DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 22, 2010
POSITION: Oppose
BILL NUMBER: AB 2293
AUTHOR: N. Torres

BILL SUMMARY: Housing: Construction Loans

This bill would require the Department of Housing and Community Development (HCD) to contract with construction lenders to make permanent loan funds available during construction periods or escrow, reserve or set aside permanent loan funds for a project as of the closing date of the construction loan for project sponsors in the Multifamily Housing Program (MHP), Transit Oriented Development Program, and the Joe Serna, Jr. Farmworker Grant Program. It would also require HCD to establish and publish online standards and requirements for award recipients, and procedures for implementing these options, within three months of the bills passing. This bill would take effect as an urgency statute.

FISCAL SUMMARY

If HCD is required 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 and would incur costs associated with establishing and publishing the standards and requirements online.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the April 20, 2010 version do not alter our position. The amendments require HCD to make loans or reserve bond funds and delete HCD's authority to charge a fee sufficient to cover the costs of implementing the bill.

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 to 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 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.

- 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	Date	Program Budget Manager	Date
(0740) C. McKinney		Mark Hill	

Department Deputy Director			Date

Governor's Office:	By:	Date:	Position Approved_______ Position Disapproved

AUTHOR	AMENDMENT DATE	BILL NUMBER
N. Torres	June 22, 2010	AB 2293

- The three month implementation requirement may be insufficient given that HCD does not currently have personnel or processes in place to monitor construction loans.

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 take effect immediately as and urgency measure and, until June 30, 2013:

- Require the Department of Housing and Community Development (HCD) to provide one of the following options for MHP, TOD, and Serna housing projects (collectively referred to as bond projects) upon request of an award recipient who is unable to secure construction financing:
  - Contract with construction lenders to make permanent loan funds available for bond projects during the construction period.
  - Reserve or set aside bond funds for as of the date of closing of the construction loan.
- Limit 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.
- Require HCD to establish and publish online standards and requirements for award recipients, and procedures for implementing the construction loan and escrow options within three months of the bills passing.

Discussion:

According to the bill's sponsor, Housing California, this bill would address the unprecedented situation caused when the Pooled Money Investment Board froze interim financing for all general obligation bonds 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

AUTHOR	**AMENDMENT DATE**	**BILL NUMBER**
N. Torres	June 22, 2010	AB 2293

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.

This bill significantly changes the design of the bond funded programs. The housing bonds programs have been established to provide financing upon completion of the project, which requires HCD to only provide one review of whether the project sponsor has met all of its contract conditions prior to release of funds. Project sponsors are not able to meet HCD's contract conditions upon the commencement of construction so HCD would have to develop and implement a program to track the progress of construction and to ensure that the project sponsor is on-track to meet its obligations for bond funding. While HCD would be authorized to contract with the construction lender to use the inspection reports generated for the lender, HCD staff would have to review the reports for consistency with the construction schedule and HCD program requirements on a on-going basis.

HCD has also expressed concerns associated with the timing of the activities associated with this bill. Requiring HCD to design the program and publish standards and guidelines is not realistic. HCD is not experienced at monitoring construction during the construction phase and, therefore, does not have personnel or processes in place for these activities.

B. Fiscal Analysis

If HCD is required 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 and would incur costs associated with establishing and publishing the standards and requirements online.

Code/Department Agency or Revenue Type	SO LA CO RV	PROP 98	FC	2010-2011	FC	2011-2012	FC	2012-2013	Fund Code
				(Fiscal Impact by Fiscal Year) (Dollars in Thousands)					
2240/HCD	UN	No		---------------------- See Fiscal Summary ----------------------					0001
2240/HCD	SO	No		---------------------- See Fiscal Summary ----------------------					0929

Fund Code	Title
0001	General Fund
0929	Housing Rehabilitation Loan Fund