

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 2689 (Ávila Farías)
Version: June 22, 2026
Hearing Date: June 30, 2026
Fiscal: No
Urgency: No
ID

SUBJECT

Low-income housing tax credits: lease nonrenewal: good cause

DIGEST

This bill permits the nonrenewal of a lease for a household in a low-income building where 100 percent of the units are restricted to lower income households when the household's income exceeds 140 percent of the area median income for at least two consecutive years and 30 percent of the household's monthly income exceeds fair market rent, as provided, and requires specified notices related to such lease nonrenewal.

EXECUTIVE SUMMARY

The Low-Income Housing Tax Credit (LIHTC) program was created by the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2085) to promote the creation of affordable housing across the United States. The LIHTC program helps develop affordable housing by allowing housing developers to sell tax credits to raise capital for affordable housing projects from investors. The investors who purchase the tax credits can then use the tax credits to offset their federal tax liability. In 1987, the state created its own LIHTC program (state LIHTC) to augment the federal LIHTC program. In California, LIHTC programs must remain rent and income restricted for 55 years. These income requirements apply at the beginning of a tenant's lease, but there are otherwise no limits upon eligibility for continuing or renewing a lease based on income, and tenants can only be evicted from LIHTC units for good cause. AB 2689 permits an owner of a LIHTC project to not renew a tenant's lease when the tenant's household income exceeds 140 percent of the area median income (AMI) for at least two consecutive years and 30 percent of the household's monthly income exceeds fair market rent. AB 2689 requires that the owner provide the tenant notice when their income exceeds 140 percent of the AMI, and to provide a notice at least 90 days before the expiration of the tenant's lease if they intend not to renew the lease under these provisions.

AB 2689 is author-sponsored, and is supported by the Southern California Association of Non-Profit Housing. The Committee has received no timely letters of opposition. AB 2689 previously passed out of the Senate Housing Committee by a vote of 10 to 0.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Establishes the LIHTC program to promote the creation of affordable housing across the United States by awarding housing developers tax credits that they can sell to investors in order to raise capital for affordable housing projects, and requires that LIHTC projects maintain affordability requirements, as specified. (26 U.S.C. §§ 42 et seq.)
- 2) Permits the eviction or termination of a tenancy for a tenant of an LIHTC project only for "good cause." (26 U.S.C. § 42(h)(6)(E)(ii).) Defines "good cause" as "serious or repeated violations of a material term of the lease." (IRS Revenue Ruling 2004-82.)

Existing state law:

- 1) Authorizes, under the tax on the gross premiums of insurers, the Personal Income Tax (PIT) Law and the Corporate Tax (CT) Law, a state LIHTC that is calculated in partial conformity with the federal LIHTC and may only be claimed over a period of four years. (Rev. & Tax. Code §§ 12206, 17058, and 23610.5.)
- 2) Allocates \$70 million on an ongoing basis to the California Tax Credit Allocation Committee (TCAC) for the purposes of administering the LIHTC program and adjusts this amount for inflation beginning in the 2002 calendar year, plus any unused amounts for the preceding calendar year and any amount returned in the calendar year. (Rev. & Tax. Code §§ 12206, 17058, & 23620.5.)
- 3) Provides that a property financed using LIHTCs shall continue to be treated as occupied by a lower income household for purposes of the property tax welfare exemption if the occupants qualified as lower income (80% or less of AMI) when they first occupied the unit even if their income increases to 140% of AMI, adjusted for family size. However, the unit shall cease to be treated as a lower income unit if the income of the occupants of the unit increases above 140% of AMI, adjusted for family size. (Rev. & Tax. Code § 214.)
- 4) Permits, for specified tenants in the state, eviction after the tenant has lived in the unit for a year or more only for "just cause," as specified. (Civ. Code § 1946.2.)

This bill:

- 1) Specifies that, for the purposes of implementing the LIHTC program, for any qualified low-income building where 100 percent of the units, except for any manager's unit, are restricted to lower income households by an enforceable regulatory agreement with a government entity, good cause for nonrenewal of a lease includes cases where:
 - a) The household's income exceeds 140 percent of the AMI for at least two consecutive years; and
 - b) 30 percent of the household's monthly income exceeds the greater of:
 - i. The U.S. Department of Housing and Urban Development's (HUD) Fair Market Rent for an equivalent-sized unit in the county where the unit is located, as updated annually; or
 - ii. HUD's Small Area Fair Market Rent for an equivalent-sized unit for the ZIP code where the unit is located, as updated annually.
- 2) Requires, if during any income certification a household's income exceeds 140 percent of the AMI, that the owner provide the household with written notice of the household's income threshold exceedance within 30 days of the certification. Requires this notice to include a statement that the household's income exceeds 140 percent of the AMI and that, if the household's income exceeds this amount for two consecutive years, and if 30 percent of the household's monthly income exceeds the applicable fair market rent, the owner may have good cause not to renew the household's lease.
- 3) Requires, if the owner elects not to renew a lease pursuant to these provisions, the owner must issue a notice of nonrenewal at least 90 days before the expiration of the lease term, and include a citation to this section as the basis for that nonrenewal along with a statement that the nonrenewal is for good cause, as provided.

COMMENTS

1. Author's statement

According to the author:

Millions of Californians struggle to find and afford housing. However, the demand far outweighs the supply. Waitlists for public housing or federal housing voucher units can be extensive, with families often waiting months and even years before there is an open unit. Furthermore, current law does not provide a transition for tenants in deed-restricted units who begin to earn significantly more in annual income.

AB 2689 creates metrics for affordable housing managers the option to transition higher income tenants out of units intended for the low-income families. This bill would establish that good cause for nonrenewal of a lease where the nonrenewal relates to a household whose income exceeds 140% of the area median income for at least 2 consecutive years and 30% of the household's monthly income exceeds the fair market rent for the county where they reside. This in return would allow 100% affordable housing managers to transition higher income tenants out of units intended for the low-income families. This bill is about providing a fair, dignified process for affordable housing managers to transition units from over-income tenants to families who desperately need them.

2. The LIHTC program

The Low-Income Housing Tax Credit (LIHTC) program was created by the Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2085) to promote the creation of affordable housing across the United States. The LIHTC program helps develop affordable housing by allowing housing developers to sell tax credits to raise capital for affordable housing projects from investors. The investors who purchase the tax credits can then use the tax credits to offset their federal tax liability. In 1987, the state created its own LIHTC program (state LIHTC) to augment the federal LIHTC program by providing additional tax credits to projects that receive federal LIHTCs.¹ Since 2020, the state budget has included an additional \$500 million in state LIHTCs for new construction of multifamily housing projects. (AB 101, Committee on the Budget, Ch. 159, Stats. 2019.) In California, the LIHTC program is administered by the California Tax Credit Allocation Committee (CTCAC). The state LIHTC program has provided tax credits for more than 550,000 affordable housing units, and the federal LIHTC program has generated more than 3.6 million units since its inception.²

In California, LIHTC projects must remain rent and income restricted for 55 years. LIHTC projects typically must reserve a certain percentage of the units for households with incomes of 40, 50, or 60 percent of the Area Median Income (AMI).³ These income requirements apply at the beginning of a tenant's lease, but there are otherwise no limits upon eligibility for continuing or renewing a lease based on income. If a tenant's income increases, even above the income limitation for the unit, the tenant may continue residing in the unit. Rents are also limited, and are typically 30 percent of the

¹ Office of the State Treasurer, "California Tax Credit Allocation Committee" (accessed Jun. 26, 2026) <https://www.treasurer.ca.gov/ctcac/tax>.

² Cal. Tax Credit Allocation Committee, *2025 Annual Report* (2025), available at <https://www.treasurer.ca.gov/ctcac/annual-reports>; Tax Policy Center, "What is the low-income housing tax credit and how does it work?" (Jan. 2024) <https://taxpolicycenter.org/briefing-book/what-low-income-housing-tax-credit-and-how-does-it-work>.

³ Cal. Tax Credit Allocation Committee, "Low-income housing tax credit (LIHTC) rent requirement: frequently asked questions (FAQ)," available at <https://www.treasurer.ca.gov/ctcac/tax>.

AMI. Thus, the rents charged to LIHTC tenants are not based on the tenant's income, but on the median income for the area.

In LIHTC projects that have a mix of low-income units and market rate units, the owner must maintain the level of affordability agreed to in order to receive the LIHTC. If the income of a tenant in a deed-restricted unit grows beyond 140 percent of the AMI, the owner must move the tenant to a market-rate unit when one is available (this is called the "next unit available rule"). (26 U.S.C. § 42(g)(2)(D).) Under this rule, the unit deed-restricted to a certain income and rent can be rented by a tenant who meets the income requirements of the restriction. However, if the development is 100 percent affordable housing units, the owner cannot move tenants under the next unit available rule. In such a scenario, the allowable rent for the unit cannot be changed, because the unit is restricted by deed to certain levels of rent.

3. The property tax welfare exemption

This can cause a problem when compounded with the property tax welfare exemption. Article XIII, Section 4(b) of the California Constitution authorizes the Legislature to exempt property used exclusively for religious, hospital, or charitable purposes, as specified, from taxation. Low-income housing developments operated by nonprofits are exempted from property taxes under this provision. (Rev. & Tax Code § 214.) However, the welfare exemption is only available to units serving low-income households, and once an occupant's income surpasses 140 percent of AMI, the unit cannot be counted as a low-income household for the purposes of the property tax welfare exemption.

4. AB 2689 expands evictions for LIHTC programs

The LIHTC program also includes some tenant protections for residents in LIHTC units. Specifically, a tenant can only be evicted for "good cause." (26 U.S.C. § 42(h)(6)(E)(ii).) Federal regulations define "good cause" as "serious or repeated violations of a material term of the lease." (IRS Revenue Ruling 2004-82.) Outside of LIHTC projects, most tenants in California cannot be evicted but for "just cause," which is defined in statute as both "at fault" and "no fault" just cause. (Civ. Code § 1946.2.)

AB 2689 proposes to allow LIHTC projects with 100 percent of units restricted to affordable housing to terminate the tenancy of a tenant under "good cause" when the tenant's household income exceeds 140 percent AMI for at least two years. In addition, the fair market rent for an equivalent-sized unit in the area, as determined by federal standards, must be less than 30 percent of the tenant's monthly income. If both requirements are met, AB 2689 would permit the owner of the development to elect not to renew the tenant's lease at the end of lease term. However, to do so, it must provide a notice of this nonrenewal at least 90 days before the expiration of the lease. If, during an income certification, the tenant's household income exceeds 140 percent of AMI, AB

2689 also requires the owner to notify the tenant of that fact and of the non-renewal provisions created by AB 2689.

The author asserts that AB 2689 is about ensuring that deed-restricted, affordable units will be kept available for the low-income families that need them. Indeed, it would open up previously-occupied units for low-income tenants, and the deed restrictions on the unit will mean that the new tenants are low-income. This is certainly a laudable goal, especially considering the state's housing crisis and the lack of affordable housing.

However, by expanding what constitutes good cause, AB 2689 also would result in more families being evicted from their homes. While in theory these families will be able to afford market rate rental housing, this may not actually be the case in some areas of the state where rents and the cost of living are particularly high. Additionally, evicting a tenant has serious negative financial consequences, as the tenant must take time to find new housing, which may be hard if the tenant needs to take time off of work or hire child care to do so, come up with a security deposit for the new rental, and possibly hire someone to help move their possessions. The insecurity that an eviction can cause can have serious consequences in all aspects of a tenant's life, and in some markets, finding a new unit in the same area may not be easy, even for higher income tenants. The state has long worked to protect tenants from eviction, and has in recent years imposed limits on when landlords can evict tenants. These actions by the Legislature recognize the importance of stable housing and of helping tenants stay in their homes. AB 2689, on the other hand, can increase the risks of eviction for some tenants. While well-intended with the goal of keeping affordable units available to low-income residents, AB 2689 nonetheless has important implications for residents of LIHTC projects, and the interests of such residents in keeping their homes and not being evicted should be carefully considered and weighed against the policy goal of preserving affordable units for low-income tenants.

SUPPORT

Southern California Association of Nonprofit Housing

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: AB 2581 (Arambula, 2026) requires, by January 1, 2028, the California Department of Housing and Community Development and the California Housing Finance Agency to develop and implement strategies to promote the movement of tenants of deed-restricted affordable housing into home ownership

through existing home ownership programs, as specified. AB 2581 is currently pending before the Assembly Appropriations Committee.

Prior Legislation:

AB 101 (Committee on the Budget, Ch. 159, Stats. 2019) included \$500 million in state LIHTCs for new construction of multifamily housing projects as part of the state budget.

AB 1193 (Gloria, Ch. 756, Stats. 2017) provided that, in cases where a property owner is eligible for the LIHTC program, a unit shall continue to be treated as occupied by a lower income household if the occupants were lower income on the lien date in the fiscal year in which occupancy began and the unit continues to be rent restricted, notwithstanding an increase in the income of the occupants to 140% of AMI.

PRIOR VOTES:

Senate Housing Committee (Ayes 10, Noes 0)

Assembly Floor (Ayes 68, Noes 1)

Assembly Housing and Community Development Committee (Ayes 11, Noes 1)
