

- 2) Requires the Legislative Analyst's Office (LAO) to collaborate with the California Tax Credit Allocation Committee (CTCAC) to review the effectiveness of the enhanced state housing tax credits on an annual basis beginning January 1, 2026, and annually thereafter based on the following factors:
 - a) The number of units made feasible and starting construction due to an award of the enhanced state housing tax credits; and,
 - b) The amount of federal low-income housing tax credits also awarded to developments receiving the enhanced state housing tax credits.
- 3) Specifies that the provisions of this bill shall only become operative if AB 3190 (Haney, 2024) is enacted and becomes effective on or before January 1, 2025.

COMMENTS:

- 1) *Author's statement.* "AB 3160 supports one of the most critical state funding sources for affordable housing: the state low-income housing tax credit. By planning for the long-term certainty of the credit, we can ensure developers can depend on this critical funding source when planning for future housing construction. The state low-income housing tax credit will allow for the construction of over 6,000 units of affordable housing each year and generate additional federal, local, and private funding at ratios as great as five to one, making this change an extremely prudent and effective use of the state's financial resources."
- 2) *Background of the federal LIHTC program.* The LIHTC is an indirect federal subsidy developed in 1986 to incentivize the private development of affordable rental housing for low-income households. The federal LIHTC program enables low-income housing sponsors and developers to raise project equity through the allocation of tax benefits to investors. TCAC administers the program and awards credits to qualified developers, who can then sell those credits to private investors, who use the credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project.

Two types of federal tax credits are available: the 9% and 4% credits. These terms refer to the approximate percentage of a project's "eligible basis" a taxpayer may deduct from his/her annual federal tax liability in each of 10 years. "Eligible basis" means the cost of development excluding land, transaction costs, and costs incurred for work outside the property boundary.

For projects that are not financed with a federal subsidy, the applicable rate is 9%. For projects that are federally subsidized (including projects financed more than 50% with tax-exempt bonds), the applicable rate is 4%. Although the credits are known as the “9% and 4% credits,” the actual tax rates fluctuate every month, based on the determination made by the Internal Revenue Service on a monthly basis. Generally, the 9% tax credit amounts to 70% of a taxpayer’s eligible basis and the 4% tax credit amounts to 30% of a taxpayer’s eligible basis, spread over a 10-year period.

Each year, the federal government allocates funding to the states for LIHTC on the basis of a per-resident formula. In California, TCAC is the entity that reviews proposals submitted by developers and selects projects based on a variety of prescribed criteria. Only rental housing buildings, which are either undergoing rehabilitation or newly constructed, are eligible for the LIHTC. In addition, the qualified low-income housing projects must comply with both rent and income restrictions.

Each state receives an annual ceiling of 9% federal tax credits and they are oversubscribed by a 2:1 ratio. Unlike 9% LIHTC, federal 4% tax credits are not capped; however, they must be used in conjunction with tax-exempt private activity mortgage revenue bonds, administered by CDLAC, which are capped. In 2020, the state ceiling for private activity bonds was set at \$4 billion. The value of the 4% tax credits is less than half of the 9% tax credits and, as a result, 4% federal credits are generally used in conjunction with another funding source, like state housing bonds or local funding sources.

- 3) *Background of the state LIHTC program.* In 1987, the Legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that have also received, or are concurrently receiving, an allocation of the federal LIHTC. The amount of state LIHTC that may be annually allocated by the TCAC is limited to \$70 million, adjusted for inflation. In 2020, the total credit amount available for allocation was \$111 million plus any unused or returned credit allocations from previous years. Current state tax law generally conforms to federal law with respect to the LIHTC, except that it is limited to projects located in California.
- 4) *Enhanced state LIHTCs.* AB 101 (Budget Committee, Chapter 159, Statutes of 2019), provided an additional \$500 million in "enhanced" state LIHTCs in 2020 and future years, subject to appropriation. The credits are "enhanced" because they have a higher credit rate, providing more assistance to each development than the original state credits. Over their first four years, the enhanced state Housing Credits have made possible an additional 25,000 homes affordable to

low-, very low-, and extremely low-income households. Moreover, these enhanced state credits allowed California to draw down an additional \$5.3 billion in federal 4% Housing Credits and are leveraged overall with other federal, local, and private funds at a ratio of more than five to one. Since their inception, demand for the enhanced state credits has been oversubscribed at least two to one and as high as three to one. Unlike most tax credits that are permanent or even the film tax credits that are locked in for five years, the additional \$500 million in enhanced state credits is subject to budget approval every year. Because it takes years to bring an affordable housing development to fruition, developers need certainty that funding will remain available. This bill provides that an additional allocation of \$500 million to the Low Income Housing Tax Credit (LIHTC) is not subject to an appropriation in the annual Budget Act for the 2025 through 2030 calendar years.

- 5) *Package deal.* This bill contains double jointing language and specifies that the provisions of this bill shall only become operative if AB 3190 (Haney, 2024) is enacted and becomes effective on or before January 1, 2025. AB 3190 subjects public works law to LIHTC projects by adding certain low-income housing tax credits to the definition of "paid for in whole or in part out of public funds." It also provides that specified projects built pursuant to certain low-income housing tax credits or a below-market interest rate loan with a state agency, redevelopment agency, successor agency to a redevelopment agency, or a local housing authority, are subject to public works requirements.
- 6) *Double referral.* This bill was also referred to the Revenue and Taxation Committee.

RELATED LEGISLATION:

AB 101 (Committee on Budget and Fiscal Review, Chapter 159, Statutes of 2019) — among other things, allocated \$500 million for LIHTC in 2020, and up to \$500 million, upon appropriation, in 2021 and beyond. *This bill was held on suspense in the Senate Appropriations Committee.*

AB 10 (Chiu, 2019) — would have increased the amount of state tax credits the California Tax Credit Allocation Committee (TCAC) can allocate for low-income housing and makes other changes to the state low-income housing tax credit (LIHTC) program.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday,

June 12, 2024.)

SUPPORT:

California Housing Partnership Corporation (Sponsor)
Abode Communities
Alliant Strategic Development
California Association of Local Housing Finance Agencies
California Community Builders
California Conference of Carpenters
California Housing Consortium
Corporation for Supportive Housing
Cty Housing, INC.
Democrats for Israel - CA
Democrats for Israel Los Angeles
Enterprise Community Partners, INC.
Etta
Greenlining Institute; the
Hadassah
Hias
Holocaust Museum LA
Homes & Hope
Housing California
Inner City Law Center
JCRC Bay Area
Jewish Center for Justice
Jewish Community Federation and Endowment Fund
Jewish Democratic Club of Marin
Jewish Democratic Club of Solano County
Jewish Democratic Coalition of The Bay Area
Jewish Family and Children's Service of Long Beach and Orange County
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and
Sonoma Counties
Jewish Family Service of Los Angeles
Jewish Family Service of San Diego
Jewish Family Service of The Desert
Jewish Family Services of Silicon Valley
Jewish Federation of The Greater San Gabriel and Pomona Valleys
Jewish Long Beach
Jewish Public Affairs Committee
Jewish Silicon Valley
JVS Socal

Kingdom Development
LeadingAge California
Linc Housing
Murow Development Consultants
Progressive Zionists of California
Resources for Community Development
San Francisco Housing Accelerator Fund
San Joaquin Valley Housing Collaborative
Satellite Affordable Housing Associates
Self-help Enterprises
Sisters of St. Joseph of Orange Healthcare Foundation
Southern California Association of Nonprofit Housing
St. Mary's Center
Supportive Housing Alliance
The John Stewart Company
Thomas Safran & Associates
Ventura Social Services Task Force
Wakeland Housing and Development Corporation
Weingart Center Association
YM Architects

OPPOSITION:

None received.

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