Date of Hearing: April 3, 2013

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Norma Torres, Chair
AB 952 (Atkins) – As Amended: March 18, 2013

SUBJECT: Low-income housing tax credits

SUMMARY: Makes changes to the state Low-Income Housing Tax Credit (LIHTC) Program. Specifically, this bill:

1) Allows the Tax Credit Allocation Committee (TCAC) to award state LIHTCs to developments in a Qualified Census Tract (QCT) or a Difficult to Develop Area (DDA) if the project is also receiving federal LIHTC under the following conditions:

   a) Developments restrict at least 50% of the units to special needs households; and

   b) The state credits do not exceed 30% of the eligible basis of the building.

2) Allows TCAC to replace federal LIHTC with state LIHTC of up to 30% of a project's eligible basis if the federal LIHTC is reduced in an equivalent amount.

3) Requires TCAC to determine what is an equivalent amount of state LIHTC necessary to replace the federal LIHTC a taxpayer would have received.

EXISTING LAW

1) Prohibits TCAC from awarding state LIHTC in QCTs and DDAs where the eligible basis of a project is 130% unless the federal credits are reduced so that the combined federal and state credit does not exceed the total credit allowed.

2) Defines a QTC as any census tract designated by the Department of Housing and Urban Development (HUD) in which either 50% or more of the households have an income that is less than 60% of the area median gross income or that that has a poverty rate of at least 25%.

3) Defines a DDA as an area designated by HUD on an annual basis that has high construction, land, and utility costs relative to area median gross income.

FISCAL EFFECT: Unknown

COMMENTS:

In 1986, the federal government authorized the Low-Income Housing Tax Credit (LIHTC) program to enable affordable housing developers to raise private capital through the sale of tax benefits to investors. The federal program offers 9% and 4% credits on the approximate percentage of a project's "qualified basis" a taxpayer who purchases credits from a developer may deduct from their annual federal tax liability in each of ten years. The Tax Credit Allocation Committee (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.

In 1987, the legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that also receive federal LIHTCs, except for farmworker housing projects, which can receive state credits without federal credits. Investors claim the state credit over four years.

Projects that receive either state or federal tax credits are required to keep the housing at affordable levels for 55 years. Both the federal and state tax credits are capped, which limits the amount of credit that TCAC can award each year. Each state receives an annual ceiling of federal credits. In 2012 it was $2.25 per capita, which worked out to $84.7 million in credits in California that can be taken by investors each year for 10 years. Federal LIHTCs are oversubscribed by a 3:1 ratio. TCAC has authority for approximately $90 million in state tax credits each year but has as many as $25 million in credits remaining at the end of the year due to lack of demand.

Federal law requires TCAC to conduct a feasibility study on every project to ensure that the amount of tax credits allocated do not exceed the amount required for the project to make the project feasible. To calculate the amount of tax credits a project may receive, TCAC determines the total project cost. Next, it determines the "eligible basis" by subtracting the non-depreciable costs, such as land permanent financing costs, rent reserves, and marketing costs.

Federal LIHTC can be used anywhere in the state, but projects are given an additional 30% on their eligible basis if the project is located in a DDA or a QCT. Because these areas by definition have a higher-poverty level and there is a higher concentration of extremely low-income or homeless individuals and families, housing needs deep subsidy to make it affordable. Existing state law does not allow state tax credits to be awarded in DDAs and QCTs. The rationale for this prohibition is projects in these areas can qualify for more federal tax credits and therefore are already advantaged.

<u>Purpose of this bill</u>: This bill would allow, in limited cases, for the state credits to be used in a DDA or QCT. In order to qualify projects would need to dedicate at least 50% of the units toward special needs populations. Projects that serve special needs populations need greater subsidy in order to offer rents at low or extremely low levels. Allowing state credits to be used in DDAs and QCTs would increase the equity projects could generate from tax credits because the projects can already qualify for more federal tax credits than projects outside of a DDA or a QCT. Under existing federal law, projects can receive 30% more federal LIHTC if they locate in a DDA or QCT. This bill would allow projects to receive state tax credits of up to an additional 30% of the projects eligible basis. As an example, if a project qualifies for $10 million in eligible basis in a DDA or QCT, the project could get up to 130% of that basis in federal tax credits, which means the project sponsor, would have $13 million in federal credits to sell to an investor. This bill would allow that project to get an additional 30% in state tax credits against the $10 million in eligible basis, which would create an additional $3 million in state tax credits.

This bill also clarifies TCAC's authority to swap out state LIHTC for federal LIHTC if the sponsor agrees when making the application. Sponsors receive additional points in their application if they agree that if TCAC determines it is necessary it can exchange state credits for federal credits. This practice is authorized in TCAC's regulations and this bill would confirm that

authority in statute. The practice of swapping credits is used to maximize both the state and federal credits available to the state.

Double referred: This bill was also referred to the Revenue and Taxation Committee, where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California State Treasurer Bill Lockyer (sponsor)
BRIDGE Housing
California Housing Consortium

Opposition

None on file.

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