STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Choi

Sponsor:

Bill Number: AB 1891

Related Bills: See Legislative History

Introduced: February 9, 2022
Amended: March 24, 2022, and April 5, 2022

SUBJECT

Landlord Rental Credit for Renting to Tenants that Receive Housing Services or Assistance

SUMMARY

This bill would, under Personal Income Tax Law (PITL) and Corporation Tax Law (CTL), allow a property owner a tax credit of $500 per qualified property, up to $5,000 per taxable year, when rented to qualified persons.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The March 24, 2022, amendments removed nonsubstantive Renters' Credit language changes and replaced it with the provisions discussed in this analysis.

The April 5, 2022, amendments added the term and definition for qualified amount, and made several nonsubstantive changes.

This is the department's first analysis of the bill.

REASON FOR THE BILL

The reason for the bill is to incentivize property owners to rent or lease property at below market rates to persons receiving housing services or assistance from nonprofit organizations or the state.

ANALYSIS

This bill would, under the PITL and the CTL, for each taxable year beginning on or after January 1, 2023, and before January 1, 2028, allow a tax credit equal to the qualified amount for each qualified property owned by the taxpayer, not to exceed $5,000, cumulatively, per taxpayer per taxable year.

For purposes of this bill, the following definitions apply:

1) “Below market rate” is defined as a rental price that is lower than the current rental market rate for that unit.
2) “Housing services” is defined as services provided by the state for low-income families, including, but not limited to, the California Work Opportunity and Responsibility to Kids (CalWORKs) Housing Support Program, the CalWORKs Homeless Assistance Program, the Bringing Families Home Program, the Housing and Disability Income Advocacy Program, and the Home Safe Program.
3) “Qualified amount” means the difference between the annual current rental market rate for that unit and the annual below market rate the unit is rented at, not to exceed $500 for each qualified property.
4) “Qualified property” is defined as a unit rented to, or leased by, qualified persons at below market rates.
5) “Qualified persons” are defined as persons receiving housing services or assistance from a nonprofit organization or from the state.
6) “Unit” means a house, apartment, or mobilehome.

This bill would allow the tax credit to be apportioned to each qualified owner, based on their ownership share of the qualified property.

This bill would require the taxpayer claiming the credit to submit documentation, in a form and manner specified by the Franchise Tax Board (FTB), showing the following for each qualified property:

1) The below market rate for that property.
2) The housing service or assistance from a nonprofit organization or from the state received by the qualified person renting or leasing that property.

Unused credits could be carried over for eight years until exhausted.

For purposes of complying with Revenue and Taxation Code (RTC) section 41, the goal of this credit is to reduce homelessness, and the effectiveness of the credit would be measured by the number of taxpayers claiming the credit.

This bill would require the FTB to submit an anonymized report to the Legislature on or before January 1, 2027, providing the number of taxpayers claiming this credit. The disclosure would be treated as an exception to the general prohibition against disclosure of tax information.

This bill would remain in effect until December 1, 2028, and be repealed as of that date.

Effective/Operative Date

As a tax levy, this bill would be effective immediately upon enactment and specifically operative for taxable years beginning on or after January 1, 2023, and before December 1, 2028.

Federal/State Law

The federal Low-Income Housing Credit Program was established to encourage new construction and rehabilitation of existing buildings as low-income rental housing for households with income at or below specified income levels.

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Implementation Considerations

The department has identified the following implementation consideration, and is available to work with the author's office to resolve these and other considerations that may be identified.

Although the "qualified amount" is based on the difference between annual market rate and annual below market rate, the bill does not specify the minimum time period the property must be rented at below market rate.

The bill would require taxpayers to provide FTB documentation that the property was rented at a below market rate and that a person has received qualifying housing services or assistance. Typically, credits involving properties, for which the department does not readily have the necessary information, are certified by another agency or agencies that possess the relevant information. Certification language would also specify the responsibilities of both the certifying agency or agencies and the taxpayer. It is recommended that this bill be amended to include a certifying agency.

Technical Considerations

The existing language could be read to allow the full credit to each joint owner. For clarity, it is suggested that the phrase "…may claim a share of the credit…" replace "…may claim the credit …" in Section 17053.82(c) and 23682(c).

Policy Considerations

The definition of "unit" could exclude certain types of dwelling units that may be rented to qualified persons, such as condominiums or duplexes. If this is contrary to the author's intent, the bill should be amended to cite to a definition that includes other types of dwelling units.

LEGISLATIVE HISTORY

AB 834 (Choi, 2021/2022), similar to this bill, would have, under the PITL and the CTL, for each of the taxable years beginning on or after January 1, 2022, and before January 1, 2027, allowed a $500 tax credit for each qualified property owned by the taxpayer, not to exceed $5,000 per taxable year. AB 834 did not pass out of the Assembly Revenue and Taxation Committee by the constitutional deadline.

SB 1410 (Caballero, et al., 2019/2020), under the PITL, Administration of Franchise and Income Tax Laws, CTL, Code of Civil Procedure, and the Civil Code, would have allowed tenants and property owners to enter into a tenant-owner COVID-19 eviction relief agreement (eviction relief agreement) to allow rents by the tenant to be deferred during the COVID-19 state of emergency plus an unspecified number of days. This bill would have allowed for rent deferral pursuant to eviction relief agreements for tenants, and would have created a COVID-19 eviction relief agreement tax credit for landlords. SB 1410 did not pass out of the Assembly Appropriations Committee by the constitutional deadline.

AB 1229 (Campos, 2015/2016) would have established the Senior Citizen Rent Increase Exemption (SCRIE) Program, and under the PITL, would have created a tax credit for taxpayers whose tenants participate in the SCRIE Program. AB 1229 did not pass out of the Assembly Revenue and Taxation Committee by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department’s costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 1891 as Amended April 5, 2022
Assumed Enactment after June 30, 2022

($ in Millions)

Fiscal Year	Revenue
2022-2023	-$25
2023-2024	-$60
2024-2025	-$60

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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

FTBLegislativeServices@ftb.ca.gov