

STATE INCENTIVES

California Heritage Fund (Proposition 40)

Certified Local Government Grants (CLG)

Earthquake Retrofit Programs (state and local)

Marks Historical Rehabilitation Act

Mills Act Property Tax Abatement Program

Seismic Bond Act

Williamson Act Program

CALIFORNIA HERITAGE FUND - Proposition 40

In 2002, voters approved the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (Proposition 40), which included \$267 million for historic and cultural resource preservation. The fund is administered by the California Cultural and Historical Endowment, located in the California State Library Office.

Proposition 40 was specified to fund a range of cultural and historic resource preservation programs and specified program grants for the acquisition, development, preservation, and interpretation of buildings, structures, sites, places, and artifacts that preserve and demonstrate culturally significant aspects of California's history.

Approximately \$128 million will be available to government entities and non-profit organizations through a competitive grant application process.

ELIGIBLE PROJECTS

Funds are to be used to support projects that help to preserve and demonstrate:

- Culturally significant aspects of life during various periods of California history including architecture, economic activities, art, recreation, and transportation
- Unique identifiable ethnic and other communities that have added significant elements to California's culture
- California industrial, commercial, and military history including the industries, technologies, and commercial activities that have characterized California's economic expansion and contribution to national defense
- Important paleontologic, oceanographic, and geologic sites and specimens

TIMING

The Endowment will be developing program guidelines and application materials. Public hearings are in process on the guidelines with public comment and review welcome. Information about the application process and draft guidelines will be posted on the Endowment's site when they are available.

FURTHER INFORMATION:

California State Library
California Cultural and Historical Endowment <http://www.library.ca.gov/CCHE/index.cfm>

The Resources Agency has created a website where the public can obtain information about projects in their community funded by Proposition 40.

State of California Resources Agency [Prop 40 Project Award Information](#)

CERTIFIED LOCAL GOVERNMENT GRANTS

In recognition of the need to involve local governments in historic preservation, the 1980 amendments to the National Historic Preservation Act provided a specific role for them in the national program by establishing the Certified Local Government (CLG) program. A CLG is a local government whose historic preservation program has been certified by the Office of Historic Preservation and the National Park Service. General requirements include a preservation ordinance, a qualified historic preservation review commission established by local law, a survey and inventory program, and adequate public participation in the local historic preservation program. Any local government is eligible to apply for certification, with the exception of regional commissions and councils of government. A local government is any general purpose political subdivision of California such as a city, county, or city/county government.

In order to strengthen the federal/state/local partnership, the Historic Preservation Fund (HPF), a line item in the federal budget, provides an annual grant to each state historic preservation office. At least ten percent of the state's annual HPF allocation is passed through to CLGs on a competitive basis. HPF grants are awarded to CLGs on a 60/40 (federal/local) matching basis. It is worth noting that Community Development Block Grant (CDBG) funds, discussed elsewhere in this document, are federal funds that may be used as local match for federal grants such as CLG grants.

In California, CLG grants can be used for historic preservation planning activities, but not for bricks and mortar projects. Allowable projects include:

- Preservation Plans or Preservation Elements of General Plans
- Historic Preservation Ordinance Revisions
- Architectural, Historical and Archeological Surveys and Resurveys
- District Nominations to the National Register of Historic Places
- Archeological Preservation Plans
- Training Programs
- Historic Structure Reports
- Information Technology Projects
- Web Page Development

FURTHER INFORMATION:

California's CLG Program www.ohp.parks.ca.gov/default.asp?page_id=1072

National CLG Program www2.cr.nps.gov/clg_p.htm

EARTHQUAKE RETROFIT PROGRAMS EXISTING GOVERNMENT FINANCIAL INCENTIVE PROGRAMS

There are a variety of local, state and federally funded government programs that have provided, or are continuing to provide, financial incentives for owners of single family homes, mobile homes or apartments to structurally retrofit those buildings.

LOCAL GOVERNMENT PROGRAM EXAMPLES

(PROGRAMS ARE ON-GOING UNLESS OTHERWISE NOTED)

- Santa Cruz County – Brace for the Quake Program (1992-1996)
- City of Los Angeles – Seismic Mitigation Loan Program
- City of Oakland – Project SAFE
- City of Berkeley – Seismic Retrofitting Incentive Program
- Association of Bay Area Governments (ABAG) Finance Authority for Nonprofit Corporations, Affordable Housing Program
- City of San Leandro – Earthquake Retrofit Programs

STATE PROGRAMS

California Earthquake Authority – Residential Retrofit Program

CEA was established by State Legislature in 1996 as a privately funded, publicly managed entity to help California residents protect themselves against earthquake loss. In 1999, CEA launched SAFER (State Assistance for Earthquake Retrofits) in nine Bay Area counties. Enabling legislation can be found in the California Insurance Code, primarily in Sections 10089.5 through 10089.54.

California Department of Insurance – Grant and Loan Program

This grant program has operated since 1996. It is designed for low to moderate income homeowners, and pays for such retrofitting procedures as foundation anchoring, securing water heaters, installing automatic gas shut-off valves, and installing bracing for sheer walls. The maximum grant amount is \$8,000, or up to \$30,000 for foundation repair/replacement work. Grants are competitive and rated on need and income. This program is slated to end in December 2004, although it may be extended.

FURTHER INFORMATION:

Association of Bay Area Governments: Technical Appendix C, Existing Government Financial Incentive Programs for Earthquake Retrofit

www.abag.ca.gov/bayarea/eqmaps/nightmare/finance.pdf

California Department of Insurance Earthquake Grant Program

www.insurance.ca.gov/CSD/Brochure/Residential/Earthquake.htm

California Earthquake Authority

www.earthquakeauthority.com

City of San Leandro

www.ci.san-leandro.ca.us/slearthquakeretrofit.html

Saving Lives Through Earthquake Mitigation in Los Angeles, CALIFORNIA

www.huduser.org/publications/destech/bigone/sect1.html

Two publications that discuss seismic safety improvements, *The Commercial Property Owner's Guide to Earthquake Safety, 1998 Edition* (CSSC 97-01) and *The Homeowner's Guide to Earthquake Safety 1998 Edition* (CSSC 98-01), are available from the Seismic Safety Commission.

Seismic Safety Commission

www.seismic.ca.gov/sscpub.htm

MARKS HISTORICAL REHABILITATION ACT

The Marks Historical Rehabilitation Act of 1976 authorizes cities, counties, and redevelopment agencies to issue tax-exempt revenue bonds to finance the rehabilitation of significant historic buildings. The Act specifies the conditions and criteria under which the bonds can be issued.

The Marks Bond Act appears to have rarely been used due to the restriction that developers may not make capital expenditures of more than \$10 Million. Cities or counties are rarely willing to expend the time and money involved in issuing bonds for this small amount. If, however several major historic projects are undertaken in a jurisdiction at the same time and the collective costs and expenses total an amount high enough to justify staff time and fees to issue a bond, then the Marks Bond Act may prove to be a useful and desirable tool.

RELEVANT SECTIONS FROM CALIFORNIA HEALTH AND SAFETY CODE SECTION 10

NOTE: TEXT IS EXCERPTED, FOR FULL TEXT SEE LINK.

Chapter 1: General Provisions and Definitions (Sections 37600-37603)

Section 37601: Legislative Finding and Declarations

- State declaration that properties and structures of historical or architectural significance are an essential public resource and that it is necessary and essential that cities and counties be authorized to make long-term, low interest loans to finance the rehabilitation of properties of historic or architectural significance.
- Unless local agencies have the authority to provide loans for the rehabilitation of historic properties, many properties of historic or architectural significance will continue to deteriorate at an accelerated rate because loans from private sources are not sufficiently available for their rehabilitation.
- It shall be the policy of the state to preserve, protect, and restore the historical and architectural resources of the state.

Section 36602: Definitions

- **Bonds:** Any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as defined in subdivision (k), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.
- **Financing:** The lending of money or thing of value for the purpose of rehabilitation of historical properties and includes refinancing of outstanding indebtedness of the participating party with respect to property which is subject to historical rehabilitation, the acquisition of historical properties for the purpose of historical rehabilitation, or the acquisition of historical properties rehabilitated by a redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000) of this division.
- **Historical rehabilitation:** The reconstruction, restoration, renovation, or repair of the interiors or exteriors of historical properties or their relocation for the purposes of

restoring or preserving their historical or architectural significance or authenticity, preventing their deterioration or destruction, continuing their use, providing for their feasible reuse, or providing for the safety of the occupants or passersby. Historical rehabilitation includes, but is not limited to, the repairing of architectural facades or ornamentation; removal of inappropriate additions or materials; replacement of facades, ornamentation or architectural elements previously removed; repairing of roofs, foundations, and other essential structural elements; installing parking areas, if required by local regulation or law for the use for which the property is intended after rehabilitation.

- **Historic rehabilitation area:** A geographic area, with specific boundaries, which is designated by a local agency as an area in which an historical rehabilitation financing program shall apply. It may encompass the entire jurisdiction of the local agency, or any portions thereof, including single parcels.
- **Historical property:** Any building of part thereof, object, structure, monument, or collection thereof deemed of importance to the history, architecture, or culture of an area as determined by an appropriate governmental agency. An appropriate governmental agency is a local official historic preservation board or commission, a legislative body of a local agency, or the State Historical Resources Commission. Historic property includes objects, buildings, structures, monuments, or collections thereof on existing national, state, or local historical registers of official inventories, such as the National Register of Historic Places and State Historical Landmarks.
- **Rehabilitation standards:** The applicable local or state standards for the rehabilitation of historical properties, including any higher standards adopted by the local agency as part of its historical rehabilitation financing program and including standards established pursuant to Part 2.7 (commencing with Section 18950) of Division 13, except that, for properties listed on or eligible for listing on the National Register of Historic Places, rehabilitation standards shall mean, at a minimum, those standards set forth by the United States Department of the Interior as *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* as those standards may be applicable to any particular historical rehabilitation.

Chapter 2: Powers and Procedures (Section 37620-37631)

References the following information:

- Issuance of bonds for financing work.
- Fees, charges, interest rates and terms and conditions.
- Criteria for eligibility, standards, and citizen participation.

Chapter 3: Bond and Notes (Section 37640-37650)

References the following information:

- Issuance of negotiable bonds or notes for financing the rehabilitation of properties.
- Types of properties and types of bonds.

Chapter 4: Rehabilitation Loans (Section 37660-37662)

References the following information:

State Incentives

- Loan agreements and conditions.

Chapter 5: Construction and Effect (Section 37680-37682)

References the following information:

- General public welfare, jurisdiction and authority information.

Chapter 6: Supplemental and Additional Authority (Section 37683-37684)

References the following information:

- Supplemental and additional information.

FURTHER INFORMATION:

California Health and Safety Code, Part 10

www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=37001-38000&file=37600-37603

www.leginfo.ca.gov

MILLS ACT - California Property Tax Abatement Program

Since 1972 the Mills Act, sponsored by Senator James Mills of Coronado, has provided property tax relief to help preserve designated historic properties in California. It is a permissive program subject to approval and adaptation by city and county governments.

In order to help rehabilitate and maintain qualified historic properties, the Mills Act program allows for the voluntary creation of a contract between a private property owner and the city or county to provide a reduction in property taxes. The property tax relief is calculated by the county assessor using the capitalization of income method to reflect the Mills Act restrictions placed on the property. Mills Act properties are subject to annual reassessments by County Assessors which may result in slight increases in property taxes each year.

ELIGIBILITY

A property must be a “qualified historic property,” which is a privately owned property (residential or commercial) not exempt from property taxation and is either:

- Listed individually in the National Register of Historic Places (NRHP) or as a contributor to a NRHP District; or
- Listed in any state, county, city, or city and county official register of historical or architecturally significant places, sites, or landmarks.

NOTE: City or county governments may apply a more limited definition of a qualified historic property. For example, in Los Angeles only locally designated properties or contributors to locally designated districts may participate.

PROVISIONS

The following items must be included in the language of the Mills Act contract, although local historical ordinances may require other provisions:

- Contract is for a minimum of 10 years
- Any work to restore or rehabilitate the property must follow the Secretary of the Interior’s Standards for Rehabilitation and the California Historical Building Code
- Inspections as may be necessary to assure compliance with the provisions of the contract
- Recognize that the contract is binding on successors in interest to the original owner
- Provisions for penalties for termination of contract

The local agency may charge a reasonable fee for administering the program. OHP must be notified in writing within six months of entering into a contract. Subsequent contract questions or cancellation may involve review by the California State Historical Resources Commission.

FURTHER INFORMATION:

OHP Technical Assistance Series #12 http://www.ohp.parks.ca.gov/default.asp?page_id=21412

SEISMIC BOND ACT

California Revenue and Taxation Code (RTC) Sections 70(d) and 74.5

Section 70(d) implements Proposition 23, approved by the voters in 1984, and provides a 15-year new construction exclusion for improvements to **unreinforced masonry buildings (URMs)** undertaken to comply with local ordinances on seismic safety.

Section 74.5 implements Proposition 127, approved by the voters in 1990, and provides a new construction exclusion for seismic improvements and improvements utilizing earthquake hazard mitigation technologies. This exclusion applies only to existing buildings and structures. The provisions of section 74.5 do not apply to seismic safety reconstruction and improvements to URMs that qualify for exclusion provided in section 70(d).

Assembly Bill 184 (Chapter 330, Statutes of 2001) amended sections 70(d) and 74.5 of the Revenue and Taxation Code relating to new construction exclusions for certain seismic safety improvements. Specifically, Chapter 330 changed the filing deadlines and modified the definition of “improvements utilizing earthquake hazard mitigation technologies.” This legislation became effective on September 25, 2001.

UNREINFORCED MASONRY BUILDING IMPROVEMENTS (RTC Section 70)

- Section 70(d)(1) provides that locally mandated seismic safety related improvements or reconstruction to URMs will be excluded from new construction for 15 years following the commencement or completion of the reconstruction or improvements. If the property changes ownership during the 15-year period, a new base year value must be established and enrolled for the entire property.
- Section 70(d)(2) requires that in the 16th year following the required reconstruction or improvement, the assessor shall enroll the excluded property at its current full cash value. This means that the qualifying reconstruction may be exempted from assessment in the first tax year in which it exists, whether as construction in progress or as completed work, and in the following 14 tax years. It becomes taxable in the sixteenth tax year following the tax year in which the reconstruction or improvement was begun.

FILING REQUIREMENTS

- Section 70(d)(3) requires the governing body that enacted the local ordinance to issue a certificate of compliance upon the request of an owner who has reconstructed or improved a structure in accordance with the ordinance. To receive the new construction exclusion, the property owner must file the certificate with the assessor no later than six months after completion of the project. The failure to file a certificate of compliance within the prescribed filing period is deemed a waiver of the exclusion for that year. If the certificate is filed after the six-month filing period, the exclusion applies prospectively, starting with the lien date following the filing.

SEISMIC RETROFITTING IMPROVEMENTS and IMPROVEMENTS UTILIZING EARTHQUAKE HAZARD MITIGATION TECHNOLOGIES (RTC Section 74.5)

Section 74.5(b)(1) defines seismic retrofitting improvements. To exclude these improvements from assessment, they must fit into one of the following classifications:

- Retrofitting or reconstructing to abate falling hazards that pose serious danger
- Structural strengthening
- Improvements resisting seismic force levels during an earthquake to significantly reduce the hazards to life and safety and also provide safe entry and exit during and immediately after an earthquake

Seismic retrofitting also includes those items referenced in Appendix Chapters 5 and 6 of the Uniform Code for Building Conservation (UCBC) of the International Conference of Building Officials. UCBC Appendix Chapter 5 relates to the retrofit of concrete tilt-up buildings and provides requirements for wall anchors and diaphragm cross ties. UCBC Appendix Chapter 6 relates to prescriptive retrofit of residential cripple walls and foundation anchorage and provides prescriptive guidelines for bracing of cripple walls that can be implemented by the homeowner and/or contractor without requiring numerically based structural design.

IMPROVEMENT AMENDMENTS

Chapter 330 amends the definition of improvements utilizing earthquake hazard mitigation technologies in section 74.5(b)(2) to mean improvements to existing buildings identified by a local government as being hazardous to life during an earthquake. Improvements shall involve strategies for earthquake protection of structures and 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.

Previously the definition of improvements utilizing earthquake hazard mitigation technologies was keyed to certain technologies approved by the State Architect. However, rather than adopting regulations referenced in Health and Safety Code section 16102, the State Architect instead developed guidelines and seismic performance standards to insure the seismic performance of buildings utilizing earthquake hazard mitigation technology.

FILING REQUIREMENTS

- Section 74.5 requires the property owner to notify the assessor prior to, or within 30 days of, completion of the project that the owner intends to claim the exclusion. In addition, all documents needed to support the claim must be filed no later than six months after completion of the project.
- It is the responsibility of the property owner, primary contractor, civil or structural engineer, or architect to certify to the building department those portions of the project that are either seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies.

- Upon completion of the project, the building department is to report to the county assessor the value of those portions of the project meeting either of these definitions.
- If the property changes ownership, the entire property, including the previously excluded new construction, is reappraised at its current full cash value as of the date of transfer. The new construction exclusion is available to the property owner who completes the construction; it is not passed along to subsequent owners.

CLAIM FORM

- Section 74.5(d) requires that the State Board of Equalization prescribe the manner and form for claiming the exclusion.

FURTHER INFORMATION:

California Revenue and Taxation Code Section 70-74.6

LINK: California Law/Revenue and Taxation Code/Division 1, Chapter 3, New Construction, 70-74.7 www.leginfo.ca.gov

State Board of Equalization Letter to County Assessors: Seismic Safety New Construction Exclusions www.boe.ca.gov/proptaxes/pdf/lta01089.pdf

Two publications that discuss seismic safety improvements, *The Commercial Property Owner's Guide to Earthquake Safety, 1998 Edition* (CSSC 97-01) and *The Homeowner's Guide to Earthquake Safety 1998 Edition* (CSSC 98-01), are available from the Seismic Safety Commission.

Seismic Safety Commission www.seismic.ca.gov/sscpub.htm

WILLIAMSON ACT PROGRAM

Enacted in 1965, the California Land Conservation Act, commonly referred to as the Williamson Act, allows local governments to enter into voluntary legal contracts (Land Conservation Contract) with private landowners in order to restrict specific parcels of land to agricultural or related open space use. In return, owners will receive lowered property tax assessments because the assessment will be based on farming and open space uses rather than speculative or full market value.

PROGRAM GUIDELINES

- The local jurisdiction creates an Agricultural Preserve with rules and restrictions stating the agricultural use. Only land located within the boundary of a Preserve is eligible for a contract.
- Government code requires that Agricultural Preserves be a minimum of 100 acres. However, more than one contiguous parcel may be combined to form the 100 plus acres and more than one owner may be involved. A smaller plot that cannot be combined but is unique in its agricultural characteristics and its designation is consistent with the general plan may be established as a special Preserve.
- Local planning departments have the application forms and instructions. The minimum term for a contract is 10 years, although a longer length can be agreed upon, and it runs with the land and is binding upon all successors. The contract is automatically renewed every year for the full 10 (or more) years.
- Either the landowner or local jurisdiction can file a notice of non-renewal that starts a nine-year non-renewal period. An owner may object to a local jurisdiction non-renewal filing. At the end of the nine-year process, the contract is terminated. If an owner initiates non-renewal, the property taxes will increase significantly during the first year of the process.

Since January 1, 1995 three principles of compatibility are mandatory in any contract:

- Long-term productive agricultural use and capability will not be compromised
- No impairment or displacement of agricultural activity will occur including harvesting, processing or shipping
- No adjacent contracted land will be removed from agricultural or open-space use

In addition to the Williamson Act, in 1995 the California Legislature passed the Agricultural Land Stewardship Program, now known as the California Farmland Conservancy Program, as an incentive to further protect productive agricultural land from encroaching development. In exchange for conservation easement rights, the owner receives a one-time payment purchasing the difference between development and agricultural value and then also obtains a reduction in property taxes. A local government or non-profit land trust may initiate the program on behalf of the owner.

FURTHER INFORMATION:

Williamson Act

California Department of Conservation,
Division of Land Resource Protection

www.consrv.ca.gov/DLRP/lca

California Farmland Conservancy Program
California Department of Conservation,
Division of Land Resource Protection

www.consrv.ca.gov/DLRP/cfcp/index.htm