
SENATE COMMITTEE ON REVENUE AND TAXATION

Senator Jerry McNerney, Chair
2025 - 2026 Regular

Bill No: AB 480
Author: Quirk-Silva
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Consultant: Grinnell

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Tax Levy: No
Fiscal: Yes

***PERSONAL INCOME TAX LAW: CORPORATION TAX LAW: INSURANCE TAX LAW:
LOW-INCOME HOUSING TAX CREDIT:***

Removes the requirement that a developer must elect to sell credits in its Low-Income Housing Tax Credit application.

Background

Low-Income Housing Tax Credits. Current state law allows credits against the Personal Income Tax, Corporation Tax, and Gross Premiums Tax to subsidize investors who provide project capital to affordable rental housing projects. State Low-Income Housing Tax Credits (LIHTCs) are calculated in partial conformity with federal LIHTCs, and complement federal credits in the hope of providing capital necessary to pay costs to construct affordable housing. Federal tax credits can equal either 70% of the qualified basis—generally equal to the costs of construction—for projects that are not federally subsidized (known as 9% credits, although Congress temporarily increased the value of these credits to 12.5% in 2021), or 30% for those that *are* federally subsidized (known as 4% credits). Taxpayers claim the credit over a variable period after the building is placed in service. Tax-exempt bonds are generally the source of any qualifying federal subsidy.

The California Tax Credit Allocation Committee (TCAC), comprised of the State Treasurer, the State Controller, the Director of Finance, and three non-voting members, allocates state and federal LIHTCs. Housing developers design projects and apply to TCAC for credits. If TCAC grants credits, it then enters a regulatory agreement with the housing developer setting forth income and rent restrictions. TCAC then reserves the amount of credit for that application, and then the housing developer forms partnership agreements with investors who provide project capital for the housing in exchange for the credits at a discount. The developer then returns to TCAC for a final credit allocation. Investors claim the credit until exhausted, then can walk away from the partnership, and deduct the amount paid to the partnership in exchange for the tax credits as a capital loss.

TCAC awards 9% federal credits, up to a dollar threshold set in federal law, using a competitive process. TCAC awarded \$113.9 million in 9% federal LIHTCs to 55 proposed housing projects, totaling 3,232 lower-income units in 2024. Also in 2024, TCAC allocated \$435.5 million in annual federal 4% LIHTCs to 138 proposed housing projects, leading to 15,271 lower-income units. While federal law caps TCAC's authority to allocate federal 9% credits, TCAC can allocate unlimited 4% credits – so long as they are awarded in conjunction with tax-exempt private activity mortgage revenue bonds. These revenue bonds are subject to a cap in federal law based on a population-based formula that binds a state's issuance of tax exempt private activity

bonds for most kinds of projects, including rental housing. The California Debt Limit Allocation Commission (CDLAC), which has a similar membership to TCAC, allocates authority to issue private activity bonds under the cap.

Only rental housing buildings that are either undergoing rehabilitation or newly constructed are eligible for the LIHTC programs. The 9% credit is generally reserved for new construction, while the 4% credit can be claimed for rehabilitation or new construction. In addition, developments must comply with both rent and income restrictions.

TCAC can also allocate state LIHTCs to projects where they allocate federal LIHTCs. The amount of state LIHTC annually allocated by TCAC is limited to \$70 million, adjusted for inflation, which was expanded by AB 101 (Committee on Budget, 2019) and subsequent actions taken to approve the annual Budget Act, as discussed below. TCAC provided 25 of these projects with statutory state tax credit awards totaling \$165.1 million in 2024.

Taxpayers can claim LIHTCs against the Gross Premiums Tax, Personal Income Tax, or the Corporation Tax. While the state LIHTC program is patterned after the federal LIHTC program, there are several differences. First, investors may claim the state LIHTC over four years rather than the 10-year federal allocation period. Second, the rates used to determine the total amount of the state tax credit (representing all four years of allocation) are 30% of the eligible basis of a project that is *not* federally subsidized and 13% of the eligible basis of a project that *is* federally subsidized, in contrast to 70% and 30% (representing all 10 years of allocation on a present-value basis), respectively, for purposes of the federal LIHTCs. Combining federal 9% credits (which amount to roughly 70%) with state credits (which amount to 30%) generally equals 100% of a project's eligible basis. Combining federal 4% credits (which amounts to roughly 30%) with state credits (which amounts to 13%), only results in 43% of a project's eligible basis, with the difference usually provided by proceeds from mortgage revenue bonds.

TCAC must issue a certification to the taxpayer for the amount of credit allocated for the credit period. Projects must commence construction within 180 days of the award; however, TCAC's executive director is authorized to extend the 180 days in the event the Governor has declared a state of emergency.

AB 101. In 2019, the Legislature enacted AB 101 (Committee on Budget), which authorized an additional \$500 million in state LIHTCs. The Legislature enacted similar authorizations in subsequent Budget Acts. According to TCAC, state LIHTCs continue to be highly competitive – 167 projects requested \$2.2 billion in credits – and TCAC allocated \$501 million in state LIHTCs to 37 projects, totaling 4,495 lower-income units in 2024. Of these, two farmworker projects were awarded \$19 million in enhanced state LIHTCs of the available \$25 million, resulting in 148 lower-income units.

Sales of LIHTCs. State law provides two unique benefits for LIHTCs that generally do not apply to other credits. First, partnership agreements can allocate the state tax credit to investors in a manner that differs from the proportional division of the federal credit, which is generally precluded by federal and state laws that generally require partnership agreements to allocate tax benefits in accordance with its partners' economic interests (SB 585, Lowenthal, 2008). This means that an investor can own only 1% in a partnership and be allocated 20% of the state tax credits if the partnership agreement allows that allocation. Additionally, developers can make an irrevocable election to sell all or any portion of LIHTC to an unrelated party (SB 837, Committee on Budget & Fiscal Review, 2016), a benefit otherwise only allowed to taxpayers

making independent films under the state's motion picture production credit. SB 837 precluded credit purchasers from reselling credits, a limitation repealed by the Legislature in AB 101. Currently, developers can sell credits under the following circumstances:

- The developer elects in its application to sell the credit, which can be revoked up until TCAC makes a final credit allocation, at which point it becomes irrevocable.
- The consideration received in the sale for the credit must be equal to at least 80% of the credit amount.
- Tax credit purchasers could not subsequently resell the credit; however, the Legislature subsequently repealed this limit in AB 101.
- The developer reports the sale to TCAC using a prescribed form.

Credit sales allow developers to access capital from investors who prefer not to become owners of the project. In recent years, around half of the projects receiving state credits chose to sell credits.

However, developers report that they do not always know that they will want to sell credits to finance their projects at the time of the application, and cannot opt to do so once they receive a final allocation. The author wants to remove the requirement that a developer must elect to sell credits in its application, instead require that they must do so in a manner prescribed by TCAC.

Proposed Law

Assembly Bill 480 amends LIHTC statutes to remove the requirement that developers must elect to sell credits in their application; instead they must make the election in a manner prescribed by TCAC. The bill also makes conforming changes.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, "California's housing crisis forces too many families into impossible choices: between paying rent and buying groceries, between a long commute and overcrowded housing. We cannot let bureaucratic restrictions stand in the way of solutions. AB 480 removes unnecessary restrictions, enabling developers to fully leverage housing credits, attract more private investment, and accelerate the construction of affordable homes. Every dollar left on the table is a missed opportunity for a family in need. We have the tools, we just need the will to use them."

2. A different kind of credit. Affordable housing faces many barriers in California: high costs of land, labor, and capital; resistance from local residents; state and local laws and policies protecting the environment; and many others. The LIHTC encourages investment in affordable housing by providing a tax shelter for investors who allocate capital to an affordable housing project, an investment with a relatively poor rate of return by definition. In return for providing the tax shelter, the state draws more funding for affordable housing than it otherwise would have. LIHTCs differ from other tax credits, where individuals or businesses can qualify for a credit by virtue of incurring specific costs, such as research and development or hiring specific

individuals. As a result, the Legislature allows LIHTCs to be used more flexibly than other tax credits, including allowing taxpayers allocated credits by TCAC to sell them to unrelated investors. Successful applicants at TCAC sell LIHTCs to investors at a discount, but prices have generally fallen since Congress enacted the Tax Cuts and Jobs Act in 2017, which generally reduced federal corporate tax liabilities and, therefore, demand for federal LIHTCs.

3. Double-referred. The Senate Committee on Housing approved AB 480 by a vote of 9 to 0 on June 17th. The Committee on Revenue & Taxation is considering the measure as the Committee of second reference.

Assembly Actions

Assembly Housing & Community Development Committee:	10-0
Assembly Revenue & Taxation Committee:	7-0
Assembly Appropriations Committee:	14-0

Support and Opposition (7/3/25)

Support: California Housing Consortium
 California Housing Partnership
 City and County of San Francisco
 Eden Housing
 Housing Action Coalition
 Housing California
 MidPen Housing Corporation
 Non-Profit Housing Association of Northern California
 Southern California Association of Nonprofit Housing

Opposition: None received.

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