SENATE BILL REPORT
SB 5759

As of January 20, 2022

Title: An act relating to increasing involvement of private housing developers in the nine percent low-income housing tax credit program.

Brief Description: Increasing involvement of private housing developers in the nine percent low-income housing tax credit program.

Sponsors: Senators Gildon and Rivers.

Brief History:
Committee Activity: Housing & Local Government: 1/20/22.

Brief Summary of Bill

- Requires the Housing Finance Commission to amend internal policies and project scoring criteria to increase participation of private housing developers in the nine percent low-income housing tax credit program.

SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

Staff: Brandon Popovac (786-7465)

Background:
<u>Housing Finance Commission.</u> The Housing Finance Commission (Commission) is a finance authority established to act as a conduit to make additional funds available at affordable rates to help provide housing throughout the state. The Commission is financially self-supported and does not receive funding from the state. To provide financing, the Commission may:
- issue bonds;
- make loans to or deposits with mortgage lenders for making mortgage loans;
- make loans for down payment assistance to home buyers; and
- participate in federal and other government programs to carry out its purpose.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Low-Income Housing Tax Credit Program. The Commission administers the Low-Income House Tax Credit (LIHTC) program, which finances construction of low-income housing through federal tax incentives. Housing financed through the LIHTC program must be affordable to households with incomes at 60 percent or less than the area median income. LIHTC provides an indirect subsidy to housing developers where federal tax credits are allocated at the state level. The Commission awards these state tax credits to developers under two different LIHTC programs.

Under one LIHTC program, after a competitive application process in which projects are evaluated and scored according to established policy criteria, a developer may receive a 9 percent tax credit that typically generates equity for 70 percent of a projects' development cost. Scoring categories include type of population served, targeted income levels, length of commitment to keeping units affordable, project costs, project location, and developer type. Tax credits are limited to an annual allocation to each state on a per capita basis. The Commission partners closely with the Department of Commerce to align the competitive process with the state Housing Trust Fund (HTF), where, for example, 75 percent of projects under this program included HTF funding in 2019. Non-profits and housing authorities are typical recipients, although for-profit developers are eligible under this program especially when establishing partnerships with non-profits.

Under a second LIHTC program, a developer may receive a combination of a 4 percent tax credit and tax-exempt bonds that typically generates equity for 30 percent of a project's development costs as long as 50 percent of the costs are financed by tax-exempt bonds. Tax credits are unlimited in this program. Typical eligible recipients are non-profits, housing authorities, and for-profit developers.

Under both LIHTC programs, the developer transfers the credits to an investor that funds the housing. The investor becomes a majority owner of the housing and uses the credit to reduce its federal income tax liability. The developer uses the money received from the investor to build low-income housing.

Joint Legislative Audit and Review Committee Study. In 2017, the Legislature directed the Joint Legislative Audit and Review Committee (JLARC) to analyze the costs of developing low-income housing and compare them with market-rate costs. Because market-rate data was not available, JLARC analyzed development costs for two low-income housing development programs, LIHTC and the HTF. Six LIHTC case studies found development costs were within or below estimates from independent experts. One resulting recommendation from the study was for the Commission to identify and evaluate options for increasing participation of for-profit developers in the 9 percent LIHTC program.

Summary of Bill: The Commission must amend internal policies and project scoring criteria to increase participation of private housing developers in the nine percent LIHTC program administered by the Commission.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The 2018 JLARC study observed low participation of for-profit, private developers in the 9 percent LIHTC program, with no participation since 2013. The study also observed that private developers bring in lower costs than nonprofit housing providers for low-income housing construction. A recent affordable housing advisory board report reveals that approximately 780,000 households in Washington earn less than 50 percent AMI, and the state has only 440,000 units available and affordable for those qualifying income levels. Housing inventory is slow in meeting demand and the gap is not closing. Nonprofit housing providers have limited capacity and cannot keep up with demand of producing low-income housing. Not much progress has been made in low-income housing construction since issuance of the JLARC report. LIHTC policies should not be overly prohibitive in limiting private developers. Projects are hard to pencil out without the private developer sector. The 9 percent LIHTC tax credits are over-prescribed across the country. The 4 percent LIHTC program funds are often left on the table. Some states have implemented state fund matching programs with LIHTC project financing.

OTHER: The Commission submitted a response to the JLARC study and its 9 percent LIHTC program recommendations in 2019. The key driver of costs in the 9 percent program is the Commission's choice to prioritize and use program funds for the lowest income households and chronically homeless population in urban metropolitan areas, where certain services and health care are easily accessible. Such projects are typically not profitable. Private developers typically build outside of urban areas for higher income households and most often take advantage of the 4 percent LIHTC program. The 9 percent LIHTC program is a more important tool for building housing for the homeless. Changing priorities under the 9 percent LIHTC program for private developers would divert allocations to current uses of providing housing for the lowest-income households.

Persons Testifying: PRO: Senator Chris Gildon, Prime Sponsor; Rachel Stern, InState Partners- National LIHTC Syndicate.

OTHER: Steve Walker, Washington State Housing Finance Commission.

Persons Signed In To Testify But Not Testifying: No one.