

Date of Hearing: March 30, 2016

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 1920 (Chau) – As Amended March 18, 2016

SUBJECT: California Tax Credit Allocation Committee: low-income housing credit: fines

SUMMARY: Allows the California Tax Credit Allocation Committee (TCAC) to establish a schedule of fines for violations of the terms and conditions, the regulatory agreement, covenants, or program regulations for affordable housing developments that received low-income housing tax credits (LIHTC). Specifically, **this bill:**

- 1) Allows TCAC to charge up to \$500 per violation or double the amount of the financial gain to the housing credit application because of the violation, whichever is greater.
- 2) Allows the fine to be reoccurring if the violation is not corrected within a reasonable period of time, as determined by TCAC.
- 3) Requires TCAC to adopt and revise, by resolution at a public meeting, the schedule of fines for specific violations and the fine amounts for each violation.
- 4) Requires all fines collected to be deposited into the Housing Rehabilitation Loan Fund.
- 5) Provides that if a fine is not paid within six months from the date when the fine was initially assessed by TCAC and reasonable notice is given to the housing credit applicant, the committee may record a lien against the property.
- 6) Provides that any lien recorded by TCAC against a property, to secure fines, shall be junior to any liens recorded before it.

EXISTING LAW: Designates the TCAC as the state's only housing credit agency responsible for administering federal and low-income housing tax credits.

FISCAL EFFECT: Unknown.

COMMENTS:

Background:

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 nine percent (9%) and four percent (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.

Rental housing developments that receive low-income housing tax credits from TCAC are required to rent to income eligible applicants, limit rents, and maintain the physical condition of the units for 55 years. Owners agree to further commitments, such as more deeply targeting units to be affordable to extremely-low income households, as part of the competitive scoring process. The Internal Revenue Service (IRS) enforces the basic program requirements for 15 years, but does not enforce deeper affordability or other requirements imposed by TCAC during the first 15 years, or any requirements after year 15. TCAC has few enforcement remedies for an owner's failure to comply with program requirements that the IRS does not enforce. TCAC can impose negative points, which only work if the owner wants to propose new applications. TCAC can also bring a lawsuit to seek compliance or receivership, however this expensive and time-consuming.

AB 1920 would provide TCAC with the legislative authority to levy fines for non-compliance with the terms and conditions, the regulatory agreement, covenants, or program regulations. Fines may not exceed the greater of \$500 or double the amount of the financial gain to the violator and could be recurring if the violations are not corrected in a reasonable amount of time. Fines would be deposited in the Housing Rehabilitation Loan Fund and be made available to the Multifamily Housing Program at the Department of Housing and Community Development. TCAC could record a lien on the property, if fines are not paid within 6 months of being assessed. TCAC would adopt the fine schedule through a public process and provide for due process through appeals to the Committee.

Purpose of this bill: According to the author, "AB 1920 would provide TCAC with a more efficient and effective enforcement tool by giving TCAC the legislative authority to levy fines for non-compliance with the terms and conditions, the regulatory agreement, covenants, or program regulations."

REGISTERED SUPPORT / OPPOSITION:

Support

The Arc California
United Cerebral Palsy California Collaboration

Opposition

None on file.

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