

Date of Hearing: April 29, 2015

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Ed Chau, Chair

AB 1335 (Atkins) – As Amended April 20, 2015

SUBJECT: Building Homes and Jobs Act

SUMMARY: Establishes the Building Homes and Jobs Act of 2015 (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, 2016, 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.
- 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 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 homeownership activities.

- 11) Allows the remaining 80% of 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 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; and
 - i) Homeownership opportunities, including but not limited to down payment assistance.
- 12) Requires HCD, in consultation with the California Housing Finance Agency (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).
- 13) Requires HCD to submit the first investment strategy to the Legislature as part of the Governor's May Revise of the Budget Act in 2015-16 and every five years thereafter as part of the Budget Act beginning in 2020-21.
- 14) 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) Requires the goals to include targets of the total number of affordable homes created and preserved with the funds;
 - c) Promote a geographically balanced distribution of funds, including consideration of a direct allocation of funds to local governments;
 - d) Emphasize investments that serve households that are at or below 60% of AMI; and

- e) 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.
- 15) Requires HCD to hold at least four public workshops in different regions of the state to inform development of the investment strategy.
- 16) Requires HCD to form an advisory body of experts and stakeholders to help develop the investment strategy including but not limited to representatives from the banking and financial sector, real estate sector, real estate and housing developers, and homeless providers.
- 17) Requires expenditure requests contained in the Governor's proposed budget to be consistent with the investment strategy.
- 18) Requires moneys in the Trust Fund to be appropriated through the annual budget act.
- 19) 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.
- 20) 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 and this information must be provided to the county recorders.

- 21) 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.
- 22) Declares the Legislature's intent to enact legislation to create a Secretary of Housing to oversee all activities related to housing and that all professional entities that play a role in the housing market would be authorized to be incorporated in order to have a clearer and more unified approach to housing in the state.
- 23) 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 is facing a housing affordability crisis on many fronts. According to the Public Policy Institute of California (PPIC), as of February 2015, roughly 36% of mortgaged homeowners and approximately 48% of all renters are spending more than one-third of their household incomes on housing. California continues to have the second lowest homeownership rate in the nation and the Los Angeles metropolitan area is now a majority renter region. In fact, five of the eight lowest homeownership rates in the nation are in California metropolitan areas. California has 12% of the United States population, but 20% of its homeless population – 63% of these homeless Californians are unsheltered (the highest rate in the nation). At any given time, 134,000 Californians are homeless. California has 24% of the nation's homeless veterans and one-third of the nation's chronically homeless. The state also has the largest numbers of unaccompanied homeless children and youth, with 30% of the national total.

Purpose of this bill: According to the author, "increased and ongoing funding for affordable housing is critical to stabilize the state's housing development and construction marketplace. If developers know that there is a sustainable source of funding available, they will take on the risk that comes with development — and create a reliable pipeline of well-paying construction jobs in the process. The Building Homes and Jobs Act will utilize a pay as you go approach and generate hundreds of millions of dollars annually for affordable housing through a \$75 fee on real estate recorded documents, excluding those documents associated with home sales. Funds generated will leverage an additional \$2 to \$3 billion in federal, local, and bank investment."

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 expensive 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 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 redevelopment agencies, 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. AB 1335 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. Estimates suggest that the recording fee would generate an average between \$300 and \$500 million a year for affordable housing. AB 1335 caps the amount of fees that could be charged per single transaction to \$225. This means that an individual will only be charged on three documents recorded in a transaction. 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: AB 1335 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. The remaining 80% 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, match funds in local housing trust funds and funds in the Low and Moderate-Income Housing Asset funds of former redevelopment agencies; 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 to support services and operating expenses for supportive and transitional housing.

Investment strategy: AB 1335 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 2015-16. Every five years after, beginning in 2020-21, HCD would be required to revise the investment strategy. To inform the investment strategy, HCD must hold four public hearings throughout the state. HCD is already required to develop a Statewide Housing Plan every four years to identify the statewide needs, goals, objectives, and outcomes for housing, which would inform the investment strategy. HCD would also be required to form an advisory board made up of experts and stakeholders to help develop the investment strategy, and possible representatives could include members of the banking and financial sector, real estate sector, housing developers, and homeless services providers.

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. In addition, the investment strategy would have to emphasize investments in housing affordable to households at or below 60% of AMI, generally referred to as low-, very low- and extremely low-income households. The bill also sets out minimum objectives that must be met in the investment strategy.

Related Legislation: Last session, SB 391 (DeSaulnier) 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.

Differences between this bill and SB 391 (DeSaulnier):

AB 1335 differs from SB 391 in the following ways:

- 1) Sets a cap of \$225 on fees charged on a per parcel per transaction basis;
- 2) Creates a 20% set aside of funding for homeownership programs;
- 3) Requires the creation of an advisory board made up of experts and stakeholders to help develop the investment strategy;
- 4) Directs the county recorders to stop collecting the fee if HCD determines that the funds are not being used to support the purposes authorized by the Building Homes and Jobs Act; and
- 5) Declares the intent of the Legislature to create a Secretary of Housing to oversee all of the housing activities related to the state and to have a clearer and more unified approach to housing in the state.

Arguments in support: Several organizations representing businesses, including the Bay Area Council, the Los Angeles Area Chamber of Commerce, and the Orange County Business Council, support creating a sustainable and self-renewing source of funding that will leverage billions in federal and local funds and bank loans to develop and operate housing affordable to families, seniors, people with disabilities, and persons experiencing homelessness. Supporters estimate that the Trust Fund could generate 29,000 jobs annually, primarily in the construction sector.

Arguments in opposition: County recorders throughout the state are opposed to AB 1335 and argue that exempting documents recorded in connection with a real estate purchase would unfairly burden lower income people while exempting persons buying million dollar homes. They are also concerned that there is no provision in the bill to require that a percentage of the funds collected would be distributed back to the communities where the tax was collected. They are concerned that the \$75 fee may deter individuals from recording documents which would weaken the land record system. The Executive Council of Homeowners is concerned that the recording fee would be imposed on homeowner associations (HOAs) who record documents for

a variety of reasons. They contend that the fee would negatively impact HOAs with very limited budgets requiring them to increase their members' assessments.

Committee amendments: The committee may wish to consider the following amendments:

- 1) Consistent with other HCD programs set a cap of 5% on the amount of funds that can be used by HCD for administration of housing programs that receive an appropriation from the Trust Fund:

On page 7, after line 39, insert the following: (xii) To the department for the administration of housing programs that receive an appropriation from the fund. Moneys expended for this purpose shall not exceed 5 percent of the moneys in the fund.

- 2) Correct a drafting error: On page 5, line 31 after "property:" insert "including, but not limited to,"
- 3) On page 7, line 5, strike out "homeownership activities" and replace with "owner-occupied workforce housing."
- 4) Add the following language to the bill:

Section 50470.7. The Building Homes and Jobs Trust Fund Governing Board is hereby established. The governing board shall consist of not less than two real estate licensees, one from northern California and one from southern California, each with not less than ten (10) years of experience and membership in real estate trade organization with not less than 20,000 licensees. The governing board shall include a local government official from northern and southern California, and a representative from the northern and southern California home building industry. These representatives shall be appointed by the Governor. The governing board shall include two (2) public members each from northern, central, and southern California. Three (3) of the public members shall be appointed by the Speaker of the Assembly and three (3) shall be appointed by the President Pro Tem of the Senate.

- 5) Add the following language to the bill:

The governing board, established in Section 50470.7, shall review and advise the department regarding the investment strategy prior to its submission to the Legislature.

REGISTERED SUPPORT / OPPOSITION:

Support

A Community of Friends
 Abode Communities
 American Planning Association California Chapter
 Aspiranet
 Association of Regional Center Agencies
 BIOCUM

Bridge Housing
Building Industry Association of Baldy View Area
Building Industry Association of Fresno/Madera Counties
Building Industry Association of Los Angeles and Ventura Counties
Building Industry Association of Orange County
Building Industry Association of Riverside County
Building Industry Association of San Diego County
Building Industry Association of Southern California
Building Industry Association of the Bay Area
Building Industry Association of the Central Coast
Building Industry Association of the Greater Valley
Building Industry Association of Tulare & Kings Counties
Building Industry Association, North State
Burbank Housing Development Corp
California Apartment Association
California Association of Code Enforcement Officers
California Association of Housing Authorities
California Association of Local Housing Finance Agencies
California Building Industry Association
California Coalition for Rural Housing
California Coalition for Youth
California College and University Police Chiefs Association
California Community Foundation
California Housing Consortium
California Housing Partnership Corporation
California Infill Builders Federation
California Institute of Rural Studies
California Narcotics Officers Association
California Partnership to End Domestic Violence
California Police Chiefs Association
California Rural Legal Assistance Foundation
California Special Districts Association
California State Council of Service Employees International Union (SEIU)
Capitol Area Development Authority (CADA)
Center for Sustainable Neighborhoods
Central City Association (CCA)
Charities Housing
Christian Church Homes
City of Albany
City of Chowchilla
City of El Centro
City of Emeryville
City of Eureka
City of Indian Wells
City of Lafayette
City of Lakeport
City of Lakewood
City of Long Beach
City of Los Angeles

City of Merced
City of Modesto
City of Morgan Hill
City of Mountain View
City of Napa
City of National City
City of Oakland
City of Pasadena
City of Rocklin
City of Sacramento
City of San Francisco
City of San Jose
City of Santa Anna
City of Santa Monica
City of Taft
City of Thousand Oaks
City of Tulare
City of Turlock
City of Union City
Coalition for Economic Survival
Community Action North Bay (CAN-B)
Community Corporation of Santa Monica
Community Economics, Inc.
Community Housing Works
Community Resource Center
Congregations Organizing for Renewal (COR)
Corporation for Supportive Housing (CSH)
Creswell Consulting
County of San Francisco
Department of Housing and Community Development of Los Angeles
Downtown Women's Center
EAH Housing
East LA Community Corporation
Eden Housing
Enterprise Community Partners
Habitat for Humanity California
Habitat for Humanity Greater San Francisco
Heaven's Windows
Highridge Costa Housing Partners, LLC
Highridge Costa Investors, LLC
Home Builders Association of the Central Coast
HOPE (Home Ownership for Personal Empowerment)
Housing Authority of the City of Los Angeles
Housing California
Housing Choices Coalition
Housing Consortium of the East Bay
Housing Leadership Council of San Mateo County
Housing of Merit
Hunger Advocacy Network

Inquilinos Unidos
Jewish Family Service of San Diego
Larkin Street Youth Services
Laurin Associates
Leadership Counsel for Justice & Accountability
LeadingAge California
League of California Cities
LINC Housing
Los Angeles Area Chambers of Commerce
Los Angeles Business Council
Los Angeles Community Action Network (LA CAN)
Many Mansions (Ventura County)
Mayor, City of Long Beach-Robert Garcia
Mayor, City of Los Angeles-Eric Garcetti
Mayor, City of Oakland-Libby Schaaf
Mayor, City of Sacramento-Kevin Johnson
Mayor, City of San Francisco-Ed Lee
Mayor, City of San Jose-Sam Liccardo
Mayor, City of Santa Ana-Miguel Pulido
Mercy Housing California
MidPen Housing Corporation
Mutual Housing California
National Association of Social Workers, California Chapter (NASW-CA)
National Community Renaissance CORE
National Council of La Raza
Non-Profit Housing Association of Northern California (NPH)
Northern California Community Loan Fund
Orange County Business Council
Pacific West Communities
PATH
PATH Ventures
PEP Housing
Promise Energy, Inc.
Public Counsel
Public Interest Law Project
Related California
Rural Smart Growth Task Force
Sacramento City Councilmember Jeff Harris
Sacramento Homeless Organizing Committee
Sacramento Housing Alliance
San Diego Housing Commission
San Diego Housing Federation
San Diego Hunger Coalition
San Diego Organizing Project
San Diego Regional Chamber of Commerce
San Francisco Unified School District
Santa Clara County Board of Supervisors
Satellite Affordable Housing Associates
Self-Help Enterprises

Sierra Business Council
Silicon Valley Leadership Group
Skid Row Housing Trust
Social Justice Alliance of the Interfaith Council of Contra Costa County
South Bay Community Services
Southern California Association of Non Profit Housing
St. Anthony Foundation
State Building and Construction Trades Council of California
State Treasurer John Chiang
T.R.U.S.T. South LA
The ARC and United Cerebral Palsy California Collaboration
Transform
United Way of Greater Los Angeles
Valley Industry & Commerce Association (VICA)
West Hollywood Community Housing Corporation
Western Center on Law and Poverty
Western Regional Advocacy Project
Women Organizing Resources, Knowledge and Services (WORKS)

Opposition

City of Banning
California Association Institute (Oppose unless amended)
Contra Costa County Clerk-Recorder-Elections Department
County of Calaveras, Clerk Recorder
County of Glenn, Clerk- Recorder
County Recorders' Association of California
County of Sacramento, County Clerk/Recorder Department
County of Tuolumne, Office of Assessor- Recorder
Educational Community for Homeowners (ECHO)
Howard Jarvis Taxpayers Association
Inyo County Clerk/Recorder
Monterey County, Office of the County Recorder
San Bernardino Recorder-County
San Joaquin County Assessor-Recorder-County
Sonoma County Clerk-Recorder-Assessor
The County of Yuba, Clerk Recorder – Registrar of Voters

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