

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 20, 2010  
POSITION: Oppose

BILL NUMBER: AB 2293  
AUTHOR: N. Torres

**BILL SUMMARY: Housing: Construction Loans**

This bill would authorize the Department of Housing and Community Development (HCD) to contract with construction lenders or reserve funds for awards for project sponsors for the Multifamily Housing Program (MHP), Transit Oriented Development Program, and the Joe Serna, Jr. Farmworker Grant Program.

**FISCAL SUMMARY**

If HCD exercises the authority to escrow bond funds, there could be significant General Fund costs to pay debt service for two to three years prior to a project needing to draw down cash. Additionally, it is likely that this bill would increase HCD's cost of administering loans and grants for bond projects. Currently, HCD only has to validate compliance with contract requirements at the time of closing the permanent loan. This bill would require some additional staff time at the time of funding the construction loan. While the bill authorizes fees, it is unclear whether HCD would be able to collect fees if the construction loan did not fund.

**COMMENTS**

The Department of Finance is opposed to this bill because:

- Providing bond funding during the construction period would subject HCD's bond funds to substantial risks. Currently, HCD enforces award requirements, such as affordable rents and project completion, by requiring that project sponsors demonstrate that they meet these requirements prior releasing bond proceeds. Since project sponsors would not be in a position to do this at the time a construction loan is made, it is unclear what recourse HCD would have to enforce program requirements after bond funds have been released.
- Reserving cash in escrow accounts for specific projects during the construction would increase General Fund debt service costs by requiring debt service payments for bond cash that is not needed for two to three years.
- It appears that the state will be able to continue to access the bond market to fund all bond programs on a cash flow basis. Reserving bond cash, as proposed by this bill, would slow down the state's ability to fund other projects that may be proceeding faster and are ready to draw down funds.

Analyst/Principal (0740) C. McKinney	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

**BILL ANALYSIS** Form DF-43 (Rev 03/95 Buff)

N. Torres

April 20, 2010

AB 2293

**ANALYSIS**

## A. Programmatic Analysis

**Existing law** provides for the Housing and Emergency Trust Fund Act of 2002 and the Housing and Emergency Trust Fund Act of 2006, which provide \$2.1 billion and \$2.85 billion, respectively, for affordable housing programs. These programs include:

- Multifamily Housing Program (MHP) which provides deferred payment loans for the construction and conversion of income-restricted rental housing.
- Transit Oriented Development (TOD) Program which provides loans and grants for infrastructure and higher-density housing near transit.
- Joe Serna, Jr. Farmworker Grant Program (Serna) which provides loans and grants for new construction, rehabilitation and acquisition of owner occupied housing for agricultural workers.

**This bill would**, until June 30, 2013, authorize the Department of Housing and Community Development (HCD) to contract for construction loans or escrow bond funds for MHP, TOD, and Serna housing projects (collectively referred to as bond projects). Specially, the bill would:

- Authorize HCD to contract with construction lenders to make permanent loan funds available for bond projects during the construction period.
- Reserve or set aside bond funds for specific bond projects as of the date of closing of the construction loan, and establish a procedure to determine which projects qualify to have funds placed into escrow.
- Limits HCD's ability to contract for construction loans or escrow funds for any bond projects awarded after December 18, 2008 until HCD determines it has received or obtained access to bond funds sufficient to fund all projects which received awards prior to that date.
- Require HCD to exercise its authority to contract for loans or escrow funds in the order in which project sponsors received their awards.
- Authorize HCD to charge a fee sufficient to cover its duties in implementing the bill.

**Discussion:**

According to the bill's sponsor, Housing California, this bill would address the unprecedented situation whereby the Pooled Money Investment Board froze interim financing for all general obligation bonds I in order to conserve cash to pay the state's bills. The sponsor alleges that this caused construction lenders to severely restrict construction loans because of a loss in confidence that HCD bond financing would be available when needed to take out the construction loans. The sponsor indicates that thirteen developments are stalled for lack of a construction loan, and that the projects are at risk of losing federal, local and private lending commitments.

HCD has expressed concerns associated with the timing of the activities associated with this bill. This bill would not take effect until January 1, 2011, but it would take HCD a year to staff up and develop

N. Torres

April 20, 2010

AB 2293

the loan process. This would result in the first loans of the program likely being available in early 2012; however, the legislation would sunset on June 30, 2013.

B. Fiscal Analysis

If HCD exercises the authority to escrow bond funds, there could be significant General Fund costs to pay debt service for two to three years prior to a project needing to draw down cash. Additionally, it is likely that this bill would increase HCD's cost of administering loans and grants for bond projects. Currently, HCD only has to validate compliance with contract requirements at the time of closing the permanent loan. This bill would require some additional staff time at the time of funding the construction loan. While the bill authorizes fees, it is unclear whether HCD would be able to collect fees if the construction loan did not fund.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP							
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	
2240/HCD	UN	No		-----	See Fiscal Summary	-----			0001
2240/HCD	SO	No		-----	See Fiscal Summary	-----			0929
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
0929	Housing Rehabilitation Loan Fund								