
THIRD READING

Bill No: AB 2689
Author: Ávila Farías (D), et al.
Amended: 6/22/26 in Senate
Vote: 21

SENATE HOUSING COMMITTEE: 10-0, 6/16/26

AYES: Arreguín, Seyarto, Cabaldon, Caballero, Cortese, Durazo, Gonzalez, Grayson, Ochoa Bogh, Padilla

SENATE JUDICIARY COMMITTEE: 11-0, 6/30/26

AYES: Umberg, Niello, Ashby, Caballero, Durazo, Laird, Reyes, Stern, Valladares, Weber Pierson, Wiener

NO VOTE RECORDED: Allen, Wahab

ASSEMBLY FLOOR: 68-1, 5/28/26 - See last page for vote

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

SOURCE: Author

DIGEST: This bill 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 fair market rent, as specified.

ANALYSIS:

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.

- 2) Allocates \$70 million on an ongoing basis to the California Tax Credit Allocation Committee (CTCAC) 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.
- 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.

This bill:

- 1) Provides for the 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 AMI for at least two years and the 30% of the households monthly income exceeds the fair market rent for the county or the for the ZIP code, in which the unit is located.
- 2) Requires a property owner to provide specified notice to a tenant whose income exceeds 140% of AMI.
- 2) Requires a property owner to provide 90 days' notice prior to the expiration of the lease term if the basis for non-renewal of a lease is that a household's income has exceeded 140% of the AMI for two consecutive years and 30% of the household's monthly income exceeds the fair market rent for the county or the for the ZIP code, in which the unit is located.

Background

LIHTC. State and federal law allow a LIHTC to qualified taxpayers for incurring certain costs related to the construction, rehabilitation, or acquisition of low-income rental housing. In practice, low-income rental housing developers design projects and apply to the CTCAC for credits. If the CTCAC authorizes credits, the CTCAC enters a regulatory agreement with the housing developer that stipulates

income and rent restrictions. The CTCAC then reserves the credit amount for that application. Subsequently, the developer forms a partnership with investors that exchange equity financing for the credits, and the investors may then claim the credit over the authorized period. Rather than expecting the investment in a LIHTC project to produce income, investors rely on the credit to realize a return in the form of reducing their tax liabilities. The equity raised from this exchange lowers the financing costs for developers such that they can feasibly charge lower rents, thereby potentially expanding the supply of affordable rental housing.

There are two types of the LIHTC, the 9% credit and the 4% credit, which are awarded to projects that are non-federally subsidized or federally subsidized, respectively. The 9% credit is subject to a federally prescribed annual ceiling based on the population of a state; whereas, the 4% credit must have 50% of the project financed by federally tax-exempt bonds.

Comments

Author's statement. "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 would establish good cause for nonrenewal in households at 100% affordable housing sites for those tenants whose income exceeds 140% of the area median income (AMI) for at least 2 consecutive years. 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 in return would allow 100% affordable housing managers to transition higher income tenants out of units intended for the low-income families. This bill does not require affordable housing managers to transition over-income tenants – it only provides dignified metrics should they choose to do so. AB 2689 is about providing a fair, dignified process for affordable housing managers to transition units from over-income tenants to families who desperately need them."

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. Stemming from this authority, the Legislature implemented this "welfare exemption." To exempt certain activities from property taxes, AB 2144 (Filante, Chapter 1469, Statutes of 1989) added low-income housing developments operated by non-profit

organizations to this exemption because property tax funds "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. 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. Forfeiting this subsidy can compromise the nonprofit's ability to support the operation on the development because the rents remain below market rent.

This bill gives a developer the option not to renew a tenant's lease if, for two years, their income exceeds 140% of AMI and they can rent a unit in the county or ZIP code 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' housing costs remain affordable. Owners would notify tenants when their income reaches 140% of AMI so they can begin preparing for a market rate rental, including saving up for a security deposit and any other moving expenses.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 7/15/26)

California Housing Partnership

OPPOSITION: (Verified 7/15/26)

None received

ASSEMBLY FLOOR: 68-1, 5/28/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz,

Sharp-Collins, Solache, Soria, Ta, Tangipa, Valencia, Wallis, Ward, Wicks,
Wilson, Rivas

NOES: Lee

NO VOTE RECORDED: Arambula, Bonta, Bryan, Flora, Mark González, Ortega,
Quirk-Silva, Ramos, Celeste Rodriguez, Stefani, Zbur

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
7/30/26 14:49:28

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