

Date of Hearing: July 12, 2017

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SB 2 (Atkins) – As Amended May 26, 2017

SENATE VOTE: 27-12

SUBJECT: Building Homes and Jobs Act

SUMMARY: Establishes the Building Homes and Jobs Act (the Act) to provide funding for affordable housing. Specifically, **this bill:**

- 1) Includes legislative findings.
- 2) Establishes the Building Homes and Jobs Trust Fund (the Trust Fund) within the State Treasury.
- 3) Beginning January 1, 2018, imposes a \$75 fee on every real estate instrument, paper, or notice, that is required or permitted by law per each single transaction per parcel of real property, excluding real estate instruments, papers, or notices recorded in connection with a transfer subject to a documentary transfer tax or with a transfer of real property that is a residential dwelling to an owner-occupier. The fee imposed by this section shall not exceed \$225.
- 4) Defines real estate instrument, paper, or notice as a document relating to real property, including but not limited to the following: deed, grant deed, trustee's deed, deed of trust, conveyance, quit claim deed, fictitious deed of trust, assignment of deed of trust, request for notice of default, abstract of judgment, subordination agreement, declaration of homestead, abandonment of homestead, notice of default, release or discharge, easement, notice of trustee sale, notice of completion, UCC financing statement, mechanic's lien maps, and covenants, conditions, and restrictions.
- 5) Requires the fee, minus any administrative cost to the county recorder for collection, to be transferred quarterly to the Department of Housing and Community Development (HCD) and deposited into the Trust Fund.
- 6) Requires any moneys appropriated by the Legislature to be deposited into the Trust Fund as well as any other moneys made available to HCD for the purposes of the Trust Fund from any other sources.
- 7) Requires a county to pay HCD any interest, at the legal rate, on any funds that are not transferred within 30 days of the end of a quarter.
- 8) Requires any interest or other increment resulting from the investment of money in the Trust Fund to be deposited into the Trust Fund.
- 9) Prohibits the transfer of any money in the Trust Fund to any other fund except for the Surplus Money Investment Fund.

- 10) Requires 20% of the money deposited into the Trust Fund to be used for affordable owner-occupied workforce housing.
- 11) Requires 10% of the money deposited in the Trust Fund to be used to address affordable homeownership and rental housing opportunities for agricultural workers and their families.
- 12) Allows the remaining 70% of the money in the Trust Fund, upon appropriation by the Legislature, to be expended for the following purposes:
 - a) Development, acquisition, rehabilitation, and preservation of housing affordable to extremely low-, very low, low and moderate-income households including necessary operating subsidies;
 - b) Affordable rental and ownership housing that meets the needs of a growing workforce up to 120% of area median income (AMI);
 - c) Matching portions of funds placed into local or regional housing trust funds;
 - d) Matching portions of funds placed in the Low- and Moderate-Income Housing Asset Funds of former redevelopment agencies retained by successor agencies;
 - e) Capitalized reserves for services connected to the creation of new permanent supportive housing, including, but not limited to, developments funded through the Veterans Housing and Homelessness Prevention Program;
 - f) Emergency shelters, transitional housing, and rapid re-housing services;
 - g) Accessibility modifications;
 - h) Efforts to acquire and rehabilitate foreclosed, vacant, or blighted homes;
 - i) Homeownership opportunities, including but not limited to down payment assistance;
 - j) Grants to local and regional agencies to assist in the development and updating of planning documents and zoning ordinances in order to accelerate housing production including but not limited to general plans, community plans, specific plans, sustainable communities strategies, and local coastal programs;
 - k) Fiscal incentives or matching funds to local agencies that approve new housing for extremely-low, very-low, low- and moderate-income households; and
 - l) The cost of periodic audits.
- 13) Provides that a state or local entity that receives an appropriation or allocation from the Trust Fund shall use no more than 5% for administrative costs.
- 14) Requires any moneys allocated to but not spent by a local government within five years of the allocation to revert back to the Trust Fund.

- 15) Establishes the Governing Board made up of the following members:
- a) A representative from the California Housing Finance Agency (CalHFA);
 - b) A representative from HCD;
 - c) A representative from the Treasurer's Office;
 - d) Six members appointed by the Governor as follows:
 - i) Two real estate licensees, one from northern California and one from southern California with not less than 10 years of real estate experience and membership in a real estate trade organization with not less than 20,000 licensees;
 - ii) Two members who are local government officials; and
 - iii) Two representative from the home building industry.
 - e) Three members appointed by the Senate Rules Committee as follows:
 - i) One member who represents the nonprofit affordable housing sector;
 - ii) One member who represents the for-profit affordable housing sector; and
 - iii) One member who has experience in private sector lending, for-profit affordable housing development, nonprofit affordable housing development, working with special needs populations, including persons experiencing homelessness, architecture, housing development consultation, or academia related to housing issues.
 - f) Three members appointed by the Speaker of the Assembly:
 - i) One member who represents the nonprofit affordable housing sector;
 - ii) One member who represents the for-profit affordable housing sector; and
 - iii) One member who has experience in private sector lending, for-profit affordable housing development, nonprofit affordable housing development, working with special needs populations, including persons experiencing homelessness, architecture, housing development consultation, or academia related to housing issues.
- 16) Requires members of the Governing Board to contribute to a balance among geographic areas, between rural and urban interests.
- 17) Requires HCD, in consultation with CalHFA, the California Tax Credit Allocation Committee (TCAC), and the California Debt Limit Allocation Committee (CDLAC), to develop a Building Homes and Jobs Investment Strategy (investment strategy).
- 18) Requires HCD to submit the first investment strategy to the Legislature as part of the Governor's May Revise of the Budget Act in 2018-19 and every five years thereafter as part of the Budget Act beginning in 2023-24.
- 19) Requires the investment strategy to do all of the following:
- a) Identify the statewide needs, goals, objectives, and outcomes for housing for a five-year time period;

- b) Require the goals to include targets of the total number of affordable homes created and preserved with the Trust Fund;
 - c) Meet the following minimum objectives:
 - i) Encourage economic development and job creation by meeting the housing needs of a growing workforce up to 120% of AMI;
 - ii) Identify opportunities to coordinate among state departments and agencies to achieve greater efficiencies; increase the amount of federal investment in housing production, services, and operating costs; and promote energy efficiency in housing produced;
 - iii) Incentivize the use and coordination of nontraditional funding sources, including philanthropic funds, local realignment funds, non-housing tax increment, the federal Patient Protection and Affordable Care Act funds, and other resources; and
 - iv) Incentivize innovative approaches that produce savings to local and state services by reducing the instability of housing for frequent high-cost users of institutions such as hospitals, jails, detoxification facilities, psychiatric hospitals, and emergency shelters.
 - d) Promote a geographically balanced distribution of funds, including 50% direct allocation of funds to local governments.
- 21) Requires local governments to do the follow to receive an allocation of funds:
- a) Submit a plan to HCD detailing the manner in which the allocated funds will be used by the local government consistent with uses allowed under the Act;
 - b) Have a compliant housing element including submitting the housing element annual report and submit annual reports to HCD that provide ongoing tracking of the uses and expenditures of any allocated funds; and
 - c) Emphasize investments that serve households that are at or below 60% of AMI.
- 20) Requires HCD to hold at least four public workshops in different regions of the state to inform development of the investment strategy.
- 21) Requires expenditure requests contained in the Governor's proposed budget to be consistent with the investment strategy.
- 22) Provides the Governing Board authority to review and approve HCD recommendations for all funds distributed from the Trust Fund.
- 23) Requires the State Auditor to conduct periodic audits to determine if HCD is awarding the annual allocation to individual programs in a timely manner and consistent with the Act.
- 24) Requires HCD to provide the following information in its annual report to the Legislature:

- a) How funds were allocated in the prior year;
- b) Efforts to promote geographic balance when distributing the funds;
- c) An assessment of the impact of the Trust Fund on job creation and the economy;
- d) The effectiveness of programs directed toward persons who are homeless or at risk of homelessness at keeping those persons housed; and
- e) A determination as to whether any moneys derived from the recording fee are being allocated by the state for any purpose not authorized by the Act. This information must be provided to the county recorders.

25) Provides that if HCD determines that any moneys collected from the recording fee are being allocated by the state for any purpose not authorized by the Act, the county recorders will immediately cease collection of the fees and only resume collection of the recording fee after receiving notice that the fees are being allocated by the state for the purposes of the Act.

26) Includes an urgency clause.

EXISTING LAW:

- 1) Establishes a number of programs at HCD and CalHFA to make housing more affordable to California families and individuals, including the following main programs:
 - a) The Multifamily Housing Program, which funds the new construction, rehabilitation, and preservation of permanent and transitional rental homes for lower-income households through loans to local governments, non-profit developers, and for-profit developers.
 - b) The Joe Serna, Jr., Farmworker Housing Program, which funds the development of ownership or rental homes for agricultural workers through grants to local governments and non-profit organizations.
 - c) The Emergency Housing and Assistance Program, which funds emergency shelters and transitional homes for homeless individuals and families through grants to counties and non-profit entities for rehabilitation, renovation, expansion, site acquisition, and equipment.
 - d) The CalHome Program, which funds downpayment assistance, home rehabilitation, counseling, self-help mortgage assistance, and technical assistance for self-help and shared housing through grants and loans.
 - e) The California Homebuyer Downpayment Assistance Program, which aids first-time homebuyers with downpayments and/or closing costs.
- 2) Authorizes a county to adopt an ordinance authorizing a fee for recording and indexing every instrument, paper, or notice required or permitted by law to be recorded. The base rate of the fee is \$10 for recording the first page and \$3 for each additional page. The recorder has discretion to charge additional fees including:

- a) Three dollars (\$3) per page on every extra page or sheet of the document if the document does not conform to the dimension requirements in statute;
 - b) One dollar (\$1) for recording the first page on every instrument, paper, or notice required or permitted by law to be recorded to fund a social security truncation program.
(Government Code Section 27361)
- 3) Exempts public agencies from paying a fee for filing any document or paper in the performance of any official service or for the filing of any stipulation or agreement that may constitute an appearance in any court by any other party to the stipulation or agreement.
(Government Code Section 6103)

FISCAL EFFECT: Unknown.

COMMENTS:

Background: California has reduced its funding for the creation of affordable homes by 79%, from approximately \$1.7 billion a year to nearly nothing. According to the California Housing Consortium, California has a shortfall of 1.5 million affordable units for extremely-low and very-low income renter households. The Public Policy Institute of California reports that 32% of mortgaged homeowners and 47% of renters spend more than one-third of their total household income on housing and that while California has 12% of the nation's population, it has 20% of the nation's homeless.

HCD's *California's Housing Future: Challenges and Opportunities Draft Statewide Housing Assessment 2025* (Assessment) finds, "unstable funding for affordable home development is impeding our ability to meet California's housing needs, particularly for lower-income households." In the options to address the state's lack of affordable housing the Assessment proposes identifying "an ongoing source of funding for affordable housing that does not add new costs or cost pressures to the state's General Fund, but that does align with other state policy goals." The report further states "California needs both public and private investment, as well as land use solutions to address critical housing challenges. Funding programs cannot address California's housing need alone and land use policy changes...are critical. However, even with drastic changes in land use policy to increase supply, the needs of certain populations cannot be met by the private market alone. Funding programs allow the state to target resources to these populations."

Purpose of this bill: According to the author, "California is facing a housing affordability crisis. The state ranks 49th nationwide in housing units per capita. Due to this housing shortage, 50% of moderate-income and 100% of low-income families in our state struggle to afford the cost of housing in their local communities. The most vulnerable of them risk joining the 118,000 Californians who are already homeless on any given night. This crisis affects more than just residents: the state also loses \$140 billion per year in output (or 6 percent of state GDP) due to the lack of affordable housing. Prominent business groups across the state agree that California needs to increase the supply of housing options affordable to workers, so companies can compete for the talent that drives California's economy.

An ongoing funding source for affordable housing is critical to stabilize the state's housing development and construction marketplace. With a sustainable source of funding in place, more affordable housing developers will take on the risk that comes with development and, in the process, create a reliable pipeline of well-paying construction jobs. The Building Homes and Jobs Act establishes a permanent funding source that will increase California's supply of affordable homes, creates jobs, and spur economic growth without incurring additional debt. The Act imposes a \$75 fee on real estate transaction documents, excluding residential and commercial property sales, and is estimated to generate hundreds of millions of dollars annually at a time when the need for this increased and ongoing funding source in California has never been more urgent. Failure to act now will leave too many Californians without an affordable place to call home and make it difficult for California businesses to remain competitive.

Previous state funding for housing: Historically, the state has invested in low- and moderate-income housing primarily by providing funding for construction. Because of the high cost of land and construction and the subsidy needed to keep housing affordable to residents, affordable housing is challenging to build. Developers typically use multiple sources of financing, including voter-approved housing bonds, state and federal low-income housing tax credits, private bank financing, and local matching dollars.

Voter-approved bonds have been an important source of funding to support the construction of affordable housing. Proposition 46 of 2002 and Proposition 1C of 2006 together provided \$4.95 billion for affordable housing. These funds financed the construction, rehabilitation, and preservation of 57,220 affordable apartments, including 2,500 supportive homes for people experiencing homelessness, and over 11,600 shelter spaces. In addition, these funds have helped 57,290 families become or remain homeowners. Nearly all of these funds have been awarded.

Until 2011, the Community Redevelopment Law required redevelopment agencies (RDAs) to set aside 20% of all tax increment revenue to increase, improve, and preserve the community's supply of low- and moderate-income housing. In fiscal year 2009-10, redevelopment agencies collectively deposited \$1.075 billion of property tax increment revenues into their low- and moderate-income housing funds. With the elimination of RDAs, this source of funding for affordable housing is no longer available.

California has reduced its funding for the development and preservation of affordable homes by 79% -- from approximately \$1.7 billion a year to nearly nothing. According to the California Housing Partnership, California has a shortfall of 1,465,884 affordable units for extremely low- and very-low income households.

Funding mechanism: Although an important source of funding in the past for affordable housing, voter-approved bonds are not a permanent or reliable source. To provide for a stable and permanent source of funding for affordable housing, several states have set up state housing trust funds funded by a document recording fee. SB 2 would establish the Building Homes and Jobs Act, to be funded by a \$75 fee on recorded real estate documents, excluding those recorded in connection with the sale of a property. SB 2 caps the amount of fees that could be charged per single transaction to \$225. The fee would be charged on a "real estate instrument, paper, or notice." The bill includes a list of possible documents on which the fee could be charged, however, this is not an exhaustive list and there may be others.

How the Trust Fund can be used: SB 2 authorizes funds in the Trust Fund to be appropriated for a variety of uses. Twenty percent of the Trust Fund is set aside for affordable homeownership activities and 10% toward housing for agricultural workers and their families. The remaining 70% can be used for the development, acquisition, rehabilitation, and preservation of low- and moderate-income housing; affordable rental and ownership housing that meets the needs of a growing workforce up to 120% of AMI, to match funds in local housing trust funds and funds in the Low and Moderate-Income Housing Asset funds of former RDAs; capitalize the reserves for services for new permanent supportive housing including developments funded through the Veterans Housing and Homeless Prevention Program; emergency shelters, transitional housing, and rapid rehousing; accessibility modifications; efforts to acquire and rehabilitate foreclosed and vacant homes, and for homeownership opportunities including down payment assistance. Unlike voter-approved bond funds, the Trust Fund could be used for support services and operating expenses for supportive and transitional housing.

The bill requires that 20% of the Trust fund be used for owner-occupied workforce housing; however the bill does not define work force housing. The committee may wish to restrict this housing to not more than 120% of AMI, consistent with other bills.

Funds split with locals: The Act would require HCD as part of the investment strategy to provide for a geographically balanced distribution of funds, and to allocate 50% of those funds directly to local governments. In order to receive funding, locals would be required to submit a plan to HCD detailing how they would spend the funds consistent with the uses allowed under the Act for the state's portion of funding. They would also be required to have a compliant housing element, submit the annual report required under housing element law, and provide ongoing tracking for how they spend the funds. Finally, local governments would be required to emphasize investment that serves households making below 60% of AMI. HCD does not currently distribute funds to locals and there is no methodology for how funds are distributed in the bill, i.e. by competitive or formula.

Investment strategy: SB 2 gives the Legislature the authority to appropriate funds that are deposited into the Trust Fund. In order to direct that investment through an informed and strategic process, the bill requires HCD, in consultation with other relevant state housing agencies and committees, to develop an investment strategy for the Trust Fund. HCD would be required to submit the first investment strategy to the Legislature as part of the May revision to the Governor's proposed budget in 2018-19. Every five years after, beginning in 2023-24, HCD would be required to revise the investment strategy. To inform the investment strategy, HCD must hold four public hearings throughout the state.

In preparing the investment strategy, HCD would be required to identify the statewide needs and goals for housing for the next five years and to attach targets of the total number of affordable homes created and preserved with the funds. HCD would also be required to promote a geographically balanced distribution of the funds, including some consideration of providing funds directly to local governments. The bill also sets out minimum objectives that must be met in the investment strategy.

Arguments in support: The sponsors of the bill, California Housing Consortium and Housing California, estimate that this bill will create 29,000 jobs for every \$500 million raised, primarily in the construction sector. This bill would also leverage an additional \$2.78 billion in federal, local, and private sector investment. Business organizations support creating a sustainable and

self-renewing source of funding in response to the affordable housing crisis. This crisis results in the loss of \$140 billion per year in GDP to the state of California. Increasing the supply of housing options affordable to workers will help companies compete for the talent that drives California's economy.

Arguments in opposition: According to the County Recorders' Association of California, this bill would increase the minimum recording fee by 750% (*ie* from \$10 to \$75), which will impact small contractors recording mechanics liens or releases, customers releasing child support, tax or other liens to clear their credit. Further, this bill would create administrative challenges for County Recorders. The Inyo County Board of Supervisors argue that by exempting sales documents, this bill would single out those facing foreclosure and miners who are required to file annual proof of labor forms to keep their claims. The Board of Supervisors also state that the bill does not guarantee funds would be distributed to Inyo County specifically.

Related Legislation:

AB 1335 (Atkins) (2015) was almost identical to this bill. *The bill died on the Assembly Floor.*

SB 391 (DeSaulnier) (2014) would have imposed a \$75 fee on every real estate instrument, paper, or notice that is required or permitted by law, excluding real estate instruments, papers, or notices recorded in connection with a transfer subject to a documentary transfer tax. *The bill was held in Assembly Appropriations Committee.*

REGISTERED SUPPORT / OPPOSITION:

Support

Housing California (co-sponsor)
California Housing Consortium (co-sponsor)
AARP California
Abode Communities
Affirmed Housing
Affordable Housing NOW!
Alliance of Californians for Community Empowerment
American Federation of State County, and Municipal Employees (AFSCME), AFL-CIO
American Planning Association
Aspiranet
Association of Regional Center Agencies
Bay Area Business Roundtable
Bay Area Council
Bishop Paiute Tribal Council
Burbank Housing Development Corporation
California Apartment Association
California Asset Building Coalition
California Association of Realtors
California Bicycle Coalition
California Building Industry Association
California Catholic Conference
California Coalition for Rural Housing

California Collaborative for Long Term Services
California Community Economic Development Association
California Council for Affordable Housing
California Council of Churches IMPACT
California Downtown Association
California Faculty Association
California Federation of Teachers
California Housing Partnership Corporation
California Infill Federation
California Labor Federation
California PACE Association
California Police Chiefs Association
California Reinvestment Coalition
California Rural Legal Assistance Foundation
California School Employees Association (CSEA), AFL-CIO
California State Controller
California State Council of Laborers
California-Nevada Conference of Operating Engineers
Central City Association of Los Angeles
Century Housing Corporation
Charities Housing
Children's Defense Fund-California
Christian Church Homes (CCH)
City of Alameda
City of American Canyon
City of Belmont
City of Carpinteria
City of Cloverdale
City of Concord
City of Daly City
City of Duarte
City of East Palo Alto
City of Fort Bragg
City of Glendale
City of Goleta
City of Hayward
City of Indio
City of Lake Elsinore
City of Los Angeles
City of Mill Valley
City of Napa
City of Oakland
City of Sacramento
City of San Diego
City of San Jose
City of San Mateo
City of San Rafael
City of Santa Barbara
City of Santa Monica

City of Santa Rosa
City of Sebastopol
City of Ukiah
City of Union City
City of Walnut Creek
City of West Hollywood
Community Corporation of Santa Monica
Community Development Commission of Mendocino County
Community Economics, Inc.
Community Housing Improvement Program
Community Housing Improvement Systems & Planning Association, Inc.
Community Housing Opportunities Corporation
Community Housing Partnership
Congress of California Seniors
Corporation for Supportive Housing
Council of Community Housing Organizations
Democratic Party of Contra Costa County
Dignity Health
Downtown Sacramento Partnership
Downtown Women's Center
EAH Housing
East Bay Asian Local Development Corporation
East Bay Housing Organization
East Bay Legislative Coalition
Eden Housing
ElderFocus
Enterprise Community Partners
Facebook
Family Care Network, Inc.
First Place for Youth
Greater Coachella Valley Chamber of Commerce
Greenbelt Alliance
Guidiville Indian Rancheria
Habitat for Humanity, California
Heffernan Insurance Brokers
Highridge Costa Companies
Housing Authority of the County of Santa Barbara
Housing Consortium of the East Bay (HCEB)
Housing Trust Silicon Valley
Innovative Housing Opportunities
Leading Age California
League of California Cities
League of Women Voters' of California
Life Skills Training & Educational Programs, Inc. (LifeSTEPS)
LINC Housing
Little Tokyo Service Center
Los Angeles Area Chamber of Commerce
Los Angeles Business Council
Los Angeles County Division of the League of California Cities

Mammoth Lakes Housing, Inc.
Manzanita Services
Marin County Council of Mayors and Councilmembers
Mayor Edwin M. Lee, City and County of San Francisco
Mayor Eric Garcetti, City of Los Angeles
Mayor Libby Schaff, City of Oakland
Mayor Miguel Pulido, City of Santa Ana
Mayor Robert Garcia, City of Long Beach
Mayor Sam T. Liccardo, City of San José
Mayor, City of Santa Barbara-Helene Schneider
Mental Health America of California
Mercy Housing Management Corporation
Metropolitan Transportation Commission
MidPen Housing Corporation
Mithun
Modoc Lassen Indian Housing Authority
Monterey Bay Economic Partnership
Move LA
Mutual Housing California
Napa Valley Community Housing
National Association of Social Workers, California Chapter
Nonprofit Housing Association of Northern California
Non-Profit Housing Association of Northern California
North Bay Leadership Council
North Orange County Chamber of Commerce
Northern California Community Loan Fund
Northern California Land Trust
Northern Circle Indian Housing Authority
PolicyLink
Promise Energy, Inc.
Public Law Center
Resources for Community Development
RISE
Rise Together
Rural Community Assistance Corporation
Sacramento Housing Alliance
San Diego and Imperial Counties Labor Council, AFL-CIO
San Diego Housing Commission
San Diego Housing Federation
San Diego Regional Chamber of Commerce
San Francisco Bay Area Rapid Transit District
San Francisco Chamber of Commerce
San Luis Obispo County Housing Trust Fund
San Mateo County Board of Supervisors
Santa Clara County Board of Supervisors
Satellite Affordable Housing Associates
Self-Help Enterprises
Sierra Business Council
Sierra Club California

Silicon Valley Bank
Silicon Valley Leadership Group
Small Businesses for Affordable Housing in Petaluma
Sonoma County Community Development Commission
Southern California Association of Nonprofit Housing
State Building and Construction Trades Council, AFL-CIO
SV@Home
Tenderloin Neighborhood Development
The Arc and United Cerebral Palsy California Collaboration
The Coalition of Homeless Services Providers
The John Stewart Company
The Kennedy Commission
The Pacific Companies
Town of Danville
Tule River Indian Housing Authority
United Ways of California
Valley Economic Development Center
Ventura Council of Governments
Wakeland Housing and Development Corporation
Western Center on Law and Poverty
Individuals (4)

Opposition

American Resort Development Association
Butte County Board of Supervisors
Calaveras County Board of Supervisors
California Business Properties Association
California Escrow Association
California Land Title Association
California Mortgage Association
California Pool & Spa Association
California Taxpayers Association
Community Associations Institute California Legislative Action Committee
County of Humboldt
County Recorders' Association of California
First American Financial Corporation
Howard Jarvis Taxpayers Association
Inyo County Board of Supervisors
National Federation of Independent Business
Orange County Board of Supervisors
Sierra County Board of Supervisors
Sutter County Board of Supervisors
United Trustees Association

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