TRANSFER TAX INCENTIVE FOR HOMEOWNER MITIGATION

Short Summary
By ordinance, the City of Berkeley, California, created a program to rebate up to one-third of the transfer tax amount to be applied to earthquake upgrades on homes. The process begins once the homeowner makes safety improvements. When the owner wishes to sell the house and the sale amount has been determined, the buyer and seller place a portion of the real estate transfer tax amount in an escrow account to be drawn down after improvements are complete. Repair standards for “seismic retrofit” are defined in City ordinance 752.060.

This economic incentive program allows new homeowners to perform seismic upgrade of their homes for little out-of-pocket expense. As an example, for an average Berkeley home worth $400,000, 1/3 of the property transfer tax that can be applied toward seismic upgrade amounts to $2,000. This amount can cover or significantly reduce the out-of-pocket cost to the homeowners on upgrades like water heater anchoring, brick chimney bracing, mudsill repair, sill plate anchorage, or foundation repair. Perhaps not all of the seismic deficiencies will be addressed by a single owner, but as the properties change hands, and each new owner takes advantage of the economic incentive, the housing stock as a whole will be significantly safer over time. In addition, Berkeley offers a free tool lending program that will cut down the retrofit cost even more for do-it-yourselfers.

Background
The City of Berkeley sits atop the Hayward Fault, which runs along the eastern side of the San Francisco Bay Area, creating known hazards within the region’s residential building stock. Many cities address this concern through emergency response preparedness and educating homeowners. However, without offering any financial incentive, few homeowners will voluntarily retrofit their homes. Until homeowners start to retrofit vulnerable homes, the local governments are still faced with the potential of losing significant percentage of their housing stock in an event of a major earthquake.

As an example, construction flaws under a typical home can easily be fixed. A house constructed with a crawl space below the first floor can have several weaknesses. The bottom of the wood frame exterior walls may not be adequately bolted to the foundation, meaning the house can slide off the foundation during strong shaking. The foundation itself may be constructed of weak or deteriorated materials, like brick or very old concrete. Also, the wall that encloses the crawl space, known as a cripple wall, may be weak and vulnerable to collapse due to inadequate bracing and deterioration of wood members from termite attack and dry rot. Hillside houses can suffer from any of these weaknesses, but have increased risks of failure to cripple walls and poorly braced extra-tall walls along the sloping sides.

Text of the Ordinance
1. Up to one-third of the tax imposed by this chapter shall be reduced, on a dollar for dollar basis, for all expenses incurred on or after October 17, 1989 to "seismically retrofit" either any structure which is used exclusively for residential purposes, or any mixed use structure which
contains two or more dwelling units. From the date of the recordation of the transfer document, the applicant shall have one (1) year to complete all seismic retrofit work and submit a Seismic Retrofit Verification Application to the Building and Safety Division of the City of Berkeley. If the work is not completed at the end of one year, that portion which has been completed may be credited to the applicant upon submission of a Seismic Retrofit Verification Application, substantiating documentation, and receipts showing dollar amount of work completed up to that date. All other monies remaining in escrow will be returned to the City of Berkeley upon written request by the Finance Department.

2. The term "seismically retrofit" within the meaning of this chapter means any of the following:
   a. That work which is needed and directly related to make the structure capable of withstanding lateral loads equivalent to the force levels defined by Chapter 23 of the 1976 Uniform Building Code;
   b. Replacement or repair of foundations; replacement or repair of rotted mud sills; bracing of basement or pony walls; bolting of mud sills to standard foundations; installation of shear walls; anchoring of water heaters; and/or securing of chimneys, stacks or water heaters;
   c. Corrective work on buildings which fit the criteria in subsection K.1, which are listed on the City of Berkeley inventory of potentially hazardous, unreinforced masonry buildings when such work is necessary to meet City standards or requirements applicable to such buildings;
   d. Any other work found by the building official to substantially increase the capability of those structures, specified in subsection K.1, to withstand destruction or damage in the event of an earthquake.

3. The work to seismically retrofit structures as provided herein shall be completed either prior to the transfer of property or as provided in subsection K.4.

4. If the work to seismically retrofit the structures provided for herein is to be performed after the transfer of property which is subject to the tax imposed by this chapter, one-third of the total tax due under this chapter shall be set aside in escrow pending completion of such work. Upon completion of such work and certification by the building official as to the amount of the expenses of such work which may be applied to reduce the tax which has been set aside, the escrow officer may release the sum by which the tax may be reduced to the parties to the sale in accordance with the terms of such sale. Any remaining tax shall be paid forthwith to the City.

5. From the date of the recordation of the transfer document, the applicant shall have one year to complete all seismic retrofit work and submit a seismic retrofit verification application to the codes and inspection division of the City of Berkeley. If the work is not completed at the end of one year, that portion which has been completed may be credited to the applicant upon submission of a seismic retrofit verification application and substantiating documentation, as required by the codes and inspections division of the City of Berkeley, showing the dollar amount of work completed up to that date. All other monies remaining in escrow will be returned to the City of Berkeley upon written request by the Finance Department.

Results to date
This program, in concert with the City’s other retrofit incentives, has led to nearly 60 percent of the private residences in Berkeley being made more seismically resistant. The sustainability of programs such as this depends on their effectiveness. The Berkeley program is now 10 years old, and its effectiveness has made Berkeley one of the most improved cities for one- and two-family residence seismic safety in the Bay Area. However, it is clear that not all of the upgrades conducted through this program have significantly improved overall seismic safety. The lack of adequate recognized standards for seismic upgrades have led to some homeowners hiring contractors to do work that does not increase structure seismic safety.
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Funding information
The resources for this program are the city and its taxpayers. As of September 2002, upwards of 12,000 projects were completed, representing over $2M in permit fees waived, and a transfer tax rebate totaling over $6M. In addition, many homeowners paid for retrofit cost beyond the tax rebate amount, and provided their own labor.

The Berkeley program was passed with a simple majority of 50% in 1992. However, current state law requires a super majority of 67% for these measures to pass. The super majority requirement may make it more difficult for other local governments to pass similar measures. However, all data indicates that economic incentive really works in motivating homeowners to strengthen their homes, and this potentially difficult task is worth the attention and effort.

Related internet links
http://www.ci.berkeley.ca.us/bmc/berkeley%5Fmunicipal%5Fcode/title%5F7/52/060.html
http://www.ci.berkeley.ca.us/buildingandsafety/taxguide.htm
http://www.ci.berkeley.ca.us/disasterresistant/homesafety.html
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