



Summary Analysis of Amended Bill

Author: Beall, et al.

Sponsor:

Bill Number: SB 9

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Amended: April 3, 2019

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Related Bills: See Prior Analysis

Subject: Low-Income Housing Credit/Remove Sunset Date

Summary

This bill would, under the Personal Income Tax Law and the Corporation Tax Law, modify the Low-Income Housing Credit (LIHC).

Recommendation – No position.

Summary of Amendments

The April 3, 2019, amendments added co-authors and modified the rules for electing to sell the LIHC. Except for the “This Bill,” and “Economic Impact” sections, the remainder of the department’s analysis of the bill as introduced on December 3, 2018, still applies. The “Fiscal Impact” section has been restated below for convenience.

This Bill

This bill, removes the 2020 sunset date provisions in two places under current law and, as a result this bill would:

- Allow the LIHC to be sold in perpetuity,
- Allow the LIHC to be allocated to partners in a partnership without regard to the substantial economic effect rules of Internal Revenue Code section 704 (b) in perpetuity.

Additionally, this bill would modify the rules applicable to the election to sell the credit currently administered by the California Tax Allocation Committee as follows:

- Allow a taxpayer to elect to sell all or any portion of the credit if,
 - The credit is sold for not less than 80 percent of the credit amount, and
 - The taxpayer made an election to sell on its application to the California Tax Allocation Committee.

- Allow a taxpayer that has previously chosen to sell the credit, to make a one-time revocation of that election at any time before the California Tax Allocation Committee allocates a final credit amount for the project.
- Allow the LIHC to be sold to parties that were not previously eligible for the LIHC (as required under current law), and
- Allow the LIHC to be sold by the purchaser of the credit.

Fiscal Impact

This bill would not impact the department's costs.

Economic Impact

Revenue Estimate

This bill would result in the following revenue impact:

Estimated Revenue Impact of SB 9 as Amended April 3, 2019
Assumed Enactment after June 30, 2019

(\$ in Millions)

Fiscal Year	Revenue
2019-2020	+\$0.07
2020-2021	+\$0.20
2021-2022	-\$0.50

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual. In addition, this estimate only reflects the revenue impact to income and franchise taxes.

Revenue Discussion

Using LIHC allocation data from the California Tax Credit Allocation Committee, it is assumed that the maximum credit threshold of approximately \$110 million in LIHC would be reached in 2020. It is assumed that five percent, or \$6 million, would ultimately be returned to the Allocation Committee due to unforeseen project issues. Based on current credit awards and usage, it is estimated that 75 percent, or \$85 million, of the annual credits would be used to offset income and franchise taxes and the remainder would be used against insurance taxes, which is not included in the above table. Based on current LIHC usage, it is assumed that 70 percent, or

\$60 million, of the credit would be used over the four-year credit period and the remaining 30 percent would be carried forward to future years. It is further assumed that 25 percent, or \$6 million, of the amount to be carried forward would be sold. It is assumed that one percent of taxpayers who elect to sell the credit might revoke their election. It is assumed that the ability to sell the credit or allocate the credit amongst the partners would result in a timing difference because the credit cannot be used until the building is put into service. This would result in an acceleration of credit use relative to current law and would begin in 2022, two years after the credit allocation. The revenue impact of the accelerated credit usage would not be fully phased in until taxable year 2025 (because credits must be taken over a four-year period). The fully phased-in revenue loss, after accounting for potential revoked elections to sell the credit, would be \$4.2 million in 2025.

Additionally, for credits that are sold, it is assumed that the taxpayer would have additional capital gain income, in the amount of 80 percent of the value of the credits sold. This capital gain income must be claimed in the year the credits are purchased, which would result in a positive revenue impact for the 2020 and 2021 taxable years.

The tax year estimates are converted to fiscal year estimates, and then rounded to arrive at the amounts reflected in the above table. The combined revenue impact from expanding the ability to sell the credit or allocate the credit amongst the partners results in a revenue gain of \$70,000 in fiscal year 2019-2020, transitioning to a revenue loss of \$500,000 in fiscal year 2021-2022, and then increasing to \$3.9 million revenue loss in fiscal year 2025-2026.

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