STATE OF CALIFORNIA
Franchise Tax Board

Bill Analysis

Author: Quirk-Silva

Sponsor:

Bill Number: AB 480

Related Bills: See Legislative History

Introduced: February 10, 2025

SUBJECT

Low-Income Housing Tax Credit (LIHC)

SUMMARY

This bill would, under the LIHC provisions of the Insurance Tax Law, Personal Income Tax Law (PITL), and Corporation Tax Law (CTL), amend the application process to allow a taxpayer to make an election, in a manner prescribed by the California Credit Allocation Committee (CTCAC), to sell all or a portion of the LIHC allowed before the CTCAC allocates the final credit amount to a project that had received a preliminary reservation beginning on or after January 1, 2016.

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

RECOMMENDATION

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

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to make it easier for taxpayers to make an election to sell their LIHCs.

ANALYSIS

The bill would change the election process to allow a taxpayer to elect, in a manner prescribed by the CTCAC, to sell all or any portion of any credit allowed to one or more unrelated parties for each taxable year in which the credit is allowed.

This bill would also remove the provision that prohibits a taxpayer from electing to sell all or any portion of their credit, if the taxpayer does not make the election on its application submitted to the CTCAC.

Lastly, the bill would allow a taxpayer to make an election to sell all or any portion of their allowable credit at any time before the CTCAC allocates the final credit amount for the project, at which point the election would become irrevocable.

Effective/Operative Date

If enacted in 2025, this bill would be effective January 1, 2026, and operative for projects that received a preliminary reservation from CTCAC on or after January 1, 2016.

Federal/State Law

Federal Law

Current federal tax law allows an 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.

The CTCAC allocates and administers the federal LIHC Program.

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 (10 years for federal), is limited to projects located in California, must be allocated and authorized by the CTCAC, rents must be maintained at low-income levels for 30 years (15 years for federal), and the CTCAC must have authorized a federal credit to the taxpayer or the taxpayer must qualify for the federal credit.

In addition, for projects that receive a preliminary reservation, a taxpayer must make an election on their application to the CTCAC in order to sell all or a portion of the LIHC allowed to one or more unrelated parties for each taxable year the credit is allowed. In general, a taxpayer who elects to sell all or a portion of their low-income housing credits cannot sell the credits for less than 80% of the amount of the credit and the taxpayer cannot elect to sell all or a portion of any credit if the taxpayer did not make an election of its application submitted to the CTCAC.

Additionally, a taxpayer may, only once, revoke an election to sell all or a portion of any credit at any time before the CTCAC allocates a final credit amount for the project at which point the election is irrevocable.

The CTCAC allocates and administers the state LIHC Program and provides to the FTB an annual report listing the taxpayers allocated the LIHCs and other relevant information.

Implementation Considerations

None noted.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

AB 3035 (Pellerin et al., Chapter 524, Statutes of 2024), under the PITL and the CTL, among other things, requires any farmworker housing funds unallocated after the final funding round in the calendar year be returned in the calendar year and made a technical correction within the aggregate housing credit amount provisions.

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 CTCAC has not issued the certification.

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

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), under PITL and the CTL, expanded the eligibility criteria for buildings that are at risk of conversion for the allocation of LIHC by the CTCAC. 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 taxable years beginning in 2020 provides for an additional $500 million that may be allocated to specified low-income housing projects and, for calendar years beginning in 2021, provides 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 CTCAC.

AB 3160, (Gabrial, et al., 2023/2024), under the PITL and the CTL, would have provided additional allocations to the LIHC. The governor vetoed the bill stating, “Codifying an allocation of $500 million per year of tax credits would result in a significant ongoing commitment of General Fund resources. Such decisions should be considered within the broader context of the state budget to ensure our collective priorities and financial commitments are balanced over both the short and long term. Additionally, without the ability to review this allocation annually through the Budget Act, the state would lose the flexibility to adjust expenditures in response to changing fiscal conditions, highlighting the importance of evaluating multi-year funding commitments during the budget process.”

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. The governor vetoed the bill stating, “AB 1288 would authorize the California Tax Credit Allocation Committee (CTCAC) to allocate state tax credits to either the nine- or four-percent federal low-income housing tax credits and would allow investors to begin claiming these credits in the year the development's construction is completed in advance of compliance verification. My administration, in partnership with the State Treasurer's Office, recently adopted new state tax credit regulations in July of this year. These regulations are meant to create administrative efficiencies, reduce costs, and increase housing production within the state tax credit system. Changes to this program and the use of state funding for low-income housing tax credits should be considered within the context of state regulatory changes, to ensure we maintain the necessary policy flexibility and predictability needed to improve our state housing finance system.”

PROGRAM BACKGROUND

In 1986, congress enacted the LIHC program, under Internal Revenue Code section 42, to provide incentives for the investment of private equity capital to develop affordable rental housing for low-income to moderate-income eligible households. In 1987, California enacted standalone provisions with modified conformity to the federal LIHC provisions. The CTCAC administers the federal and state LIHC programs. In addition, the CTCAC provides an annual report to the FTB which includes a listing of LIHC allocations by taxpayer and other relevant information.

OTHER STATES’ INFORMATION

None noted.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue loss:

Estimated Revenue Impact of AB 480 as Introduced on February 10, 2025
For Elections to Sell the Low-Income Housing Credit Beginning After Enactment.
Assumed Enactment after June 30, 2025

($ in Millions)

Fiscal Year	Revenue*
2025-2026	$0.0
2026-2027	-$0.03
2027-2028	-$0.15

*The estimated revenue loss will increase through 2031-32 when it peaks at about $3 million.

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.

Revenue Discussion

Using LIHC data from the CTCAC and the FTB, two estimates were prepared. The first estimates the revenue loss under current law and the second estimates the revenue loss from allowing taxpayers additional time to make the election to sell the credit. It is assumed that this would result in a small increase in the number of taxpayers electing to sell any credits received. The two estimates are then compared, and the net difference would be the estimated revenue loss from this bill.

Under current law, it is estimated that approximately $487 million in credit would be used by taxpayers in the 2027 taxable year. Under the proposal, it is estimated that approximately $488 million in credit would be used by taxpayers in the 2027 taxable year. The net difference results in an additional revenue loss of about $200,000 in the 2027 taxable year. The loss would increase each year thereafter peaking at about $3 million in the 2031 taxable year.

The tax year estimates are converted to fiscal year estimates and then rounded to arrive at the amounts reflected in the above table.

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Assembly Committee on Housing and Community Development, dated March 24, 2025.

Support

- California Housing Consortium
- California Housing Partnership Corporation
- Housing California
- Southern California Association of Nonprofit Housing

Opposition

None on file.

ARGUMENTS

Assembly Committee on Housing and Community Development, dated March 24, 2025.

Proponents

According to the California Housing Partnership, “AB 480 increases the impact of state Housing Credits by allowing developers to opt in to certificated credits after the award from TCAC, making it possible to increase the amount of housing that can be built per dollar of state resources.”

Opponents

None of file.

LEGISLATIVE CONTACT

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