

CONCURRENCE IN SENATE AMENDMENTS

AB 3308 (Gabriel, et al.)

As Amended August 25, 2020

Majority vote

SUMMARY:

Allows school districts to restrict occupancy of affordable housing on school district-owned land, funded with low income housing tax credits (LIHTC), to teachers and school district employees of the school district that owns the land, regardless of any laws that would prohibit a priority or preference for school district employees and teachers. Allows public employees to also occupy the housing constructed under this provision.

The Senate Amendments:

- 1) Clarify that projects eligible for tax credits under the provisions of this bill are subject to all applicable laws, including existing fair housing laws.
- 2) Clarify that teacher and school district employee housing may also allow other members of the public to occupy teacher and school district employee housing developments.
- 3) Add a severability clause.

COMMENTS:

Low Income Housing Tax Credits (LIHTC): Most affordable housing created in the state is funded in part by federal and state LIHTC. LIHTC are used to develop housing for households that make up to 80% of the area median income (AMI). California receives an allocation of federal tax credits each year based on a per-resident formula. In 2020, the state awarded \$1.06 billion in federal tax credits. In 1987, the Legislature authorized the creation of a state LIHTC program to augment the federal tax credit program. The state tax credit program has an ongoing statutory authorization of \$70 million. The 2019-20 budget authorized an additional \$500 million for state tax credits and the Governor's May budget continues this allocation for the 2020-21 budget year.

Generally under federal Internal Revenue Service (IRS) rules, if a residential unit is provided only for a member of a social organization or provided by an employer for its employees, the unit is not for use by the general public and is not eligible for federal LIHTC. However, federal IRS law also states that a qualified LIHTC project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants 1) with special needs, 2) who are members of a specified group under a federal program or state program or policy that supports housing for such a specified group, or 3) who are involved in artistic or literary activities.

Teacher Housing Act of 2016: In 2016, SB 1413 (Leno), Chapter 732, established the Teacher Housing Act of 2016 to facilitate the acquisition, construction, rehabilitation, and preservation of affordable housing for teachers and school employees. School districts are authorized to establish and implement programs that address the housing needs of teachers and school district employees by leveraging funding sources including state, federal, local, public, private and resources available to housing developers, promoting public and private partnerships, and fostering innovative financing opportunities. SB 1413 also created a state policy supporting the

use of federal and state LIHTC to fund housing for teachers and school district employees on land owned by the school district and permitting school districts to restrict occupancy to teachers and school district employees.

The intent of SB 1413 was to provide express state statutory authority to permit school districts to construct housing on their property and limit the occupancy to teachers and school districts employees. As mentioned above, federal law creates an exemption to the "general use" requirement that allows the use of federal and state tax credits if a state establishes a policy or program that supports housing for such a specified group. AB 1413 established this policy by allowing school districts to restrict occupancy of affordable housing on school district land constructed with federal or state low-income housing tax credits to the teachers and school district employees.

By declaring a state policy supporting housing for teachers/school district employees, these housing projects could qualify under federal law as general public housing and therefore be eligible for both federal and state LIHTCs.

AB 3308 would explicitly allow a school district to limit occupancy of housing funded with LIHTC to employees of a school district on land owned by that school district. The Senate amendments are clarifying and make clear that a housing development limited to school employees is not exempt from complying with other applicable fair housing laws.

According to the Author:

According to the author, "We are in the midst of a serious affordable housing crisis and we should use every partner and every tool available to address it. AB 3308, will provide some much needed clarity that will ensure school districts can and will want to continue building affordable housing for teachers and school employees."

Arguments in Support: AB 3308 will provide an important clarification in state regarding LIHTC so that school districts across the state who wish to pursue affordable housing projects for their workforce can leverage tax credits as part of a menu of available options.

Arguments in Opposition: Woodland Hills Homeowners Organization is concerned that there is the potential that school sites will be used for purposes that are inappropriate and the bill should be amended to protect school sites for educational purposes.

FISCAL COMMENTS:

None. This bill is keyed non-fiscal by the Legislative Council.

VOTES:

ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0

YES: Chiu, Diep, Gabriel, Gloria, Kiley, Limón, Maienschein, Quirk-Silva

ASSEMBLY FLOOR: 71-0-8

YES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Chu, Cooley, Cooper, Cunningham, Daly, Diep, Eggman, Flora, Fong, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager, Kiley, Lackey, Levine, Limón, Low, Maienschein, Mayes, McCarty, Medina, Mullin, Nazarian, O'Donnell, Obernolte, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Smith, Mark Stone, Ting, Voepel, Waldron, Weber, Wicks, Wood, Rendon

ABS, ABST OR NV: Bigelow, Brough, Choi, Megan Dahle, Gallagher, Mathis, Muratsuchi, Quirk

SENATE FLOOR: 35-2-3

YES: Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Mitchell, Monning, Moorlach, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

NO: Morrell, Nielsen

ABS, ABST OR NV: Dahle, Jones, Melendez

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