

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Gilmore Analyst: Angela Raygoza Bill Number: AB 1065
Related Bills: See Legislative History Telephone: 845-7814 Introduced Date: February 27, 2009
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Farmworker Housing Credit/Increase Aggregate Dollar Amount Of Credits Allowed To \$1 Million

SUMMARY

This bill would increase the maximum allowable amount for the Farmworker Housing Credit (FWHC).

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to provide tax incentives to developers to build more Farmworker Housing.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective and operative immediately upon enactment.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Beginning January 1, 2009, the standalone FWHC was repealed, (Lowenthal, Stats. 2008, Ch. 521), and is now incorporated within and required to be administered as part of the Low Income Housing Credit (LIHC) program.

California allows a tax credit against the personal income tax, corporation tax, and insurance gross premiums tax for construction or rehabilitation of low-income housing in California. The credit is equal to 30 percent of amounts invested and is claimed over four years (9 percent, 9 percent, 9 percent, and 3 percent). Except in certain cases, it is available in addition to the comparable credit offered under federal law (9 percent annually for 10 years for nonsubsidized housing, 4 percent annually for 10 years for subsidized housing).

Board Position:

_____ S _____ NA _____ NP
_____ SA _____ O _____ NAR
_____ N _____ OUA X PENDING

Department Director

Date

Selvi Stanislaus

04/23/09

To qualify for the state credit, a taxpayer must receive an allocation from the Tax Credit Allocation Committee, and the rents must be maintained at low-income levels for 30 years (compared to 15 years for the federal credit). For buildings located in certain areas or census tracts, the federal credit must be reduced for the state credit to be claimed.

Corporations may elect to assign any portion of the credit to an affiliated bank or corporation. This credit can reduce regular tax below tentative minimum tax. The state credit will remain in effect as long as the federal credit remains in effect. The federal credit was made permanent by the Revenue Reconciliation Act of 1993. Federal law provides more than \$50 million in credits annually to California. California offers \$70 million in state credits that are increased by the percentage of the Consumer Price Index for the preceding calendar year.

Beginning January 1, 2009, and before January 1, 2016, the LIHC, other than LIHC for farmworker housing, can be allocated to the partners of a partnership owning a low-income housing project, in accordance with a partnership agreement, regardless of how the federal LIHC is allocated to the partners or whether the allocation of the credit under the terms of the agreement has substantial economic effect SB 585 (Lowenthal, Stats. 2008, Ch. 382).

The aggregate amount of credits granted for both personal income and corporate taxpayers for building or rehabilitating farmworker housing and for banks and financial corporations for foregone interest on farmworker housing loans may not exceed \$500,000 for any calendar year plus any unallocated credits under prior law. This \$500,000 limitation may be increased by an amount equal to any unallocated credits from preceding calendar years. Any FWHC that is unallocated or returned is to be added to the annual FWHC allocation cap until exhausted.

THIS BILL

This bill would increase the maximum aggregate amount of FWHC from \$500,000 to \$1 million for each calendar year.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

LEGISLATIVE HISTORY

SB 16 (Lowenthal, 2009/2010) would make the LIHC refundable for low income housing projects that receive a preliminary reservation in 2008 and 2009. This bill is currently in Senate Appropriations Committee.

SB 585 (Stats. 2008, Ch. 385) required a project that receives a preliminary reservation of the LIHC on or after January 1, 2009, and before January 1, 2016, to have the LIHC be allocated to the partners of a partnership owning a low-income housing project, in accordance with a partnership agreement, regardless of how the federal LIHC is allocated to the partners or whether the allocation of the credit under the terms of the agreement has substantial economic effect under Internal Revenue Code section 704(b) of the. In addition, SB 585 requires a deferral of any loss or deduction attributable to the sale, transfer, exchange, abandonment, or any other disposition of a partnership interest where the credit was allocated without substantial economic effect. The loss would be deferred until the first taxable year immediately following the end of the ten-year credit period for which the federal credit is allowed.

SB 1247 (Stats. 2008, Ch. 521) repealed the FWHC from the Revenue and Taxation Code and requires the FWHC to be allocated in the same manner as the state LIHC. This act specifies that the \$500,000 annual cap plus any unallocated credit under current law is exclusively for farmworker housing. SB 1247 allows any FWHC that is unallocated or returned to be added to the annual credit allocation cap until exhausted. This act also allows the FWHC to be awarded independently of the federal LIHC.

AB 339 (Aghazarian, 2003/2004) would have decreased the period for which the FWHC is allowable; and would have allowed any taxpayer to be eligible for the credit regardless of actual ownership. AB 339 failed to pass out of the Assembly Revenue and Taxation Committee.

OTHER STATES' INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws do not provide a credit comparable to the credit allowed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following neutral revenue:

Estimated Revenue Impact of AB 1065 Introduced on February 27, 2009 For Taxable Years Beginning On or After January 1, 2009 Enactment Assumed After June 30, 2009			
Fiscal Year	2009-10	2010-11	2011-12
Revenue Loss (see Discussion)	\$0	\$0	\$0

This analysis does not consider the possible changes in investment activity, employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The revenue impact of this bill would depend on whether a demand for new farmworker housing projects occurs under proposed law that would not have occurred under current law.

Department data for FWHC indicate that each year less than ten taxpayers claim the credit on state income tax returns. The amount of credits reported averages approximately \$8,000 annually during 2004-2007. Increasing the annual maximum aggregate dollar value of FWHC from \$500,000 to \$1 million would not have an affect on the future demand of farmworker housing projects. As a result, it is estimated that this bill would not impact state income tax revenues.

LEGISLATIVE STAFF CONTACT

Legislative Analyst
Angela Raygoza
(916) 845-7814
angela.raygoza@ftb.ca.gov

Revenue Director
Jay Chamberlain
(916) 845-3375
jay_chamberlain@ftb.ca.gov

Asst. Legislative Director
Patrice Gau-Johnson
(916) 845-5521
patrice.gau-johnson@ftb.ca.gov