ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author:	Atkins	Analyst:	Janet Jennings	Bill Number:	AB 952
Related Bills:	See Legislative History	Telephone:	845-3495	Amended Dates:	March 18, 2013, May 02, 2013
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Low Income Housing Credit/Buildings Located In Designated Difficult Development Areas or Qualified Census Tracts/ Exchange of Federal Credits for State Credits

SUMMARY

This bill would modify the state Low-Income Housing Tax Credit (Housing Credit), as follows:

1) Allow the California Tax Credit Allocation Committee (Committee) to award Housing Credits to developments in a Qualified Census Tract (Tract) or a Difficult to Develop Area (Difficult Area), if the project is also receiving the federal Housing Credit, as specified.
2) Allow the Committee to replace the federal Housing Credit with a state Housing Credit of up to 30 percent of a project's eligible basis, if the federal Housing Credit is reduced in an equivalent amount.
3) Require the Committee to determine the equivalent amount of state Housing Credit necessary to replace the federal Housing Credit a taxpayer would have received.

RECOMMENDATION

No position.

Summary of Amendments

The March 18, 2013, amendments changed the restriction of 100 percent of occupants being special needs to 50 percent occupants being special needs and made technical corrections. The May 02, 2013, amendment made technical corrections.

This is the department’s first analysis of the bill. This analysis only addresses the provisions of this bill that impact the department’s programs and operations.

REASON FOR THE BILL

The reason for the bill is to expand the availability of low cost rental units that serve special needs renters.

EFFECTIVE/OPERATIVE DATE

As a tax levy, the bill would be effective immediately upon enactment and operative for allocations of low income housing credits made on and after that date.

Board Position:			Executive Officer	Date
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ANALYSIS

FEDERAL/STATE LAW

Federal law authorized the Housing Credit program to enable affordable housing developers to raise private capital through the sale of tax benefits to investors.

The Committee administers the program and awards credits to qualified developers who can then utilize those credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project. The federal program offers 9 percent and 4 percent credits on the approximate percentage of a project's "qualified basis". To calculate the amount of tax credits a project may receive, the Committee determines the total project cost. Next, it determines the "eligible basis" by subtracting the non-depreciable costs, such as land permanent financing costs, rent reserves, and marketing costs. A taxpayer who purchases credits from a developer may deduct the amount of the credit from their annual federal tax liability in each of ten years.

Federal law requires the Committee to conduct a feasibility study on every project to ensure that the amount of tax credits allocated do not exceed the amount required to make the project feasible.

State law provides a Housing Credit program administered by the Committee to augment the federal tax credit program. State tax credits can only be awarded to projects that also receive federal Housing Credits, except for farmworker housing projects, which can receive state credits without federal credits. Investors claim the state credit over four years.

Projects that receive either state or federal tax credits are required to keep the housing at affordable levels for 55 years. Both the federal and state tax credits are capped, thereby limiting the amount of credit that the Committee can award each year. Each state receives an annual ceiling of federal credits. In 2012 it was $2.25 per capita, or $84.7 million in credits in California that can be taken by investors each year for 10 years.

Federal Housing Credits are oversubscribed by a 3 to 1 ratio. The Committee has authority for approximately $90 million in state tax credits each year but has as many as $25 million in credits remaining at the end of the year due to lack of demand.

Federal Housing Credits can be used anywhere in the state, but projects are given an additional 30 percent on their eligible basis if the project is located in a Difficult Areas which is defined as an areas designated by the Department of Housing and Urban Development (HUD) that on an annual basis that has high construction, land, and utility costs relative to area median gross income or a Tract which is defined as any census tract designated by the HUD in which either 50 percent or more of the households have an income that is less than 60 percent of the area median gross income or that that has a poverty rate of at least 25 percent.

The Committee is prohibited from awarding state low-income housing tax credits in Tracts and Difficult Areas where the eligible basis of a project is130 percent unless the federal credits are reduced so that the combined federal and state credit does not exceed the total credit allowed.

Existing state law does not allow state tax credits to be awarded in Difficult Areas and Tracts as projects in these areas can qualify for more federal tax credits.

Committee regulations define Special Needs as populations that meet one of the following: are developmentally disabled, are survivors of physical abuse, are homeless, have a chronic illness, including HIV and mental illness, are displaced teenage parents (or expectant teenage parents) or can be another specific group as determined by the Executive Director of the Committee.

THIS BILL

This bill would allow the state's Housing Credits to be used in a Difficult Area or Tract for projects that dedicate at least 50 percent of the project's units to be reserved for special needs populations as defined by the Committee regulations.

This bill would allow the Committee to replace the federal Housing Credit with state Housing Credit of up to 30 percent of a project's eligible basis, if the federal Housing Credit is reduced in an equivalent amount.

The bill would require the Committee to determine what an equivalent amount of state Housing Credit is necessary to replace the federal Housing Credit a taxpayer would have received.

IMPLEMENTATION CONSIDERATIONS

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

OTHER STATES' INFORMATION

Since this bill would change the California Housing Credit administered by the Committee specific to housing projects developed within California, a review of other states' income tax laws is not relevant.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

SUPPORT/OPPOSITION[1]

Support: California State Treasurer Bill Lockyer (sponsor)
BRIDGE Housing
California Housing Consortium

Opposition: None on file

[1] As reported in the committee analysis http://leginfo.legislature.ca.gov/faces/billHistoryClient.xhtml (as of May 2, 2013)

ARGUMENTS

Proponents: Some could argue that this bill would increase the special-needs community's access to affordable housing by incentivizing construction of this type of housing.

Opponents: Some could argue that this bill would increase economic disparity within the state by continuing to concentrate low-income and special needs populations in specific areas.

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