

111TH CONGRESS
2D SESSION

H. R. 4687

To provide grants to States for low-income housing projects in lieu of low-income housing credits.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2010

Ms. LINDA T. SÁNCHEZ of California introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide grants to States for low-income housing projects
in lieu of low-income housing credits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Low Income Housing
5 Tax Credit Exchange Expansion and Job Creation Act of
6 2010”.

1 **SEC. 2. GRANTS TO STATES FOR LOW-INCOME HOUSING**
2 **PROJECTS IN LIEU OF LOW-INCOME HOUS-**
3 **ING CREDIT ALLOCATIONS FOR 2010.**

4 (a) IN GENERAL.—The Secretary of the Treasury
5 shall make a grant to the housing credit agency of each
6 State in an amount equal to such State’s low-income hous-
7 ing credit allocation election amount.

8 (b) LOW-INCOME HOUSING CREDIT ALLOCATION
9 ELECTION AMOUNT.—For purposes of this section, the
10 term “low-income housing credit allocation election
11 amount” means, with respect to any State, such amount
12 as the State may elect which does not exceed 85 percent
13 of the product of—

14 (1) the sum of—

15 (A) 100 percent of the State housing credit
16 ceiling for 2010 which is attributable to
17 amounts described in clauses (i) and (iii) of sec-
18 tion 42(h)(3)(C) of the Internal Revenue Code
19 of 1986, plus

20 (B) 40 percent of the State housing credit
21 ceiling for 2010 which is attributable to
22 amounts described in clauses (ii) and (iv) of
23 such section, multiplied by

24 (2) 10.

25 (c) SUBAWARDS FOR LOW-INCOME BUILDINGS.—

1 (1) IN GENERAL.—A State housing credit agen-
2 cy receiving a grant under this section shall use such
3 grant to make subawards to finance the construction
4 or acquisition and rehabilitation of qualified low-in-
5 come buildings. A subaward under this section may
6 be made to finance a qualified low-income building
7 with or without an allocation under section 42 of the
8 Internal Revenue Code of 1986, except that a State
9 housing credit agency may make subawards to fi-
10 nance qualified low-income buildings without an allo-
11 cation only if it makes a determination that such use
12 will increase the total funds available to the State to
13 build and rehabilitate affordable housing. In com-
14 plying with such determination requirement, a State
15 housing credit agency shall establish a process in
16 which applicants that are allocated credits are re-
17 quired to demonstrate good faith efforts to obtain
18 investment commitments for such credits before the
19 agency makes such subawards.

20 (2) SUBAWARDS SUBJECT TO SAME REQUIRE-
21 MENTS AS LOW-INCOME HOUSING CREDIT ALLOCA-
22 TIONS.—Any such subaward with respect to any
23 qualified low-income building may be in the form of
24 a grant or a loan of any duration and shall be made
25 in the same manner and shall be subject to the same

1 limitations (including rent, income, and use restric-
2 tions on such building) as an allocation of housing
3 credit dollar amount allocated by such State housing
4 credit agency under section 42 of the Internal Rev-
5 enue Code of 1986, except that such subawards shall
6 not be limited by, or otherwise affect (except as pro-
7 vided in subsection (i)(9) of such section), the State
8 housing credit ceiling applicable to such agency.

9 (3) COMPLIANCE AND ASSET MANAGEMENT.—

10 The State housing credit agency shall perform asset
11 management functions to ensure compliance with
12 section 42 of the Internal Revenue Code of 1986
13 and the long-term viability of buildings funded by
14 any subaward under this section. The State housing
15 credit agency may collect reasonable fees from a
16 subaward recipient to cover expenses associated with
17 the performance of its duties under this paragraph,
18 including the reasonable costs of administering such
19 subawards. The State housing credit agency may re-
20 tain an agent or other private contractor to satisfy
21 the requirements of this paragraph.

22 (4) RECAPTURE.—The State housing credit
23 agency shall impose conditions or restrictions, in-
24 cluding a requirement providing for recapture, on
25 any subaward under this section so as to assure that

1 the building with respect to which such subaward is
2 made remains a qualified low-income building during
3 the compliance period. Any amounts of recapture
4 shall be proportional to the length of time of the
5 noncompliance compared to the 15-year compliance
6 period and the percentage of qualified basis out of
7 compliance compared to the total qualified basis.
8 Any such recapture shall be payable to the Secretary
9 of the Treasury for deposit in the general fund of
10 the Treasury and may be enforced by means of liens
11 or such other methods as the Secretary of the Treas-
12 ury determines appropriate. A State housing credit
13 agency may subordinate any such lien (or other se-
14 curity interest) to other loans made by third parties.

15 (d) RETURN OF UNUSED GRANT FUNDS.—Any grant
16 funds not used to make subawards under this section be-
17 fore January 1, 2012, shall be returned to the Secretary
18 of the Treasury on such date. The portion of any
19 subaward which is not disbursed before such date shall
20 be returned to the Secretary of the Treasury on such date
21 unless the subawardee has paid or incurred before Janu-
22 ary 1, 2012, at least 30 percent of the subawardee's total
23 adjusted basis in land and depreciable property that is
24 reasonably expected to be part of the low-income housing
25 building with respect to which such subaward is made.

1 The portion of any subaward which is not disbursed before
2 January 1, 2013, shall be returned to the Secretary of
3 the Treasury on such date. Any subawards returned to
4 the State housing credit agency on or after January 1,
5 2012, shall be promptly returned to the Secretary of the
6 Treasury. Any amounts returned to the Secretary of the
7 Treasury under this subsection shall be deposited in the
8 general fund of the Treasury.

9 (e) DEFINITIONS.—Any term used in this section
10 which is also used in section 42 of the Internal Revenue
11 Code of 1986 shall have the same meaning for purposes
12 of this section as when used in such section 42. Any ref-
13 erence in this section to the Secretary of the Treasury
14 shall be treated as including the Secretary's delegate.

15 (f) APPROPRIATIONS.—There is hereby appropriated
16 to the Secretary of the Treasury such sums as may be
17 necessary to carry out this section.

18 **SEC. 3. GRANTS TO STATES FOR LOW-INCOME HOUSING**
19 **PROJECTS IN LIEU OF LOW-INCOME HOUS-**
20 **ING CREDITS FOR BOND-SUBSIDIZED HOUS-**
21 **ING PROJECTS.**

22 (a) IN GENERAL.—The Secretary of the Treasury
23 shall make a grant to each State in an amount equal to
24 such State's low-income bond-subsidized housing election
25 amount.

1 (b) LOW-INCOME BOND-SUBSIDIZED HOUSING
2 ELECTION AMOUNT.—For purposes of this section—

3 (1) IN GENERAL.—The term “low-income bond-
4 subsidized housing election amount” means, with re-
5 spect to any State, such amount as the State may
6 elect which does not exceed 85 percent of the State’s
7 bond-subsidized credit amount.

8 (2) BOND-SUBSIDIZED CREDIT AMOUNT.—The
9 term “bond-subsidized credit amount” means, with
10 respect to any State, the aggregate amount of low-
11 income housing credits which the State determines
12 would, but for section 42(i)(9) of the Internal Rev-
13 enue Code of 1986, be awarded under section
14 42(h)(4)(B) of such Code times 10 with respect to
15 qualified low-income buildings receiving an allocation
16 of qualified residential rental project bonds of such
17 State during 2010.

18 (3) QUALIFIED RESIDENTIAL RENTAL PROJECT
19 BONDS.—The term “qualified residential rental
20 project bond” means, with respect to any State, any
21 qualified bond (as defined in section 141(e) of the
22 Internal Revenue Code of 1986) if such bond—

23 (A) is issued as part of an issue 95 percent
24 or more of the net proceeds of which are to be
25 used to provide qualified residential rental

1 projects (within the meaning of section 142 of
2 such Code), and

3 (B) is taken into account under section
4 146 of such Code with respect to the State ceil-
5 ing applicable to such State.

6 (c) SUBAWARDS FOR LOW-INCOME BUILDINGS.—

7 (1) IN GENERAL.—A State receiving a grant
8 under this section shall use such grant to make sub-
9 awards to finance the construction or acquisition
10 and rehabilitation of qualified low-income buildings
11 which have received the corresponding allocation of
12 qualified residential rental project bonds referred to
13 in subsection (b)(2).

14 (2) SUBAWARDS SUBJECT TO SAME REQUIRE-
15 MENTS AS LOW-INCOME HOUSING CREDIT ALLOCA-
16 TIONS.—Any such subaward with respect to any
17 qualified low-income building may be in the form of
18 a grant or a loan of any duration and shall be made
19 in the same manner and shall be subject to the same
20 limitations (including rent, income, and use restric-
21 tions on such building) as an allocation of housing
22 credit dollar amount allocated by the State housing
23 credit agency of such State under section 42 of the
24 Internal Revenue Code of 1986, except that such
25 subawards shall not be limited by, or otherwise af-

1 fect, the State housing credit ceiling applicable to
2 such agency.

3 (3) COMPLIANCE AND ASSET MANAGEMENT.—A
4 State receiving a grant under this section shall per-
5 form asset management functions to ensure compli-
6 ance with section 42 of the Internal Revenue Code
7 of 1986 and the long-term viability of buildings
8 funded by any subaward under this section. A State
9 may collect reasonable fees from a subaward recipi-
10 ent to cover expenses associated with the perform-
11 ance of its duties under this paragraph, including
12 the reasonable costs of administering such sub-
13 awards. A State may retain an agent or other pri-
14 vate contractor to satisfy the requirements of this
15 paragraph.

16 (4) RECAPTURE.—A State receiving a grant
17 under this section shall impose conditions or restric-
18 tions, including a requirement providing for recap-
19 ture, on any subaward under this section so as to
20 assure that the building with respect to which such
21 subaward is made remains a qualified low-income
22 building during the compliance period. Any amounts
23 of recapture shall be proportional to the length of
24 time of the noncompliance compared to the 15-year
25 compliance period and the percentage of qualified

1 basis out of compliance compared to the total quali-
2 fied basis. Any such recapture shall be payable to
3 the Secretary of the Treasury for deposit in the gen-
4 eral fund of the Treasury and may be enforced by
5 means of liens or such other methods as the Sec-
6 retary of the Treasury determines appropriate. A
7 State housing credit agency may subordinate any
8 such lien (or other security interest) to other loans
9 made by third parties.

10 (d) REALLOCATION OF BOND AUTHORITY.—A State
11 housing credit agency shall establish a process in which
12 applicants that are allocated bonds and receive a subaward
13 pursuant to subsection (c) are required to demonstrate
14 good faith efforts to obtain purchasers for such bonds. If
15 a subawardee is unable to obtain purchasers or if the State
16 makes a determination that reallocation of bond authority
17 will increase the total funds available to the State to build
18 and rehabilitate affordable housing, a subawardee may re-
19 turn its bond allocation to the State without affecting its
20 subaward under subsection (c) and the State may reallo-
21 cate such bond authority only for qualified residential
22 rental projects. Reallocated bonds shall not be taken into
23 account for purposes of determining eligibility for low-in-
24 come housing credits under section 42(h)(4) of the Inter-

1 nal Revenue Code of 1986 or for purposes of determining
2 eligibility for grants under subsection (c).

3 (e) RETURN OF UNUSED GRANT FUNDS.—Any grant
4 funds not used to make subawards under this section be-
5 fore January 1, 2012, shall be returned to the Secretary
6 of the Treasury on such date. The portion of any
7 subaward which is not disbursed before such date shall
8 be returned to the Secretary of the Treasury on such date
9 unless the subawardee has paid or incurred before Janu-
10 ary 1, 2012, at least 30 percent of the subawardee’s total
11 adjusted basis in land and depreciable property that is
12 reasonably expected to be part of the low-income housing
13 building with respect to which such subaward is made.
14 The portion of any subaward which is not disbursed before
15 January 1, 2013, shall be returned to the Secretary of
16 the Treasury on such date. Any subawards returned to
17 the State housing credit agency on or after January 1,
18 2012, shall be promptly returned to the Secretary of the
19 Treasury. Any amounts returned to the Secretary of the
20 Treasury under this subsection shall be deposited in the
21 general fund of the Treasury.

22 (f) DEFINITIONS.—Any term used in this section
23 which is also used in section 42 of the Internal Revenue
24 Code of 1986 shall have the same meaning for purposes
25 of this section as when used in such section 42. Any ref-

1 erence in this section to the Secretary of the Treasury
2 shall be treated as including the Secretary's delegate.

3 (g) APPROPRIATIONS.—There is hereby appropriated
4 to the Secretary of the Treasury such sums as may be
5 necessary to carry out this section.

6 **SEC. 4. COORDINATION OF LOW-INCOME HOUSING CREDIT**
7 **WITH LOW-INCOME HOUSING GRANTS.**

8 (a) IN GENERAL.—Paragraph (9) of section 42(i) of
9 the Internal Revenue Code of 1986 is amended by redesi-
10 gnating subparagraph (B) as subparagraph (D) and by in-
11 serting after subparagraph (A) the following new subpara-
12 graphs:

13 “(B) REDUCTION IN STATE HOUSING
14 CREDIT CEILING FOR LOW-INCOME HOUSING
15 GRANTS RECEIVED IN 2010.—For purposes of
16 this section, the amounts described in clauses
17 (i) through (iv) of subsection (h)(3)(C) with re-
18 spect to any State for 2010 shall each be re-
19 duced by so much of such amount as is taken
20 into account in determining the amount of any
21 grant to such State under section 2 of the Low
22 Income Housing Tax Credit Exchange Expan-
23 sion and Job Creation Act of 2010.

24 “(C) DENIAL OF CREDIT FOR BOND-SUB-
25 SIDIZED BUILDINGS RECEIVING SUBAWARDS

1 WITH 2010 GRANT FUNDS.—No credit shall be
2 determined under this section with respect to
3 any qualified low-income building to the extent
4 of the bond-subsidized credit amount deter-
5 mined with respect to such building under sec-
6 tion 3 of the Low Income Housing Tax Credit
7 Exchange Expansion and Job Creation Act of
8 2010 if any subaward is made with respect to
9 such building under such section.”.

10 (b) GRANTS AND LOANS NOT TO REDUCE BASIS.—
11 Subparagraph (D) of section 42(i)(9) of such Code, as re-
12 designated by this section, is amended by striking “by the
13 amount of any grant described in subparagraph (A)” and
14 inserting “by reason of any grant or loan made under sec-
15 tion 1602 of the American Recovery and Reinvestment
16 Tax Act of 2009 or section 2 or 3 of the Low Income
17 Housing Tax Credit Exchange Expansion and Job Cre-
18 ation Act of 2010”.

19 (c) EXCLUSION OF GRANTS FROM GROSS INCOME.—
20 Paragraph (9) of section 42(i) of such Code, as amended
21 by this section, is amended by adding at the end the fol-
22 lowing new subparagraph:

23 “(E) EXCLUSION OF GRANTS FROM GROSS
24 INCOME.—Any grant made under section 1602
25 of the American Recovery and Reinvestment

1 Tax Act of 2009 or section 2 or 3 of the Low
2 Income Housing Tax Credit Exchange Exten-
3 sion Act of 2009 shall not be includible in the
4 gross income or alternative minimum taxable
5 income of the taxpayer.”.

6 (d) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as otherwise pro-
8 vided in this subsection, the amendments made by
9 this section shall apply to taxable years ending after
10 December 31, 2009.

11 (2) REDUCTIONS IN STATE HOUSING CREDIT
12 CEILING.—Subparagraph (B) of section 42(i)(9) of
13 the Internal Revenue Code of 1986, as amended by
14 subsection (a), shall apply to determinations of State
15 housing credit ceiling for calendar years after 2009.

16 (3) EXCLUSION OF GRANTS FROM GROSS IN-
17 COME.—The amendment made by subsection (c)
18 shall apply to taxable years ending after December
19 31, 2008.

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