

CONCURRENCE IN SENATE AMENDMENTS

AB 2020 (Gabriel)

As Amended August 21, 2026

Majority vote

SUMMARY

Allows the Department of Housing and Community Development (HCD) to authorize the transfer of residual receipts or excess reserves from one rental housing development to another rental housing development with the same owner, as specified.

Senate Amendments

- 1) Revises the definition of "excess reserves" as replacement reserves, in excess of the amount needed to fund immediate and short-term capital repair needs, as specified, within the preceding three years by a qualified independent third party, operating reserves, or project-specific transition reserves by the HCD regulatory agreement, and makes other clarifying changes.
- 2) Adds a definition of "department receipts share" to mean the portion of residual receipts, surplus cash, available cashflow, net cashflow, distributable cash, or similar project cashflow distributions otherwise payable to the department for the applicable fiscal year under the project's applicable financing documents and regulatory requirements, calculated after full satisfaction, or due provision for payment, of all required senior debt service and all amounts payable to any other lender, public agency, or governmental entity under the applicable note, regulatory agreement, deed of trust, residual receipts agreement, subordination agreement, intercreditor agreement, or other recorded or operative project financing documents, as if no transfer authority existed.
- 3) Provide that no transfer of excess reserves shall reduce, offset, subordinate, or otherwise impair any residual receipts, surplus cash, available cashflow, net cashflow, distributable cash, reserve rights, or other payment rights owed to any other lender, public agency, or governmental entity, including any city, county, city and county, housing authority, successor agency, joint powers authority, or holder of federal, state, or local housing program loans.

COMMENTS

Affordable Housing Finance: The state finances affordable multifamily rental housing using a combination of loans, tax credits, and private activity bonds. Unlike market rate housing, affordable housing does not have enough cash-flow from rents to support conventional financing. Affordable housing is provided to tenants whose household income are below the area median income (AMI). To qualify, very low-income tenants must make 60% or less of the AMI, and lower-income tenants must make only 80% or less of AMI. Tenants in affordable housing are only required to pay 30% of their income toward rent, so the state provides enough long-term subsidy to reduce the overall debt service on a development. HCD loans serve as the permanent financing that comes in once a development is complete to take out the predevelopment and construction loans a developer took on to construct the development. HCD loans are secured with a lien in first position on the property. Developments are also subject to a 55-year recorded regulatory agreement, which runs with the project. If a developer pays off an HCD loan before the covenants expire, the regulatory agreement is not extinguished, and the developer must

continue to provide the units at an affordability rent for the length of the regulatory agreement to lower-income tenants.

Challenges Facing Affordable Housing Developments: Due to several factors including the depletion of operating reserves resulting from the COVID-19 rent moratorium and unprecedented increases in insurance rates, affordable housing developments are facing financial challenges. Enterprise Community Partners recently conducted a survey of 130 affordable properties and found that on average the developments were experiencing insurance cost increases of 70%, with some providers reporting increases up to 500%. Because rents are capped, these properties have fewer options to cover these increases. In some cases, the situation is made worse because the project's operating reserves have not recovered from the rent moratoriums. Due to these financial pressures, some properties are at risk of foreclosure or becoming market-rate developments, which would eliminate vital affordable housing units.

This Bill: To address the fiscal integrity of housing developments financed by HCD, this bill would give the department authority to allow for the transfer of excess reserves or operating income from one rental housing development owned by the same developer to another development. Previous bills, AB 2638 (Ward) (2024), AB 515 (Ward) (2023), and AB 578 (Berman) (2023) have attempted to address a similar issue. Those bills allowed for the early payoff of an HCD loan, if approved by HCD. Those funds could be used to develop a new project. Last year, AB 130 (Committee on Budget), Chapter 22, gave HCD authority to allow developers to utilize equity in their affordable housing projects to finance further investments in other affordable housing projects, purchase a limited partners interest of a tax credit investor in the project, pay any unpaid deferred developer fee for the project, and pay for necessary repairs and rehabilitation of the project. This bill is different from AB 130 in that it allows for the transfer of excess reserves or operating income rather than project equity between developments with HCD financing, to alleviate financial challenges from increased insurance costs or loss of rental income, for example.

According to the Author

According to the author, "California continues to face a severe housing crisis, making the preservation of existing affordable housing more critical than ever. To help address this challenge, affordable housing providers need flexible financial tools to preserve their affordable housing units and maintain the long-term stability of their developments in the face of rising costs. AB 2020 seeks to address this by allowing the Department of Housing and Community Development to authorize the transfer of excess reserves or operating income between affordable housing developments owned by the same sponsor. This simple change will help stabilize developments facing financial challenges and protect California's existing supply of affordable housing."

Arguments in Support

According to one of the sponsors, the Enterprise Community Partners Inc., "Affordable housing developments across California operate with extremely limited financial margins and rely on carefully structured reserves and operating income to remain viable over time. In recent years, many properties have faced significant financial strain due to rising insurance premiums, maintenance costs, and other operating expenses, particularly following the COVID-19 pandemic. When these developments experience operating deficits, the risk of financial distress or foreclosure increases, putting critical affordable housing units, and the residents who call them home, at risk. AB 2020 would provide a practical solution to these challenges by allowing the

California Department of Housing and Community Development to authorize the transfer of excess reserves or operating income between affordable housing developments that share the same sponsor or affiliated ownership. This flexibility enables developers to stabilize struggling properties using existing portfolio resources, helping ensure the long-term viability of affordable housing developments."

Arguments in Opposition

Non on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee:

Staff estimates that the bill would create ongoing General Fund cost pressures, at least in the mid-hundreds of thousands of dollars annually, to the extent HCD exercises the authority to establish and administer a program to provide for the transfer of reserves and operating revenues from one rental housing development to another owned by the same sponsor. The level of workload would vary depending on the number of transactions authorized, the complexity of the ownership structures, the financial condition of the involved projects, and the need to evaluate impacts on existing regulatory agreements, affordability covenants, and the involvement of other financing sources. While there would be no immediate direct costs to HCD since the authority is permissive, the bill creates General Fund cost pressures to fund HCD's costs to establish such a program, should it exercise this discretionary authority. (General Fund)

VOTES:

ASM HOUSING AND COMMUNITY DEVELOPMENT: 12-0-0

YES: Haney, Patterson, Ávila Farías, Caloza, Garcia, Kalra, Lee, Quirk-Silva, Ta, Tangipa, Wicks, Wilson

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

ASSEMBLY FLOOR: 78-0-2

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

ABS, ABST OR NV: Quirk-Silva, Celeste Rodriguez

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