SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No:	AB 1053	**Hearing Date:**	7/10/2023
Author:	Gabriel		
Version:	3/30/2023		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Mehgie Tabar		

SUBJECT: Housing programs: multifamily housing programs: expenditure of loan proceeds

DIGEST: This bill allows a borrower to request funding from the Department of Housing and Community Development (HCD) as a construction loan, the traditional permanent financing option, or a combination of both.

ANALYSIS:

Existing law:

1) Establishes a number of programs at HCD to make housing more affordable to California families and individuals including, but not limited to, the following:

   a) Affordable Housing and Sustainable Communities Program (AHSC), which funds land-use, housing, transportation, and land preservation projects to support infill and compact development that reduce greenhouse gas emissions.
   b) Home Investment Partnerships Program (HOME), which creates and retains affordable housing for lower-income renters or owners by funding housing rehabilitation, new construction, and acquisition/rehabilitation of single- and multifamily projects.
   c) Infill Infrastructure Grant Program (IIG), which provides grant funding for infrastructure improvements that are an integral part of or necessary to facilitate new infill housing in residential and/or mixed-use projects.
   d) Multifamily Housing Program (MHP), 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.
   e) No Place Like Home Program (NPLH), which funds the development of permanent supportive housing for persons who are in need of mental health

services and are experiencing homelessness, chronic homelessness, or at risk of chronic homelessness.

This bill:

1) Requires that any funds approved, reserved, or allocated by HCD for the purpose of providing a loan under MHP may, at the option of the borrower, be used for any of the following:

    a) Construction financing;
    b) Permanent financing; and
    c) A portion for construction financing, with the balance for permanent financing.

2) Provides that if a borrower requests a construction loan, all of the following shall apply:

    a) HCD shall deposit the loan funds with the first lender at or before the closing of the first lender's construction loan;
    b) HCD shall disburse funds to the first lender until all the funds are disbursed, except that the program guidelines may require that up to 10% of the department's loan amount be retained until construction completion; and
    c) The first lender shall disburse the balance of the first lender's construction loan once all of HCD's funds are fully disbursed.

3) Provides that nothing in this bill limits the existing eligible uses of HCD programs.

COMMENTS:

1) *Author's Statement*. "While many barriers exist for California to meet its housing goals and address our crippling housing shortage, the cost of building housing is one of the most prevalent. For affordable housing projects, this is especially the case. AB 1053 seeks to address this by reducing the cost of developing affordable housing by allowing developers to receive Housing and Community Development (HCD) loan funds during the construction period of developments. This will allow developers to potentially save over $1 million per development in unnecessary construction loan interest costs. The California Housing Partnership has calculated that AB 1053 will result in the construction of an additional 500 affordable homes over the next ten years within existing funding and significantly more homes at greater levels of state investment."

2) *Modernizing the state's affordable housing financing system*. Nearly two decades ago, SB 1121 (Alarcón, Chapter 637, Statutes of 1999), consolidated

multiple programs at HCD into a single new program, MHP, and created a standard set of rules applicable to all of HCD's rental housing programs. Since then, many new housing programs have been created to provide funding for construction, rehabilitation, and acquisition of affordable housing units, as well as infrastructure funding. Most housing developers also apply for 4% or 9% federal low-income housing tax credits administered by the Treasurer's office through the Tax Credit Allocation Committee (TCAC). In addition, credits must be coupled with tax-exempt bonds, also administered by the Treasurer's office through the California Debt Limit Allocation Committee (CDLAC). As a result, developers must navigate a web of overlapping eligibility criteria and application deadlines, which often results in project delays as developers work to line up various funding sources.

According to a March 2020 report by the Terner Center for Housing Innovation at UC Berkeley, most (89%) of projects built with 9% tax credits between 2008 and 2019 relied on four or more sources of funding, with 80% of projects combining four to eight funding sources. On average, each additional source of funding is associated with an increased cost of $6,400 per unit. The added costs of having to apply to multiple programs in multiple funding rounds include preparation of additional applications, review and coordination of additional loan documents, and property holding costs due to time delays between application cycles.

The state has been working in recent years to align its housing programs. MHP – HCD's flagship rental housing program – either prioritizes 4% tax credits or requires them, depending on the type of project. TCAC, CDLAC, and the California Housing Finance Agency (CalHFA) have implemented a joint application for the Mixed Income Program, which helps finance construction of new affordable multifamily housing projects (funded by SB 2, Atkins, Chapter 364, Statutes of 2017). And budget trailer bill legislation (AB 83, Committee on Budget, Chapter 15, Statutes of 2020) directs HCD, TCAC, and CDLAC to "develop a coordinated system to manage available state funding and private activity bonds to deliver the maximum number of units as efficiently as possible to very low- and extremely low-income households."

Lastly, AB 434 (Daly, Chapter 192, Statutes of 2020), required HCD to streamline multiple funding programs by aligning six rental housing programs with MHP, to implement a single application and scoring system for making coordinated awards under all seven programs. This resulted in the first "Super NOFA" or Super Notice of Funding Availability by HCD, with awards announced in February 2023.

3) *HCD funding*. HCD administers multiple programs, both federal and state, that provide loans to developers to rehabilitate, preserve, or construct affordable rental housing that are structured as permanent financing. Programs include: MHP, Serna Program, Housing for a Healthy California, NPLH, Transit Oriented Development, AHSC, and the federal HOME and Community Development Block Grant program. Developers receive an award of funding based on a proposed project and use that commitment to secure a construction loan to start construction. State law is silent on whether HCD makes its loan funds available during the construction phase of a project or only during conversion to permanent financing. As a matter of practice, HCD has chosen the latter.

   This decision requires affordable housing developers to obtain larger construction loans and pay hundreds of thousands of dollars in additional interest expense per development. In a time of high and/or rising interest rates, these expenses can create serious financing challenges or even jeopardize the ability of developers to complete projects without additional subsidies, which add time and cost to affordable housing projects.

   The California Housing Partnership has calculated that this bill will result in the construction of an additional 500 affordable homes over the next ten years within existing funding. The impact will be even greater at higher levels of state investment and could lead to hundreds of millions of dollars in additional resources, as each unit of housing requires considerable subsidy. Developers would have discretion to request either a construction loan, permanent financing, or a combination of both.

   This bill would further HCD's efforts to modernize and improve the impact of the state's investment in affordable housing.

4) *If at first you don't succeed…* This bill is nearly identical to a 2021 bill, AB 1423 (Daly), which would have allowed a borrower to request funding from HCD as a construction loan.

RELATED LEGISLATION:

AB 1423 (Daly, 2021) — nearly identical to AB 1053, would have allowed a borrower to request funding from HCD as a construction loan. *This bill was vetoed by the Governor:*

> *"This bill would allow borrowers who receive Department of Housing and*

Community Development multifamily housing program funds to use awarded funds for construction financing, permanent financing, or a combination of the two.

The high cost of construction lending has impeded California's ability to build more permanent housing and drive down the cost of living in our state. While I appreciate the intent of the bill - to lower the cost of affordable housing construction - it presents a number of legal and implementation concerns.

AB 1423 would delegate the state's authority to administer bond proceeds to private, third-party lenders, which raises legal questions about consistency with the bond authority approved by California voters.

In addition, the bill would create significant risks for state dollars by placing the Department in a subordinate position to recover funds after a first lender. If a project should fail mid-construction, taxpayer dollars would be threatened.

That said, California must do more to explore how to drive down costs of construction lending. I am directing the Department to explore best practices for reducing these costs in ways that do not imperil state finances. California must continue to bring more certainty and speed to the development process - reforms that will materially drive down the cost of construction lending without direct state subsidy."

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, July 5, 2023.)

SUPPORT:

California Coalition for Rural Housing (Co-Sponsor)
California Housing Partnership Corporation (Co-Sponsor)
Association of Bay Area Governments (ABAG)
California Apartment Association
California Housing Consortium
California State Association of Counties
City and County of San Francisco
Community Corporation of Santa Monica
Community Housing Improvement Program (CHIP)

Community Housingworks
Danco Communities
East Bay Asian Local Development Corporation
East Bay Housing Organizations
Eden Housing
Enterprise Community Partners, INC.
Housing Authority of The City of Santa Barbara
Many Mansions
Metropolitan Transportation Commission
Midpen Housing Corporation
Resources for Community Development
San Diego Housing Commission
San Francisco Housing Accelerator Fund
San Joaquin Valley Housing Collaborative
Self Help Enterprises
Supportive Housing Alliance
Wakeland Housing and Development Corporation

OPPOSITION:

None received.

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