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AB-1920 California Tax Credit Allocation Committee: low-income housing credit: fines. (2015-2016)

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Assembly Bill No. 1920

CHAPTER 611

An act to amend Section 50199.10 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 25, 2016. Filed with Secretary of State September 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1920, Chau. California Tax Credit Allocation Committee: low-income housing credit: fines.

Under existing law, the California Tax Credit Allocation Committee administers the federal and state low-income housing tax credit programs. Existing law requires the committee to allocate the housing credit on a specified regular basis and requires the committee to only allocate credits to a project if the housing sponsor enters into a specified regulatory agreement. Existing law authorizes the committee to make any allocation or reservation of the state's housing credit ceiling to a housing credit applicant subject to specified terms and conditions.

Existing law establishes the Housing Rehabilitation Loan Fund, which is continuously appropriated to the Department of Housing and Community Development, to fund various housing-related purposes.

This bill would authorize the committee to establish a specified schedule of fines for violations of the terms and conditions, the regulatory agreement, other agreements, or program regulations. The bill would require the committee to define serious violations and, except for serious violations, would require a first-time property owner violator to be given the opportunity to correct the violation before the fine is imposed. The bill would authorize a property owner to appeal a fine to the committee. The bill would require these fines to be deposited in the Housing Rehabilitation Loan Fund and would authorize the committee to record a property lien if the fine has not been paid within a specified period of time. By depositing these fines into the Housing Rehabilitation Loan Fund, a continuously appropriated fund, the bill would make an appropriation.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 50199.10 of the Health and Safety Code is amended to read:

50199.10. (a) For purposes of allocating low-income housing credits, the committee is hereby designated as this state's only housing credit agency for purposes of Section 42(h) of the federal Internal Revenue Code (26 U.S.C. Sec. 42(h)). The committee shall annually determine and shall allocate the state ceiling in accordance with this chapter and in conformity with federal law. The committee shall determine the housing credit ceiling as soon as possible following the effective date of this chapter and thereafter following the commencement of each calendar year. The committee shall undertake any and all responsibilities of housing credit

agencies under Section 42 of Title 26 of the United States Code, including entering into regulatory agreements relating to projects that are granted awards.

(b) The committee shall develop and provide application forms for use by housing credit applicants. The committee shall adopt uniform procedures for submission and review of applications of housing credit applicants, including fees to defray the committee's costs in administering this chapter. In the committee's discretion, the fees shall be charged to a housing credit applicant as a condition of submitting an application or as a condition of receiving an allocation or reservation of the state's current or anticipated housing credit ceiling, or both.

(c) In addition to allocating the current housing credit ceiling, the committee may reserve a portion of the state's anticipated housing credit ceiling for a subsequent year for a housing credit applicant.

(d) As a condition to making an allocation of the housing credit ceiling or a reservation of the anticipated housing credit ceiling for a subsequent year, the committee may require the housing credit applicant receiving the allocation or reservation to deposit with the committee an amount of money as a good-faith undertaking. The committee shall adopt policies for determining when deposits will be required, prescribing procedures for return of deposits, and specifying the circumstances under which the deposits will be forfeited in whole or in part for failure to timely utilize the allocation or reservation provided to the housing credit applicant.

(e) (1) The committee may make any allocation or reservation of the state's housing credit ceiling to a housing credit applicant subject to terms and conditions in furtherance of the purposes of this part. The committee may condition an allocation or reservation on the execution of a contract between the housing credit applicant and the committee requiring the housing credit applicant to comply with all the terms of Section 42 of the federal Internal Revenue Code, any applicable state laws, and any additional requirements the committee deems necessary or appropriate to serve the purposes of this chapter, and providing for legal action to obtain specific performance or monetary damages for breach of contract.

(2) No allocations or reservations shall be made pursuant to this subdivision with respect to projects that do not meet the requirements of the qualified allocation plan, and no allocations or reservations shall be made in amounts that do not meet the requirements of paragraph (2) of subsection (m) of Section 42 of Title 26 of the United States Code.

(3) (A) With respect to an allocation or reservation, the committee may establish a schedule of fines for violations of the terms and conditions, the regulatory agreement, other agreements, or program regulations. In developing the schedule of fines, the committee shall establish the fines for violations in an amount up to five hundred dollars (\$500) per violation or double the amount of the financial gain because of the violation, whichever is greater. Except for serious violations, which shall be defined by the committee, a first-time property owner violator shall be given at least 30 days to correct the violation before a fine is imposed. A violation that has occurred for some time prior to discovery is one violation, but fines may be a recurring amount if the violation is not corrected within a reasonable period of time thereafter, as determined by the committee. A property owner may appeal a fine to the committee.

(B) By resolution at a public general committee meeting, the committee shall adopt and may revise the schedule of fines, which shall include specific violations of the terms and conditions, the regulatory agreement, other agreements, or program regulations and fine amounts subject to the criteria in subparagraph (A).

(C) All fines received by the committee shall be deposited in the Housing Rehabilitation Loan Fund established in Section 50661.

(D) If a fine assessed against a property owner is not paid within six months from the date when the fine was initially assessed by the committee and after reasonable notice has been provided to the property owner, the committee may record a lien against the property. Consistent with Sections 1214 and 1215 of the Civil Code, a lien created pursuant to this paragraph shall not be superior to any lien recorded prior to the recording of this lien.