SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No:	SB 584	**Hearing Date:**	4/18/2023
Author:	Limón		
Version:	3/21/2023		
Urgency:	Yes	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Laborforce housing

DIGEST: This urgency bill requires the Department of Housing and Community Development (HCD) to collect an unspecified laborforce housing assessment from owners and transient occupancy businesses in residential property that are rented for specified transient occupancy and allocate 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 urgency 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, a community land trust, 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 "transient occupancy" as the use or possession, or the right to use or possession of any buildings, structures, or portion thereof for dwelling, lodging or sleeping purposes, by reason of concession, permit, right of access, license, or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

3) Defines "transient occupancy business" as any person in the business of arranging for the rental of residential property for transient occupancy.

4) *Laborforce housing assessment (assessment)*

5) Provides that for each payment made by a person for transient occupancy in residential property rented for transient occupancy after January 1, 2024, the operator shall be jointly and severally liable for the assessment.

   a) Every operator and transient occupancy business shall keep and preserve for at least four years from the date of the rental, records sufficient to enable HCD to determine any amounts of assessments owed.
   b) Any operator or transient occupancy business that fails to timely pay the assessment shall own HCD a penalty of 10% of the unpaid amount plus interest at 10% per annum.
   c) Authorizes HCD to sue any operator or transient occupancy business for failure to pay the required assessment. HCD shall have four years from the date on which the assessment was due to file suit.

6) Provides that the assessment shall be equal to an unspecified percent of the rent charged for the transient occupancy. The assessment shall apply in addition to any local tax, fee, or other assessment.

7) Requires the assessment to be paid to HCD no later than 90 days after the rent is received. All funds shall be deposited into the Laborforce Housing Fund (fund).

8) *Laborforce housing administration and funding uses*

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

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

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

12) 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.

13) 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.

14) Requires HCD to adopt rules, policies, guidelines or standards to implement this bill, which are not subject to the Administrative Procedure Act.

    a) HCD shall establish an application process and have discretion to allocate funding in the manner HCD determines will best effectuate this bill.
    b) HCD shall endeavor, to the extent feasible, to award funds to projects in the counties in which the funds were collected.

Labor standards

15) 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

16) 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.

COMMENTS:

1) *Author's Statement.* "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."

2) *California's Housing Crisis*. California has the largest concentration of severely unaffordable housing markets in the nation and the statewide average home value reached a new record in June 2022 at $793,3003. To keep up with demand, the state Department of Housing and Community Development (HCD) estimates that California must plan for the development of more than 2.5 million homes over the next eight years, and no less than one million of those homes must meet the needs of lower-income households (more than 640,000 very low-income and 385,000 low-income units are needed). For decades, not

enough housing was constructed to meet need, resulting in a severe undersupply of housing.

As a result of the severe housing shortage, millions of Californians, who are disproportionately lower-income and people of color, must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation—one in three households in the state don't earn enough money to meet their basic needs. A lack of affordable housing is the biggest contributor to homelessness. As housing costs continue to rise, rent becomes less affordable for lower-income households, who are forced to live beyond their means (paying more than 30% of income on housing costs) or are pushed out of their homes, leading to rapid increases in homelessness. Variation in rates of homelessness cannot be explained by variation in rates of individual factors such as poverty or mental illness, however, cities with higher rents and lower rental vacancy rates (i.e., tighter housing markets) are directly linked to higher per capita rates of homelessness.

3) *Affordable housing finance generally*. 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, however, some amount of public financial subsidy is needed from federal, state, and/or local governments.

4) *Publicly available funds for affordable housing.* 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. Federal investments have not gone back up to pre-1978 levels.

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. It should be noted that of these investments, 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. Significant ongoing investments are necessary to meet the current undersupply of housing affordable to lower-income families.

5) *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%.[1]

   These increases may be more acute in more populated cities experiencing greater housing supply issues. For example, in New York City (NYC) between 2009 and 2016, rents in the eight neighborhoods with greater increases in STR listings experienced significant increases in rent (between and 21% and 62%). In aggregate, NYC renters had to pay an additional $616 million in 2016 in rent due to price increases directly linked to STRs, with half of the increases concentrated in the neighborhoods where STRs were most heavily concentrated.[2]

   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.[3-4] This may be due to the fact that, as concluded by

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[1] Barron et al. The Effect of Home-Sharing on House Prices and Rents: Evidence from Airbnb. Marketing Science. 2020. https://doi.org/10.1287/mksc.2020.1227

[2] The Impact of Airbnb on NYC rents by the Office of the New York City Comptroller. 2018. https://comptroller.nyc.gov/wp-content/uploads/documents/AirBnB_050318.pdf

[3] Dayne Lee. How Airbnb Short-Term Rentals Exacerbate Los Angeles's Affordable Housing Crisis: Analysis and Policy Recommendations. Harvard Law and Policy Review. 2016. https://harvardlpr.com/wp-content/uploads/sites/20/2016/02/10.1_10_Lee.pdf

[4] Wachsmuth & Weisler. Airbnb and the rent gap: gentrification through the sharing economy. Environment and Planning. 2018. https://doi.org/10.1177/0308518X18778038

researchers at Carnegie Mellon University, STRs motivate property owners to convert properties away from the long-term rental market.[5]

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.[3] 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.[4] 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.[6] 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.[7]

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, unspecified transient occupancy tax imposed on STRs rented after January 1, 2024. The operator shall be responsible for collecting the tax and remitting to HCD, and may be subject to fines for failure to comply with specified provisions.

6) *Overlap with other social housing bills*. There are discrepancies between this bill and other housing bills in the legislature this year.

   a) SB 555 (Wahab): Mix of housing serving ELI, VLI, LI and Mod Income; units permanently deed-restricted affordable; focus on 10- & 5-year unit

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[5] Li et al. Market Shifts in the Sharing Economy: The Impact of Airbnb on Housing Rentals. Management Science. 2021. https://dx.doi.org/10.2139/ssrn.3435105

[6] Edelman et al. Racial Discrimination in the Sharing Economy: Evidence from a Field Experiment. American Economic Journal. 2017. DOI: 10.1257/app.20160213

[7] Allyson Gold. Community Consequences of Airbnb. Washington Law Review. 2019. https://digitalcommons.law.uw.edu/wlr/vol94/iss4/2

goals and HCD-required Social Housing Plan and annual reporting; creates the California Social Housing Fund in the State Treasury.

b) SB 584 (Limon): Mix of housing serving ELI, VLI, LI and Mod Income; focus on new construction workforce housing and acquisition/rehab; If projects not subject to a PLA, S&T workforce required; HCD to collect a tax on short term rentals and distribute to managing entities; HCD given guideline authority to implement bill.

c) AB 309 (Lee): Mix of housing affordable to all income levels; creates the California Housing Authority to focus on acquisition of property to own, hold, clear, improve, rehabilitate, sell, assign, exchange, transfer, convey, lease, or dispose of; S&T workforce required; creates a revolving loan fund to provide zero-interest loans for housing construction, provides authority to issue GO bonds, and seeks to achieve revenue neutrality over the long term through rent cross-subsidization or cost rent.

There is a strong argument that social housing should be mixed income and serve a wide range of income levels. In Vienna, Austria—one of the best examples of a long-standing social housing system—social housing provides affordable homes to a large percentage of the population, a fundamental difference from means-tested assistance in the US. The Viennese model relies on two key components: government-owned and funded social housing blocks and public-private partnerships for mixed income housing that achieve cross-subsidization. Although Vienna provides access to affordable housing for a considerable portion of the population, private developers still play a role in the housing market. The large number of cross-subsidized mixed income housing units create competition in the private rental market, and private developers are forced to maintain low rents to remain competitive.

Moving forward, the authors will need to work together to align these bills and address discrepancies, and the author will commit to work with the committee through this process.

7) *Setting a precedent*. The committee has very serious concerns about the labor provisions in this bill. This bill, for the first time ever, would require the use of a skilled and trained workforce as a condition for the funding of 100% affordable housing projects through a state housing financing program. It is not clear that in all areas of the state there are enough workers available today -- or will be available in the near future -- to meet the skilled and trained workforce requirement in this bill. According to US Census Data, there are about 920,000 construction industry workers in California's labor force; 123,000 workers completed apprenticeship programs – including non-union programs – between the years 2000 and 2021. According to the Nor Cal Carpenters Union, this

means that fewer than 1 in every 7 California construction workers has completed an apprenticeship program in the last 21 years. Because most apprenticeship program graduates work on nonresidential buildings, the Nor Cal Carpenters Union estimates that fewer than 1 in every 10 blue-collar residential worker meets the "skilled and trained" workforce criteria. By adding requirements that could prohibit certain workers and contractors from performing work on affordable housing developments, this provision could stop desperately needed affordable housing units from being built.

Moving forward, the committee strongly urges the author to instead include strong labor protections to ensure workers on these projects are paid prevailing wages and full health benefits, while seeking additional ways to grow the pipeline of workers who can meet the "skilled and trained" standards in the future. The goal should be to ensure workers are paid high wages while also meeting the housing needs for the lowest income Californians.

8) *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.

9) *Double-referral*. This bill was also referred to the Senate Governance and Finance Committee.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2023.)

SUPPORT:

State Building and Construction Trades Council of CA (Sponsor)
California Community Land Trust Network
California Democratic Party Renters Council
Public Advocates INC.

OPPOSITION:

California Association of Realtors
California Housing Partnership Corporation
Western Electrical Contractors Association

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