FRANCESC MARTÍ

Legislative Update

CalHFA Board of Directors Meeting, July 9th, 2020

Federal Legislation

116th Congress

Phase 1
IMMEDIATE RESPONSE

H.R.6074- Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020

- No housing provisions.
- $8.3 billion in emergency funding to federal agencies for immediate COVID-19 response.
- Majority ($6.2 billion) is for HHS, including CDC.
- State Dept., USAID, FDA and SBA also funded.

Phase 3
STIMULUS

H.R. 748 - Coronavirus Aid, Relief, and Economic Security Act (CARES)

- Critical housing provisions.
- $1.8 trillion price tag.
- Direct stimulus checks to households.
- Expands Unemployment Insurance by $600/week until 7/31.
- $500 billion for Fed to stabilize economy.
- $349 billion in Small Business Loans.
- $150 billion to States and localities.
- $45 billion in FEMA disaster relief.

Housing Provisions in CARES.

- $12.4 billion for HUD.
- Mandates Fed to use CARES resources to support municipal market.
- Gives HUD Secretary broad authority to waive existing program regulations if necessary.
- Single- and Multifamily Forbearance and Evictions protections.

HUD Funding in CARES.

- $5 billion for CDBG.
- $4 billion for Emergency Solutions Grants.
- $2.25 billion for Tenant-Based and Project-Based Rental Assistance.
- $685 million for the Public Housing Operating Fund.
- $300 million for Native American programs.
- $65 million for HOPWA.
- $65 million for Section 202 and 811.

Forbearance and Eviction Protections in CARES.

- Homeowner Forbearance. Homeowners with federally-backed mortgage can request forbearance of up to a year due to COVID-19 financial hardship.
- 60-day Foreclosure Moratorium.
- Multifamily Forbearance. Allows multifamily properties with federally backed loans to request forbearance for COVID-19 financial hardship for up to 90 days.Participating owners may not evict tenants for non-payment or impose late fees.
- Eviction Moratorium. 120-day eviction moratorium on properties with any kind of federal backing or assistance, including LIHTC.

March 6th Bill Signed

March 18th Bill Signed

March 27th Bill Signed

April 24th Bill Signed

Expected July/August
Tentative

Phase 2
PAID LEAVE

H.R.6201 - Families First Coronavirus Response Act

- No housing provisions.
- 80 hours of Emergency Paid Sick Leave.
- 12 weeks of Paid Family Leave.
- Funding for States to expand unemployment benefits.
- Expands medical coverage to COVID-19 testing.

Phase 3.5
SMALL BUSINESS LOANS

H.R. 266 - Paycheck Protection Program and Health Care Enhancement Act Summary

- No housing provisions.
- $320 billion additionally for small businesses loans.
- $75 billion for hospitals.
- $25 billion to expand testing.

Phase 4

- *The House passed its version of Phase 4, the HEROES Act, on May 15th. The HEROES Act includes $100 billion in rental assistance and $75 million in homeowner assistance.*
- *The Senate is looking to pass a Phase 4 of COVID stimulus before it recesses in the second week of August.*

HEROES Act

- **Single Family Foreclosure Moratorium**
  - Resets 12 month clock
  - Expands to all mortgages in 1-4 unit homes,
  - Creates an automatic forbearance for delinquent mortgages.
- **Multifamily Forbearance**
  - Expands to all multifamily, not just federally backed and extends to 12 months.
  - Extends GSE patch.
- **Multifamily Servicer Liquidity**
  - Requires the Federal Reserve to implement a liquidity facility for mortgage servicer and residential rental property owners.
  - Forgives tenant arrearages.
  - Funds already provided in CARES but Treasury/Fed have declined to implement.
- **$100 B Emergency Rental Assistance**
  - Emergency Solutions Grant vehicle.
  - Allows States to administer non-entitlement portion but does not allow project basing.
- **$75 B Housing Assistance Fund**
  - Mirrors Hardest Hit Fund in TARP during 2008 Recession.
  - Awarded through HFAs for mortgage assistance.
- **HUD Funding**
  - $2 B for Public Housing Operating Fund for PHAs.
  - $5 B for CDBG.
  - $11.5 B for ESG.
  - $750 M for project-based section 8.
  - $700 M for HUD 202 for senior housing, and for HUD 811 for housing for people with disabilities.
  - $100 M for housing counseling.
  - $309 M for USDA’s rental assistance programs.

COVID-19 Stimulus Phase 4

Most Likely Components

- Small Business Loans
- Unemployment Insurance
- Stimulus Checks
- State and Local Unrestricted Funding (CRF)

What Housers are asking for

- $100 billion Emergency Rental Assistance Fund
- $75 billion in mortgage assistance for homeowners.
- Single and Multifamily Loan Servicer Liquidity Facility
- Housing Credit and Bond Expansions and Improvements
  - 4% minimum rate
  - Lowering 50% test
- Extension of CARES forbearance, foreclosure and eviction protections
- Additional HUD Funding

Infrastructure Bill

On July 1st, the House passed a new $1.5 trillion infrastructure package, the Moving Forward Act, H.R. 2.

- **Strengthens Housing Credit and Bonds**
  - Lowering of 50% Test to 25%
  - 4% Minimum Rate
  - 9% allocation increase by 50%
  - 10% Increase in Volume Cap.
  - Exempts from the PAB volume cap bonds used to finance construction or maintenance of sewage and water treatment facilities.
  - New Neighborhood Homes Credit for rehab, based on the Neighborhood Homes Investment Act (H.R. 3316).
- **$100 Billion in HUD Funding**
  - $70 B Public Housing Capital Fund.
  - $10 B for CDBG.
  - $ 5 B for the Housing Trust Fund.
  - $5 B for HOME.
  - $2.5 B for the Capital Magnet Fund
  - $5 B for HUD 202 and 811.

Federal Budget

- House Appropriations Committee and Subcommittees currently marking up bills this week and next.
- THUD bill was released July 7th:
  - $50.6 billion for HUD – an increase of $1.5 billion above the FY 2020 enacted level and $13.3 billion above the President's 2021 budget request.
  - Increases to TBRA (+$1.9 B), PBRA (+$881 M), HOME (+$350 M), CDBG (+$100 M).
  - New one-time appropriation of $49 B for pandemic recovery: vehicles are Public Housing Capital Fund ($24 B), HOME ($17.5 B) and CDBG ($4 B) amongst others.
  - Policy Riders:
    - Blocks the administration's public housing rule change targeting undocumented immigrants, which threatens the housing of 55,000 children who are citizens or legal residents.
    - Blocks the administration's proposal to weaken housing protections for LGBT Americans.
- House to pass most bills, including THUD, before August Recess
- Senate has postponed action on subcommittee markup indefinitely. A Senate THUD Appropriations draft bill has not been made public.
- Federal Fiscal Year Starts Oct. 1st
  - Budget agreement unlikely until after the election.
  - Continuing Resolution for first part of the FY21.

Federal Regulations

IRS COVID-19 Relief for LIHTC

- On July 1, the Internal Revenue Service published Notice 2020-53 providing temporary relief to owners and residents of Housing Credit and tax-exempt bond financed developments in response to the COVID-19 pandemic.
- The notice provides significant relief and addresses nearly all of the issues raised by LIHTC advocates nationally.
- Specific provisions of the notice include:
  - Suspends the owner requirement to perform tenant income recertifications for the period beginning April 1, 2020, and ending December 31, 2020;
  - Suspends the Housing Credit allocating agency requirement to conduct compliance monitoring inspections or reviews for the period beginning April 1, 2020, and ending December 31, 2020;
  - Allows temporary closure of property amenities or common areas during the period from April 1, 2020, to December 31, 2020, in response to the COVID-19 pandemic without resulting in a reduction of the eligible basis of the building; and
  - Allows medical personnel or other essential workers providing services during the COVID-19 pandemic to temporarily occupy Housing Credit units in accordance with the emergency housing provisions of IRS Revenue Procedures 2014-49 and 2014-50.
  - Extends the deadline for an owner of a building with a carryover allocation to meet the 10 percent test to December 31, 2020, if the original deadline was on or after April 1, 2020, and before December 31, 2020;
  - Extends the minimum rehabilitation expenditure period to December 31, 2020, if the original 24-month period ended on or after April 1, 2020, and before December 31, 2020;
  - Extends the reasonable restoration period in the event of casualty loss or prior major disaster to December 31, 2020, if the original deadline was on or after April 1, 2020, and before December 31, 2020;
  - Extends the transition period to meet the tax-exempt bond set-aside to December 31, 2020, if the original 12-month period ended on or after April 1, 2020, and before December 31, 2020;
  - Extends the tax-exempt bond rehabilitation expenditure period to December 31, 2020, if the original two-year period ended on or after April 1, 2020, and before December 31, 2020;

Community Reinvestment Act OCC Rule

- On May 20th, the Office of the Comptroller of the Currency (OCC) released a final rule on implementation of the Community Reinvestment Act (CRA) that will weaken incentives for banks to invest in affordable housing.
- First major Community Reinvestment Act (CRA) regulatory reform in 25 years,
- Proposed rule generated substantial opposition (7,500 public comments). CalHFA submitted public comment urging reform to not go forward.
  - Significant Congressional opposition as well
- 3 Regulators for CRA: OCC, the Federal Reserve Board, and the Federal Deposit Insurance Corporation (FDIC)
  - Unusual for only one of the regulators to reform CRA.
  - This means that new rules each regulator will have different rules creating a more complicated system. New rules will apply to most of the national banks that OCC supervises. State-chartered banks supervised by the Fed and FDIC will follow the current policies.
- An estimated 85 percent of the annual investment in LIHTC comes from CRA-covered banks, and there is a broad consensus that the "investment test" in the current CRA system is the most important reason why investors buy housing tax credits.
- The final rule evaluates banks on both the number of CRA-eligible loans and investments and the total amount of loans and investments to communities.
- The final rule's emphasis on the dollar volume of loans and the repeal of a separate investment test raises concerns it could deemphasize low-income housing tax credit (LIHTC) and new markets tax credit (NMTC) equity investment as compared to lending.
  - Easier for banks to pass test , because it is much easier for banks to make loans, especially in high-cost areas, than it is to underwrite equity investments.
- The final rule is effective Oct. 1, 2020 but full implementation is likely to take years.
- CRA has become politically contentious.
  - House has already introduced a resolution to nullify the rule,
  - Lawsuits have been filed to block its implementation.
  - If White House changes hands after the November election, a newly appointed Comptroller of the Currency will likely revoke the rule.

FHFA & FHA Foreclosure

- The Federal Housing Finance Agency (FHFA) announced on June 17th that Fannie Mae and Freddie Mac will extend their single-family moratorium on foreclosures and evictions related to the coronavirus until at least Aug. 31, 2020.
  - The current moratorium was set to expire on June 30. The foreclosure moratorium applies to GSE-backed, single-family mortgages only.
- FHFA also announced on June 29th that it will allow servicers to extend forbearance agreements for multifamily property owners with existing forbearance agreements for up to three months, for a total forbearance of up to six months.
  - While the properties are in forbearance, the landlord must suspend all evictions for renters unable to pay rent.
- Federal Housing Administration (FHA) also announced on June 17th that it is extending its foreclosure and eviction moratorium through Aug. 31, 2020, for homeowners with FHA-insured single-family mortgages.

State Legislation

2019-2020 Legislative Session

2020 State Legislative Session

- Atypical session because of COVID-19 crisis.
- Two months out of session because of pandemic; legislative activity resumed in May.
- List of active bills has been severely pared down to focus on items related to the pandemic and high-priority items.
- A number of significant housing bills failed the May and June in their house of origin:
  - AB 1905 (Chiu) Lowers CA mortgage interest tax deductions on primary home and eliminates it for second home; revenue generated is used for homelessness programs
  - AB 2829 (Ting) Creates a property tax exemption program for 80-120% AMI modeled after the current welfare exemption (below 80% AMI).
  - AB 2501 (Limon) Would prohibit foreclosures during the COVID-19 emergency and the 180-day period following the emergency.
  - AB 2058 (Gabriel) $500M Preservation Tax Credit.
- The Legislature adjourned on June 26th for their summer recess
- Session set to resume on July 13th.
  - Assembly has already announced they will not come back then given COVID spike.
- Session runs through August 31st
  - Tight timeframe to move legislation through policy and fiscal committees and for floor and concurrence votes.

Assembly Housing Package

- AB 3107 (Bloom) - Allows residential on commercially-zoned land if 20 % is affordable.
- AB 2345 (Gonzalez) - Enriches density bonus for projects with more low-income units.
- AB 1279 (Bloom) - Allows more density in high opportunity areas.
- AB 3279 (Friedman) - Shortens the timeline of CEQA litigation.
- AB 1851 (Wicks) - Reduces parking requirements for affordable housing developed on church parking lots.
- AB 725 (Wicks) - Requires jurisdictions to zone for medium density, moderate-incomes housing.
- AB 3040 (Chiu) - Allows localities to receive RHNA credit for rezoning single-family neighborhoods to allow fourplexes.

Senate Housing Package

- SB1410 (Caballero) - Tenant relief & landlord tax credits through 2034.
- SB 899 (Wiener) – By-right affordable housing on land owned by religious or educational institutions.
- SB 902 (Wiener) - Allows local ordinance that is not subject to CEQA for projects of up to 10 units in certain transit-rich, jobs-rich, or infill sites
- SB 995 (Atkins) - Expands existing CEQA streamlining to smaller housing projects that include at least 15 percent affordable housing.
- SB 1085 (Skinner) - Expands density bonuses to student housing and middle-income housing
- SB 1120 (Atkins) - Streamlines the process for a homeowner to create a duplex or subdivide an existing lot.
- SB 1385 (Caballero) - Extends SB35 ministerial housing approval process to office and retail sites that have been vacant or underutilized for at least three years.

Other prominent housing bills that have passed their house of origin

- SB 1079 (Skinner)- Authorizes localites to acquire residential property within it's jurisdiction by use of eminent domain if property has been vacant for 90 days, in order to build affordable housing.
- AB 3300 (Santiago) - Would require the state to annually appropriate $2 billion for homeless programs and low-income housing.
- SB 281 (Wiener) Extends the period for the expiration of a housing entitlement by 24 months.
- SB 795 (Beall) Provides $10 billion for 5 years through number of housing, climate resiliency, and economic development programs.

State Budget

FY 2020-2021

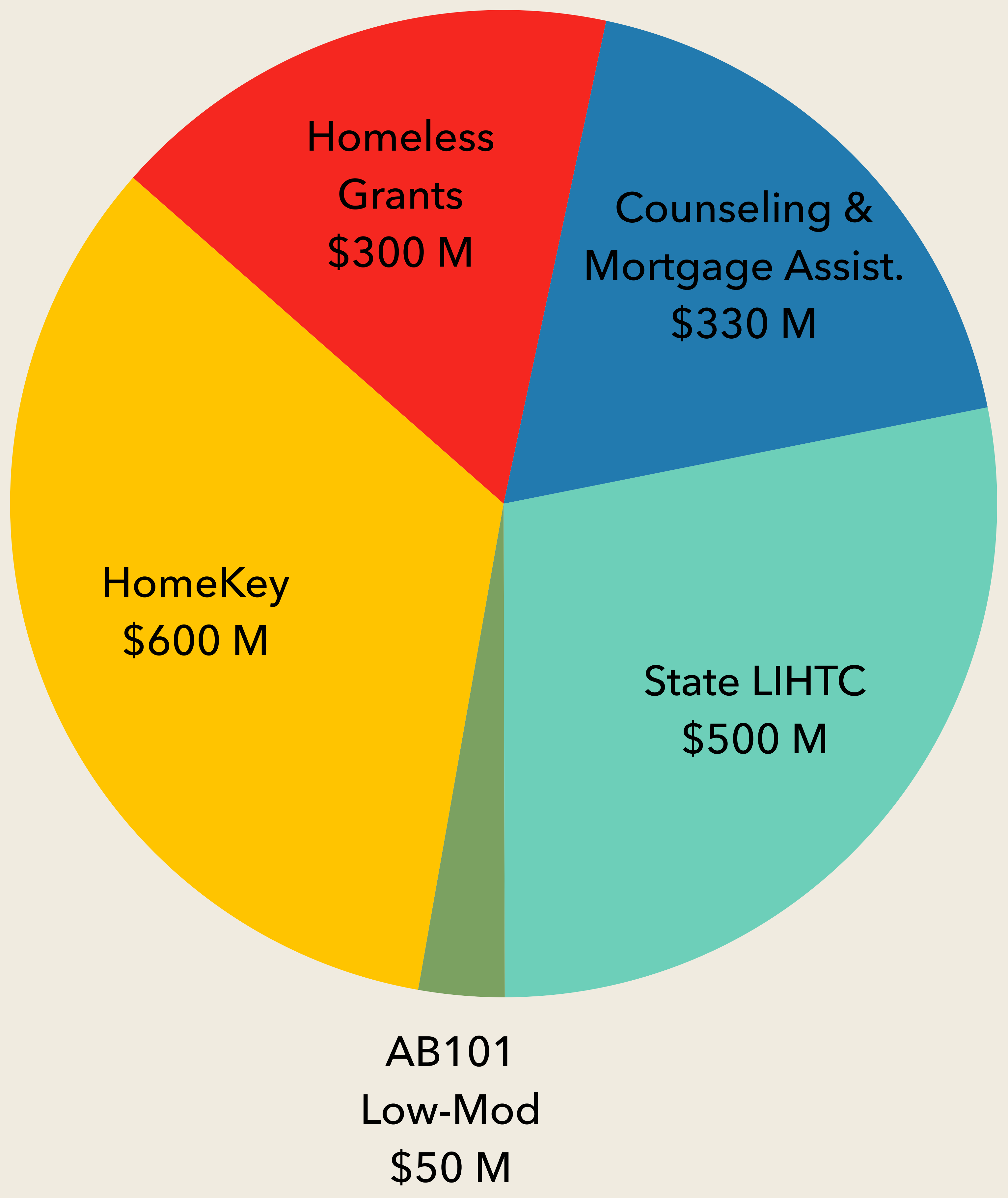
FY 2020-2021 State Budget

Reductions in 2020-21 Budget

- Backfilled if Congress provides $14 B to CA
- $250 M reduction in AB 101 Low and Moderate Income
  - Annual reductions:
    - $45 M in FY 2020-21
    - $120 M in FY 2021–22
    - $85 M in FY 2022-23
- $203 M cut to the Infill Infrastructure Grant Program (IIG)
  - AB 101 provided $500 M provided for IIG

Housing Funding in 2020-21 Budget

- $600 M for Project HomeKey
- $300 M Homeless Housing, Assistance and Prevention Program (HHAP), Round 2
- National Mortgage Settlement
  - $300 M to CalHFA for housing counseling and mortgage assistance.
  - $30 M to the Judicial Council for tenant legal aid.
- $50 M in AB 101 Low & Moderate Income Funds
- State LIHTC
  - $500 M for 2020.
  - Up to $200 M for CalHFA.
  - New criteria for TCAC/CDLAC scoring reform.
  - New reporting Requirements



CDLAC/ TCAC REFORM

JUDITH BLACKWELL

EXECUTIVE DIRECTOR,

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE &

CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE