

Date of Hearing: March 20, 2024

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Christopher M. Ward, Chair

AB 2005 (Ward) – As Introduced January 31, 2024

**SUBJECT:** California State University: faculty and employee housing

**SUMMARY:** Establishes the California State University (CSU) Faculty and Employee Housing Act of 2024. Specifically, **this bill:**

- 1) Includes the following definitions:
  - a) “Affordable rental housing” means a rental housing development with a majority of its rents restricted to levels that are affordable to persons and families of low or moderate income;
  - b) “Faculty or CSU employee” means any person employed by a CSU campus, including, but not limited to, faculty and staff;
  - c) “Local public employees” includes employees of a city, county, city and county, charter city, charter county, charter city and county, special district, or any combination thereof;
  - d) “Persons and families of low or moderate income” has the same meaning as defined in Section 50093;
  - e) “Rental housing development” means a structure or set of structures with common financing, ownership, and management with one or more dwelling units, including efficiency units. No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner of the structure or structures.
- 2) Provides that a CSU may establish and implement programs that address the housing needs of CSU employees and faculty who face challenges in securing affordable housing.
- 3) Provides that a program established by CSU may be restricted to CSU faculty or employees, except that a CSU campus may allow local public employees or other members of the public to occupy housing created through this bill, subject to applicable laws and regulations.
- 4) Allows a CSU campus to prioritize CSU employees over local public employees or other members of the public to occupy housing.
- 5) Creates a state policy supporting housing for CSU employees and faculty, as described in Section 42(g)(9) of the federal Internal Revenue Code, to allow the following:
  - a) A CSU and a developer in receipt of local or state funds or tax credits designated for affordable rental housing to restrict occupancy to CSU employees or faculty on land owned by the CSU Trustees; 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 CSU to employees and faculty so long as that housing does not violate any other applicable laws.
- 6) Makes the provisions of the Act severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**EXISTING LAW:*****Federal law:***

- 1) Provides that a low-income housing tax credit (LIHTC) 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. (Internal Revenue Code Section 42(g)(9))

***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 (HSC) Section 53571)
- 2) Provides that a program developed under the Teacher Housing Act of 2016 must be limited to teachers and school district employees. (HSC 53571)
- 3) Defines “affordable rental housing” to mean housing of five or more units in which a majority of the rents are restricted to level that affordable to person and families of low or moderate income. (HSC 53571)
- 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. (HSC 53571)
- 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, local public, private, nonprofit programs and fiscal resources available to housing developers;
  - b) Promoting public and private partnerships; and,
  - c) Fostering innovative financing options. (HSC 53571)

- 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. (HSC 53571)
- 7) Establishes the Community College Faculty and Employee Housing Act of 2022 to allow a community college district to establish and implement programs that address the housing needs of community college district employees and faculty who face challenges in securing affordable housing. (HSC 53580)
- 8) 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. (HSC 53584)

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

**Author's Statement:** According to the author, "AB 2005 protects the diversity and quality of our education system by ensuring that access to housing is not a detracting factor from our Universities. Social mobility for students is a strength within the CSU system, and providing them with increased access to affordable housing safeguards this quality of educational institution. Many of our CSU staff, students, and faculty struggle with financial insecurity and are unable to afford adequate housing, further limiting the inclusion of low-income and first-generation students into our university system. AB 2005 would ensure California State Universities are able to retain quality staff and students that reflect the diversity of California, and encourage social mobility for our students. AB 2005 strengthens CSU's ability to recruit and retain excellent staff as well as continue to welcome students that reflect the diversity and excellence of California."

**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 2021-23 budgets authorized an additional \$500 million for state tax credits.

**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 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.

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 LIHTC 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.

In 2022, AB 1719 (Ward), Chapter 640, established the Community College Faculty and Employee Housing Act of 2022, creating a state policy to allow developers that receive LIHTC to restrict occupancy to faculty and community college district employees on land owned by community college districts.

This bill would establish the CSU Faculty and Employee Housing Act to allow LIHTC to subsidize construction of rental housing affordable to faculty and staff at or below 80% of AMI. CSUs may restrict occupancy to CSU employees or faculty on land owned by the Trustees.

**Arguments in Support:** According the sponsors, CSCU, “this bill will allow the CSU to support their staff and faculty by enabling CSU campuses to develop their own affordable housing. This will help our university better retain and recruit quality staff, and it will add important housing stock to their region.”

**Arguments in Opposition** The California Association of Realtors (CAR) are opposed to this bill and seek amendments to eliminate the acquisition of single-family (1 to 4 units) homes (i.e., duplex, triplex, fourplex or primary residences with ADUs and/or junior ADUs).

***Related Legislation:***

AB 1719 (Ward), Chapter 640, Statutes of 2022: Established the Community College Faculty and Employee Housing Act of 2022 to allow community colleges and developers in receipt of LIHTC to limit occupancy of affordable housing constructed using LIHTC to faculty and employees of community colleges.

AB 3308 (Gabriel), Chapter 199, Statutes of 2021: Clarified the Teacher Housing Act of 2016 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), Chapter 732, Statutes of 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 Higher Education where it will be heard should it pass out of this committee.

**REGISTERED SUPPORT / OPPOSITION:****Support**

Bakersfield, California State University  
 California Apartment Association  
 California Polytechnic State University, San Luis Obispo  
 California State Polytechnic University, Pomona  
 California State University Maritime Academy  
 California State University, Office of the Chancellor  
 California Teamsters Public Affairs Council  
 Channel Islands, California State University  
 Chico, California State University  
 Dominguez Hills, California State University  
 East Bay, California State University  
 Fresno, California State University  
 Fullerton, California State University  
 Long Beach, California State University  
 Los Angeles, California State University  
 Monterey Bay, California State University  
 Northridge, California State University  
 Sacramento, California State University  
 San Bernardino, California State University  
 San Diego State University  
 San Francisco State University  
 San José State University  
 San Marcos, California State University  
 Sonoma State University  
 Stanislaus, California State University  
 San Marcos, California State University

YIMBY Action

**Opposition**

California Association of Realtors (unless amended)

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