board of Equalization. The provision to modify the filing periods is sponsored by the Board of Equalization.
- 2. Amendments.** The July 2 amendment eliminates the arbitrary cut-off date of April 15, regardless of when construction was completed, to address issues that have arisen with the filing deadline. The April 16 amendment adds co-authors and makes a non-substantive amendment.
- 3. Fixed Filing Deadline.** It has been reported that in the city and county of San Francisco at least one property owner has lost the new construction exclusion of Section 70(d) because they were unable to obtain the required “certificate of compliance” from the local agency that required the improvements by the “following April 15.” Under this bill, the property owner prevented from timely filing the certificate in a given year would lose the exclusion for only that year.
- 4. Other Exclusions.** A deadline imposed for a new construction exclusion where a claim or other document is required should be based on the date of completion rather than a fixed date. The change in filing deadline to six months after the completion date would bring the new construction exclusions for seismic safety

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.

improvements into conformity with the only other new construction exclusion that requires specific documentation, which is the exclusion for disabled accessibility improvements for non-owner occupied property found in Section 74.6. The other new construction exclusion provisions of law have no notice or due date requirements. (See Section 73 for active solar energy systems; Section 74 for fire safety improvements; and Section 74.3 for disabled person accessibility improvements for owner occupied homes.)

- 5. **Technical Drafting Error.** The word “involve” is repeated in the first sentence of subdivision (b)(2). The following amendment is suggested to correct this error.

These improvements shall involve ~~involve~~ strategies for earthquake protection of structures.”

- 6. **Current definition refers to regulations that do not exist.** The current definition of “improvements utilizing earthquake hazard mitigation technologies” found in Section 74.5 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.

- 7. **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 would have a negligible revenue impact.

| | | | |
|-----------------------|-------------------|----------|-------------|
| Analysis prepared by: | Rose Marie Kinnee | 445-6777 | 7/03/01 |
| Contact: | Margaret S. Shedd | 322-2376 | |
| sf | | | 184-3rk.doc |

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.