

Date of Hearing: August 30, 2020

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 69 (Ting) – As Amended August 25, 2020

SUBJECT: Help Homeowners Add New Housing Program: accessory dwelling unit financing.

SUMMARY: Establishes a new program in the State Treasurer’s Office (STO) to help homeowners finance additional housing units and authorizes the California Housing Finance Agency (CalHFA) to issue revenue bonds to fund the program. Specifically, **this bill:**

- 1) Creates the Help Homeowners Add New Housing Program (Program) to help homeowners qualify for loans to construct additional housing units on their property, including accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).
- 2) Requires the STO, within six months of the effective date of this bill, to establish the Program. Requires the STO to consult with the state Department of Housing and Community Development (HCD) and CalHFA, and authorizes the STO to consult with private lenders, in developing the Program.
- 3) Specifies that the homeowners eligible for the Program must be an owner of a single-family residential property and that they do not own more than three residential properties that consist of one to four units.
- 4) Requires the Program to:
 - a) Provide partial loan guarantees and other credit enhancements for residential property owners in order to induce private lenders to issue loans for the construction of additional units, which will then be rented out.
 - b) Require the state to partner with private lenders with a history of originating federally backed construction loans or ADU loans.
 - c) Require originating lenders to retain a percentage of risk in an amount determined by the STO.
 - d) Charge premiums, fees, and interest sufficient to cover the administrative costs of the program and the risk of defaults associated with the program.
 - e) Be designed to add 50,000 units to single-family properties within five years.
- 5) Requires the STO to establish for the Program:
 - a) Minimum criteria for a homeowner to participate in the program based on income, credit worthiness, home equity, potential rental income of the proposed unit, and any other criteria deemed relevant by the STO.

- b) Minimum criteria for an originating lender to participate in the program based on the lender's history of originating federally backed construction loans or ADU loans.
 - c) The maximum percentage of actual loss guaranteed by the state under this program.
 - d) A premium structure to adequately cover the administrative costs of the program and the risk of defaults associated with the program.
 - e) That the applicant must be the owner and occupant of the existing primary residence
- 6) Requires CalHFA, in coordination with the STO, to issue revenue bonds in a principal amount determined by the STO to provide sufficient funding for the Program. Establishes an account for the Program in the California Housing Finance Account, administered by CalHFA, and provides for continuous appropriation of funds to the Program.
- 7) Provides that bonds issued pursuant to this bill do not constitute a debt or liability of the state and do not constitute a pledge of the full faith and credit of the state, but are payable solely from the funds provided to the Program.

EXISTING LAW:

- 1) Establishes the Tax Credit Allocation Committee (TCAC) and the California Debt Limit Allocation Committee (CDLAC) under the STO. TCAC administers the federal and state low-income housing tax credit programs, which promote private investment in housing affordable to low-income Californians. CDLAC sets and allocates California's annual debt ceiling and administers the state's tax-exempt bond program to issue the debt. CDLAC's programs are used to finance affordable housing developments for low-income Californians, build solid waste disposal and waste recycling facilities, and finance industrial development projects.
- 2) Establishes CalHFA, which provides first mortgage loans and down payment assistance to first-time homebuyers, as well as financing and programs for affordable rental housing. CalHFA is a self-supporting state agency. Its bonds are repaid by revenues generated through mortgage loans.
- 3) Under ADU law:
 - a) Provides that if a locality adopts a local ADU ordinance, it must meet certain requirements and cannot impose certain requirements, as specified;
 - b) Requires a local agency to ministerially approve, within 60 days, an application for a building permit to create an ADU and a JADU, as specified;
 - c) Prohibits a local ordinance from requiring an applicant for an ADU to be an owner occupant;
 - d) Imposes certain minimum and maximum square footage, height, and setback limits for ADUs; and

- e) Provides for a tiered schedule of impact fees based on the size of the ADU, as specified.

FISCAL EFFECT:

According to the Senate Appropriations Committee:

- The STO estimates one-time consulting costs of approximately \$675,000 and ongoing costs of approximately \$170,000 annually, beginning in 2020-21, for 1.0 PY of staff to establish and administer the program. Staff estimates, however, that personnel costs would likely be significant to coordinate with specified entities to develop and establish the Program within six months of enactment, as well as ongoing duties to coordinate bond sales, and administer and monitor 50,000 loan agreements statewide over five years. The Program would also likely require significant one-time expenditure for IT upgrades. (General Fund)
- CalHFA estimates that funding for the construction of 50,000 ADUs/JADUs over five years would require the issuance of approximately \$5-\$7 billion in bonds, resulting in financing costs of approximately \$40-\$60 million (approximately 0.8 percent of the issuance amount). It is unclear whether these costs could be offset by revenues generated by operating the Program. (California Housing Finance Fund). CalHFA indicates that the bill would negatively impact its credit rating and existing programs.
- HCD estimates first year costs of approximately \$101,000 and \$95,000 annually thereafter for 0.5 PY of staff time to consult with the STO and CalHFA in establishing the program, and for ongoing increased technical assistance related to the increased construction of ADUs and JADUs. (General Fund)

COMMENTS:

According to the Author: “At a time when more families are struggling to make ends meet and the consequences of homelessness are growing, AB 69 will help get more affordable units online and money in families’ pockets. As the demand for housing continues to outpace supply, ADUs have surged in popularity as a way to address California’s housing crisis. AB 69 will help create an anticipated 50,000 ADUs over the next five years and provide just as many families with additional rental income by providing homeowners with bridge loans to finance ADU construction.”

ADUs a part of the solution to the housing crisis: ADUs are additional living quarters that are independent of the primary dwelling unit on the same lot. ADUs are either attached or detached to the primary dwelling unit, and provide complete independent living facilities for one or more person, including separate access from the property’s primary unit. This includes permanent provisions for living, sleeping, eating, cooking, and sanitation. JADUs are ADUs that are no more than 500 square feet and exist within single-family homes and have cooking facilities including a sink and stove but are not required to have a bathroom.

ADUs have been identified as an important piece of the solution to California’s housing crisis. According to the Turner Center for Housing Innovation at UC Berkeley, the average cost to build an ADU is relatively inexpensive at \$156,000. Because of their size and lower cost to construct, the Turner Center found that 58 percent of ADUs are rented out at below market rate.

Over the past few years, the legislature has passed a number of bills to ease zoning restrictions and expedite the approval processes at the local level, which has contributed to the increased supply of ADUs throughout the state. For example, in the city of Los Angeles, since 2017 a total of 9,247 applications have been received for ADUs. This represents an approximate 30-fold increase as compared to the citywide average in the many years before the state law changed to reduce barriers to ADUs. Similarly, the city of Santa Rosa received 118 applications for ADUs in 2018, compared to 54 total from 2008-2016.

Financing for ADUs. While state laws have made it procedurally easier to build ADUs, there are still substantial financial hurdles. Depending on the size and design, ADUs can cost anywhere from \$50,000 to \$500,000 to build. Most households do not have that cash on hand, and many also do not qualify for existing financing strategies (like home equity loans) due to lack of equity and income. While there are some new tools in the private marketplace, they are often unregulated, raising concerns of fraud and “equity stripping”.

Currently, the only state program that provides funding for ADU construction is a pilot program under CalHFA. Under this program, CalHFA is partnering with Self-Help Housing Enterprises, a community development organization based in the San Joaquin Valley, to use \$2.5 million in CalHFA funding to act as the construction lender for the City of Clovis’ Cottage Home Program. The city is providing three design templates to homeowners at no cost, in addition to expedited reviews and fee waivers, for ADU projects.

How would the Program work? The intent of this bill is to provide homeowners with bridge loans to finance ADU construction until they can begin generating rental income from the ADU and thereby qualify for existing loan programs. Specifically, the state will partner with private mortgage lenders with existing track records of originating federally-backed construction and ADU loans. The Program would spur private market lending by providing lenders with financing, a credit guarantee, or both, for short-term loans to homeowners for the construction period and until homeowners are eligible for an existing federally-backed mortgage product. Initial capitalization of the Program will be provided through the issuance of revenue bonds; the bonds will be repaid through revenues generated by fees or interest, or both, charged by the state to participating lenders and homeowners. The Program will be housed in the STO, similar to programs such as TCAC and CDLAC. However, because STO does not have authority to issue the revenue bonds to fund the program, they would be issued by CalHFA.

Concerns about the Program: CalHFA has expressed concerns about the Program, particularly regarding how the bill would reduce its bond rating, raising the cost of borrowing and thereby reducing the amount of affordable housing they could finance. Per CalHFA staff’s statement at the CalHFA August 13, 2020 board hearing, “the ability of an outside party to direct CalHFA to issue an unspecified amount of bonds for a non-CalHFA program violates the covenants CalHFA has made to its bondholders...and impinges on our fiscal independence. For this reason, we consider it also has the potential effect of harming CalHFA’s credit ratings...any effect on our credit ratings directly impacts our ability to finance affordable housing. In addition, CalHFA is not authorized to, and has never, issued revenue bonds as mandated in this bill. The bill does not say what the source of repayment would be for those bonds, or how the bond proceeds should be used, or really give any specifics.” CalHFA also notes that the expected bond to facilitate the development of 50,000 units over five years would be approximately \$5 to \$7 billion, which would be particularly large for a new and untested program. Given the size of the bond and lacking a clear repayment plan, CalHFA is concerned that this Program could jeopardize their other programs.

Arguments in Support: Supporters argue that this program is necessary to help remove financial impediments to the development of ADUs. According to State Treasurer Fiona Ma, AB 69 “will establish an effective tool to untangle the red tape surrounding the financing of accessory dwelling units at a time when the need for affordable housing has never been greater.”

Arguments in Opposition: None on file. However, CalHFA has made the case that this Program will damage its bond rating, and thereby reduce their ability to finance affordable housing. They also note that this not a type of bond they have issued before, and it would be extremely large, and without a clear repayment plan it could put their other programs at risk.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council (co-sponsor)
California State Treasurer Fiona Ma (co-sponsor)
American Planning Association, California Chapter
California Apartment Association
California Association of Realtors
California YIMBY
Generation Housing
Habitat for Humanity California
Napa Sonoma ADU Center
North Bay Leadership Council
Terner Center for Housing Innovation At the University of California, Berkeley
The Casita Coalition
The Two Hundred

Opposition

None on file.

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