



## Bill Analysis

Author: Gabriel, et al.

Sponsor:

Bill Number: AB 3160

Related Bills: See Legislative  
History

Amended: August 15, 2024,  
and August 23, 2024

### SUBJECT

Low Income Housing Credit

### SUMMARY

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

This bill would also modify the LIHC under the Insurance Tax Law.

### RECOMMENDATION

No position—The three-member Franchise Tax Board has not formally voted or taken a position on this bill.

### SUMMARY OF AMENDMENTS

The August 15, 2024, amendments modified the beginning date for the removal of the requirement that the allocation amount be authorized in the Budget Act from 2025 to 2026.

The August 23, 2024, amendments added double jointing language with AB 3035 (Pellerin, et al., 2023/2024)

This analysis only addresses the provisions that would impact the Franchise Tax Board (FTB).

### REASON FOR THE BILL

The reason for this bill is to provide a consistent amount of tax credits to encourage affordable housing and increase the opportunity for federal assistance.

### ANALYSIS

This bill specifies the additional allocation amount of LIHC would be \$500 million for the 2020 calendar year through the 2030 calendar year, and up to \$500 million for the 2031 calendar year and every year thereafter. This bill would remove the requirement that the allocation of \$500 million for LIHC provided by the California Tax Credit

Allocation Committee (Allocation Committee) be authorized in the annual Budget Act or legislation related to the Budget Act for calendar years 2026 through 2030.

This bill includes double-jointing language with AB 3035 (Pellerin, et al., 2023/2024) to prevent chaptering issues if both bills are enacted and this bill is enacted last.

#### *Effective/Operative Date*

As a tax levy, this bill would be effective immediately upon enactment and operative only if AB 3190 is enacted and becomes effective on or before January 1, 2025.

The provisions prescribing the additional allocation by the Allocation Committee at \$500 million would be specifically operative for allocations made during calendar years 2021 through 2030.

The provisions removing the requirement that the additional allocation be authorized in the annual Budget Act or related legislation would be specifically operative for calendar years 2026 through 2030.

The double-jointing provisions of this bill would only become operative if 1) both this bill and AB 3035 are enacted and become effective by January 1, 2025, and this bill is operative first, 2) both bills amend the LIHC, and 3) this bill is enacted after AB 3035. If this happens, the nondouble-jointing provisions would be operative until AB 3035 is chaptered, and then the double-jointing provisions would be operative.

#### *Federal/State Law*

##### *Federal Law*

Current federal tax law allows a LIHC for the costs of constructing, rehabilitating, or acquiring low-income housing. The LIHC amount varies depending on several factors including when the housing was placed in service and whether it was federally subsidized; and varies between 30% and 70% of the present value of the qualified low-income housing. The LIHC is claimed over ten years.

##### *State Law*

Current state tax law generally conforms to federal law by reference with respect to the LIHC, except that the state LIHC is claimed over four taxable years, is limited to projects located in California, must be allocated and authorized by the Allocation Committee, rents must be maintained at low-income levels for 30 years (15 years for federal), and the Allocation Committee must have authorized a federal credit to the taxpayer or the taxpayer must qualify for the federal credit. The Allocation Committee allocates and administers both the federal and state LIHC Programs.

For qualified low-income buildings that meet certain requirements and receive certain allocations, the term “applicable percentage” means different specified percentages depending on the building.

Current state tax law allows an annual allocation of \$70 million, as indexed for inflation, and an additional \$500 million for the 2020 calendar year, and up to \$500 million for each calendar year thereafter to be allocated by the Allocation Committee to certain low-income housing projects. The additional allocation is subject to an authorization in the annual Budget Act or related legislation. The additional amount is only available after the Allocation Committee has adopted specified regulations, rules, or guidelines. The Allocation Committee certifies the amount of LIHC allocated. In the case of a partnership or an S Corporation, a copy of the certificate is provided to each partner or shareholder. The taxpayer is required, upon request, to provide a copy of the certificate to the FTB.

Any unused credit has an unlimited carryover period.

#### *Implementation Considerations*

None noted.

#### *Technical Considerations*

None noted.

#### *Policy Considerations*

None noted.

### **LEGISLATIVE HISTORY**

AB 346 (Quirk-Silva, Chapter 739, Statutes of 2023), under the PITL and CTL, allows a taxpayer to be eligible to claim the LIHC in the taxable year the building is placed in service, even if the Allocation Committee has not issued the certification.

AB 1439 (Garcia, Chapter 369, Statutes of 2023), under the PITL and the CTL, requires the Allocation Committee to consider modifying the scoring system to provide a score benefit to farmworker housing for the LIHC.

AB 1654 (Robert Rivas, Chapter 638, Statutes of 2022), under PITL and the CTL, modified the criteria for the return of unallocated credits related to farmworker housing projects, and modified provisions applicable to the farmworker housing study of the LIHC.

AB 447 (Grayson, Chapter 344, Statutes of 2021) expanded the eligibility criteria for buildings that are at risk of conversion for the allocation of LIHC by the Allocation Committee. This bill also expanded allocations for eligible projects of new buildings to include retrofitting and repurposing of existing nonresidential structures.

AB 101 (Committee on the Budget, Chapter 159, Statutes of 2019), among other things, under the PITL and the CTL, for tax years beginning in 2020 provided for an additional \$500 million that may be allocated to specified low-income housing projects and, for calendar years beginning in 2021, provided that this amount is only available for allocation pursuant to an authorization in the annual Budget Act or related legislation, and specified regulatory action by the Allocation Committee.

AB 1288 (Quirk-Silva, 2021/2022) would have, under the LIHC provisions of the PITL and CTL, allowed a taxpayer who purchased a credit to be eligible to claim any such credit in the taxable year the building is placed in service and would have identified certain taxpayer certification requirements. AB 1288 was vetoed by the Governor.

AB 10 (Chiu, et al., 2019/2020) would have, for purposes of the additional \$500 million LIHC allocation for calendar year 2021 and thereafter, removed the requirement for authorization of the additional allocation amount in the annual Budget Act or related legislation. AB 10 did not pass out of the Senate Committee on Appropriations by the constitutional deadline.

## **PROGRAM BACKGROUND**

None noted.

## **OTHER STATES' INFORMATION**

None noted.

## **FISCAL IMPACT**

This bill would not significantly impact the Franchise Tax Board's costs.

## **ECONOMIC IMPACT**

### *Revenue Estimate*

This bill as amended on August 23, 2024, would not change the calculation of income or franchise tax.

*Revenue Discussion*

It is assumed that the aggregate housing credit dollar amount that may be allocated each year, would include the \$500 million approved under AB 83 (Chapter 15, Statutes of 2020). Therefore, this bill as amended would not change the amount of credit claimed each year.

**LEGAL IMPACT**

None noted.

**EQUITY IMPACT**

None note.

**APPOINTMENTS**

None noted.

**SUPPORT/OPPOSITION**

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Support: California Housing Partnership Corporation (source)  
Abode Communities  
Alliant Strategic Development  
California Apartment Association  
California Association of Local Housing Finance Agencies  
California Community Builders  
California Community Foundation  
California Conference of Carpenters  
California Housing Consortium  
Corporation for Supportive Housing  
Cty Housing, INC.  
Democrats for Israel - CA  
Democrats for Israel Los Angeles  
East Bay Housing Organizations  
Eden Housing  
Enterprise Community Partners, INC.  
Etta  
Greenlining Institute; the  
Hadassah  
Hias  
Holocaust Museum LA  
Homes & Hope  
Housing California

Inner City Law Center  
JCRC Bay Area  
Jewish Center for Justice  
Jewish Community Federation and Endowment Fund  
Jewish Democratic Club of Marin  
Jewish Democratic Club of Solano County  
Jewish Democratic Coalition of The Bay Area  
Jewish Family and Children's Service of Long Beach and Orange County  
Jewish Family and Children's Services of San Francisco, the Peninsula,  
Marin and Sonoma Counties  
Jewish Family Service of Los Angeles  
Jewish Family Service of San Diego  
Jewish Family Service of The Desert  
Jewish Family Services of Silicon Valley  
Jewish Federation of The Greater San Gabriel and Pomona Valleys  
Jewish Long Beach  
Jewish Public Affairs Committee  
Jewish Silicon Valley  
JVS SoCal  
Kingdom Development  
LeadingAge California  
Linc Housing  
Merritt Community Capital Corporation  
Murow Development Consultants  
Progressive Zionists of California  
Resources for Community Development  
San Francisco Housing Accelerator Fund  
San Joaquin Valley Housing Collaborative  
Satellite Affordable Housing Associates  
Self-Help Enterprises  
Sisters of St. Joseph of Orange Healthcare Foundation  
Southern California Association of Nonprofit Housing  
St. Mary's Center  
Supportive Housing Alliance  
The John Stewart Company  
Thomas Safran & Associates  
Ventura Social Services Task Force  
Wakeland Housing and Development Corporation  
Weingart Center Association  
YM Architects

*Opposition:*

None on file.

**ARGUMENTS**

Senate Floor Analysis 08-25-2024:

*Proponents:*

None on file.

*Opponents:*

None on file.

**LEGISLATIVE CONTACT**

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