
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

SB 584 (Limón) - Laborforce housing: Short-Term Rental Tax Law

Version: May 1, 2023

Policy Vote: HOUSING 8 - 2, GOV. & F. 5
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Urgency: Yes

Mandate: Yes

Hearing Date: May 15, 2023

Consultant: Mark McKenzie

Bill Summary: SB 584 an urgency measure, would impose a tax on the occupancy of short-term rentals at a rate of 15% of the rental price, beginning January 1, 2025, which would be administered and collected by the California Department of Tax and Fee Administration (CDTFA). Proceeds of the tax would be deposited into the Laborforce Housing Fund, and continuously appropriated to the Department of Housing and Community Development (HCD), to provide grants to public entities, local housing authorities, and mission-driven nonprofit housing providers for the creation of “laborforce housing,” as specified.

Fiscal Impact:

Short-Term Rental Tax Law

- Unknown short-term rental tax revenue gains, potentially in the range of \$150 million annually, based on preliminary projections. (deposited into the Laborforce Housing Fund, established by this bill)
- CDTFA’s administrative costs have yet to be determined. However, the Department anticipates it would incur substantial administrative costs to implement its provisions of the bill, minimally reaching the millions of dollars annually (General Fund). Cost drivers would include computer programming, notifying affected retailers, modifying tax returns, developing special notices, preparing guidelines for staff, and answering questions from retailers and the public. Ongoing administrative costs would be reimbursed from the tax revenues prior to depositing proceeds into the Laborforce Housing Fund.

Laborforce Housing Program

- HCD estimates costs of approximately \$6.6 million annually for 34.0 PY of staff to develop and administer the new grant program established by this bill. HCD staff would develop and revise guidelines and annual notices of funding availability (NOFAs), develop and revise processes for program monitoring, evaluate funding applications, execute standard agreements, research best practices, and conduct ongoing compliance monitoring and enforcement. Additional staffing may be required in the future to conduct ongoing monitoring over full duration of the affordability term for housing created by this program. (General Fund / Laborforce Housing Fund)

Background: State law establishes HCD, the California Housing Finance Agency, and the California Tax Credit Allocation Committee in the Office of the State Treasurer, and

charges each with specified powers and responsibilities to implement the state's housing policies and programs.

There are a variety of definitions of social housing, but generally it is distinguished from privately-owned, for-profit housing provided through market mechanisms. The Organization for Economic Cooperation and Development (OECD) defines 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.”

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. Other versions of social housing specify permanent affordability requirements 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. The affordable housing programs administered by HCD typically require a 55-year deed-restricted affordability requirement. Yet 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, referred to as “cross-subsidization.”

In recent years, Internet-based platforms like Homeaway, VRBO and Airbnb have facilitated increasing numbers of short-term rentals of homes and rooms within residences. Short-term rentals, also known as vacation-rentals, are usually an individual's residential property, such as a home, room, apartment, or condominium they rent out to a visitor for fewer than 30 consecutive days. Generally, the home sharing industry involves three primary participants: (1) the home sharing platforms, such as Airbnb, that advertises residential properties offered for temporary rental and facilitates connecting renters with hosts for a fee, and process payment for the rental, (2) the consumer who is often referred to as the “renter” “guest,” or “visitor” of the residential property, and (3) the supplier, owner, operator, or “host” of the residential property. Short-term rentals are not a new practice, but the development of online hosting platforms, bookings, advertisements, and payments has increased.

Proposed Law: SB 584, an urgency measure, would impose a tax on the occupancy of short-term rentals at a rate of 15% of the rental price, beginning January 1, 2025, and deposit proceeds of the tax in the Laborforce Housing Fund. The bill would also enact the Laborforce Housing Financing Act of 2023, which would require HCD to develop and administer a new grant program for the creation of “laborforce housing.” Specifically, this bill would:

Short-Term Rental Tax Law:

- Require a renter to pay a tax on the occupancy of a short-term rental in this state at a rate of 15% of the rental price of the short-term rental, beginning January 1, 2025.

- Require the short-term rental facilitator, as defined, to collect the tax at the time the renter enters an agreement to occupy the short-term rental, if the facilitator processes the payment for the rental. If the short-term rental facilitator does not process payment for the rental, the operator of a short-term rental would collect the tax.
- Provide that a short-term rental facilitator or operator is not required to collect the tax if the facilitator or operator derived less than \$100,000 from short-term rentals in the previous calendar year, as specified.
- Require CDTFA to administer and collect the taxes pursuant to the Fee Collection Procedures Law. A short-term rental facilitator or operator must register for a permit with CDTFA, and forward tax payments on a quarterly basis, as specified.
- Require all revenues, interest, and penalties derived from the short-term rental tax, less refunds and reimbursement to CDTFA for expenses incurred in the administration and collection of the tax, to be deposited into the Labor Workforce Housing Fund.

Laborforce Housing Finance Act:

- Establish the Laborforce Housing Fund in the State Treasury, and continuously appropriate laborforce housing assessment revenues to HCD without regard to fiscal year for purposes of the bill.
- Define “laborforce housing” as housing that meets all of the following requirements:
 - Housing units owned and managed by a public agency, a local authority, a community land trust, or a mission-driven nonprofit private entity solely for the benefit of residents and households unable to afford market rent.
 - Housing developments that contain units that accommodate a mix of household income ranges, including extremely low, very low, low, and moderate income households unable to afford market rent, and all units are permanently deed-restricted as affordable to those income levels.
 - Residents enjoy full protection against termination without just cause or for any discriminatory, retaliatory, or other arbitrary reason, and are afforded due process prior to being subject to eviction procedures.
 - Housing units are protected for the duration of their useful life, and the land associated with housing units is protected permanently, from being sold or transferred to any private person or for-profit entity or a public-private partnership.
 - Residents have the right to participate directly and meaningfully in decision making affecting the operation and management of their housing units.
- Require HCD to establish an application process and endeavor to award funds to laborforce housing projects in the counties in which the laborforce housing assessment funds were collected.
- Require public entities, local housing authorities, and mission-driven nonprofit housing providers to be eligible for funding for the creation of laborforce housing. Housing projects deemed eligible for funding under a specified Measure ULA, “House LA,” or other substantially identical local program would also be eligible for funding.
- Require, in a given year, at least 65% of funds to be allocated for the creation of laborforce housing through new construction, up to 3% of funds to be allocated for housing through acquisition and rehabilitation, and up to 5% of funds to be allocated

to meet the operating needs of projects and for planning and implementation of local laborforce housing or renter protection programs.

- Require all construction and rehabilitation work to be subject to a project labor agreement that requires payment of at least prevailing wages to all construction workers on the project, or HCD or a local public agency has obtained an enforceable commitment from the prime contractor that all contractors and subcontractors will use a skilled and trained workforce to complete the project.
- Require specified protections to apply to tenants in a property funded by the bill.

Related Legislation: SB 555 (Wahab), which is currently on this Committee's Suspense File, would enact the Stable Affordable Housing Act of 2023, and declare a five-year goal of creating 600,000 units of social housing, and a 10-year goal of creating 1.2 million units of social housing, through a mix of acquisition and new production. The bill would also require HCD to develop, adopt, and submit to the Legislature a California Social Housing Plan for achieving those goals by January 1, 2025. The definition of "social housing in SB 555 is nearly identical to the definition of "laborforce housing" specified in SB 584.

AB 309 (Lee), which is currently pending in the Assembly Appropriations Committee, would create the California Housing Authority as an independent entity in state government for the purpose of developing mixed-income social housing for all California residents.

AB 2053 (Lee), which failed passage in the Senate Governance and Finance Committee last year, would have created the California Housing Authority as an independent entity in state government for the purpose of developing mixed-income social housing for all California residents.

Recommended Amendments: Staff recommends an amendment to delete the continuous appropriation of moneys in the Laborforce Housing Fund to HCD, and instead make funding for the new laborforce housing grant program subject to an appropriation in the annual Budget Act, to ensure adequate oversight of the program by the Legislature. Staff also recommends an amendment to allow up to 5% of funds to be used to pay for HCD's costs to administer the grant program. The current language allows HCD to use revenues in the Fund to pay for the administration and collection of the laborforce housing assessments, but CDTFA administers the collection of the tax.

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