



## Bill Analysis

Author: Choi

Sponsor:

Bill Number: AB 834

Related Bills: See Legislative  
History

Introduced: February 17, 2021

### 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

Not applicable.

### 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.

### ANALYSIS

This bill would, under the PITL and the CTL, for each of the taxable year beginning on or after January 1, 2021, and before January 1, 2026, allow a \$500 tax credit for each qualified property owned by the taxpayer, not to exceed \$5,000 per taxable year.

For purposes of this bill, the following definitions apply:

- 1) "Qualified property" is defined as a unit rented to, or leased by, qualified persons at below market rates.
- 2) "Qualified persons" are defined as persons receiving housing services or assistance from a nonprofit organization.

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

Unused credits could be carried over until exhausted.

For purposes of complying with Section 41, the goal of this credit is to reduce homelessness, and the effectiveness of the credit shall be measured by the number of taxpayers claiming the credit.

This bill would require the Franchise Tax Board (FTB) to submit an annual report to the Legislature providing the number of taxpayers claiming this credit. The reporting requirements of this bill would be treated as an exception to the disclosure rules under Revenue and Taxation Code section 19542.

This bill would remain in effect until December 1, 2026, and be repealed as of that date.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, 2021, and before January 1, 2026.

#### *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 considerations, and is available to work with the author's office to resolve these and other considerations that may be identified.

This bill uses the terms "below market rates" and "unit" that are undefined. The absence of definitions to clarify terms could lead to disputes. The author may want to amend the bill to define these terms.

The bill's definition of "qualified persons" refers to the phrase "assistance from a nonprofit organization". This is a broad term that may allow a person that receives any assistance, not limited to housing assistance, to qualify for this credit. If this is not the author's intent, the author may want to amend the bill to more specifically define this phrase. In addition, FTB would not have the information needed to determine if a property is a qualified property or if a person has received 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.

This bill would require the department to provide a report on the utilization of this credit, however, the bill is silent on the timing of that report. The author may wish to amend the bill to add a due date for this report.

#### *Technical Considerations*

On page 3, line 17, strike out "net tax", and insert "tax".

#### *Policy Considerations*

This bill would allow taxpayers in certain circumstances to claim multiple tax benefits for the same rental property. In addition, this bill does not provide a specific threshold amount or percentage below market value to qualify for this credit. Without a specific amount or percentage, unintended results could occur. For example, a \$5 decrease below market value would result with a \$500 tax credit. If this is contrary to the author's intent, this bill should be amended.

This bill would also allow for an unlimited carryover period. Consequently, the department would be required to retain the carryover on the tax forms indefinitely. Credits are generally enacted with a limited carryover period because experience shows credits typically are exhausted within eight years of being earned.

### **LEGISLATIVE HISTORY**

SB 1410 (Caballero and Bradford, 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 834 as Introduced February 17, 2021  
Assumed Enactment after June 30, 2021

(\$ in Millions)

<b>Fiscal Year</b>	<b>Revenue</b>
2021-2022	-\$110
2022-2023	-\$95
2023-2024	-\$95

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**

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