

Date of Hearing: April 29, 2026

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Matt Haney, Chair

AB 2689 (Ávila Fariás) – As Amended April 6, 2026

SUBJECT: Low-income housing tax credits: lease nonrenewal: good cause

SUMMARY: Provides for the Low Income Housing Tax Credit (LIHTC) program, for any low income building that is subject to an enforceable regulatory agreement with a government entity, good cause for a nonrenewal of a lease includes when both a household's income exceeds 140% of the area median income (AMI) for at least two years and the 30% of the households monthly income exceeds the fair market rent for the county in which the unit is located.

EXISTING LAW:

- 1) Authorizers, under the tax on the gross premiums of insurers, the personal income tax (PIT) Law, and the corporate tax (CT) Law, a state LIHTC that is calculated in partial conformity with the federal LIHTC and may only be claimed over a period of four years. (Revenue and Taxation Code (R&TC) Sections 12206, 17058, and 23610.5.)
- 2) Allocates \$70 million on an ongoing basis to the TCAC for the purposes of administering the LIHTC and adjusts this amount for inflation beginning in the 2002 calendar year, plus any unused amounts for the preceding calendar year and any amount returned in the calendar year. (R&TC Sections 12206, 17058, and 23620.5.)
- 3) Provides that an owner of a property financed using LIHTCs shall continue to be treated as occupied by a lower income household for purposes of the property tax welfare exemption if the occupants qualified as lower income (80% or less of AMI) when they first occupied the unit even if their income increases to 140% of AMI, adjusted for family size. However, the unit shall cease to be treated as a lower income unit if the income of the occupants of the unit increases above 140% of AMI, adjusted for family size. (R&TC 214)

FISCAL EFFECT: Unknown. This bill has been keyed non-fiscal by the Legislative Counsel.

COMMENTS:

Author's Statement: According to the author, "Millions of Californians struggle to find and afford housing. However, the demand far outweighs the supply. Waitlists for public housing or federal housing voucher units can be extensive, with families often waiting months and even years before there is an open unit. Furthermore, current law does not provide a transition for tenants in deed-restricted units who begin to earn significantly more in annual income. AB 2689 creates metrics for affordable housing managers to transition higher income tenants out of units intended for the low-income families. This bill would establish that good cause for nonrenewal of a lease where the nonrenewal relates to a household whose income exceeds 140% of the area median income for at least 2 consecutive years and 30% of the household's monthly income exceeds the fair market rent for the county where they reside. This in return would allow 100% affordable housing managers to transition higher income tenants out of units intended for the low-income families. This bill is about providing a fair, dignified process for affordable housing managers to transition units from over-income tenants to families who desperately need them."

Affordable Housing Need: According to the California Housing Partnership, California funded upwards of 23,000 new affordable homes in 2025, yet the state is only funding 20% of what is needed to meet its goals. Renters need to earn 2.8 times the state minimum wage to afford average asking rent in California, which increased by 1.8% from last year. Seventy-nine percent of extremely low-income (ELI) renter households pay more than half of their income on housing costs compared to 6% of moderate-income renter households. The U.S Department of Housing and Urban Development considers housing to be affordable when a household spends 30% or less of its income on housing costs. For households that spend more than that, are considered “rent burdened.”

Vacancy Rates: Low vacancy rates contribute to the challenges for both lower income and moderate-income households finding housing that is affordable. The California Housing Partnership found that lower income households face more significant challenges in finding available units in areas with low vacancy rates, but median income households are also impacted. Extremely low-income households (earning 30% or less of AMI) cannot afford the average rent in any county in the state and lower-income households (60% AMI) can only afford average rents in 18 counties. The California Housing Partnership analyzed vacancy rates in all California counties and found that median-income households (100% AMI) face substantial accessibility challenges—with an average statewide two-bedroom vacancy rate of 4.95% for apartments with asking rents affordable to households making between 80% and 100% AMI, 41 of 58 counties experience vacancy rates below 5%.

LIHTC: In 1986, the federal government authorized the LIHTC program to enable affordable housing developers to raise private capital through the sale of tax credits to investors. Two types of federal tax credits are available and are generally referred to as 9% and 4% credits. TCAC administers the program and awards credits to qualified developers who can then sell those credits to private investors who use the credits to reduce their federal tax liability. The developer in turn invests the capital into the affordable housing project.

Each state receives an annual ceiling of 9% federal tax credits. Federal LIHTCs are oversubscribed by a 3:1 ratio. Unlike 9% LIHTC, federal 4% tax credits are not capped; however, they must be used in conjunction with tax-exempt private activity bonds (PABs) which are capped and are administered by the California Debt Limit Allocation Committee (CDLAC). In 1987, the Legislature authorized a state LIHTC program to augment the federal tax credit program. Projects that receive either state or federal tax credits are required to maintain the housing at affordable levels for 55 years. Statute authorizes \$70 million in state tax credits each year, which has been annually adjusted for inflation and now hovers around \$100 million each year.

In 2019, AB 101 (Committee on Budget), Chapter 159, provided an additional \$500 million in state LIHTCs. When the additional \$500 million was first made available, the federal tax-exempt bond ceiling of approximately \$4 billion had not yet been reached. The additional \$500 million was coupled with PABs and the 4% credit, in part, to encourage developers to fully utilize any remaining federal PABs that were unused. After the \$500 million was made available, 4% credit applications increased significantly and the bonds became oversubscribed. As a result, CDLAC instituted a competitive process for awarding PABs.

In 2025, H.R.1 lowered the PAB financing threshold from 50% to 25% of land and building costs. Due to this change, affordable housing developments financed with PABs issued after

Dec. 31, 2025, qualify for 4% LIHTCs with much fewer bonds than before. As a result, the PABs and 4% LIHTC will be able to stretch much further than in the past. To fully leverage this change, the state will need additional gap financing to pair with these PABS and credits. Estimates suggest that the state may be able to double our affordable housing production, from 20,000 to 40,000 units, with the additional bond cap.

Property Tax Welfare Exemption: Article XIII, Section 4(b) of the California Constitution authorizes the Legislature to exempt property used exclusively for religious, hospital, or charitable purposes, as specified, from taxation. The Legislature has implemented this “welfare exemption” in R&TC Section 214. AB 2144 (Filante), Statutes of 1989 amended R&TC Section 214 to specifically exempt low-income housing developments operated by non-profit organizations. As noted in the Senate Revenue and Taxation Committee analysis, AB 2144's proponents argued that the property tax funds then being paid “could better be used in furtherance of the goals of providing low-income housing.” Generally, to qualify for the welfare exemption, the law requires that the rental housing be financed with specified tax-exempt bonds, government loans, or grants, or that the property's owner receives LIHTC under IRC Section 42. The welfare exemption extends to “units serving lower income households.” To qualify, the State Board of Equalization has noted that a unit must be occupied by a lower income household (with a maximum income of 80% AMI).

In 2017, AB 1193 (Gloria), Chapter 756, Statutes of 2017 provided that, in cases where a property owner is eligible for the LIHTC, a unit shall continue to be treated as occupied by a lower income household if the occupants was lower income on the lien date in the fiscal year in which occupancy began and the unit continues to be rent restricted, notwithstanding an increase in the income of the occupants to 140% of AMI. However, under AB 1193, if the occupants' income increases over this threshold, the unit ceases to be treated as a lower income unit. This law was designed to provide income flexibility roughly in line with federal law governing the LIHTC.

Income Qualifying: The average income of a LIHTC project is 60% of AMI. To qualify for a LIHTC unit, tenants must income-qualify when first renting the unit. There are no federal tax laws limiting how much a tenant's income can increase once they are in a LIHTC unit. In addition, a developer can receive the property tax welfare exemption on any units where the tenant's income when first occupying the unit was 80% of AMI or less. State law allows a property owner to continue to receive the welfare exemption until the tenant's income reaches 140% of AMI. Once a tenant's income exceeds 140% of AMI, a property owner can no longer receive the property tax welfare exemption. There are no financial penalties in federal tax law governing LIHTC if a tenant's income exceeds 140% of AMI.

In a LIHTC project where there is a mix of lower income units and market rate units, federal law dictates the “The Available Unit Rule” (Rule). Under the Rule, a property owner is required to maintain the level of affordability agreed to receive the LIHTC. If development is required to have 20% of the unit's deed restricted to lower income units and a tenant in a deed-restricted units income exceeds 140% of AMI, the property owner must move that person to a market rate unit when one is available and replace the lower income unit with an income qualified tenant. In developments that are 100% affordable, developers cannot move tenants because all of the units are deed restricted to lower-income and a property owner cannot raise the rent if the tenant's income exceeds 140% of AMI because the unit is deed restricted to lower income. As a result,

the property owner loses the property tax welfare exemption on that unit, subsidy that is needed to support the operation on the development because the rents are below market rent.

This bill would give a developer the option to not renew a tenant's lease if, for two years, their income exceeds 140% of AMI and they can rent a unit in the county in which they live and only pay 30% of their income toward rent. Housing costs are considered affordable if an individual pays 30% of their income toward the cost of housing. This policy would give property owners the option to fill a deed restricted lower income unit with an income qualified tenant, only if an existing tenant's income has grown to above moderate income and renting a unit in the private market allows them to continue to keep their housing costs at an affordable level. The intent of this bill is to ensure that scarce, state-subsidized units are made available to tenants who are lower-income, while ensuring that tenants whose incomes grow to more than triple the income required to initially qualify for a lower income unit are not displaced in high-cost markets. Tenants whose income grows to 140% of AMI would only have their leases not renewed if they could afford fair market rent, while paying 30% toward their rent. This ensures that tenants' house costs remain affordable. The Committee may wish to consider adding a notice requirement to the bill so that when tenants' income reaches 140% of AMI, they are notified and can begin preparing for a market rate rental, including saving up for a security deposit and any other moving expenses.

Arguments in Support: None on file.

Arguments in Opposition: None on file.

Committee Amendments: The Committee may wish to consider adding a notice requirement to the bill for tenants whose income exceeds 140% of AMI.

(b) If, during any income certification, the household's income exceeds 140 percent of the area median income, the owner shall provide the household with written notice of the household's income threshold exceedance within 30 days of the certification and include a statement that the household's income exceeds 140 percent of the area median income and that if the household's income exceeds 140 percent of the area median income for two consecutive years, and if 30 percent of the household's monthly income exceeds the fair market rent, the owner may have good cause for nonrenewal of the lease pursuant to this section.

(c) If paragraphs (1) and (2) of subdivision (b) are satisfied and the owner elects to not renew the lease pursuant to this section, the owner shall issue a Notice of Nonrenewal at least 90 days prior to the expiration of the lease term and include a citation to this section as the basis for nonrenewal and a statement that the nonrenewal is for good cause because the household's income has exceeded 140 percent of the area median income for two consecutive years and 30 percent of the household's monthly income exceeds the fair market rent for the county.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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