



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	<b>4/18/06</b>	Bill No:	<b>SB 1633/SCA 28</b>
Tax:	<b>Property</b>	Author:	<b>Ashburn</b>
Related Bills:			

## BILL SUMMARY

These bills would, for purposes of the two seismic safety new construction exclusions, eliminate any distinction between the exclusions thereby deleting the 15 year time limit that applies to unreinforced masonry buildings.

### Summary of Amendments

Since the previous analysis, this bill was amended to eliminate the prior distinction maintained for unreinforced masonry structures and all other structures.

## ANALYSIS

### Current Law

Two constitutional amendments, Proposition 23 in 1984 and Proposition 127 in 1990, provide a new construction exclusion for certain improvements made for seismic safety purposes.

- Proposition 23 amended Section 2(a) of Article XIII A of the California Constitution and Section 70(d) of the Revenue and Taxation Code is the implementing statute.
- Proposition 127 amended Section 2(c)(4) of Article XIII A of the California Constitution and Section 74.5 of the Revenue and Taxation Code is the implementing statute.

Section 70(d) applies only to buildings with “unreinforced masonry bearing walls.” These are walls that are built with bricks, cement blocks, or other types of masonry material, which do not have steel reinforcing bars. This section only applies if the building must be improved to comply with a local ordinance, such as a county or city mandatory strengthening program. This exclusion is limited to the first 15 years after the work is complete.

Section 74.5 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). Qualifying construction includes (1) seismic retrofitting improvements, as defined, and (2) improvements utilizing earthquake hazard mitigation technologies, as defined. Unlike Section 70(d), it is not necessary that the qualifying construction be mandated by a local government. In addition, the exclusion is not subject to any time limit.

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### Comparison of Seismic Safety Exclusions

	<b>Proposition 23</b>	<b>Proposition 127</b>
<b>Year Approved</b>	1984	1990
<b>Constitutional Amendment</b>	Art. XIII A, Sec. 2(a)	Article XIII A, Sec. 2(c)(4)
<b>Revenue &amp; Taxation Code</b>	Section 70(d)	Section 74.5
<b>Time Limit</b>	15 years	None
<b>Building Type</b>	Unreinforced masonry	Any - except a masonry building qualifying under §70(d)
<b>Mandated Improvements</b>	Yes	No
<b>Qualifying Improvements</b>	Those necessary to comply with local ordinance	Seismic retrofitting improvements  Improvements utilizing earthquake hazard mitigation technologies (Applies to buildings identified by local government as unsafe in an earthquake)
<b>Assessor Assistance in Identifying</b>	Certificate of Compliance from local government requiring improvements	Building Department reports value
<b>Improvements Expressly Not Covered</b>	Anything not necessary to comply with the ordinance	New plumbing, electrical, or other added finishing materials
<b>Board Prescribed Claim Form</b>	No	Yes
<b>Claiming</b>	Certificate of compliance from local entity within 6 months of completion	Property Owner notify intent to claim within 30 days of completion  Six months to provide all documentation

### Proposed Law

**Senate Constitutional Amendment.** The Senate constitutional amendment proposes to delete the current provisions of Section 2(a) and Section 2(c)(4) of Article XIII A of the California Constitution and instead provide in Section 2(a) of Article XIII A of the

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California Constitution that the term “newly constructed” does not include that portion of an existing structure that consists of the construction or reconstruction of seismic retrofitting components, as defined by the Legislature.

**Companion Implementing Statutory Amendments to the Revenue and Taxation Code.** This bill would repeal Section 74.5 and add the substance of its provisions to Section 70. In addition, this bill would eliminate the 15 year limitation and modify the exclusion for unreinforced masonry buildings to parallel that currently provided under the provisions of Section 74.5. The table below summarizes the changes.

#### **Changes to Exclusion for Unreinforced Masonry Buildings**

	<b>Current Law</b>	<b>Proposed Law</b>
<b>Time Limit</b>	15 years	Removed
<b>Mandated Improvements</b>	Yes	Requirement Deleted
<b>Qualifying Improvements</b>	That necessary to comply with the local ordinance	New Definitions “Seismic Retrofitting Components” <ul style="list-style-type: none"> <li>• Seismic retrofitting improvements</li> <li>• Improvements utilizing earthquake hazard mitigation technologies</li> </ul>
<b>Assessor assistance in identifying</b>	Certificate of Compliance from local government requiring improvements	Building Department (after certification from property owner)
<b>Improvements Expressly Not Covered</b>	Anything not necessary to comply with the ordinance	New plumbing, electrical, or other added finishing materials
<b>Claiming</b>	File certificate of compliance within 6 months of completion	Reduced from six months to within 30 days of completion with six months to provide all documentation

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### Changes to Exclusion Under Section 74.5

	<b>Current Law</b>	<b>Proposed Law</b>
<b>Qualifying Improvements</b>	“Improvements” Seismic Retrofitting Improvements Improvements utilizing earthquake hazard mitigation technologies	Specific portion of construction or reconstruction of “seismic retrofitting components”
<b>Definition of Qualifying Improvements</b>  Seismic Retrofitting Improvements  Improvements utilizing earthquake hazard mitigation technologies	No Change	No Change
<b>Property Owner Certifies to Building Department</b>	Those portions of the project that are qualifying improvements	Those portions of the project that are seismic retrofitting components
<b>Building Department Reports To Assessor</b>	Value of those portions of the project that are qualifying improvements.	Costs of the portions of the project that are seismic retrofitting components

### In General

**Property Tax System.** Article XIII, Section 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, Section 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 percent or the rate of inflation, whichever is less. Article XIII A, Section 2 of the California Constitution provides for certain exclusions from the meaning of “change in

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ownership” and “newly constructed” as approved by voters via constitutional amendments.

**New Construction.** The California 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. (Section 71)

**Seismic Safety New Construction Exclusions.** Over the years, Article XIII A, Section 2 of the California 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.

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.

## COMMENTS

1. **Sponsor and Purpose.** The California Assessors’ Association is sponsoring this bill to delete the 15 year time limitation for qualified improvements made to unreinforced masonry buildings.
2. **The April 18 amendments** consolidate the proposed amendments to eliminate the prior distinction maintained for unreinforced masonry structures and all other structures. Because it would no longer be pertinent, it unnecessarily complicates the code. In addition, it refines the language of the new construction exclusion to extend it to “the specific portion or construction or reconstruction of seismic safety components on an existing structure.” The statutory definition for the new phrase “seismic safety components” would be the existing definitions of the terms “seismic retrofitting improvements” and “improvements utilizing earthquake hazard mitigation

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technologies.” In addition, it clarifies that the Building Department reports the costs, rather than the value, of these components to the assessor.

3. **Few buildings have been reassessed after the 15 year period expires.** Based on responses to a recent Board survey on new construction issues, many counties do not track 15-year new construction exclusion claims. Additional information indicates that several counties do not assign a value to seismic retrofits, and many treat retrofit as any other maintenance item. Additionally, some property changes ownership before the 15 year limit has been reached.
4. **Why the 15 year time limit?** Supporters note that there is no sound policy reason to limit the exclusion to 15 years for unreinforced masonry buildings given the unlimited exclusion for other types of seismic safety improvements. Proposition 23 was one of the very first new construction exclusions ever enacted after Proposition 13. No other constitutional amendment since then has ever imposed a time limit on the exclusion. Removing the time limit would make these provisions consistent with all other exclusions.

#### **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.

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