
SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2021 - 2022 Regular

Bill No: AB 2053

Hearing Date: 6/21/2022

Author: Lee

Version: 6/14/2022 Amended

Urgency: No

Fiscal: Yes

Consultant: Mehgie Tabar

SUBJECT: The Social Housing Act

DIGEST: This bill establishes the California Housing Authority (CHA) for the purposes of developing mixed-income social housing.

ANALYSIS:

Existing law:

- 1) Specifies that a housing authority may engage in a number of activities in order to provide housing to low income individuals, including:
 - a) Preparing, carrying out, acquiring, leasing and operating housing projects and developments for persons of low-income;
 - b) Providing for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project;
 - c) Providing leased housing to persons of low-income; and
 - d) Offering counseling, referral, and advisory services to persons and families of low or moderate income in connection with the purchase, rental, occupancy, maintenance, or repair of housing.
- 2) Requires each city and county to prepare, adopt, and administer a general plan for their jurisdiction, which must include a housing element, to shape the future growth of its community.
- 3) Specifies that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which involves three main stages: (a) the Department of Finance (DOF) and the Department of Housing and Community Development (HCD) develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income; (b) councils of government (COGs) use these estimates to allocate housing within each region (HCD is to make the

determinations where a COG does not exist); and (c) cities and counties plan for accommodating these allocations in their housing elements.

- 4) Establishes HCD oversight of the housing element process, including the following:
 - a) Local governments must submit a draft of their housing element to HCD for review;
 - b) HCD must review the draft housing element, and determine whether it substantially complies with housing element law, in addition to making other findings;
 - c) Local governments must incorporate HCD feedback into their housing element; and
 - d) HCD must review any action or failure to act by local governments that it deems to be inconsistent with an adopted housing element. HCD must notify any local government, and at its discretion the office of the Attorney General, if it finds that the jurisdiction has violated state law.
- 5) Requires each city and county to submit an Annual Progress Report (APR) to the Governor's Office of Planning and Research (OPR) and HCD by April 1 of each year, including the following:
 - a) The report must evaluate the general plan's implementation, including the implementation of their housing element, and provide specified quantitative outcomes, such as number of applications for housing projects received and housing units approved;
 - b) Authorizes a court to issue a judgement to compel compliance should a city or county fail to submit their APR within 60 days of the statutory deadline; and
 - c) Requires HCD to post all city and county APRs on their website within a reasonable time after receipt.

This bill:

- 1) Creates CHA as an independent state entity with the mission of producing and acquiring social housing for all California residents, eliminating the gap between housing production and regional housing needs assessment targets, and preserving affordable housing.
- 2) Specifies that the CHA board will consist of nine members, as specified, who will elect a chair and make decisions by majority vote.

- 3) Provides that each CHA-owned multifamily social housing development must form a governance council with specified powers and responsibilities.
- 4) States that CHA will seek to achieve revenue neutrality over the long term and seek to recuperate the cost of development and operations over the life of its properties through rent cross-subsidization.
- 5) States that CHA must prioritize development on vacant parcels, certain underutilized parcels with deed-restricted units, surplus public properties, and parcels near transit.
- 6) Requires that each multi-unit property must include a variety of mixed income units.
- 7) Specifies that CHA will make an annual determination of the required amount of social housing units to be produced as follows:
 - a) Annual regional housing needs assessment (RHNA) targets calculated as the total RHNA cycle targets for each jurisdiction divided by the length of the RHNA cycle;
 - b) On or before January 1, 2027, and each year thereafter, CHA will determine the gap between the previous year's RHNA and actual housing construction; and
 - c) Within a given year, CHA can construct at least the number of units to meet the gap between the previous year's construction of units and the RHNA targets.
- 8) Specifies that, in creating housing, the authority shall employ two different leasing models, the rental model and the ownership model, as specified.
- 9) Provides that CHA can conduct ground-up construction and rehabilitation of existing structures and may lease mixed-use space to small businesses and nonprofits.
- 10) States that CHA must accept a local government's preference on project location if certain conditions are met.
- 11) Requires specified labor standards for production and rehabilitation of CHA developments, including community workforce agreements and payment of prevailing wages.
- 12) States that it is the intent of the Legislature to develop and implement high-road labor policies to use a skilled construction workforce to build projects utilizing bond funds.

COMMENTS:

- 1) *Author's statement.* According to the author, "Housing is too expensive for millions of Californians, where more than two in five households spend over 30% of their income on housing, and more than one in five households spend over 50% of their income on housing. Over 97% of cities and counties haven't produced enough affordable housing, and existing strategies to address the lack of affordable housing have not produced nearly enough to meet demand. Affordable housing relies on government subsidies, and there is much more demand for them than supply.

Social housing is an important tool to ensure housing is affordable to people of all income levels. Social housing is publicly backed, self-sustaining housing that accommodates a mix of household income ranges. Housing is protected from being sold to a private for-profit entity for the duration of its life, and residents are granted the same protections as tenants in private property, if not more. Residents can provide their perspectives to property management. Many countries throughout the world have successful social housing programs, and in the US, there are social housing developments such as in Montgomery County, Maryland using a similar model. Social Housing is how we provide and realize housing as a human right."

- 2) *What is "Social Housing"?* Social housing is simply publicly-subsidized housing, but within a specific framework, most commonly used outside of the United States. All definitions of social housing distinguish it in various ways from privately-owned, for-profit housing provided through market mechanisms. The Assembly Select Committee on Social Housing held an informational hearing on October 20, 2021 and Rob Weiner from the California Coalition for Rural Housing shared the Organization for Economic Cooperation and Development (OECD) definition of social housing as: "the stock of residential rental accommodations provided at sub-market prices and allocated according to specific rules rather than according to market mechanisms."¹

Under this definition, there are an estimated 480,000 subsidized housing units available for rent in California, or about 3.5% of the state's housing stock. These deed-restricted affordable rental units are generally built using a mix of public and private financing and residency is restricted to low-income households that make no more than 80% of county area median income (AMI). Other versions of social housing specify permanent affordability requirements

¹ California Assembly Select Committee on Social Housing. October 20, 2021.
<https://www.assembly.ca.gov/media/assembly-select-committee-social-housing-20211020/video>

and ownership by the government or a non-profit entity. Most of California's deed-restricted affordable housing is not publicly owned and the length of affordability requirements varies, though permanent affordability is not required in most cases.

Another variation of social housing involves making accommodations available to all individuals regardless of their household income. In particular, Vienna, Austria is often held up as an example of a large city with widespread mixed-income social housing and an estimated 40% of the city's housing stock is social housing. In the Viennese model, higher income households pay market rate rents which then subsidize the below market rents for lower-income households. This mechanism is referred to as "cross-subsidization" and it is the same logic that underlies California's density bonus law, a policy that allows residential developers to receive added density and other concessions and incentives from a local government in exchange for building a certain percentage of affordable units, and inclusionary housing ordinances, which mandate housing developers build a certain percentage of affordable units or pay in-lieu fees that are used to pay for future affordable housing.

- 3) *Planning for housing and the RHNA process.* California, along with the rest of the country, generally relies on the private sector to develop its affordable housing stock. However, cities and counties are required to plan for a certain amount of housing development across various income categories. This happens through "general plans" for future land use development that each city and county's legislative body adopts. Every general plan must include a "housing element" that details existing housing conditions within the jurisdiction, the need for new housing at various household income levels, and the strategy that the jurisdiction will use to address that need. The need for new housing is determined through the RHNA process, which involves three main stages:
 - a) DOF and HCD develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income;
 - b) COGs use these estimates to allocate housing needs within each region to cities and counties (HCD makes the determinations where a COG does not exist); and
 - c) Cities and counties plan for accommodating these allocations in their housing elements

Local governments must adopt a new housing element every eight years (though some rural jurisdictions must do so every five). These adopted housing elements must be approved by HCD, which must find them in "substantial

compliance” with the law. Every eight years a new RHNA cycle begins and the process restarts. Currently the state is in the 6th RHNA cycle and housing element updates in this cycle will also need to include information on steps the local government is taking to affirmatively further fair housing objectives.

Each year, the local government’s planning agency must submit an APR to HCD and OPR that documents implementation of its housing element and progress towards meeting its RHNA target. The APR must include information about all proposed and approved development projects, a list of rezoned sites to accommodate housing for each income level, and information on density bonus applications and approvals, among other provisions. The APRs provide statewide and local data across California’s 539 cities and counties which allow for tracking the amount, type, location, and affordability of new housing development. In addition to providing completed residential construction data in the jurisdiction, APRs also include data on the number residential developments which are still in the initial permitting and entitlement phases. It should be noted, HCD and OPR are unable to validate the accuracy of data submitted to them, as there is no comprehensive statewide parcel map for comparison; therefore the quality of data submitted through APRs is an important aspect to understanding how cities and counties are meeting RHNA.

- 4) *Planning vs. building affordable housing.* While the RHNA process requires local governments to plan to address housing need in their jurisdiction, it does not mean housing will actually get built. A number of factors affect housing development and, in order to build affordable units for low-income and very low-income households, government subsidies are generally needed to make the project economically viable. According to the California Housing Partnership Corporation (CHPC), while California has more than doubled its production of deed-restricted affordable units in the prior three years, in 2021 the available public funding for affordable housing provided just 16% of the units that would be needed to meet the state’s targets for low-income homes.²

The lack of affordable housing disproportionately impacts California’s most economically-vulnerable households. According to data from the 2019 American Communities Survey, over half of the state’s renter households are considered rent-burdened, which is defined as paying more than 30% of their income towards housing costs. For low-income renter households in the state the share of cost-burdened families is even higher at 80%. To address the shortage of affordable housing options, California must plan for more than 2.5

² California Housing Partnership. “California Affordable Housing Needs Report”. (March 2022)
<https://1p08d91kd0c03rlxhmhtydpr-wpengine.netdna-ssl.com/wp-content/uploads/2022/03/California-Affordable-Housing-Needs-Report-2022.pdf>

million homes over the next eight years, and no less than one million of those homes must meet the needs of lower-income households.³

- 5) *Creation of the California Housing Authority (CHA)*. This bill proposes to establish the California Housing Authority (CHA) as a new, independent entity within the state government to develop social housing, which is defined as mixed-income rental and ownership housing that is publicly owned and permanently affordable. The CHA's mission would be to close the gap between a jurisdiction's current level of housing production and their RHNA amount while maintaining revenue neutrality. The CHA would be governed by a nine-member board consisting of: three resident representatives living in CHA accommodations, a housing development and finance expert, a housing construction expert, a property maintenance expert, an appointee of the Speaker of the Assembly, an appointee of the Senate Committee on Rules, and an appointee of the Governor. Decisions would be made by majority vote of the board and the board would also have the authority to appoint a board chair and an executive officer.
- 6) *Development of CHA housing*. This bill specifies that the CHA could build residential housing to make up the difference between a jurisdiction's RHNA and the actual amount of housing built. These calculations would be made annually using each local government's APR data beginning on January 1, 2027. Development would be prioritized on vacant parcels, surplus public properties, and parcels near transit, though the bill does not indicate a particular distance from transit or the frequency of transit service that would be required for a parcel to be considered "near transit". Additionally, underutilized parcels (*i.e.*, those containing fewer than the maximum number of allowable units per the jurisdiction's zoning) would be prioritized for CHA developments so long as they do not contain rent controlled units or deed-restricted affordable housing.

This bill requires the CHA to seek input from the local government about certain aspects of a proposed development including the number of units and the timeline for completing the project. When the CHA has multiple potential sites for development in a jurisdiction it would need to defer to the local government on their preferred site if property acquisition costs and amenities are generally similar and if the site would allow the local government to meet its RHNA targets. If a CHA development would lead to the displacement of existing residents, those households would be eligible for relocation assistance and would have the first right of refusal to live in a CHA housing unit. CHA

³ California Statewide Housing Plan. <https://statewide-housing-plan-cahcd.hub.arcgis.com/>

housing would use community workforce agreements to the maximum extent feasible.

CHA housing developments are required to be mixed-income housing developments, though the specific mix is not spelled out in the bill and there is no intent language indicating minimum proportions of affordable units nor the depth of affordability. The CHA also has the ability to develop mixed-use buildings with commercial space that could be leased to small businesses and nonprofits.

- 7) *Policies governing residency in CHA-built housing.* In CHA-built developments individuals could either rent or purchase a unit through an ownership model and the CHA unit would need to be the person's sole residence unless they fall into the above-moderate income category. In the ownership model CHA provides the resident a 99-year lease and they would need to commit to a minimum of five years of residency in the CHA building. The ownership model requires a down payment of 15% of the purchase price. When a resident in the ownership model wishes to sell their unit, the CHA would have first right of refusal to purchase the unit. If the CHA declines to repurchase the unit then it can be resold to a qualified buyer in a manner that allows the resident to have a reasonable return on investment. The bill states that ownership units would be sold for the original purchase price plus documented capital improvements and an adjustment for inflation.

Renters in CHA units would be required to commit to a year of residency, though exceptions would be allowed in some cases such as illness or employment changes. Renters living in CHA-owned properties are provided tenant protections including protection against termination of tenancy without just cause. Additionally, the bill specifies that each multifamily social housing development produced by the CHA will have a resident governance council elected by residents of the housing complex. Governance councils will host regular meetings, interact with property management, handle budgeting for development, and represent the community at biannual meetings with the CHA board. Though the bill specifies that the governance council is made up of no more than 10% of the overall population for development, it is unclear if this is per unit or per resident. In a 20-unit building with only one individual per unit there would be only two members on the council, which would pose an issue for any decisions that the two members disagree on.

- 8) *Financing start-up costs and revenue neutrality.* This bill states that the CHA would "seek to achieve" revenue neutrality over the long term, though it does not specify the time-period over which revenue neutrality would be achieved

and does not guarantee that it will be achieved. Presumably a significant amount of start-up capital would be needed to create the CHA itself and it would have ongoing expenses including the costs of developing and managing mixed-income housing, mortgage servicing, staff time, facilities, legal services, and information technology.

This bill also includes language stating that it is the intent of the Legislature to fund the CHA's activities through the issuance of general obligations bonds, though no specific timeline or dollar amount for bond issuance is included in the bill text. However, because the Legislature lacks the ability to issue general obligation bonds without voter approval another bill would need to pass with a two-thirds vote of both houses of the Legislature to put the question of CHA general obligation bond issuance before the voters.

Given that there is no other bill this legislative session proposing to put a CHA general obligation bond measure to the voters, it is unclear where the initial funds for the CHA would originate from. The Governor did not specify any funding for social housing or for the creation of an entity like the CHA in his January 2022 budget or May 2022 revision. The bill also includes language giving the CHA the ability to issue revenue bonds that would ostensibly be secured with the rental income generated from CHA-provided housing, but such bonds could only be issued after a reliable stream of rental income is being generated from CHA-owned properties. The author has made a budget request for the initial startup costs and/or initial pre-development costs. Without further specificity on initial start-up costs and the timeframe for achieving revenue neutrality it is challenging to predict the amount of housing the CHA could be reasonably expected to produce.

- 9) *Location of CHA developments.* While the bill includes some parameters the CHA would need to use for site selection for its developments (*i.e.*, vacant parcels, ones near transit), the author may wish to consider further expanding these provisions. Since it is generally rare for a city or county to meet its RHNA goals the CHA could theoretically build in wide swaths of the state. However, it may be beneficial to prioritize CHA development in high-opportunity areas and locations that have been identified as beneficial for climate mitigation and adaption goals. For example, urban infill locations with low existing per capita vehicle miles traveled would be preferable from a climate change mitigation perspective relative to more remote suburban or rural locations that are heavily dependent on automobiles.
- 10) *Addressing displacement concerns.* The bill currently contains protections for existing residents living on sites the CHA develops, but new housing can

also affect neighboring residents and the larger community. To the extent CHA developments must include a high proportion of market rate units to achieve revenue neutrality, the result may be a program that disproportionately benefits moderate-income and higher income Californians. In an attempt to ensure that CHA developments do not adversely impact vulnerable low and moderate-income communities, the bill requires an annual report analyzing the effect of CHA's developments on gentrification.

- 11) *The CHA and social housing in the context of other efforts to address the housing crisis.* There are exiting processing underway to increase coordination amongst state agencies. For example, AB 434 (Daly), Chapter 192, Statutes of 2020, required HCD to align several rental housing programs administered by HCD with the Multifamily Housing Program (MHP), to allow HCD to issue a single application and scoring system for making coordinated awards under seven different programs. As a result of this bill, HCD recently released the guidelines for the first MHP "super Notice of Funding Availability (NOFA)" to allow developers to apply for seven different affordable rental programs at one time, beginning in the spring of 2022. This committee is also considering AB 2305 (Grayson) this year which would create a committee for allocating state-controlled resources for affordable housing.

On the other hand, the CHA would generally not be aiming to duplicate the funding, oversight, policy, or technical assistance work of other state housing entities. Instead it seeks to do something the state has never attempted to do: build large amounts of permanently affordable mixed-income rental and ownership housing to close the gap between actual housing production and the estimated need for additional housing in a community. This may prove to be a tall order for a state, which has a decidedly mixed record with delivering ambitious new programs and infrastructure in recent decades.

This bill proposes creating a new entity to take on housing development and ongoing management of properties it builds. There may be cost savings and potential efficiencies in state-sponsored housing development through the CHA, but it could also end up costing more to establish a new entity that would be taking on work state governments have not typically engaged in.

- 12) *Opposition.* The California Association of Realtors writes in opposition to the bill that it "will create a new and expensive bureaucracy, as well as unintended adverse consequences for the housing market." Their letter further notes that the bill "runs contrary to the Legislature's recent efforts to streamline housing programs" and that the bill would reduce local property tax revenue since CHA developments, including ones with market rate units, would presumably not pay property taxes. The Regional Council of the Southern

California Association of Governments (SCAG) also writes in opposition, with similar concerns as the Realtors, arguing for more funding for existing programs rather than creating another housing agency.

- 13) *Triple-referral*. Due to the COVID-19 Pandemic and the unprecedented nature of the 2021 Legislative Session, all Senate Policy Committees are working under a compressed timeline. This timeline does not allow this bill to be referred and heard by more than two committees as a typical timeline would allow. This bill will go to the Senate Governance and Finance Committee next. The referral to the Senate Labor, Public Employment and Retirement Committee was rescinded.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 15, 2022.)

SUPPORT:

California Labor Federation, AFL-CIO (Co-Sponsor)
East Bay for Everyone (Co-Sponsor)
San Jose State University Human Rights Institute (Co-Sponsor)
State Building and Construction Trades Council of California (Co-Sponsor)
YIMBY Action (Co-Sponsor)
Abundant Housing LA
Affordable Housing Network of Santa Clara County
Aids Healthcare Foundation
Alameda County Democratic Party
Alliance of Californians for Community Empowerment
American Indian Movement Socal
Autistic People of Color Fund
Berkeley Progressive Alliance
Berkeley Tenants Union
Cadem Renters Council
California Apartment Association
California State Council of Laborers
California State Council of Service Employees International Union (SEIU California)
California YIMBY
Central Coast Alliance United for A Sustainable Economy
Central Valley Immigrant Integration Collaborative
City of Berkeley

Climate Resolve
Common Ground California
Community Power Collective
Council Member Zach Hilton, City of Gilroy
Councilmember Terry Taplin, City of Berkeley
Courage California
Culver City Democratic Club
Culver City for More Homes
Davis College Democrats
DSA - Santa Barbara
East Bay Housing Organizations
East Bay YIMBY
First 5 Alameda County
Freemont for Everyone
Green Party of Santa Clara County CA
Greenbelt Alliance
Ground Game LA
Housing Action Coalition
Housing Equality & Advocacy Resource Team (HEART)
Housing Is a Human Right
Housing Now! CA
Human Impact Partners
Indivisible CA Statestrong
Indivisible CA-37
Indivisible Sacramento
Indivisible San Francisco
Indivisible South Bay LA
Inland Equity Community Land Trusts
Kiwa (Koreatown Immigrant Workers Alliance)
Liberty Community Land Trust
Long Beach Residents Empowered
Los Angeles County Democratic Party
Mi Familia Vota
Mountain View YIMBY
Neighborly Santa Cruz
Northern California Land Trust
Our Revolution East Bay
Peninsula for Everyone
People Organized for Westside Renewal
Policylink
Progressive Zionists of California
Public Advocates

San Francisco Community Land Trust
San Francisco YIMBY
Santa Barbara Tenants Union
Santa Cruz YIMBY
Sierra Club California
South Bay Community Land Trust
South Bay YIMBY
South Pasadena Residents for Responsible Growth
Sunrise Silicon Valley
SV@Home Action Fund
Tenants Together
Tenderloin Housing Clinic
Thai Community Development Center
The People's Resource Center
United Tribes of California
We the People - San Diego
Westside Young Democrats
YIMBY Democrats of San Diego County
YIMBY SLO

OPPOSITION:

California Association of Realtors
Catalysts for Local Control
City of Thousand Oaks
Hills 2000 Friends of The Hills
Resident Information Resource of Santa Monica
Save Lafayette
Southern California Association Of Governments (SCAG)
Sunset Square Neighborhood Organization
United Neighbors
Village At Sherman Oaks Business Improvement District

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