SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2021 - 2022 Regular

Bill No:	SB 1457	**Hearing Date:**	3/24/2022
Author:	Hertzberg		
Version:	3/10/2022		
Urgency:	Yes	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Housing: California Family Home Construction and Homeownership Bond Act of 2022

DIGEST: This bill dedicates $25 billion in general obligation bonds, subject to voter approval, for homeownership opportunities, including $22 billion for mortgage loans for first time homebuyers and $3 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 a number of housing assistance programs for affordable housing at the Department of Housing and Community Development (HCD).

4) 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.

5) 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 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) Proceeds of the bonds issued and sold pursuant to this part shall be allocated as follows:

   a) Up to $22 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 $3 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 downpayment 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) A secondary mortgage loan shall 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 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% area median income (AMI) as required to qualify for SB 35 streamlining, the project seeking approval shall instead dedicate 25% affordable 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 he 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*. According to the author, "The benefits of owning a home are indisputable, leading to measureable improvements in health, education, and security. Yet many Californians, of all income levels, increasingly view homeownership as an unattainable goal; escalating home prices, severe production shortages, and generational barriers created by systemic racism and inequality are squeezing many aspiring homeowners out of the market. Adding fuel to a raging fire are the worst inflation rates of the 21st Century, making it even more difficult for those grappling with rising gas costs and ballooning grocery bills to become homeowners. As a result, the state now ranks 49th in the nation for the amount of citizens that actually own a home. California has a responsibility to create more opportunities for first-time or left-behind homebuyers to purchase a home, thrive in the middle class, and build generational wealth. SB 1457 proposes to place a $25 billion voter-approved general obligation bond on the November 22 ballot to address housing access and equity, remove systemic barriers to homeownership, stimulate the construction of new and affordable housing, and create wealth-building opportunities for Californians historically left behind."

2) *Housing Crisis*. California currently has 13 of the 14 least affordable metropolitan areas for homeownership in the nation; it also has the second highest rate of renter households paying more than 30% of their income for housing at 52%. According to the 2022 Statewide Housing Plan, published by HCD, California must plan for more than 2.5 million homes over the next eight-year cycle, and no less than one million of those homes must meet the needs of lower-income households. This represents more than double the housing planned for in the last eight-year cycle. The lack of housing supply is the primary factor underlying California's housing crunch.

   During the 1990's California averaged only 110,000 new housing units per year. During the early 2000's, production increased significantly, reaching a peak of 212,000 units in 2004 before plummeting to historic lows during the recession. Unfortunately, the downward trend continues; the fact is that California has under-produced housing every single year since 1989.

   This serious shortage of supply, and, in particular, supply of housing affordable to lower-income families, directly affects the health of California's economy. It hinders the efforts of businesses to attract and retain qualified employees. The housing shortage also negatively impacts the health and education of our children, the environment, and our overall quality of life. Long commutes increase freeway congestion, reduce air quality, and increase time away from family.

3) *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 downpayment 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 downpayment 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 residence, including approved condominium; guest houses, granny units and in-law quarters; or manufactured housing.

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) *Legislative report on homeownership barriers*. Last year, as part of the budget, the Legislature required the State Treasurer's Office (STO), in coordination with 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.

6) *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.

7) *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.

8) *California Family Home Construction and Homeownership Bond Act of 2022*. This bill authorizes the issuance of $25 billion in GO bonds to finance loans for new home ownership construction ($3 billion) and mortgage assistance for first time homebuyers ($22 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.

   As noted in comment 3 above, the state's housing crisis is largely a result of limited supply of housing units, disproportionately impacting the lowest income households. **The author has agreed to amend the bill to instead require $7 billion of the bond funds be allocated to new construction and $18 billion to mortgage assistance.**

   In addition, CalHFA does not do construction lending as required in the Family Home Construction Fund, nor does it have any in-house expertise in that area., CalHFA currently provides permanent first and subordinate loans upon the completion of construction for multifamily housing developments. Entering this new space would require CalHFA to establish an entirely new infrastructure, which would likely take years. The author moving forward may wish to consider moving the administration of the construction loans to a different state department.

9) *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%

10) *Building smarter*. Emissions from the transportation sector, the state's largest source of greenhouse gases (GHGs), are still on the rise despite statewide GHG emission reduction efforts and increasingly ambitious targets. According to ARB's GHG emission inventory, transportation sector emissions have grown to 41% of California's total emissions as of 2017. Greenhouse gas emissions from transportation are the product of two factors: the total distance the state's vehicle fleet travels and the GHG emissions associated with that travel. California considers the first factor using the unit of vehicle miles traveled (VMT). In October of 2019, a report from Next 10 looked at transportation emission trends in 2016-2017 and found that despite the state's intention to rein in VMT and GHG emissions, both had increased.

When households are forced to move further away from city and town centers due to cost constraints, they must commute longer distances to jobs, schools, and other community services. Residents in these communities are more likely to rely on personal vehicles for daily commutes and errands, thus increasing overall VMT and GHG emissions throughout the state, and continuing to contribute to climate change.[1] To make matters worse, homes built further away from existing neighborhoods and infrastructure are more likely to be in high-risk areas for fires, storms and severe weather, drought and nuisance flooding, and extreme heat.[2] Infill development and building denser, more walkable communities can help the state work towards its climate goals, but it requires implementing housing, land use, transportation, and climate resilience policies that work in tandem.

The author has agreed to reduce the application of the new construction loans to developments in Urbanized Area, or Urban Cluster as defined by the United States Census or one mile from a public transit or major transit stop. "Public transit" means a major transit stop as defined in Section 21064.3 of the Public Resources Code, except that it also includes a major transit stop that is included in an applicable regional transportation plan.

11) *Additional clarity*. **The author has agreed to make the following changes:**

---

[1] California Air Resources Board, *Methods to Assess Co-Benefits of California Climate Investments: Vehicle Miles Traveled* (Sacramento: California Air Resources Board, August 30, 2017), https://ww2.arb.ca.gov/sites/default/files/classic/cc/capandtrade/auctionproceeds/carb_vehicle_miles_traveled.pdf

[2] Anna Cash, Karen Chapple, Nicholas Depsky, Renee Roy Elias, Melisa Krnjaic, Shazia Manji, and Honora Montano, *Climate Change and Displacement in the U.S. – A Review of the Literature* (Berkeley: Urban Displacement Project, April 2020), https://www.urbandisplacement.org/wp-content/uploads/2021/08/climate_and_displacement_-_lit_review_6.19.2020.pdf

- **Include that funds for new construction may be used for mixed-use projects, so long as they are at least 2/3 residential.**
- **Limits applicants for the program at 180% AMI.**
- **Clarify that the 25% set-aside shall be used for those who have had difficulty accessing homeownership, rather than merely make them available to this population, but grant CalHFA authority to divert the funds should there not be sufficient demand.**
- **Remove the Committee and instead authorize CalHFA to administer the entirety of the program.**

12) *Gutted.* This bill was substantially amended from an intent bill on March 10, 2022.

13) *Triple-referral*. This bill was also referred to the Governance and Finance Committee and the Judiciary Committee.

RELATED LEGISLATION:

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 Thursday, March 17, 2022.)

SUPPORT:

None received.

OPPOSITION:

None received.

-- END --