

Date of Hearing: April 5, 2022

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Buffy Wicks, Chair

AB 1719 (Ward) – As Amended March 22, 2022

SUBJECT: Housing: Teacher Housing Act of 2016: faculty and community college district employees

SUMMARY: Adds community college employees and faculty to the Teacher Housing Act of 2016. Specifically, **this bill:**

- 1) Provides that a community college district may establish and implement programs that address the housing needs of community college district employees and faculty who face challenges in securing affordable housing.
- 2) Creates a state policy supporting housing for community college employees and faculty as described in Section 42(g)(9) of the Internal Revenue Code to allow the following:
 - a) A community college district and a developer in receipt of local or state funds or tax credits designated for affordable rental housing to restrict occupancy to community college district employees or faculty on land owned by the community college district; and
 - b) A developer in receipt of tax credits designated for affordable rental housing to retain the right to prioritize and restrict occupancy on land owned by community college district to employees and faculty so long as that housing does not violate any other applicable laws.
- 3) Includes a severability clause.

EXISTING LAW:

Federal law:

- 1) A project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants:
 - a) With special needs;
 - b) 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,
 - c) Who are involved in artistic or literary activities.

State law:

- 1) Establishes the Teacher Housing Act of 2016 to facilitate the acquisition, construction, rehabilitation, and preservation of affordable rental housing for teachers and school district employees and to allow teachers or school district employees to access and maintain housing stability (Health and Safety Code Section 53571).

- 2) Provides that a program developed under the Teacher Housing Act of 2016 must be limited to teachers and school district employees.
- 3) Defines “affordable rental housing” to mean housing of five or more units in which a majority of the rents are restricted to levels that are affordable to persons and families of low or moderate income.
- 4) Defines “teacher or school district employee” to mean a person employed by a unified school district, an elementary school district, or a high school, including, but not limited to, certificated or classified staff.
- 5) Allows a school district to establish and implement a program that address housing needs of teachers and school district employees who face challenges securing affordable housing, by:
 - a) Leveraging federal, state, and local public, private, nonprofit programs and fiscal resources available to housing developers;
 - b) Promoting public and private partnerships; and,
 - c) Fostering innovative financing options.
- 6) Creates a state policy supporting housing for teachers and school district employees as described in Section 42 (g) (9) of the Internal Revenue Code and permits school districts and developers in receipt of local or state funds or tax credits for affordable housing to restrict occupancy to teachers and school district employees on land owned by school districts, provided that no other laws are violated.

FISCAL EFFECT: Unknown.

COMMENTS: *Author’s statement:* According to the author, “A 2019 study found that of the California Community College students, 60% were housing insecure in the previous year, and 19% were unhoused in the previous year. Community College Districts need new authority to provide affordable housing to those that work and study in their districts. AB 1719 will extend the flexibility afforded to K-12 school districts under current law to community college districts seeking to provide affordable housing options to district faculty and staff. This bill will allow community college districts with the appropriate existing land and resources to be active members in addressing California’s exasperated housing crisis.”

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

district and permitted school districts to restrict occupancy to teachers and school district employees.

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 percent of the area median income (AMI). California receives an allocation of federal tax credits each year based on a per-resident formula. 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, 2020-21, and 2021-22 budgets authorized an additional \$500 million for state tax credits and the Governor's May budget continues this allocation for the 2022-23 budget year.

Generally, under federal IRS rules, if a residential unit is provided for only 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 a state program or policy that supports housing for such a specified group, or (3) who are involved in artistic or literary activities.

The Act provided 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. The Act 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 district's teachers and school employees.

In 2021, AB 3308 (Gabriel) Chapter 199, further amended the Act to make clear that school districts could still access LIHTC if the school district restricts occupancy of housing constructed on their land to their own employees, but at their discretion offers the housing to other public employees.

This bill expands the Act to include community college faculty and employees. The sponsor of the bill, the San Diego Community College District has land it plans to develop as housing for its faculty and employees and wishes to access LIHTC. This bill does not provide any funding or create any land use enhancements to facilitate the production of housing. Rather, this bill allows a community college district and a developer to use state or local funds or LIHTC to construct affordable rental housing on land owned by the community college district and restrict occupancy to community college district employees or faculty.

Arguments in support: The California Federation of Teachers writes in support, "AB 1719 extends the flexibility afforded to K-12 school districts under current law to community college districts seeking to provide affordable housing options to district faculty and staff. This bill will be a vital tool in helping to address California's exasperated housing crisis, especially for the faculty and staff of California Community Colleges."

Oppose unless amended: The State Building Trades are opposed to this bill unless the author includes "amendments to this bill so that the workers on projects under the Teacher Housing Act of 2016 are paid the prevailing wage and are skilled and trained workers."

Previous legislation:

AB 3088 (Gabriel) (2021) clarified the Act to make clear that school districts could restrict occupancy of housing constructed on their land to their own employees but at their discretion can open up the housing to other public employees.

SB 1413 (Leno) (2016) established the Teacher Housing Act of 2016 and to allow a school district to establish and implement programs that address the housing needs of teachers and school district employees who face challenges in securing affordable housing. In addition, to allow housing developments to use LIHTC to build housing restricted to teachers and employees of school districts.

Double referred: This bill was also referred to the Assembly Committee on Education where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:**Support**

San Diego Community College District (Sponsor)
California Federation of Teachers AFL-CIO
Community College Facility Coalition
Community College League of California
Peralta Community College District

Opposition

Oppose Unless Amended

State Building & Construction Trades Council of California

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085