

Date of Hearing: April 3, 2013

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

AB 984 (Chau) – As Introduced: February 22, 2013

SUBJECT: The California Housing Finance Agency

SUMMARY: Makes changes to the board of directors governing the California Housing Finance Agency (CalHFA). Specifically, this bill:

- 1) Adds the following voting members to the board of directors of CalHFA, increasing the number from eleven to thirteen:
 - a) The Secretary of Veterans Affairs or his or her designee; and
 - b) A person appointed by the Governor that has specific knowledge of housing finance agencies, single family mortgage lending, bonds and related financial instruments, interest rate swaps, and risk management.

EXISTING LAW

- 1) Requires the board of directors of CalHFA to be made up of 11 voting members, including the Treasurer, the Secretary of Business, Consumer Services and Housing, and the Director of Housing and Community Development, or their designees, one member appointed by the Speaker of the Assembly, one member appointed by the Senate Committee on Rules, and six members appointed by the Governor, two of whom must be residents of rental or cooperative housing financed by the agency or have experience in counseling, assisting or representing tenants.
- 2) Provides that the Director of Finance, the Director of Planning and Research, and the executive director of CalHFA are nonvoting ex-officio members of the board of directors.
- 3) Requires the Governor to select four of his six appointees from among the following categories:
 - a) An elected official of a city or county engaged in the planning or implementation of a housing, housing assistance, or housing rehabilitation program;
 - b) A person experienced in residential real estate, mortgage banking, or the commercial banking industry;
 - c) A person experienced in building residential housing;
 - d) A person experienced in organized labor in the residential construction industry;
 - e) A person experienced in the management of rental or cooperative housing occupied by lower-income households;
 - f) A person experienced in manufactured housing finance and development; and
 - g) A person representing the public.

(Health and Safety Code 50901 et. al.)

FISCAL EFFECT: Unknown

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.

In 2010, at the request of the Joint Legislative Audit Committee, the California State Auditor audited CalHFA to determine what decisions and actions of the agency may have contributed to its current fiscal condition and its future financial solvency. According to the State Auditor, beginning in 2008, CalHFA experienced losses on its single-family portfolio totaling \$146 million and \$189 million in fiscal years 2008–09 and 2009–10, respectively. These losses were a result of the high delinquency rates on its single-family loans and the amount of variable-rate debt that the agency issued, which led to a downgrade in the credit rating. In an effort to continue to provide loans on single-family homes in a time of low interest rates, CalHFA issued variable-rate bonds because the cost of the debt was less. To mitigate the risks associated with variable-rate bonds, CalHFA entered into interest-rate swaps with counterparts. According to the Auditor, the decision to enter into variable-rate bonds and interest-rate swaps was a result of CalHFA's desire to pursue ever-increasing goals for loan volume. The board of directors approved these strategies.

Ultimately the auditor determined that despite its losses, CalHFA's "major housing programs and the fund it uses to pay its operating expenses should remain solvent under most foreseeable circumstances." The auditor identified several actions that CalHFA's board could take to shore up the financial viability of the agency going forward. First, the auditor determined that the annual delegations of duties to staff were overly permissive. The decision to enter into interest-rate swaps was not a planned business strategy and was entered into before the board was briefed on the risks. CalHFA amended the wording of its annual delegations in January 2011 to respond to this concern. Second, the auditor recommend that the Legislature amend CalHFA's statute to require that the board include appointees with knowledge "of housing finance agencies, single-family mortgage lending, bonds and related financial instruments, interest-rate swaps and risk management."

The board of directors of CalHFA is composed of 11 voting members, including the Treasurer, the Secretary of Business, Consumer Services and Housing, and the Director of Housing and Community Development, or their designees, one member appointed by the Speaker of the Assembly, one member appointed by the Senate Committee on Rules, and six members appointed by the Governor, of which two must be residents of rental or cooperate housing financed by the Agency or have experience in counseling, assisting, or representing tenants. The Director of Planning and Research, the Director of Finance, and the Executive Director of CalHFA are non-voting members.

In 2011, AB 1222 (Gatto) Chapter 408, responded to the Bureau of State Audits (BSA) audit by amending CalHFA's conflict of interest statutes to give the agency more flexibility to include board members who are single-family lenders. CalHFA does business with many different lenders through its single-family mortgage program. Prior to AB 1222, the conflict of interest statute prohibited CalHFA board members from having any financial interest in any contract made by the agency. This prohibition significantly narrowed the pool of financial institutions from which CalHFA could recruit board member. The existing conflict of interest laws still require board members to recuse themselves from decisions in which their institutions have a financial interest.

In 2012, the BSA restated its recommendation to require more sophisticated expertise on the CalHFA board to assist the agency in avoiding financial difficulties. The BSA continued in its recommendation that the board make-up include appointees with knowledge "of housing finance agencies, single-family mortgage lending, bonds and related financial instruments, interest-rate swaps and risk management."

Purpose of this bill: AB 984 increases the total number of members of the CalHFA board of directors to thirteen. It increases the number of members appointed by the Governor from six to seven and requires that at least one of the Governor's appointees have the knowledge that the auditor believes may have assisted CalHFA in avoiding the financial challenges associated with variable-rate bond and interest-rate swaps. In addition, the bill would add the Secretary of Veterans Affairs to the board of directors.

The committee may wish to consider that the current statute already includes a person with "experience in residential real estate in the savings and loan, mortgage banking, or commercial banking industry" as one of seven categories that the Governor can choose from in appointing four of his six members to the board. AB 984 may be redundant in including "single-family mortgage lending" as an additional position to be appointed by the Governor. In theory, AB 1222 (Gatto) would have made it easier for the Governor to appoint a member to the board by clarifying the conflict of interest standards applied to board members.

This bill requires the Governor to appoint one person with a variety of expertise. The committee may wish to consider if one person would have all of the expertise that the BSA identifies as lacking in the CalHFA Board of Directors or if it would be better to amend the existing list of possible types of knowledge that the Governor must select from when appointing his members to the board.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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