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## ***CALIFORNIA STATE SENATE***

COMMITTEE ON BUDGET AND FISCAL REVIEW

STATE CAPITOL – ROOM 5019  
SACRAMENTO, CA 95814



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SAMUEL LANCHESTER

(916) 651-4103  
FAX (916) 668-7004

### **Agenda**

**July 1, 2019**

**1:00 p.m. – State Capitol Room 4203**

#### **BILL**

#### **AUTHOR**

#### **SUBJECT**

1. A.B. 101

Committee on Budget

Housing Development and Financing

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# SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW

Senator Holly Mitchell, Chair

2019 - 2020 Regular

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<b>Bill No:</b>	AB 101	<b>Hearing Date:</b>	July 1, 2019
<b>Author:</b>	Committee on Budget		
<b>Version:</b>	June 27, 2019 As amended		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	James Hacker		

**Subject:** Housing development and financing

**Summary:** Provides for statutory changes necessary to enact the housing and homelessness-related provisions of the Budget Act of 2019.

**Background:** As part of the 2019-20 budget package, AB 101 makes statutory changes to implement the budget act.

**Proposed Law:** This bill makes the following statutory changes:

1. ***Community-Based Transitional Housing Program Audit.*** This bill would require the state Office of Audits and Evaluation to audit the Community-Based Transitional Housing Program, which provides grants to local jurisdictions to increase the supply of transitional housing available to recent parolees, and to report the results of the audit to the Joint Legislative Budget Committee by May 1, 2020. Current law requires the Office of State Audits and Evaluations to complete the audit and to report to the Joint Legislative Budget Committee by May 1, 2019.
2. ***Housing Element Compliance, Court Remedies, and Accountability.*** This bill would provide for certain judicial remedies for violations of the Planning and Zoning Law. Current law authorizes the Department of Housing and Community Development (HCD) to refer violations of housing element law committed by a local jurisdiction to the Attorney General.

This bill would require HCD to offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation and to provide the jurisdiction written findings regarding the violation prior to allowing the Attorney General to bring suit against the jurisdiction. It would then allow the Attorney General to seek, and a court to allow, certain remedies when the court finds that a local jurisdiction is not substantially compliant with housing element law.

Specifically, this bill would require the Attorney General to request, upon a finding of the court that the housing element does not substantially comply, that the court issue an order or judgement directing the jurisdiction to bring its housing element into compliance, and would require the court to retain jurisdiction to ensure that its order or judgement is carried out. Once the court determines that the housing element substantially complies, this bill would provide that the court determination has the same force and effect as HCD's determination that the housing element substantially complies.

This bill would require, if the jurisdiction has not complied with the order or judgement after 12 months, the court to conduct a status conference. Following the status conference, it would require the court to impose fines on the jurisdiction to be deposited into the Building Homes and Jobs Trust Fund. It would require any fine levied to be between \$10,000 and \$100,000 per month. If the jurisdiction fails to comply with the order or judgment after three months following the imposition of fines as described above, it would require the court to conduct a status conference. Following this conference, it would provide that the court may multiply the fine described above by a factor of three, if the court finds that the fines imposed are insufficient to bring the jurisdiction into compliance with the order or judgement.

This bill would require that, if the jurisdiction has not complied with the order or judgement six months following the initial imposition of fines, the court to conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgement, it would permit the court to multiply the initial fines described above by a factor of six, if the court finds that the fines imposed are insufficient to bring the jurisdiction into compliance with the order or judgement. It would also allow the court to additionally order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which an agent of the court may be appointed to bring the jurisdiction's housing element into substantial compliance to remedy identified deficiencies. This bill would require that an agent appointed by the court have expertise in planning in California.

This bill would allow, in the event that jurisdiction fails to pay fines imposed by the court as described above, the court to require the State Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. This bill would provide that any intercept so ordered not violate any provision of the California Constitution. This bill would require the court to consider whether there are any mitigating circumstances delaying a jurisdiction from coming into compliance with state housing law in determining the application of the remedies described above.

Additionally, this bill creates a "pro-housing policy" incentive scoring system for certain competitive state-funded housing grant programs, including the Affordable Housing and Sustainable Communities program, the Transformative Climate Communities program, and the Infill Infrastructure Grant program. It would require HCD to identify a set of policies identified as "pro-housing," and to designate local jurisdictions as pro-housing based on their adoption of these policies. It would require the departments operating the identified programs to award jurisdictions designated as pro-housing additional points in scoring their applications for awards from these programs.

- 3. *Low Barrier Navigation Centers.*** This bill makes statutory changes to streamline approval of low-barrier navigation centers. Specifically, this bill defines low-barrier navigation centers as high-quality, low-barrier, service-enriched shelters focused on moving people into permanent housing while connecting them with services. It would, until January 1, 2027, require low barrier navigation center developments to be a use by-right, as defined, in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if the development meets certain requirements.

4. ***SB 35 Clean Up.*** This bill would require that the calculations to determine whether or not a project qualifies for a streamlined approval process based on the square footage of the project devoted to residential use include additional density, floor area, units, and other concessions granted pursuant to the existing Density Bonus Law. It would also prohibit such a project from being sited on a hazardous waste site unless the site has been cleared for residential use by the State Department of Public Health, State Water Resources Control Board, or the Department of Toxic Substances Control.
5. ***Homeless Housing, Assistance, and Prevention Program.*** This bill would provide for the distribution of \$650 million in funds to assist local governments in addressing homelessness. Specifically, provides that \$275 million be provided to cities with a population greater than 300,000 individuals, \$175 million to counties, and \$190 million to HUD-designated Continuums of Care. Defines each jurisdiction's share of the funds as based on their share of the 2019 Point in Time count of homeless individuals unless a jurisdiction can demonstrate that a significant change in methodology occurred since the last Point in Time count. Defines eligible uses as activities that prevent homelessness, provide support to homeless individuals, and help move homeless individuals to permanent housing. Requires applicants for funds to demonstrate efforts at regional coordination in their application, and to demonstrate how the requested funds will close existing gaps in addressing homelessness. Places certain reporting requirements on jurisdictions receiving these funds.
6. ***Local Government Planning Support Grants Program.*** This bill would provide for the division of \$250 million in planning grants between regional governing entities and local jurisdictions. Specifically, the bill provides \$125 million to regional entities and \$125 million to local jurisdictions for technical assistance, preparation and adoption of planning documents, and process improvements to accelerate housing production and facilitate compliance to implement the sixth cycle of the Regional Housing Need Assessment (RHNA) process.
7. ***Joe Serna, Jr. Farmworker Housing Program.*** This bill would allow the program to charge an annual monitoring fee, not to exceed 0.42 percent of annual loan payment amounts, to fund ongoing monitoring and compliance work. Would remove a requirement for matching funds, and lower the amount of funding required to be set aside in case of loan defaults to 1.5 percent. These changes would align the Serna Program with other multifamily housing programs at HCD.
8. ***CalHome Program.*** This bill would allow the CalHome program to include auxiliary dwelling units (ADUs) and junior accessory dwelling units, and to authorize the program to make grants for housing purposes in declared disaster areas. Specifically, this bill includes a provision to serve moderate income families in disaster areas only. The language requires awardees (local government and nonprofits) who serve moderate income households to demonstrate to HCD how they will continue to serve low-income households.

9. **Local Housing Trust Fund Program.** This bill would allow the Local Housing Trust Fund to make matching grants to Native American Tribes, and to increase the minimum size of awards to various local trusts. Under current law, the minimum allocation is \$500,000 for newly-established housing trusts and \$1,000,000 for trusts that have previously received funds from the program. The maximum allocation is \$2,000,000 for new trusts and \$1,000,000 for trusts that have previously received funds through the program. This bill would allow the Department to increase the minimum program allocation above \$500,000 and \$1,000,000 as appropriate.
10. **Infill Infrastructure Grant Program of 2019.** This bill would provide for the distribution of \$500 million in grants to fund infrastructure improvements like water, sewer, other utility service improvements, streets, roads, other transit linkages, sidewalks, and other streetscape improvements for eligible cities and counties. This bill provides that \$90 million shall be set aside for an over the counter program for counties with a population of less than 250,000 as of January 1, 2019, or any city within those counties, and \$410 million for a competitive grant program for larger jurisdictions. This bill would require eligible applicants to demonstrate a compliant housing element, be current on submittal of the annual progress report, and show that the infrastructure improvements that would be funded by this program support housing, which includes a 15 percent affordability requirement.
11. **Low Income Housing Tax Credits Program.** This bill would provide for the allocation of \$500 million in new state low-income housing tax credits for new construction projects that receive the federal 4 percent tax credit. For these new credits, the bill would increase the eligible basis for these projects from 13 percent to 30 percent. It would require at least \$300 million of this to be available to new construction projects receiving the federal 4 percent tax credit, and would allow up to \$200 million to be available to projects receiving assistance from the California Housing Finance Agency (CalHFA) Mixed Income Program.

Additionally, it would provide that in calendar year 2020, projects will follow the project volume cap and 4 percent federal tax credit allocation criteria required under current law, and would require the California Tax Credit Allocation Committee to develop a new methodology to award allocations for the 2021 calendar year and each year thereafter. It would lift the \$75,000 cap on state housing tax credits that are allowed to be claimed per calendar year by each individual, including for those tax credits allocated via the legacy program not funded through this bill. It would make permanent the ability of developers to sell the credits to an unrelated investor, rather than requiring the investor to be a partner in the development. It would also make permanent the ability of a developer to sell state credits to investors who are not also buying federal tax credits. It would provide a 95 percent eligible basis boost to certain preservation projects eligible through the legacy tax credit program not funded through this bill. Lastly, it would make the Executive Director of the California Housing Finance Agency and the Director of the Department of Housing and Community Development voting members of the California Tax Credit Allocation Committee.

12. **Housing First Parolee Programs.** This bill would require programs that fund recovery housing to comply with Housing First principles by July 1, 2020 instead of July 1, 2019. It would require departments that operate such facilities to consult with

the Legislature, the Business, Consumer Services, and Housing Agency, and program stakeholders on ways to improve the provision of housing to program participants in the interim. It would require departments that operate such programs to report to the Senate and Assembly Budget Committees by March 1, 2020, on efforts to improve the provision of housing to program participants generally, and to comply with Housing First specifically.

13. ***Mixed Income Program.*** This bill would appropriate \$500 million for CalHFA's Mixed Income Program, which provides financing for mixed-income housing developments.

**Fiscal Effect:** The funding related to the changes in this bill is contained in the 2019-20 budget.

**Support:** None on file.

**Opposed:** None on file.

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