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

Bill No:	AB 1386	Hearing Date:	6/20/2023
Author:	Gabriel		
Version:	6/13/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Aiyana Cortez		

SUBJECT: Veterans housing: tenant referrals

DIGEST: This bill authorizes entities referring veterans to housing units funded by the Veterans Housing and Homelessness Prevention Program (VHHP) or certain housing units supported by project-based housing vouchers to refer veterans at higher income levels if units are unable to be filled after 28 days at a lower-income threshold.

ANALYSIS:

Existing law:

- 1) Defines veteran as any person who served in the active military, naval, or air service of the United States, or as a member of the National Guard who was called to and released from active duty or active service, for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within that 90-day period.
- 2) Defines “extremely low-income” as persons and families whose income does not exceed 30% AMI.
- 3) Enacts the Veterans Housing and Homeless Prevention Act of 2014 (VHHPA), the purpose of which is to provide the acquisition, construction, rehabilitation, and preservation of affordable multifamily supportive housing, affordable transitional housing, affordable rental housing, or related facilities for veterans and their families to allow veterans to access and maintain housing stability.
- 4) Requires the California Housing Finance Authority (CalHFA), the Department of Housing and Community Development (HCD), and the California Department of Veterans Affairs (CalVet) to work collaboratively pursuant to a memorandum of understanding to carry out the duties and functions of the VHHPA.

- 5) Requires CalHFA, HCD, and CalVet to establish and implement programs that focus on veterans at risk for homelessness or experiencing temporary or chronic homelessness, and to the extent feasible, that do the following:
 - a) Leverage public, private, and nonprofit program and fiscal resources;
 - b) Ensure projects combine housing and supportive services, including, but not limited to, job training, mental health and drug treatment, case management, care coordination, or physical rehabilitation;
 - c) Promote public and private partnerships;
 - d) Foster innovative financing opportunities; and
 - e) Ensure program guidelines and terms provide threshold requirements to advance applicants with experience in combining permanent or transitional housing, or both, with supportive services for veterans, or for partnering with housing developers or service providers with such experience.
- 6) Requires the departments to ensure at least 50% of funds awarded for capital development under the VHHPA is used to provide housing to ELI veteran households.
- 7) Requires eligibility to take into consideration all of a household's income sources upon initial tenancy in determining whether a potential tenant is eligible for supportive, affordable, or transition housing targeted to ELI households.
- 8) Requires at least 60% of units funded targeting ELI households to be supportive housing units. Clarifies that this shall not deter the departments from funding projects serving mixed-income populations.
- 9) Authorizes, pursuant to federal rules and regulations, public housing authorities (PHAs) to project-base up to 20% of their allocation of Housing Choice Vouchers, including HUD-VASH vouchers without additional approval by HUD. PHAs may raise the limit an additional 10% for homeless families, families with veterans, supportive housing for persons with disabilities or elderly persons, or in areas where vouchers are difficult to use.
- 10) Requires, pursuant to federal regulations, no less than 75% of the families admitted to a PHA's tenant-based and project-based voucher programs during the PHA fiscal year from the PHA waiting list to be ELI families.
- 11) Permits, pursuant to federal regulations, a property that receives a federal low-income housing tax credit to change the designated income limitation of a unit in a property according to certain rules, so long as the overall average income of the property does not exceed certain thresholds.

This bill:

- 1) Defines “qualified entity” as an entity that is responsible for making referrals of qualified tenants to qualified units.
- 2) Defines “qualified tenant” as an ELI veteran who is homeless.
- 3) Defines qualified unit as a supportive housing unit restricted to ELI veterans.
- 4) Defines secondary tenants as a veteran who is homeless who has an income of up to 60% area median income (AMI) and is receiving income as a result of service-connected disability benefits.
- 5) Authorizes a qualified entity to match secondary tenants to qualified units funded through VHHP if after 28 days of a qualified unit becoming available, a qualified tenant is unable to be matched to and accept placement in the available unit.
- 6) Authorizes a qualified entity to match a tenant who is a veteran experiencing homelessness with income at or below 60% AMI to qualified units if after 14 days of a qualified unit becoming available to prospective secondary tenants a qualified tenant or secondary tenant is unable to be matched and accept placement in the available unit.
- 7) Requires the rate of rent for a secondary or other tenant who is a veteran experiencing homelessness with an income between 30 and 60% AMI to not exceed the rate that would be charged had the unit been placed with a qualified ELI tenant.
- 8) Requires the supportive development to have 30% or more of its units be occupied by ELI tenants.
- 9) Requires a qualified unit to return to its initial eligibility criteria for ELI tenants after a tenant vacates the unit.
- 10) Requires the qualified entity to make and document a good faith effort to match an ELI tenant to the qualified unit. The documentation shall be made available to the housing sponsor and included in the tenant file. The documentation shall include, but not be limited to, the following:
 - a) Efforts to advertise to the community at least 90 days prior to the lease-up of the building.

- b) Efforts to work in partnership with local homeless services providers, including those that serve veterans experiencing homelessness.
 - c) Efforts to coordinate with the local continuum of care to identify veterans experiencing homelessness with extremely low incomes.
 - d) Efforts to coordinate with the United States Department of Veterans Affairs to identify veterans experiencing homelessness with extremely low incomes.
 - e) Documentation of contact with veterans experiencing homelessness with extremely low incomes and their case managers who were matched to the available unit and chose not to lease the unit.
- 11) Requires TCAC and CDLAC to treat secondary tenants as eligible for the qualified unit if a qualified entity is unable to locate, match, or otherwise place a qualified tenant in a qualified unit within 28 days of the qualified unit becoming available.
- 12) Requires TCAC and CDLAC to treat veterans experiencing homelessness at or below 60% AMI as eligible for the qualified unit if a qualified entity unable to locate, match, or otherwise place a qualified tenant or secondary tenant in a qualified unit within 14 days of the qualified unit becoming available to secondary tenants.
- 13) Allows TCAC and CDLAC to adopt regulations to establish additional documentation standards for demonstrating a good faith effort.

COMMENTS:

- 1) *Author's statement.* "California continues to hold the largest population of homeless veterans in the country—approximately 31% of the national total. Homeless veterans are overrepresented in California's homeless population, and being a veteran is associated with a higher risk of homelessness in our state. Our state must find ways to improve our existing programs and ensure that veterans are housed. The existing eligibility criteria for some supportive housing developments that serve homeless Veterans can leave many Veterans unprotected and susceptible to homelessness when there are beds available. Disability benefits often push veterans over the 30% AMI threshold, making them illegible for the units even though they would otherwise qualify for the program. This leaves some developments with high vacancy rates and struggling to fill units while many Veterans remain homeless. This bill would ensure that eligibility requirements are flexible and adaptive."
- 2) *Veterans and housing needs.* A majority of California's veterans are considered cost-burdened and pay more than 30% of their income towards housing-related

costs. Additionally, veterans face higher risks of homelessness than the general population and the homeless point-in-time count for 2022 estimated that there are 10,395 veterans experiencing homelessness in California, with 7,392 of those veterans experiencing unsheltered homelessness.

Proposition 41 created the VHHP Program and allowed for the issuance of \$600 million in bonds to provide funding for multifamily affordable housing, transitional housing, and supportive housing to veterans. To date the VHHP Program has provided six rounds of funding administered by HCD in collaboration with CalHFA and CalVet, plus one round via the state's first "Super NOFA" or "Super Notice of Funding Availability" consolidated application round pursuant to AB 434 (Daly, Chapter 192, Statutes of 2020). The latest award information for round six, HCD's "VHHP Program 2021 Round 6 Awards Data Summary," shows that \$478 million in VHHP awards have been made cumulatively over the six rounds of the program. This is expected to result in a total of 3,058 VHHP housing units for veterans and their families with 66% of those reserved for extremely low-income veterans, 27% for very low-income veterans, and the remainder for low-income veterans. Additionally, 80% of the housing units developed with VHHP funds are restricted to veterans experiencing homelessness. While the VHHP funds are helping to create much-needed affordable housing, transitional housing, and supportive housing for California's veterans, it is important to note the program will run out of funding unless additional resources are approved for the VHHP program.

- 3) *VHHP income limits.* Currently, at least 50% of capital development funding for VHHP-funded developments must be used to subsidize ELI units. These units are affordable to households making 30% or less of AMI. HUD publishes income limits each year outlining what the thresholds are in each county in the state for a variety of household sizes.

According to HCD's "Multifamily Housing Programs: 2022 Multifamily Tax Subsidy Project Income Limits," VHHP was subject specific income limits in 2022 by county. The author and supporters of the bill argue that once many veterans become connected to benefits, including disability benefits, their income can exceed the 30% AMI threshold, making them ineligible for deeply income-restricted VHHP units.

- 4) *HUD-VASH and project-based vouchers (PBVs).* Through a cooperative partnership, the HUD-VASH Program provides long-term case management, supportive services and permanent housing support to qualified veterans experiencing homelessness. HUD provides Housing Choice Vouchers (Section

8 vouchers) designated for HUD-VASH to participating PHAs to assist with rent payments. To be eligible for this program, veterans must be VA Health Care-eligible, homeless, and must participate in case management services in order to obtain and sustain permanent independent community housing. PHAs can choose to “project-base” or dedicate up to 20% (in some cases up to 30%) of their vouchers to specific units in an affordable or supportive housing development. Because these vouchers represent a stable, medium-term rental assistance payment stream, affordable and supportive housing developers often use PBVs to help subsidize deeply affordable ELI units in a development.

PHAs are required to conduct their HUD-VASH programs in conjunction with their nearby Veterans Affairs Medical Center (VAMC), which must make supportive services available to individuals receiving HUD-VASH assistance. When a PHA chooses to project-based their HUD-VASH vouchers, they must ensure they have the support of their partnering VAMC.

- 5) *Issues related to veteran unit vacancy rates in certain regions.* According to the Los Angeles Housing Department’s (LAHD) January 12, 2023 memo regarding supportive housing projects funded by the city’s Proposition HHH, the City has struggled with longer leasing times for veteran-serving HHH projects. LAHD attributes these leasing delays to overlapping eligibility restrictions, high adoption of the most restrictive income limits (30% AMI), and the multiple housing alternatives available to veterans, including a preference for portable (*i.e.*, non-project-based) vouchers. The memo indicates some – though not all – HHH projects have only achieved roughly 60-75% lease up status for their veteran units, though the majority of projects with veteran units have yet to fully come online and begin leasing.

The memo requested, and the Council recently approved, permission for LAHD to increase the AMI limits in Proposition HHH-funded veteran projects to 50% AMI, as determined by LAHD. However, affordable housing developers generally must layer funding from multiple sources to complete a project, and other funding streams like VHHP, TCAC tax credits, and project-based VASH or Section 8 vouchers – which the City of Los Angeles does not have authority over – continue to have more restrictive income limitations.

People Assisting the Homeless (PATH), a nonprofit homeless service provider and affordable housing developer with a number of projects in the LA region, notes that many of their supportive housing developments have struggled to fill VHHP units, which they contend puts them at risk of penalties from the IRS, complicates their efforts to successfully put together financing for future developments, and delays veterans from exiting homelessness.

Given the acute nature of the housing crisis in California, including for veterans at risk of homelessness, persistently high vacancy rates in affordable and supportive housing developments should not be occurring. This bill proposes to allow housing providers who are making referrals to VHHP and TCAC units to refer tenants with incomes up to 60% AMI only if they are unable to find tenants at 30% AMI for 28 days after a unit becomes available. This bill would also allow a development to dip below the statutorily mandated 50% ELI unit threshold if no tenants at 30% AMI can be found in the specified time period.

- 6) *Double-referral*. This bill has also been referred to Senate Military and Veterans Affairs Committee.

RELATED LEGISLATION:

AB 531 (Irwin, 2023) — authorizes, subject to voter approval, the issuance of \$600 million in general obligation bonds to provide affordable housing under the VHHP Bond Act of 2024. *This bill is also being heard at this hearing.*

AB 411 (Irwin, 2022) — would have authorized, subject to voter approval, the issuance of \$600 million in general obligation bonds to provide affordable housing under the Veterans Housing and Homeless Prevention Bond Act of 2022. *This bill was held in the Senate Appropriations Committee.*

AB 434 (Daly, Chapter 192, Statutes of 2020) — aligned six rental housing programs with the Multifamily Housing Program (MHP), to enable the HCD to implement a single application and scoring system for making coordinated awards under all seven programs, starting on January 1, 2022.

SB 222 (Hill, Chapter 601, Statutes of 2019) — prohibited housing discrimination on account of military or veteran status under the Fair Employment and Housing Act (FEHA). Also defined a Veterans Affairs Supportive Housing (VASH) voucher as a source of income for purposes of FEHA, and in so doing, prohibited landlords from discriminating against a tenant based on their use of a VASH voucher to pay rent.

AB 639 (Pérez, Chapter 727, Statutes of 2013) — authorized the Veterans Housing and Homeless Prevention Act of 2014 which voters approved through Proposition 41. Additionally, restructured the Veterans' Bond Act of 2008 (Proposition 12) and provided for the issuance of \$600 million in general obligation bonds to support affordable, supportive, and transition multifamily housing for veterans and their families.

SB 1572 (Wyland, Chapter 122, Statutes of 2008) — established the Veterans' Bond Act of 2008 which California voters approved as Proposition 12. Authorized \$900 million in general obligation bonds intended to help veterans purchase single family homes, farms, and mobilehomes through the CalVet Home Loan Program.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 14, 2023.)

SUPPORT:

Building Industry Association of Southern California, INC.
California Apartment Association
California Association of Veteran Service Agencies
Corporation for Supportive Housing
County of Los Angeles Board of Supervisors
Hope the Mission
Los Angeles Homeless Services Authority
National Alliance to End Homelessness
Path (people Assisting the Homeless)
San Diego Regional Task Force on Homelessness
Supportive Housing Alliance
The People Concern

OPPOSITION:

None received.

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