



May 9, 2019

Honorable Holly Mitchell, Chair  
Senate Budget and Fiscal Review Committee

Attention: Mr. Joe Stephenshaw, Staff Director (2)

Honorable Phil Ting, Chair  
Assembly Budget Committee

Attention: Mr. Christian Griffith, Chief Consultant (2)

**Amendment to Budget Bill Items 2240-001-0001 and 2240-001-0648, Support, and Item 2240-111-0001, Local Assistance, and Trailer Bill Language, Department of Housing and Community Development**

**Excess Sites: Executive Order**—It is requested that Item 2240-001-0001 be increased by \$3,342,000 and 3 positions and Item 2240-001-0648 be increased by 1 position to implement the development of affordable housing demonstration projects on state-owned excess land and hire real estate consultants pursuant to Executive Order N-06-19 (EO). The Department of Housing and Community Development (Department) will incur new and complex workload related to developing requests for proposals, conducting site investigations, evaluating housing developments, and monitoring projects to implement the EO.

**State Housing Law Enforcement**—It is requested that Item 2240-001-0001 be increased by \$1,440,000 and provisional language be added for legal costs (see Attachment 1). The Department of Justice (DOJ) prepares court filings and makes court appearances on behalf of the Department in housing element litigation. Traditionally, the DOJ incurred minimal hours and absorbable costs for housing element enforcement matters for the Department. However, the Department anticipates referring more cases to the DOJ annually. This request will allow for increased billable legal services and resources for the DOJ on behalf of the Department.

**Mixed Income Allocation**—It is requested that Provision 1 of Item 2240-111-0001 be amended to allow flexibility and clarify funds are for the California Housing and Financing Agency (CalHFA) (see Attachment 2). The requested provisional language will allow CalHFA to use the program funds for various low and moderate income housing purposes.

**Proposition 1: Serna Program Conformity**—It is requested trailer bill language be added to require an annual monitoring fee not to exceed 0.42 percent of annual loan payment amount, remove a requirement for matching funds, and lower the amount required to be set aside in case of loan defaults to 1.5 percent (see Attachment 3). Similar to trailer bill language enacted in 2018, these changes will make the Joe Serna Jr. Farmworker Housing Grant Program (Serna Program) consistent with other multifamily housing programs. This request will also maximize Proposition 1 funds for Serna Program housing projects.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Danielle Brandon, Principal Program Budget Analyst, at (916) 445-3274.

KEELY MARTIN BOSLER

Director

By:

/s/ Vivek Viswanathan

VIVEK VISWANATHAN

Chief Deputy Director

Attachment

cc: Honorable Anthony Portantino, Chair, Senate Appropriations Committee  
Attention: Mr. Mark McKenzie, Staff Director  
Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee  
Attention: Mr. Kirk Feely, Budget Fiscal Director  
Honorable Lorena Gonzalez, Chair, Assembly Appropriations Committee  
Attention: Mr. Jay Dickenson, Chief Consultant  
Honorable Jay Obernolte, Vice Chair, Assembly Budget Committee  
Attention: Ms. Cyndi Hillery, Staff Director  
Honorable Maria Elena Durazo, Chair, Senate Budget and Fiscal Review Subcommittee No. 4  
Honorable Jim Cooper, Chair, Assembly Budget Subcommittee No. 4  
Mr. Gabriel Petek, Legislative Analyst (4)  
Mr. Christopher W. Woods, Senate President pro Tempore's Office (2)  
Mr. Jason Sisney, Assembly Speaker's Office (2)  
Ms. Jayme Chick, Deputy Chief of Staff, Policy, Assembly Republican Leader's Office  
Mr. Joe Shinstock, Policy and Fiscal Director, Assembly Republican Leader's Office  
Ms. Alexis Podesta, Secretary, Business, Consumer Services, and Housing Agency  
Ms. Tiffany Garcia, Deputy Secretary, Fiscal Policy and Administration, Business, Consumer Services, and Housing Agency  
Mr. Ben Metcalf, Director, Department of Housing and Community Development  
Mr. Doug McCauley, Chief Deputy Director, Department of Housing and Community Development

Add the following provision to Item 2240-001-0001:

2. Of the amounts available in Schedule (3), \$1,444,000 shall be made available for payment of legal services provided by the Department of Justice.

Amend Provision 1 of Item 2240-111-0001 as follows:

“1. The funds transferred by this item shall be ~~used~~ administered by California Housing Finance Agency for the development of low and moderate-income housing.”

SECTION. 1 Health and Safety Code 50517.5 is amended to read:

50517.5. (a) (1) The department shall establish the Joe Serna, Jr. Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants or loans, or both, shall be made to local public entities, nonprofit corporations, limited liability companies, and limited partnerships, for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing as part of a program to address and remedy the impacts of current and potential displacement of farmworker families from existing labor camps, mobilehome parks, or other housing. Under this program, grants or loans, or both, may also be made for the cost of acquiring the land and any building thereon in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to the housing. In its administration of this program, the department shall disburse grants or loans, or both, to the local public entities, nonprofit corporations, limited liability companies, or limited partnerships or may, at the request of the local public entity, nonprofit corporation, limited liability company, or limited partnership that sponsors and supervises the rehabilitation or construction program, disburse grant funds to agricultural employees who are participants in a rehabilitation or construction program sponsored and supervised by the local public entity, nonprofit corporation, limited liability company, or limited partnership. No part of a grant or loan made pursuant to this section may be used for project organization or planning.

(2) Notwithstanding any other provision of this chapter, upon the request of a grantee the program also may loan funds to a grantee at no more than 3 percent simple interest. Principal and accumulated interest is due and payable upon completion of the term of the loan. For multifamily housing loans the department shall require annual loan payments in the minimum amount necessary to cover the costs of project monitoring. For the first 30 years of the loan term, the amount of the required loan payments shall not exceed 0.42 percent per annum. For any loan made pursuant to this subdivision, the performance requirements of the lien shall remain in effect for a period of no less than the original term of the loan.

(3) The program shall be administered by the Director of Housing and Community Development and officers and employees of the department as he or she may designate.

(b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for making grants or loans, or both, pursuant to this section and Section 50517.10, for purposes of Chapter 8.5 (commencing with Section 50710), and for costs incurred by the department in administering these programs.

(2) There shall be paid into the fund the following:

(A) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(B) Any moneys that the department receives in repayment or return of grants or loans from the fund, including any interest therefrom.

(C) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(D) All moneys appropriated to the department for the purposes of Chapter 8.5 (commencing with Section 50710) and any moneys received by the department from the occupants of housing or shelter provided pursuant to Chapter 8.5 (commencing with Section 50710). These moneys shall be separately accounted for from the other moneys deposited in the fund.

~~(c) (1) Grants and loans made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.~~

~~(2) For grant or loan requests of not more than five hundred thousand dollars (\$500,000), the department may waive a part of the matching fund requirement in this subdivision if the grantee demonstrates an inability, as may be established by the department in "Notices of Funding Availability," to secure adequate financing from other sources. Not more than 5 percent of the total amount appropriated to the department for the purposes of this section may be used to meet grant or loan requests in which a part of the matching fund requirement has been waived pursuant to this paragraph.~~

~~(c) (d)~~ With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents that may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds provided pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that the increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds provided pursuant to this section.

(4) (A) Require as a condition precedent to a grant or loan, or both, of funds that the applicant have site control that is satisfactory to the department; that the grantee be record owner in fee of the assisted real property or provide other security including a lien on the manufactured home that is satisfactory to the department to ensure compliance with the construction, financial, and program obligations; and that the grantee shall have entered into a written agreement with the department binding upon the grantee and successors in interest to the grantee. The agreement shall include the conditions under which the funds advanced may be repaid. The agreement shall include provisions for a lien on the assisted real property or manufactured home in favor of the State of California for the purpose of securing performance of the agreement. The agreement shall also provide that the lien shall endure until released by the Director of Housing and Community Development.

(B) If funds granted or loaned pursuant to this section constitute less than 25 percent of the total development cost or value, whichever is applicable, of a project assisted under this section, the department may adopt, by regulation, criteria for determining the number of units in a project to which the restrictions on occupancy contained in the agreement apply. In no event may these regulations provide for the application of the agreement to a percentage of units in a

project that is less than the percentage of total development costs that funds granted or loaned pursuant to this section represent.

(C) Contemporaneously with the disbursement of the initial funds to a grantee, the department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, a notice of lien executed by the Director of Housing and Community Development. The notice of lien shall refer to the agreement required by this paragraph for which it secures and it shall include a legal description of the assisted real property that is subject to the lien. The notice of lien shall be indexed by the recorder in the Grantor Index to the name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development. For manufactured housing, the liens shall be recorded by the department in the same manner as other manufactured housing liens are recorded. The department shall adopt by regulation criteria for the determination of the lien period. This regulation shall take into account whether the property is held by multifamily rental, single-family ownership, or cooperative ownership and whether it is new construction or rehabilitative construction. The lien period for manufactured housing liens for manufactured homes shall not exceed 10 years.

(D) Pursuant to regulations adopted by the department, the department may execute and cause to be recorded in the office of the recorder of the county in which a notice of lien has been recorded, or the department, as appropriate, a subordination of the lien. The regulations adopted by the department shall provide that any subordination of the lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in the subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

(E) Prior to funds granted pursuant to this section being used to finance the acquisition of a manufactured home, the grantee shall ensure that the home either is already installed in a location where it will be occupied by the eligible household or that a location has been leased or otherwise made available for the manufactured home to be occupied by the eligible household.

(5) Regulate the terms of occupancy agreements or resale controls, to be used in housing assisted pursuant to this section.

(6) Provide linguistically appropriate services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(7) The agreement between the department and the grantee shall provide, among other things, that both of the following occur:

(A) Upon the sale or conveyance of the real property, or any part thereof, for use other than for agricultural employee occupancy, the grantee or its successors shall, as a condition for the release of the lien provided pursuant to paragraph (4), repay to the fund the department's grant and loan funds.

(B) Upon the sale or conveyance of the real property or any part thereof for continued agricultural employee occupancy, the transferee shall assume the obligation of the transferor and the real property shall be transferred to the new owner; provided that the transferee agrees to abide by the agreement entered into between the transferor and the department and that the new owner takes the property subject to the lien provided pursuant to paragraph (4), except that this lien shall, at the time of the transfer of the property to the new owner, be extended for an

additional lien period determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, the lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4).

(d) ~~(e)~~ The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit that is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(e) ~~(f)~~ The department shall include in its annual report required by Section 50408, a current report of the Joe Serna, Jr. Farmworker Housing Grant Program. The report shall include, but need not be limited to, (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants or loans, or both, made to each grantee in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant or loan, or both, under this section, and an identification of each source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance, and (7) the number of manufactured housing units assisted under this section.

(f) ~~(g)~~ As used in this section:

(1) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code, but also includes any person who works on or off the farm in the processing of any agricultural commodity until it is shipped for distribution, whether or not this person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.

(2) "Grantee" means the local public entity, nonprofit corporation, limited liability company, or limited partnership that is awarded the grant or loan, or both, under this section, and, at the request thereof, may include an agricultural employee receiving direct payment of a grant for rehabilitation under this section who occupies the assisted housing both before and after the rehabilitation and may include an agricultural employee receiving direct payment of a grant for construction under this section who will occupy the assisted housing and who is a participant in a rehabilitation or construction program sponsored and supervised by a local public entity, nonprofit corporation, limited liability company, or limited partnership.

(3) "Housing" may include, but is not necessarily limited to, conventionally constructed units and manufactured housing installed pursuant to either Section 18551 or 18613.



(4) "Limited liability company" means a limited liability company where all the members are nonprofit public benefit corporations.

(5) "Limited partnership" means a limited partnership where all of the general partners are either nonprofit public benefit corporations, limited liability companies, or a combination of nonprofit public benefit corporations and limited liability companies.

~~(g)~~ (h) The department may provide the assistance offered pursuant to this chapter in any area where there is a substantial unmet need for farmworker housing.

SEC. 2. Health and Safety Code section 50517.6 is amended to read:

50517.6. (a) The department may set aside the amount of funds authorized by subdivision (d) for the purposes of curing or averting a default on the terms of any loan or other obligation by the recipient of financial assistance, or bidding at any foreclosure sale where the default or foreclosure sale would jeopardize the department's security in the dwelling unit assisted pursuant to this chapter.

(b) The department may use the set-aside funds made available pursuant to this chapter to repair or maintain any dwelling unit assisted pursuant to this chapter that was acquired to protect the department's security interest in the dwelling unit.

(c) The payment or advance of funds by the department pursuant to this section shall be exclusively within the department's discretion, and no person shall be deemed to have any entitlement to the payment or advance of those funds. The amount of any funds expended by the department for the purposes of curing or averting a default shall be added to any grant amount secured by the lien and shall be payable to the department upon demand.

(d) On the effective date of the act that adds this section, the department may set aside up to two hundred thousand dollars (\$200,000) from the Joe Serna, Jr. Farmworker Housing Grant Fund for the purposes authorized by this section. On July 1 of each subsequent fiscal year, the department may set aside, for the purposes of this section, up to ~~4~~ 1.5 percent of the funds available in the Joe Serna, Jr. Farmworker Housing Grant Fund on that date.

SEC. 3. Health and Safety Code section 50517.7 is amended to read:

**50517.7.** In counties in which a disaster has been declared by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code and for a period of 12 months after the declaration, the department may provide grants from the fund established by subdivision (b) of Section 50517.5, subject to the following terms and conditions, which are applicable only to this section:

(a) Grants may be made to local public entities, nonprofit corporations, and housing owners comprised of either homeowners who are agricultural employees or owners of rental property used primarily by agricultural households.

(b) The department may enter into master agreements with nonprofit corporations or local public entities or it may enter into contracts directly with housing owners to carry out the activities authorized by this section.

(c) The department may make grants directly to housing owners or through master agreements for the cost of preparation of applications for funds, and supervision of expenditures

from the fund, including, but not limited to estimates, work writeups, bidding supervision, and inspections. Funds granted pursuant to this subdivision shall not be secured by, and subject to, the liens required by Section 50517.5.

(d) The department, either directly or through master agreements, may provide grants to housing owners which shall be used for housing rehabilitation or acquisition and rehabilitation, and related costs, other than those costs accruing pursuant to subdivision (c). Only those funds from the fund which are actually utilized pursuant to this subdivision shall be secured by, and subject to, the liens required by Section 50517.5.

~~(e) The department may waive the matching requirements of subdivision (c) of Section 50517.5.~~