Date of Hearing: July 3, 2019

<div align="center">ASSEMBLY COMMITTEE ON BUDGET
Philip Y. Ting, Chair
SB 102 (Committee on Budget and Fiscal Review) – As Amended June 27, 2019</div>

SENATE VOTE: 27-9

SUBJECT: Housing development and financing

SUMMARY: This is the Housing trailer bill for 2019-20. It contains the necessary changes related to the 2019 Budget Act.   Specifically, **this bill**:

Community-Based Transitional Housing

1) Requires the Office of State Audits and Evaluations to conduct an audit instead of an evaluation of the Community-Based Transitional Housing Program and extends the date from May 1, 2019, to May 1, 2020 to provide a copy of the audit to the Joint Legislative Budget Committee.

Housing Element Compliance, Court Remedies, and Accountability

2) Requires prior to the Attorney General bringing any suit for a violation related to housing element compliance and seeking remedies, that the Department of Housing and Community Development (HCD) offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation. Requires HCD to provide the jurisdiction written findings regarding the violation. This provision does not apply to any action filed prior to the effective date of Section 65008. This section becomes operable on July 1, 2019.

3) Requires 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 judgment directing the jurisdiction to bring its housing element into compliance. Requires the court to retain jurisdiction to ensure that its order or judgment is carried out, and once the court determines that the housing element substantially complies, provides that the court determination has the same force and effect as HCD's determination that the housing element substantially complies.

   a. Requires, if the jurisdiction has not complied with the order or judgment after 12 months, that the court conduct a status conference. Following the status conference, requires the court to impose fines on the jurisdiction to be deposited into the Building Homes and Jobs Trust Act. Requires any fine levied to be a minimum of $10,000 per month but not to exceed $100,000 per month.

   b. Requires, if the jurisdiction has not complied with the order or judgment after three months following the imposition of fees as described in 3(a), above, that the court conduct a status conference. Provides that the court may multiply the fine determined in 3(a), above, by a factor of three, if the court finds that the fees imposed are insufficient to bring the jurisdiction into compliance with the order or judgment.

    c. Requires, if the jurisdiction has not complied with the order or judgment six months following the imposition of fees, that the court conduct a status conference. Upon a determination that the jurisdiction failed to comply with the order or judgment, the court may impose the following:

        i. Provides that the court may multiply the fines imposed in 3(a), above, by a factor of six, if the court finds that the fees imposed are insufficient to bring the jurisdiction into compliance with the order or judgment.

        ii. Provides that the court may 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. Requires the court to determine whether the housing element of the jurisdiction substantially complies, and once it does, it has the same force and effect as the HCD's determination that the housing element substantially complies. Requires that an agent appointed by the court have expertise in planning in California.

    d. Provides that in the event that jurisdiction fails to pay fines imposed by the court in 3(a), 3(b) and/or 3(c) above, the court may require the State Controller to intercept any available state and local funds and directs such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. Provides that the Controller shall not intercept funds that violate any provision of the California Constitution.

4) Requires 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 remedies available under 3 above.

5) Provides that the Office of the Attorney General may seek all remedies available under law.

6) Provides jurisdictions that have adopted a housing element that has been found by the HCD in substantial compliance, additional points or preference in scoring of program applications for the following:

    a. The Affordable Housing and Sustainable Communities Program.

    b. The Transformative Climate Communities Program.

    c. The Infill Incentive Grant Program of 2007.

    d. Additional bonus points may be awarded to other state programs when already allowable under state law.

7) Requires HCD to designate jurisdictions as prohousing pursuant to emergency regulations and report these designations to the Office of Planning and Research, and any other applicable agency or department, annually and upon request.

8) Requires HCD in collaboration with stakeholders to adopt emergency regulations by July 1, 2021.

9) Requires the Department of Finance to publish on its website the list of programs included in 8 above, by January 1, 2021, and annually.

10) Requires the HCD to post on its website each month a list of jurisdictions that have failed to adopt housing element that has been found by HCD to be in substantial compliance. Requires HCD on an annual basis, on July 1, or upon request to provide the most recent version of the list to the Office of Planning and Research and any other applicable agency or department.

11) Requires HCD to notify the jurisdiction of its inclusion upon the first occurrence, if the jurisdiction is included on the list. Requires a copy of all notifications to be submitted to the legislative body of the jurisdiction.

12) Requires the Department of Finance, on or before January 1, 2023, to publish on its website a list of program, if any, where eligibility for funding is contingent on the jurisdiction having a substantially compliant housing element. If DOF puts that list out, then HCD is required to do the following:

   a. Offer the jurisdiction the two meetings in person or via telephone to discuss the jurisdiction's failure to adopt a housing element that is found to be in substantial compliance and requires HCD to provide written findings regarding that failure to the jurisdiction.

   b. Provide within 30 days a jurisdiction both appearing on the list and having adopted a housing element, a jurisdiction may request, in writing, that HCD review de novo the jurisdiction's last housing element. Provides that within 30 days of receipt of the request, HCD shall issue written findings as to whether the housing element has been found by HCD to be in substantial compliance. If HCD's written findings state that the jurisdiction's housing element is not in substantial compliance, then the city, county, or city and county may, within 30 days, bring an action to superior court to challenge HCD's determination.

13) Provides that Section 65589.11 does not apply to any action that is filed on or before the effective date.

Low Barrier Navigation Center

14) Defines "Low Barrier Navigation Center" to mean a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter and housing.

15) Defines "Low Barrier" to mean best practices to reduce barriers to entry, and may include, but is not limited to, the following:

   a. The presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault.

    b. Pets.

    c. The Storage of possessions.

    d. Privacy, such as partitions around beds in a dormitory setting or in larger rooms containing more than two beds, or private rooms.

16) Provides that a low barrier navigation center development is a use by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses. A local jurisdiction shall permit a Low Barrier Navigation Center development if they meet specified requirements.

17) Requires the local jurisdiction to notify a developer within 30 days of receipt of an application, whether the developer's application is complete. Requires that within 60 days of the receipt of a completed application for Low Barrier Navigation Center development, the local jurisdiction shall act upon its review of the application.

18) Provides that this article is only in effect until January 1, 2027, and then it is repealed.

SB 35 Clean-up

19) Requires 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.

20) Prohibits 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.

Homeless Housing, Assistance, and Prevention Program

21) Creates the Homeless Housing, Assistance, and Prevention Program to provide jurisdictions with one-time grants funds to support regional coordination and expand or develop local capacity to address immediate homelessness challenges and appropriates $650 million as follows:

    a. $190 million to CoCs based on each CoCs' proportionate share of the state's total homeless population, based on the homeless point-in-time count.

    b. $275 million to each city, or city that is also a county that has a population of 300,000 or more, based on the homeless point-in-time count.

    c. $175 million to each county based on the homeless point-in-time count.

22) Requires the Business, Consumer Services and Housing Agency (Agency) to administer the program to provide grant funds to cities, counties and Continuums of Care (CoCs). Provides that no more than 5 percent of the funds available shall be used for state operations.

23) Requires the agency to make available to the public on its website records of the following:

    a. The number of applications for program funding received by the Agency.

    b. The number of applications for programs funded denied by the Agency.

    c. The name of each recipient of program funds.

    d. Each applicant receiving funds shall provide a list of all awards to subrecipients.

    e. Annual reports filed by recipients.

24) Provides that a program recipient shall not use funding from the program to supplant existing local funds for homeless housing, assistance, or prevention.

25) Requires a program recipient to use at least 8 percent of the funds for services for homeless youth populations.

26) Requires an applicant to apply for a program application pursuant to a specified timeline and in a manner prescribed by the Agency, including, but not limited to, the following:

    a. If an applicant is a CoC, data on the demographics and characteristics of the homeless populations in the jurisdiction and on the current programs providing housing and homeless services in the jurisdiction.

    b. For a city or a county applying for funds, a plan demonstrating how these funds will complement the regional needs described by the CoC's plan for a coordinated housing and service system that meets the needs of individuals, unaccompanied youth, and families experiencing homelessness.

27) Provides that a recipient shall expend funds on evidence-based solutions that address and prevent homelessness among eligible populations including any of the following:

    a. Rental assistance and rapid rehousing.

    b. Operating subsidies in new and existing affordable or supportive housing units, emergency shelters, and navigation centers. Operating subsidies may include operating reserves.

    c. Incentives to landlords, including, but not limited to, security deposits and holding fees.

    d. Outreach and coordination, which may include access to job programs, to assist vulnerable populations including families and homeless youth.

    e. Systems support for activities necessary to create regional partnerships and maintain a homeless services and housing delivery system.

    f. Delivery of permanent housing and innovative housing solutions such as hotel and motel conversions.

    g. Prevention and shelter diversion to permanent housing.

    h. New navigation centers and emergency shelters based on demonstrated need as follows:

        i. The number of available shelter beds in the city, county, or region served by a CoC.

        ii. Shelter vacancy rate in the summer and winter months.

        iii. Percentage of exits from emergency shelters to permanent housing solutions.

        iv. A plan to connect residents to permanent housing.

28) Allows up to 5 percent of an applicant's program to be expended on the following:

    a. Strategic homelessness plan.

    b. Infrastructure development to support coordinated entry systems and Homeless Management Information Systems.

Local Government Planning Support Grants Program

29) Creates the Local Government Planning Support Grants Program, to be administered by the Department of Housing and Community Development (HCD) for the purpose of providing regions and jurisdictions with one-time funding to be used to for planning activities. Allocates $250 million, as follows:

    a. $125 million to councils of governments (COGs), specified counties, and other regional entities to increase housing planning and accelerate housing production, which may include developing and improving the regional housing needs assessment (RHNA) methodology for the sixth cycle, suballocating moneys to jurisdictions or other subregional entities in the form of grants for planning purposes, and providing jurisdictions and local agencies with technical assistance for updating planning and zoning documents.

    b. $125 million to jurisdictions to assist in planning for other activities related to meeting the sixth cycle RHNA, based on the population size of that jurisdiction. Grants may be used for rezoning and encouraging development by updating planning documents and zoning ordinances, completing environmental clearances, establishing a workforce housing opportunity zone or a housing sustainability district, performing infrastructure planning, identifying excess property for residential development, revamping local planning processes, developing or improving an accessory dwelling unit ordinance in compliance with state law, and covering of costs of temporary staffing or consultants needed for these purposes.

30) Requires HCD, in collaboration with the Governor's Office of Planning and Research (OPR), after engaging in stakeholder participation, to develop, by December 31, 2022, a recommended improved regional housing need allocation process and methodology that

promotes and streamlines housing development, and to submit a report of its findings and recommendations to the Legislature.

Joe Serna, Jr. Farmworker Housing Grant Program

31) Requires HCD for multifamily housing loans made pursuant to the Joe Serna, Jr. Farmworker Housing Grant Program, to make annual loan payments in the minimum amount necessary to cover the costs of the project monitoring.

32) Removes the matching funds requirements for the Joe Serna, Jr. Farmworker Housing Grant Program.

33) Decreases the amount in the Joe Serna, Jr. Farmworker Housing Grant Fund that HCD is authorized to set aside to 1.5 percent of funds available.

CalHome Program

34) Authorizes HCD to make CalHome Program grants to local agencies or nonprofit associations for the construction, repair, reconstruction, or rehabilitation of accessory dwelling units and junior accessory dwelling units.

35) Authorizes HCD to use appropriated funds to make CalHome Program grants to local agencies or nonprofit corporations to assist households at or below 120 percent of area median income and that are victims of a disaster, if one of the following occurs with respect to the county in which the household's residence is located:

    a. The Governor has proclaimed a state of emergency resulting from a disaster.

    b. A special appropriation of federal emergency supplemental assistance or a presidential declaration of disaster occurred.

36) Requires HCD to review, adopt, amend, and repeal guidelines to implement the making of CalHome Program grants.

37) Requires HCD to approve any alterations of underwriting guidelines by applicants with respect to how the applicants will ensure participation by low-income households in making loans in response to a disaster.

Local Housing Trust Fund

38) Authorizes HCD to make matching grants available under the Local Housing Trust Fund Matching Grant program to Native American tribes and authorizes the department to adopt guidelines to implement the program.

39) Authorizes HCD to increase the minimum allocation above $500,000 to an applicant that is a newly established trust and increase the minimum allocation to all other trusts above $1,000,000.

40) Provides that the matching fund requirement does not apply to specified funds allocated under the Building Homes and Jobs Act that are used to capitalize a regional housing trust fund.

41) Authorizes the applicant to provide evidence of a legally binding commitment to deposit matching funds.

42) Requires HCD to set aside funding for new trusts as defined by guidelines.

43) Authorizes HCD to allow grantees under the program to use up to 5 percent of the grant award for administrative costs.

44) Extends the period in which funds are required to be encumbered from 36 months to 60 months.

Infill Infrastructure Grant Program of 2019

45) Creates the Infill Infrastructure Grant (IIG) Program of 2019, similar to the 2007 Infill Incentive Program, to be administered by HCD 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. Allocates $500 million, as follows:

   a. $410 million to fund a competitive grant process for large jurisdictions. Eligible applicants within large jurisdictions are defined as any county over 250,000 in population, and any city within that county.

   b. $90 million to fund an over-the-counter process for small jurisdictions. Eligible applicants within small jurisdictions are defined as any county less than 250,000 in population, and any city within that county.

46) Eligible applicants must demonstrate a compliant housing element, be current on submittal of the annual progress report, and the infrastructure improvements must support housing, which includes a 15 percent affordability requirement.

Low Income Housing Tax Credit Program

47) Makes the Executive Director of CalHFA and the Director of the Department of Housing and Community Development voting members of the California Tax Credit Allocation Committee.

48) Provides 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, and increases the eligible basis for these projects to 30 percent.

49) Requires at least $300 million of this to be available to new construction projects receiving the federal 4 percent tax credit. Allows up to $200 million to be available to projects receiving assistance from the California Housing Finance Agency (CalHFA) Mixed Income Program.

50) Provides that in 2020 projects will follow the existing volume cap and 4 percent federal tax credit allocation criteria, and requires the California Tax Credit Allocation Committee to develop a new methodology to award allocations for 2021 and thereafter.

51) Lifts the $75,000 cap on state housing tax credits 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.

52) Makes 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. Also makes permanent the ability of a developer to sell state credits to investors who are not also buying federal tax credits.

53) Provides a 95 percent eligible basis boost to certain preservation projects eligible through the legacy tax credit program not funded through this bill.

Mixed Income Program

54) Appropriates $500 million for CalHFA's Mixed Income Program, which provides financing for mixed-income housing developments.

Housing First Parolee Programs

55) Requires programs that fund recovery housing to comply with Housing First principles by July 1, 2020 instead of July 1, 2019.

56) Requires 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.

57) Requires 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.

FISCAL EFFECT: This bill includes continuously appropriated funds and appropriates $500 million for CalHFA's Mixed Income Program.

COMMENTS:

1) This bill is a budget trailer bill within the overall 2019-20 budget package to implement actions related to housing.

2) The additional judicial remedies in this act are intended to be used only as a last resort where a jurisdiction has continued to not fulfill its responsibilities under housing element law and disregards the direction of the court.

REGISTERED SUPPORT / OPPOSITION: None on file.

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