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

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**Bill No:** SB 834 **Hearing Date:** 4/18/2023  
**Author:** Portantino  
**Version:** 2/17/2023  
**Urgency:** Yes **Fiscal:** Yes  
**Consultant:** Alison Hughes

**SUBJECT:** Housing: California Family Home Construction and Homeownership Bond Act of 2023

**DIGEST:** This urgency bill dedicates \$25 billion in general obligation bonds, subject to voter approval, for homeownership opportunities, including \$18 billion for mortgage loans for first time homebuyers and \$7 billion in infrastructure loans for new home construction, as specified.

**ANALYSIS:**

*Existing law:*

- 1) Authorizes the California Housing Finance Agency (CalHFA) to make loans to housing sponsors for housing developments and to qualified mortgage lenders, among others. Provides that the primary purpose of CalHFA is to meet the housing needs of persons and families of low- or moderate-income.
- 2) Provides that CalHFA is administered by a board of directors and is supervised on a day-to-day basis by an executive director.
- 3) Establishes the California Dream for All Program at CalHFA.
- 4) Establishes a number of housing assistance programs for affordable housing at the Department of Housing and Community Development (HCD).
- 5) Authorized, upon approval by the voters as Proposition 1 in the November 6, 2018 general election, the issuance of \$3 billion in general obligation (GO) bonds for several affordable housing construction programs at HCD.
- 6) Authorized, upon approval by the voters as Proposition 2 in the November 6, 2018 general election, the issuance of \$2 billion in GO bonds for the No Place Like Home Program at HCD.

**This urgency bill:**

- 1) Creates the California Family Home Construction and Homeownership Program, which shall be administered by CalHFA.
- 2) Requires CalHFA to adopt rules and regulations approved by a board of directors (Board) to achieve the following:
  - a) Establish preferences in providing loans.
  - b) Prescribe and determine the qualifications of applicants under the program.
  - c) Establish an application fee, which shall not exceed the reasonable amount incurred by CalHFA to process an application.
  - d) Identify Californians who have faced discrimination or otherwise faced difficulty in accessing homeownership and make available up to 25% of bonds to assist these individuals in purchasing a home.
  - e) Report annually to the Legislature on the activities of the agency in implementing the program, including the number of loans made, the characteristics of the borrowers, and the performance of the portfolio of the loans, including repayment rates.
- 3) Requires proceeds of the bonds issued and sold pursuant to this part be allocated as follows:
  - a) Up to \$18 billion to be deposited in a Homeownership Fund to increase homeownership opportunities by providing secondary mortgages to qualified homebuyers, including first-time home buyers, renters, and Californians who have historically faced discrimination in accessing homeownership.
  - b) Up to \$7 billion to fund home building infrastructure improvement loans.

*First Time Homebuyer Mortgage Assistance Funds*

- 4) Requires money for the Homeownership Fund to provide secondary mortgage loans to eligible applicants to use as a down payment or to pay closing costs on the purchase of a newly constructed home. Eligible applicants include:
  - a) An applicant who has an income below an unspecified moderate-income limit.
  - b) An applicant who is a first owner-occupant of the home being financed.

- c) The applicant shall agree to pay all principal, interest, and other amounts due with respect to the secondary mortgage loan upon transferring or refinancing the home financed by the secondary mortgage loan, except as otherwise provided by CalHFA.
  - d) An applicant shall be required to complete homeowner's education courses and financial counseling before receiving a second mortgage loan.
- 5) Requires a secondary mortgage loan be made to finance property that meets all the following requirements:
- a) The property for a secondary mortgage loan shall be either:
    - i. A newly constructed single-family home, townhome, row-house, condo, or manufactured home, or
    - ii. A condominium or other residential unit in a building that satisfied either of the following:
      - (A) Within the previous five years, the unit was a nonresidential structure, and was retrofitted or repurposed for residential use; or
      - (B) The unit was vacant for the 12 months prior to the applicants purchase and was rehabilitated using federal funds, as specified.
  - b) The final sales price of the property does not exceed an unspecified percentage of the median price for newly constructed homes in the county.
  - c) The first mortgage debt of the property shall have a term of at least 15 years.
  - d) The terms of the financing provide that the applicant will hold the property in fee simple or hold the property through a long-term ground lease with a right of first refusal to purchase the property.
  - e) All contractors and subcontractors performing work on the residential property being financed used or will use a skilled and trained workforce.

#### *New Construction Infrastructure Loans*

- 6) Requires money for the Family Home Construction Fund to provide secured infrastructure loans to qualified homebuilders to be used for predevelopment infrastructure improvements and other upfront costs typically incurred in connection with new home construction.
- 7) Requires a project receiving a Family Home Construction Infrastructure Loan to satisfy all of the following:

- a) All contractors and subcontractors performing work on the residential property being financed used or will use a skilled and trained workforce.
  - b) The project will satisfy all state safety, renewable energy, and efficiency standards applicable to the project.
  - c) The qualified homebuilder provides a written commitment to the CalHFA demonstrating that a minimum percentage of the homes being constructed are expected to be sold on terms that will qualify purchasers to utilize second mortgage loans (see 4 & 5 above). The qualified homebuyer will enter a binding commitment with the agency to work with CalHFA to ensure secondary mortgage loans are made available to eligible purchasers.
- 8) Authorizes a project to use a streamlined, ministerial process created by SB 35 (Wiener, Chapter 366, Statutes of 2017) if it satisfies all the following:
- a) The project satisfies one of the following:
    - i. If the project is required to provide 10% affordable units at 80% area median income (AMI) as required for SB 35 streamlining, the project seeking approval shall instead dedicate 10% affordable units at to households making below 100% AMI. If a local inclusionary ordinance requires greater affordability requirements, that ordinance shall not apply.
    - ii. If the project is required to provide 50% affordable units at 80% AMI as required to qualify for SB 35 streamlining, the project seeking approval shall instead dedicate 25% affordable units at to households making below 100% AMI. If a local inclusionary ordinance requires greater than 10% affordable units at 100% AMI, that ordinance shall not apply.
  - b) All other requirements under SB 35 apply.
- 9) Provides that a project that meets the requirements under the California Environmental Quality Act (CEQA) shall be exempt if the project is for the construction of new single-family homes and meets the following requirements:
- a) The project consists of the division of property in urbanized areas zoned for residential, commercial, or industrial uses into 50 or fewer parcels when the division is in conformance with the general plan and zoning.
  - b) No variances or exceptions are required.
  - c) All services and access to the proposed parcels to local standards are available.

- d) The parcel does not have an average slope greater than 20%.
- 10) Requires CalHFA to set the interest rates and other payment terms on financing at levels necessary to pay the interest on the bonds issued and to defray costs of administration.
  - 11) Authorizes the principal balance of the loans to be amortized over a period fixed by CalHFA, not exceeding 40 years, together with interest or other consideration for the state, as specified.
  - 12) Authorizes CalHFA on a case-by-case basis, for good cause, to defer or extend the payment of the whole or any part of any loan payment, upon terms CalHFA determines proper.
  - 13) Requires all causes of action seeking damages arising from a latent defect of a new construction project authorized by (6) above, shall be subject to specified limitations and statute of limitations identified in existing law related to improvements to real property.
  - 14) Establishes a committee solely for the purpose of issuing the sale of the GO bonds, and is comprised of the State Controller, State Treasurer, and Director of Finance.
  - 15) States the intent of the Legislature and the voters in enacting this bill that the bonds shall be backed by the full faith and credit of the State of California but will be self-liquidating to the extent repayments of mortgage loans.

**COMMENTS:**

- 1) *Author's statement.* "The housing market in California is the center of the American housing crisis. The high cost of building new housing imposes a significant drag on the state's economy, squeezes household budgets, and deprives Californians of opportunities to build wealth through home equity. In recent years, production of new housing across the state has lagged far behind the growth in jobs and household formation. We have a responsibility to create more opportunities for first-time – and often left-behind – homebuyers to purchase a home, thrive in the middle class, and build generational wealth. SB 834 will place a \$25 billion voter-approved general obligation bond on next statewide general election to finance homeownership opportunities *and* promote new home construction."

- 2) *CalHFA background.* CalHFA is the state's affordable-housing bank. CalHFA borrows money from the private financial market at below-market interest rates by issuing tax-exempt revenue bonds. CalHFA passes these interest rate savings on to low- and moderate-income first-time homebuyers and affordable rental housing developers by offering below market-rate mortgages. These bonds are backed only by CalHFA revenues and not by the state General Fund. CalHFA also provides down payment assistance in the form of deferred, "silent second" mortgages (*i.e.*, the borrower makes no monthly payments but repays the loan at sale or refinance) for families who need extra assistance achieving homeownership. CalHFA received \$150 million for home purchase assistance from Proposition 1 (2018) bond funds to provide first and junior loan options for low- to moderate-income families, including low to zero interest rate down payment assistance loans.

In order to be eligible for CalHFA's down payment assistance programs, the applicant must be: (a) be a first-time homebuyer; (b) occupy the property as a primary residence; non-occupant co-borrowers are not allowed; (c) complete homebuyer education counseling and obtain a certificate of completion through an eligible homebuyer counseling organization; and (d) meet CalHFA income limits for this program. Eligible properties include: single-family, one-unit residences, including approved condominium; guest houses, granny units and in-law quarters; or manufactured housing.

- 3) *California Dream for All Program.* In addition to the programs listed in Comment 2, the Legislature created the California Dream for All program in the 2022-23 budget. This program, which is still in design process, authorizes CalHFA to provide shared-appreciation loans to help low- and moderate-income first-time homebuyers achieve homeownership. The shared appreciation loans will provide funding to assist with down payments and closing costs.
- 4) *Recent GO Bond bills.* In 2018, voters approved Proposition 1, which dedicates \$4 billion in GO bonds for housing, including \$1 billion to the Cal-Vet Farm and Home Loan Program and \$3 billion to housing programs for low- and moderate-income persons. In the same year, voters also approved Proposition 2, which dedicated \$2 billion in bond proceeds from the Mental Health Services Act (MHSA). MHSA was approved by voters in 2004 through the passage of Proposition 63 to invest in the development of permanent supportive housing of persons who are in need of mental health services and are experiencing homelessness, chronic homelessness, or are at-risk of chronic homelessness.

- 5) *Zoning ordinances.* Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. A zoning ordinance may be subject to CEQA if it will have a significant impact upon the environment. The adoption of accessory dwelling unit (ADU) ordinances, however, are explicitly exempt from CEQA. In addition, several statutory exemptions provide limited environmental review for projects that are consistent with a previously adopted general plan, community plan, specific plan, or zoning ordinance.
- 6) *Streamlined Approval Processes.* Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under CEQA while projects permitted ministerially generally are not.
- 7) *California Family Home Construction and Homeownership Bond Act of 2023.* This bill authorizes the issuance of \$25 billion in GO bonds to finance loans for new home ownership construction (\$7 billion) and mortgage assistance for first time homebuyers (\$18 billion). The program is to be administered by CalHFA with a newly established Committee made up of the Treasurer, Controller, and Director of Finance. All property financed by the bond shall use a skilled and trained workforce.
- 8) *New CEQA exemption and SB 35 streamlining.* This bill would authorize projects funded by this bill to use SB 35 streamlining for new housing construction. Unlike SB 35, if a project would otherwise require at least 10% of the units to be affordable to households at 80% AMI or below, this bill instead requires 10% at 100% AMI on the project, even if there is a local ordinance requiring higher; if SB 35 requires 50% of the units to be affordable to households at 80% AMI, this bill provides that the project provide only 25% of the units affordable to 100% AMI, and overrides a local ordinance if it requires over 10% affordable units.

This bill also creates a new CEQA exemption if it is new construction for single family homes and: (a) the project consists of the division of property in urbanized zone for residential, commercial, or industrial use in 50 or fewer parcels when the division is in conformity with the general plan; (b) no variances or exceptions are required; (c) all services and access to the proposed parcels to local standards are available; (d) the parcel does not have an average slope of greater than 20%.

9) *Setting a precedent.* The committee has very serious concerns about the labor provisions in this bill. This bill, for the first time ever, would require the use of a skilled and trained workforce as a condition for the funding of 100% affordable housing projects through a state housing financing program. It is not clear that in all areas of the state there are enough workers available today -- or will be available in the near future -- to meet the skilled and trained workforce requirement in this bill. According to US Census Data, there are about 920,000 construction industry workers in California's labor force; 123,000 workers completed apprenticeship programs -- including non-union programs -- between the years 2000 and 2021. According to the Nor Cal Carpenters Union, this means that fewer than 1 in every 7 California construction workers has completed an apprenticeship program in the last 21 years. Because most apprenticeship program graduates work on nonresidential buildings, the Nor Cal Carpenters estimate that fewer than 1 in every 10 blue-collar residential worker meets the "skilled and trained" workforce criteria. By adding requirements that could prohibit certain workers and contractors from performing work on affordable housing developments, this provision could stop desperately needed affordable housing units from being built. *Moving forward, the committee strongly urges the author to instead including strong labor protections to ensure workers on these projects are paid prevailing wages and full health benefits, while seeking additional ways to grow the pipeline of workers who can meet the "skilled and trained" standards in the future.* The goal should be to ensure workers are paid high wages while also meeting the housing needs for the lowest income Californians.

10) *Seeing Double.* This bill is identical to SB 1457 (Hertzberg, 2022), which would have dedicated \$25 billion in general obligation bonds, subject to voter approval, for homeownership opportunities. That bill died in the Assembly Housing and Community Development Committee.

11) *Opposition.* The California Housing Partnership Corporation (CHPC), California Housing Consortium (CHC), and Western Center on Law and Poverty are all opposed to this bill. These groups are concerned that this bill would propose homeownership opportunities only when prior housing bonds



for lower-income rentals are running dry; a bond of this size would likely crowd out other bonds, including for rentals. This bill would also undermine the affordability provisions in SB 35 (Wiener) and override local inclusionary ordinances.

CHC and CHPC are further concerned that the labor provisions set a precedent for housing programs generally. In the current constrained labor market, getting at least three bids for prevailing wage contracts is a challenge. This bill would limit the eligible labor pool even further. “There are parts of the state where union labor is scarce and the program simply could not function under such a requirement. Even in parts of the state with greater unionized labor force, this will result in non-competitive bids, significantly raising costs and the feasibility of development.”

12)*Double-referral*. This bill was also referred to the Senate Governance and Finance Committee.

#### **RELATED LEGISLATION:**

**SB 197 (Committee on Budget and Fiscal Review, Chapter 70, Statutes of 2022)** — among other things related to the budget, established the California Dream for All program at CalHFA.

**SB 1457 (Hertzberg, 2022)** — would have dedicated \$25 billion in general obligation bonds, subject to voter approval, for homeownership opportunities, including \$18 billion for mortgage loans for first time homebuyers and \$7 billion in infrastructure loans for new home construction, as specified. *This bill died in the Assembly Housing and Community Development Committee.*

**SB 140 (Committee on Budget and Fiscal Review, Chapter 111, Statutes of 2021)** — required the STO, in consultation with the CalHFA, HCD, and other relevant stakeholders to develop a framework for the California Dream for All First Time Homebuyers Program to reduce barriers to homeownership, and submit a report to the Legislature as soon as April 1, 2022, and no later than July 19, 2022.

**SB 35 (Wiener, Chapter 765, Statutes of 2017)** — created a streamlined, ministerial approval process for specified infill housing developments.

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

**POSITIONS:** (Communicated to the committee before noon on Wednesday, March 15, 2023.)

**SUPPORT:**

Catalysts for Local Control  
Mission Street Neighbors

**OPPOSITION:**

California Housing Consortium  
California Housing Partnership Corporation  
Western Center on Law & Poverty

**-- END --**