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SB 9 Sale of State Low Income Housing Tax Credits Beyond 2020

ISSUE

This bill seeks to increase the impact of the state's existing low-income housing tax credit with no fiscal impact to the state by continuing to allow the tax credits to be structured in a way that is not subject to federal taxation.

BACKGROUND

Congress enacted the federal Low Income Housing Tax Credit (LIHTC) program in 1986 to provide the private market with an incentive to invest in affordable housing. The Legislature directed the California Tax Credit Allocation Committee (CTCAC) to award LIHTCs to developers of qualified projects in the state. The developers, who do not have sufficient tax liability to use the credits themselves, in turn seek equity investment for the project from corporations and others with tax liabilities in exchange for the tax credits. Under current law, the investors must become owners of the property to claim the credits. The equity the investors provide typically reduces the debt that the developer would otherwise have to borrow, allowing owners to offer lower, more affordable rents.

In response to the high cost of developing housing in California, the Legislature in 1987 authorized a state low-income housing tax credit program to leverage the federal credit program. Unfortunately, state taxes are deductible from federal taxable income, meaning that investors reducing their state tax liability with the state LIHTC must then pay taxes on their higher federal income as a result of losing their state tax deduction. With the federal corporate tax rate at 35%, this means that investors claiming state LIHTC's generally pay no more than 65 cents for each dollar of state credit. In other words, for every dollar the state invests in this critical program, the federal government currently takes 35 cents.

In 2016, California enacted legislation that permitted a developer who receives an award of state LIHTCs to sell the credits to an investor without requiring the investor to be part of the project ownership. Under federal and state tax laws, tax credits that are bought by an investor are considered a payment of the investor's tax rather than a reduction in their tax liability. As a result, purchased credits do not reduce the taxpayer's federal deductions.

To date, CTCAC and the California Housing Partnership Corporation have data to show the value of the tax credits has increased by 14 cents, or closer to 80 cents on the dollar, when utilizing this new structure. This increased value means more housing units for the state without any additional costs to taxpayers.

Unfortunately, this provision sunsets on January 1, 2020.

THIS BILL

This bill would remove the sunset to permit developers to sell low income housing tax credits to an investor beyond January 1, 2020.

It also makes the program more practical and attractive by eliminating administrative barriers and the limitation on an investor reselling a certificated credit only once. If a credit can be resold (i.e., has liquidity), investors pay more.

SUPPORT

California Housing Partnership Corporation (Sponsor)
California State Treasurer Fiona Ma (Sponsor)
American Planning Association, CA Chapter
Burbank Housing
California Apartment Association
California Coalition for Rural Housing
California YIMBY
Coalition for Homeless Service Providers
EAH Housing
Eden Housing
Housing Authority of the City of Alameda
Housing California

Non-Profit Housing Association of Northern CA
Petaluma Pie Company
San Diego Housing Federation
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