EXHIBIT NO. 2

SENATE RULES COMMITTEE SB 584

Office of Senate Floor Analyses
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THIRD READING

Bill No: SB 584
Author: Limón (D), et al.
Amended: 5/18/23
Vote: 27 - Urgency

SENATE HOUSING COMMITTEE: 8-2, 4/18/23
AYES: Wiener, Blakespear, Caballero, Cortese, McGuire, Skinner, Umberg, Wahab
NOES: Ochoa Bogh, Seyarto
NO VOTE RECORDED: Padilla

SENATE GOVERNANCE & FIN. COMMITTEE: 5-2, 4/26/23
AYES: Caballero, Blakespear, Durazo, Skinner, Wiener
NOES: Seyarto, Dahle
NO VOTE RECORDED: Glazer

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/18/23
AYES: Portantino, Ashby, Bradford, Wahab, Wiener
NOES: Jones, Seyarto

SUBJECT: Laborforce housing: Short-Term Rental Tax Law

SOURCE: State Building and Construction Trades Council of California

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DIGEST: This bill requires a 15% state short-term rental (STR) occupancy tax to be collected, as specified, and allocates the funds for the construction, acquisition and rehabilitation of affordable housing and renter protection programs, as specified.

ANALYSIS: Existing law establishes several housing programs, administered by HCD, that finance housing rehabilitation and new construction, including but not limited to the following:

1) Multifamily Housing Program (MHP) – assists the new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower-income households.

2) Joe Serna Jr., Farmworker Housing Grant Program – finances the new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower-income households.

This bill:

1) Defines "laborforce housing" or "laborforce housing projects" (projects) as housing that meets all the following requirements:

   a) The housing units are owned and managed by a public entity, a local housing authority, or a non-profit, as specified.
   b) Each development contains units that accommodate a mix of housing of household income ranges at or below moderate income. All units shall be permanently deed-restricted affordable to households at each of those income levels to ensure that every household pays an affordable rent.
   c) Residents shall enjoy specified tenant protections outlined below.
   d) The housing units are protected for the duration of their useful life, and the land associated with the housing units is protected permanently from being sold or transferred to any person or for-profit or public-private partnership.
   e) Residents have the right to participate directly and meaningfully in decision-making affecting the operation and management of the housing units in which they reside.

2) Defines "short-term rental" as the occupancy of a home, house, a room in a home or house or other lodging that is not a hotel, inn, motel, or bed and breakfast in this state for a period of 30 days or less.

State short-term rental tax

3) Requires a renter of an STR, beginning after January 1, 2025, to pay a tax on the occupancy of the STR at the rate of 15% of the rental price of the STR to the California Department of Tax and Fee Administration (CTFA). "Rental price" means the total amount for which a renter retains the right to occupy an STR, valued in money, whether paid in money or otherwise.

4) Provides that an STR facilitator or operator with de minimis facilitations of STR is not required to collect the tax in (3). De minimis facilitations of STR means the facilitator or operator derived less than $100,000 from STRs during the prior calendar year.

5) Requires funds collected by CTFA shall be deposited in the Laborforce Housing Fund (Fund). Moneys in the fund shall be available upon appropriation by the Legislature.

Laborforce housing administration and funding uses

6) Authorizes public entities, local housing authorities, and nonprofit housing provides to receive funding from the Fund.

7) Authorizes HCD to use any funds for administration purposes.

8) Requires no less than 65% of the funds to be allocated to the creation of laborforce housing through new construction.

9) Requires no more than 30% of the funds to be used for the creation of laborforce housing through the acquisition and rehabilitation of existing housing.

10) Requires a maximum of 5% of the funds to be used to meet the operating needs of projects and for planning and implementation of local housing or renter protection programs, and authorizes up to 5% to be utilized for administration.

Labor standards

11) Requires funds to be used to pay for construction or rehabilitation work on a project only if either of the following is true:

    a) All construction and rehabilitation work is subject to a project labor agreement that requires payments of at least the applicable prevailing wage rate to all construction workers on the project.
    b) HCD or a local public agency has obtained an enforceable commitment from the prime contractor or other entity undertaking the work that all contractors and subcontractors at every tier will use a skilled and trained workforce to complete the project.

Tenant protections

12) Requires all of the following protections to apply to tenants in a property funded by this bill:

    a) Tenants shall be protected from termination or eviction except for just cause, as specified.
    b) A tenant who qualifies at the time of the creation of the tenancy shall not be terminated solely on the basis of a subsequent change in income.
    c) No household or member of a household that resides in the property at the time of its acquisition shall be evicted, nor shall their tenancy be terminated on the ground of their income or other eligibility requirements for deed-restricted units in the property.
    d) The maximum allowable rent increase for any unit shall not exceed the lesser of 3% of the rent or 6% of the California Consumer Price Index.
    e) No tenant in a property acquired with funding by this bill shall be deprived of any rights or protections under state or local law that they enjoyed prior to the time of its acquisition. Tenants shall enjoy full rights of association and free speech including the right to organize tenant unions and shall be protected from any act of discrimination, harassment, or retaliation.

Background

Developing housing that is affordable to very low- and low-income families requires some amount of public investment. The high cost of land and construction, as well as regulatory barriers, in California generally makes it economically impossible to build new housing that can be sold or rented at prices affordable to those households. The private sector sometimes provides financial subsidies or land donations mandatorily through inclusionary zoning policies or voluntarily through density bonus ordinances. In most cases, some amount of public financial subsidy is needed from federal, state, and/or local governments.

Prior to 1974, the federal government invested heavily in affordable housing construction. When those units began to deteriorate, the Housing Community and Development Act ended most new construction of public housing and the Housing Choice Voucher Program (Section 8) was created in its place. This new program allowed eligible tenants to pay only a portion of their rent (based on their income) and shifted funds from public housing authorities to the private sector. The goal was to eliminate concentrations of low-income people in housing developments. In 1981, the Reagan administration dismantled federal affordable housing funding. From 1978 to 1983, the funding for low- to moderate-income housing decreased by

77%. In 1970, there were 300,000 more low-cost rental units (6.5 million) than low-income renter households (6.2 million). By 1985, however, the number of low-cost units had fallen to 5.6 million, and the number of low-income renter households had grown to 8.9 million, a disparity of 3.3 million units.

At the state level, California has invested significantly in affordable housing construction and rehabilitation in recent years through the passage of one-time discretionary actions in the budget and the passage of voter approved bonds. Only funds from the Affordable Housing and Sustainable Communities program (AHSC), federal and state low income housing tax credits, and funds from SB 2 (Atkins, Chapter 364, Statutes of 2017), are ongoing sources of funding. Additionally, investments provided by voter approved general obligation bonds have been fully allocated. These investments, while critical, have not made up for decades of disinvestment from the federal level.

Comments

1) *Short-term rentals and the housing crisis.* Short-term rentals (STRs), such as those listed through Airbnb and VRBO, likely have measurable and inequitable impacts on overall housing affordability, both for rentals and homeownership. A 2020 study by the National Bureau of Economic Research found that for that for every 1% increase in STR listings, overall rents increase by .018% and housing prices increase by .026%. STRs also decrease long-term housing supply overall. Several studies analyzing individual STR markets (Los Angeles and NYC neighborhoods) found that STRs contributed to the removal of between 1-12.5% of a neighborhood's housing. This may be due to the fact that, as concluded by researchers at Carnegie Mellon University, STRs motivate property owners to convert properties away from the long-term rental market.

   STRs also may impact communities of color more acutely. First, STRs may be linked to increases in gentrification. For example, a study in Los Angeles found that the prevalence of STRs correlated with rent hikes and gentrification in adjacent districts. In another study of neighborhoods in New York City, the neighborhoods in which landlords are most incentivized to convert long-term rental units into STRs—and therefore those most at risk of rising rents and housing costs and losing affordable housing supply—are those that are currently gentrifying. These NYC neighborhoods were on average 71% non-white. Second, there is documented discrimination against Black hosts on STR platforms, in which racial prejudice based on profile names and photos reduces frequency of reservations to Black-hosted units. These practices indicated that that communities of color may be locked out of the potential income and equity streams that benefit STR landlords, which further exacerbate the racialized effects of gentrification in neighborhoods by the STR market.

This bill creates a new program at HCD, which would finance "laborforce" housing units and provide grants to cities, counties, local housing authorities, and eligible non-profits. Funds can be used for the construction of new housing and acquisition and rehabilitation of existing housing. Laborforce housing must be affordable to a mix of incomes at ranges from 120% area median income and below, and shall be permanently deed restricted. All tenants in laborforce housing projects shall enjoy specified tenant protections and all workers on projects funded by HCD for laborforce housing must be subject to a project labor agreement or meet skilled and trained workforce requirements.

The program is funded by a new, 15% state STR occupancy tax imposed on STRs rented after January 1, 2025. The tax is imposed on the total amount for which the renter retains to occupy the right to occupy an STR. Facilitators or operators who make less than $100,000 from facilitating STRs during the prior calendar year are not required to collect this tax. The facilitator or operators subject to this new tax is responsible for collecting and remitting it to CTFA.

2) *Appropriations amendments.* This bill was amended in the Appropriations Committee to remove community land trusts, require money in the fund to be made available upon appropriation, and to allow HCD to use up to 5% of the funds for administration.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

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 $3.2 million annually for 16.0 PY of staff to develop and administer the new grant program established by this bill, assuming $150 million is appropriated each year. 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. HCD indicates that the staffing requirements would increase by an additional 2.0 PY and $374,000 each year for permanent ongoing compliance monitoring. For every $750 million allocated for the program in the aggregate, an additional 2.0 PY of management staff would be required, at a cost of $417,000 ongoing. (Laborforce Housing Fund)

SUPPORT: (Verified 5/18/23)

State Building and Construction Trades Council of California (source)
California Community Land Trust Network
California Democratic Party Renters Council
California Federation of Teachers AFL-CIO
Housing Now! CA
Inner City Law Center
Public Advocates Inc.
Tenants Together
Tenemos Que Reclamar Y Unidos Salvar LA Tierra - South LA

OPPOSITION: (Verified 5/18/23)

Airbnb
Airbnb Host Community of The East Bay
California Association of Realtors
California Housing Partnership Corporation
Coastal Orange County Area Airbnb Host Community
Fresno Area Airbnb Host Community
Home Sharers Democratic Club
Housing Contractors of California
Lake Arrowhead Airbnb Host Community

Long Beach Hosting Club
Sonoma, Napa and Marin County Area Host Community
Western Electrical Contractors Association
Bay Area Council
CalAsian Chamber
California Chamber of Commerce
Chamber of Progress
Expedia Group
San Francisco Travel Association
Silicon Valley Leadership Group
TechNet

ARGUMENTS IN SUPPORT: According to the author, "SB 584 creates a state program to finance publicly owned housing and addresses our housing crisis by developing homes for the benefit of middle and low-income Californians. This bill creates a statewide assessment on the commercial use of residential homes and apartments for short-term vacation rentals. The grant funds will be distributed to counties proportionate to the amount collected in the local jurisdiction to be used by public entities and local housing authorities to pay for the costs of construction and rehabilitation of affordable housing."

ARGUMENTS IN OPPOSITION: The California Housing Partnership Corporation (CHPC) is opposed due to the labor provisions in the bill. CHPC argues that that in the current constrained labor market, getting at least three bids for prevailing wage contracts is a challenge. This bill would limit the eligible labor pool even further. CHPC further notes the need to provide consistent funding for existing, successful programs. The California Housing Consortium (CHC), writing a letter of concerns, shares the perspective of CHPC, and further requests that the bill be amended to only fund below market rate units. Expedia Group, expedia.com, Hotels.com, and Vrbo, is opposed because it "creates complex and burdensome obligations by establishing first-ever statewide assessment on STRs." The Western Electrical Contractors Association (WECA) is opposed because the bill mandates the use of project labor agreements for all construction and rehabilitation work. The California Association of Realtors are opposed but did not state any reasons for the opposition.

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
5/26/23 12:55:06

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