DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 12, 2010
POSITION: Neutral
BILL NUMBER: SB 1216
AUTHOR: G. Cedillo

BILL SUMMARY: Taxation: Low Income Housing Credit

This bill would allow California's Tax Credit Allocation Committee (TCAC), on a case-by-case basis, to substitute state low income housing credits (LIHC) for federal LIHC during years when there is a specified surplus of state LIHC in any year beginning before January 1, 2016.

FISCAL SUMMARY

There is no anticipated fiscal impact associated with this bill. In the past several years, the state LIHC have been fully allocated.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the April 5, 2010 version are minor and do not alter our position. The amendment gives the bill a sunset date of January 1, 2016.

COMMENTS

The Department of Finance is neutral on this bill because it will provide flexibility for TCAC to administer the LIHC program in a manner that maximizes the value of state tax credits that are awarded to housing developers. It is TCAC's current practice to substitute state LIHC for federal credits if the state credits are not fully utilized and to then reallocate the federal credits to additional projects. For some developers, the state credits may not be as valuable if investors for a particular project are not seeking to offset state tax liability (generally investors who are buying tax credits in multiple states). This bill will provide TCAC with the flexibility to substitute state LIHCs in projects where the developer has investors who can benefit from more state tax credits (generally investors within California). The overall amount of tax credits would not increase, only the mix of state and federal credits. The funding from the sale of the tax credits to investors provides capital for affordable housing developers.

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Governor's Office: By: Date: Position Approved_______
Position Disapproved

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ANALYSIS

A. Programmatic Analysis

Current federal law allows a LIHC for the costs of constructing, rehabilitating, or acquiring low-income housing.

Current state law generally conforms to federal law with respect to the LIHC, except the state LIHC is claimed over a shorter period (four years rather than ten), is limited to projects located in California, and is awarded to projects that previously received, or are currently receiving, federal tax credits. The maximum state LIHC that can be allocated to a housing project is limited to 30 percent of basis, which is the value of the nondepreciable portion of the project (i.e. the buildings and other improvements to the property).

This bill authorizes TCAC to substitute state tax credits for federal credits in excess of the 30 percent of eligible basis limit for state LIHCs in any year beginning before January 1, 2016. To substitute state tax credits requires that:

-TCAC has excess state LIHCs to allocate in the calendar year;
-The developer agrees to the substitution of state LIHC for federal LIHC; and
-The state LIHC does not exceed 80 percent of the eligible basis.

Discussion: The TCAC allocates the federal and state credits for state housing projects. For calendar year 2010, the state LIHC ceiling is estimated to be $90 million. TCAC regulations allow TCAC, at its discretion, to exchange state LIHCs for federal tax credits for projects that have received less than the state limit on state tax credits. By doing so, TCAC is able to fully allocate state credits, and then reallocate the federal credits to other projects to maximize the use of state and federal tax credits.

The limit on state LIHCs of 30 percent of the project's basis sometimes prevents projects that have investors that would prefer state LIHC from exchanging federal credits for state credits. This bill would provide flexibility so that TCAC could target the reallocation of the excess state tax credits to those projects, provided that the combined state and federal tax credits do not change and the state tax credits to not exceed 80 percent of the eligible cost basis.

B. Fiscal Analysis

There is no anticipated fiscal impact associated with this bill because TCAC usually fully allocates the state credits by exchanging state tax credits for federal tax credits.

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	2009-2010	FC	2010-2011	FC	2011-2012	Fund Code
		(Fiscal Impact by Fiscal Year) (Dollars in Thousands)							
1147/Pers Inc Tax	RV	No	-------------------- See Fiscal Analysis ---------------------						0001