

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2280 (Ridley-Thomas) – As Introduced February 18, 2016

SUBJECT: California Housing Finance Agency: program eligibility requirements: changes

SUMMARY: Prohibits the California Housing Finance Agency (CalHFA) from changing the eligibility requirements for a housing or lending program that the agency administers without providing participating parties notice of the change prior to the change taking effect.

Specifically, **this bill:**

- 1) Prohibits CalHFA from changing the eligibility requirements for a housing or lending program that the agency administers, however that program may be characterized, without providing a lender or other party participating in the program notice of the change at least five business days prior to the change taking effect.
- 2) Requires a notification of the change to be provided by means of a program bulletin posted on the CalHFA Internet Web site at the earliest practicable time.
- 3) Provides the agency may change eligibility requirements without the five-business-day notification period if the executive director makes a determination that both of the following are true:
 - a. The change in eligibility is required by federal law.
 - b. The agency will lose federal funding if the eligibility requirements are subject to the five-business-day notification period.
- 4) Provides the board of directors may change eligibility requirements by majority vote without regard to the five-business-day notification period.
- 5) Requires CalHFA to require, as a condition of participation in one of its housing or lending programs, its lenders or other participating parties to have protocols that provide for timely notification to their representative of changes to program eligibility requirements.

EXISTING LAW:

- 1) Provides that CalHFA is administered by a board of directors and is supervised on a day-to-day basis by an executive director. (Health & Safety Code 50901, 50908)
- 2) Provides that the primary purpose of CalHFA is to meet the housing needs of persons and families of low or moderate income. (Health & Safety Code 50950)
- 3) Authorizes CalHFA to make loans to housing sponsors for housing developments and to qualified mortgage lenders, among others. (Health & Safety Code 51050)

FISCAL EFFECT: Unknown

COMMENTS:

One of the larger programs that CalHFA operates is the California Homeowner Downpayment Assistance Program (CHDAP) which provides homebuyers between 3% and 6% in downpayment assistance secured as a second mortgage on the home. The program operates as a revolving loan and when a home is sold CalHFA is repaid allowing the funds to go to another homebuyer. There is approximately \$150 million available in CHDAP at this time. The program can provide downpayments to individuals that make up to 120% of the area median income (AMI) and just recently raised its income limits to 140% of AMI in high cost areas. CalHFA operates independently of the state General Fund and derives the funding for its downpayment assistance program from the sale of bonds.

Due to variable market considerations and bondholder requirements CalHFA is required to modify aspects of CHDAP and other housing programs, such as income eligibility criteria, in some cases with little warning. When time allows, CalHFA currently uses program bulletins to notify participating lenders in advance of upcoming program changes. The agency also posts the information on its website. The agency is in the process of creating a written policy regarding program change notifications for stakeholders. It should be noted, however, that CalHFA does not work directly with prospective homebuyers, but rather with lending institutions. Therefore, lending institutions are the primary audience for program change notifications.

Purpose of the bill: According to the author, this “bill is needed to provide certainty to potential homeowners who participate in programs like CHDAP. The bill serves these individuals by increasing their confidence in these complex programs because they can determine acquisitions costs without the fear of eligibility requirements being changed without their knowledge. If changes in a program are made after a prospective home buyer has entered into a contract to purchase a home, the bill helps those individuals secure other means of financing as soon as possible. Also, directing the public to the agency’s website will reinforce the details of the program administered by the agency in order to foster improved comprehension of the down payment assistance process.”

Staff comments: Established in 1975, CalHFA was chartered as the state's affordable housing bank to make below market-rate loans for single-family and multi-family housing through the sale of tax-exempt bonds. CalHFA is a self-supporting entity and its debts, including those related to the compensation and retirement costs of its employees are separate from the State of California. Investor capital, through the sale of bonds, provides the agency's source of revenue, not taxpayers' proceeds. Existing statutes and bond indentures state that the agency's debts are not a debt or liability of the state or any political subdivision thereof and are not backed by the faith and credit of the State of California. The committee may wish to consider that to the extent that compliance with the proposed measure would interfere with CalHFA’s ability to effectively control risk or comply with bondholder agreements, the state’s current liability protection may be jeopardized. Proposed amendments to AB 2280 would codify CalHFA’s existing notification process while reducing the measure’s impact on CalHFA’s ability to quickly implement program changes when obligated to do so by financial or regulatory considerations.

Committee amendments:

- 1) On page 2, line 18 strike out “(a)”
- 2) On page 2, line 18, strike out “shall not” and insert “shall, within five business days of making a”

- 3) On page 2, line 18, after “change” insert “to”
- 4) On page 2, line 24, strike out “50172),” and insert “50172) of”
- 5) On page 2, line 24, strike out “without providing” and insert “provide”
- 6) On page 2, strike out line 26 and insert “change unless providing that notice within five business days would impose an undue burden on the agency.”
- 7) On page 2, line 27, strike out “shall” and insert “may”
- 8) On page 2 strike out lines 28-33, inclusive and strike out page 3

REGISTERED SUPPORT / OPPOSITION:

Support

None on File

Opposition

None on File

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