Date of Hearing: April 11, 2012

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Norma Torres, Chair
AB 1699 (Torres) – As Introduced: February 15, 2012

SUBJECT: Affordable housing

SUMMARY: Allows the Department of Housing and Community Development (HCD) to establish guidelines to allow for the refinancing or restructuring of loans made through the Rental Housing Construction Program (RHCP), Deferred Payment Rehabilitation Loan Program (DPRLP), California Housing Rehabilitation Program (CHRP), and the Family Housing Demonstration Program (FHDP). Specifically, this bill:

1) Includes legislative findings and declarations.

2) Allows HCD to approve an extension or subordination of a loan or an investment of tax credit equity for affordable housing developments financed through RHCP, DPRLP, CHRP, and FHDP.

3) Allows HCD to adopt new guidelines developed through a process that includes public input not subject to the review of the Office of Administrative Law.

4) Provides that HCD may extend the term of an existing rental housing development loan with the following conditions:

   a) The development is being operated consistent with the regulatory agreement;

   b) The development requires an extension in order to continue to operate; and

   c) The interest rate of the new loan is three percent.

5) Provides that the extension of terms for an existing rental housing development loan must be for a period of not less than 10 year and the total term shall not exceed 55 years or not more than 58 years if necessary to match tax credit restrictions.

6) Provides that for developments financed through RHCP the rent for low-income units may be increased up to a maximum of 30% of 60% of area median income (AMI) and for very-low income units up to a maximum of 30% of 35% of AMI.

7) Provides that for developments financed under DPRLP, CHRP, and FHDP rents may be increased as follows:

a) In counties with an AMI of 110% or less of state AMI rents for at least 35% of assisted units must be restricted to no more than 30% of 30% of state median income; and

b) In counties with an AMI of more than 110% of state AMI rents for at least 35% of assisted units shall be restricted to no more than 30% of 35% of state median income and rents for the balance of assisted units may be increased to up to a maximum of 30% of 60% of area median income.

8) Provides that for existing tenants in a development financed by any program, rents may be increased as follows:

   a) For existing tenants with incomes that are not more than 35% of AMI, increases must be limited to 5% per year until the rents reach the levels described above;

   b) For existing tenants with incomes more than 35% of AMI, increases are limited to 10% per year until they reach the rent levels described above; and

   c) For existing tenants who move, rents may be increased immediately to the rent levels described above.

9) Provides that once rents reach their new ultimate level, any future increase will be in response to increases in the AMI.

10) Provides that when a tenant vacates a unit, the new tenants income level must correspond to the new income limits described above.

11) Provides that when a development is refinanced or restructured, the income levels and rent limits will be calculated consistent with the methodology used for the Low-Income Housing Tax Credit Program and the Multifamily Housing Program.

12) Provides that when a loan is extended or subordinated or when a new tax credit investment occurs, the regulatory agreement must include provisions that do the following:

   a) Include standards for tenant selection to ensure eligible households;

   b) Restrict rents for assisted units;

   c) Provide for periodic inspection, occupancy, and financial reports and financial audits of the development;

   d) Govern the use of operating income and reserves for the development; and

   e) Have a term that is not less than the term of the loan, including extensions.

13) Provides that a new or amended regulatory agreement is binding on the development's owner and successor regardless of pre-payment of the loan.

14) Requires the new or amended regulatory agreement to be recorded in the county recorder's office in which the development is located.

EXISTING LAW:

Allows HCD, when requested by a borrower, to extend the terms of existing loans made under the Rental Housing Construction Program (RHCP), Special User Housing Rehabilitation Program (SUHRP), and Deferred Payment Rehabilitation Loan Program (DPRLP) programs (Heath & Safety Code Section 50515.2).

FISCAL EFFECT: Unknown

COMMENTS:

The Department of Housing and Community Development (HCD) has financed a variety of affordable multi-family housing projects under different state-funded programs. From 1980 to 1995, HCD operated multiple programs that provided low-interest loans for affordable multifamily housing including: the Rental Housing Construction Program—Bond, Family Housing Demonstration Program, and California Hosing Rehab Program—Rental. The programs provided three percent interest rate, deferred payment loans for rehabilitation or new construction of housing for low-income families, single room occupancy hotels, and other special needs populations. Many of these housing developments are 20 to 30 years old and are in need of capital improvements. The terms of the loan agreements do not give HCD authority to renegotiate the financing of these projects to allow for additional debt to fund needed improvements to make these projects viable in the long term. This bill gives HCD authority to extend the terms of an existing rental housing development loan and the period of repayment for as long as the housing is being operated in a manner consistent with the regulatory agreement and the development requires the extension in order to continue to operate.

HCD's current program to finance affordable rental housing is the Multifamily Housing Program (MHP). Created in 1999, this program is the department's omnibus rental housing program, able to finance different types of rental housing for various populations under a uniform structure. This program funds the new construction, rehabilitation, and preservation of affordable rental housing through loans to local governments, non-profit developers, and for-profit developers. Affordable units are those affordable to households earning no more than 60% of the area (county) median income (AMI), but HCD gives heavy priority to projects that serve households at even lower income levels. Loans are for a term of 55 years at a rate of three percent simple interest. All payments are deferred except for a standard annual interest payment (currently .42%) to cover HCD's ongoing monitoring and management duties.

In 2007, SB 707 (Ducheny), Chapter 658, gave HCD authority to refinance loans made under several programs originated in the 1970s and 1980s, the Rental Housing Construction Program, Special User Housing Rehabilitation Program and Deferred Payment Rehabilitation Loan Program. HCD restructured these older loans to conform to the MHP guidelines. SB 707 gave parameters for the refinance and restructuring of loans and allowed HCD to adopt the new provisions through guidelines rather than regulations. This bill would give HCD authority to do the same for a different set of loan programs.

AB 1699 gives HCD the authority to extend and modernize the loans in its older portfolio through conversion to MHP. As noted above, many of these loans were awarded in the late 1990s and are coming close to their term. Once the loan is paid off, the regulatory agreement which requires the units to remain affordable is extinguished. Many affordable housing providers would like to keep their projects affordable but need to take on additional debt financed with a low interest rate. By extending the loans on those projects this bill could preserve numerous affordable housing units currently in existence.

Tenants rents: The addition of new debt or restructuring of existing debt will require rents to be increased. This bill specifies the extent to which rents can be increased in order to cover the additional debt and keep the units affordable for low-income tenants. The original rent for these programs was capped at either 35% or 60% of AMI. AB 1699 allows rents to be increased but still remain affordable. The bill does not specify the type of notice that tenants must receive prior to rent increases. This issue should be addressed to ensure that tenants have adequate notice of rent increases.

Regulations versus guidelines: AB 1699 allows HCD to implement a restructuring and refinancing program for older loans through guidelines rather than through the regulatory process. The bill requires that the guidelines be developed through a process that allows for public input prior to adoption. The regulatory process can be expensive and long; however some stakeholders have expressed a desire that the regulatory process be used to insure adequate public input.

Committee amendments:

- Delete Section 2 of the bill.

REGISTERED SUPPORT / OPPOSITION:

Support

Non-Profit Housing Association of Northern California

Opposition

None on file.

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