Date of Hearing: April 27, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 2560 (Mia Bonta) – As Amended April 4, 2022

SUBJECT: Housing: blighted and tax defaulted property.

SUMMARY: Requires cities and counties to collaborate with social equity investors to create increased financing opportunities to develop affordable homes on blighted property. Specifically, **this bill**:

1) Requires every city, including a charter city, every county, and every city and county that has blighted property in its jurisdiction to develop and execute a plan to do all of the following:

   a) Collaborate with social equity investors, including, but not limited to, banks and regional charitable foundations, and infill community developers to create increased financing opportunities to develop affordable homes that are located on blighted property, that are made available to families whose incomes do not exceed 120 percent of the area median income, and that are set aside for affordable homeownership for first-time homebuyers.

   b) Determine policy and administrative changes required to achieve the plan described in a), above, and to increase the development of affordable homes for homeownership that are located on blighted property and that are made available to families whose incomes do not exceed 120 percent of the area median income.

   c) Identify blighted properties through code enforcement, nuisance abatement, and tax delinquency.

2) Provides that, for the purposes of this bill, "blighted property" includes vacant, unimproved, or blighted property, or vacant homes.

3) Finds and declares that increasing the availability of affordable housing to combat the state's housing crisis is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this bill applies to all cities, including charter cities.

4) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

1) **Bill Summary**. This bill requires all cities and counties with blighted properties to collaborate with social equity investors and infill community developers to create increased financing opportunities to develop affordable homes that are: located on blighted property; made available to families whose incomes do not exceed 120 percent of the area median income; and, set aside for affordable homeownership for first-time homebuyers.

Cities and counties must also determine policy and administrative changes required to achieve the plan described above, and to increase the development of affordable homes for homeownership for first-time homebuyers that are located on blighted property and that are made available to families whose incomes do not exceed 120 percent of the area median income.

This bill also requires cities and counties to identify blighted properties through code enforcement, nuisance abatement, and tax delinquency. This bill defines "blighted property" to include vacant, unimproved, or blighted property, or vacant homes.

This bill is sponsored by Richmond Neighborhood Housing Services, the Richmond Community Foundation, and California Community Builders.

2) **Author's Statement**. According to the author, "AB 2560 will promote homeownership and wealth-building for first-time homebuyers and in turn, reduce the incidence of vacant and blighted homes. This legislation will provide more resources for nonprofit and other community developers to acquire and rehabilitate existing infill housing to sell to families at an affordable price point. AB 2560 will do this by directing local governments to collaborate with social equity investors, banks and regional charitable foundations, and infill community developers to identify blighted properties and turn them into new homeownership opportunities for first-time homebuyers at or below 120% of AMI.

   "Existing public and private financing tend to focus exclusively on supporting multi-family rental housing aimed at families making 80% of AMI or less. It is also critical to fund development targeted at 120% of AMI to close the gap for struggling working-class families. Despite having the same income as their white counterparts, many moderate-income Black, Indigenous, and individuals of color struggle to buy a home since they do not have generational wealth to help attain homeownership."

3) **State Housing Crisis**. California faces a severe housing shortage. In its most recent statewide housing assessment, HCD estimated that California needs to build an additional 100,000 units per year over recent averages of 80,000 units per year to meet the projected need for housing in the state. A variety of causes contributed to the lack of housing production. Recent reports by the Legislative Analyst's Office and others point to local approval processes as a major factor. They argue that local agencies control most of the decisions about where, when, and how to build new housing, and those agencies are quick to respond to vocal community members that may not want new neighbors. The building industry also points to the review required by the California Environmental Quality Act (CEQA) as an impediment, and housing advocates note a lack of a dedicated source of funds for affordable housing.

4) **Social Impact Bonds**. According to Investopedia, "A social impact bond (SIB) is a contract with the public sector or governing authority, whereby it pays for better social outcomes in certain areas and passes on part of the savings achieved to investors. A social impact bond is not a bond, per se, since repayment and return on investment (ROI) are contingent upon the achievement of desired social outcomes. If the objectives are not achieved, investors receive neither a return nor repayment of principal. SIBs derive their name from the fact that their investors are typically those who are interested in not just the financial return on their investment, but also in its social impact.

"Social impact bonds tend to be risky investments, as they are entirely dependent upon the success of the social outcome. Unlike normal bonds, social impact bonds are not affected by variables such as interest rate risk, reinvestment risk, or market risk. However, they are still subject to default and inflation risk. It can be hard to determine the success of social impact bonds, as they are based on social impact, which is often harder to quantify and measure. There are many more variables than regular bonds, which are comparatively easy to measure because they are based on hard data. For this reason, it's hard for social impact bonds to get government funding.

"The first social impact bond was issued in 2010 by Social Finance Ltd.2. So far, social impact bonds have only been issued by the public sector, but in theory, private sector organizations can also issue them. The trend of investing in the social environment and society has risen in recent years and has become a way for investors to give back to the community, as well as a way for companies to expand their social responsibility. It's a way to increase community involvement and awareness of social issues. Most social impact bonds seek environmental, social, and governance (ESG) ends.

According to a working paper issued by Organization for Economic Co-operation and Development (OECD) in 2016 entitled *Understanding Social Impact Bonds*, "A SIB is an innovative financing mechanism in which governments or commissioners enter into agreements with social service providers, such as social enterprises or non-profit organizations, and investors to pay for the delivery of pre-defined social outcomes. More precisely, a bond-issuing organization raises funds from private-sector investors, charities or foundations. These funds are distributed to service providers to cover their operating costs. If the measurable outcomes agreed upfront are achieved, the government or the commissioner proceeds with payments to the bond-issuing organization or the investors. In reality, the term 'bond' is more of a misnomer. In financial terms, SIBs are not real bonds but rather future contracts on social outcomes. They are also known as Payment-for-Success bonds (USA) or Pay-for-Benefits bonds (Australia)…

"The first SIB implemented in the United Kingdom (UK) in 2010 aimed at decreasing recidivism. Since 2012, a sharp increase of interest in this mechanism has been observed. The majority of SIBs have been developed in the UK, followed by the US. Australia has developed two, Canada and South Korea one each. In continental Europe SIBs have been launched in Belgium, Germany, the Netherlands, Portugal, and Switzerland. Although outside the scope of this study, it has to be noted that developing countries, philanthropists and international donors have expressed their interest in this mechanism as well developed in the form of Development Impact Bonds (DIBs). Compared to SIBs, even less DIBs have been developed. In fact, only one DIB has been implemented to date in India for girls education. Still, a couple more are on the pipeline in Africa.

- SIBs involve a number of stakeholders who -from different perspectives and capacities- aim at delivering social outcomes, while transferring the implementation risk from the public sector or service providers to private investors.

- SIBs are complex instruments, which require technical expertise, time and funds, in order to be established. Therefore, policy makers should carefully evaluate whether an intervention is better served by a SIB or by a different approach…

"SIBs might provide an opportunity to address problems where existing public policy interventions are not achieving the desired social outcomes. The potential scope for SIBs depends on the structure of a country's welfare state, civil society, and private sector. SIBs seem more appropriate when there are investors available, who are ready to assume the relevant risks and are familiar with non-profits, social enterprises and social policies. There must also be authorities ready to collaborate with multiple stakeholders and assume, on their end, the costs that SIBs entail, for example for developing feasibility studies. SIBs might also be appropriate for organizations that have developed delivering capacities and expertise, but at the same time cannot go to scale. Still, this requires multi- annual funding. Finally and most importantly, SIBs seem to be an appropriate tool for financing interventions with measurable outcomes and identifiable target groups.

"So far, SIBs implementation has spanned across various policy areas, such as social welfare, education, criminal justice and recidivism, and employment. More precisely, social welfare SIBs have addressed issues such as homelessness, adoption and long-term foster care, family strengthening to avoid foster-care, support for disadvantaged youth."

5) **City of Richmond Social Impact Bond**. According to a case study issued in August, 2021 by the United States Environmental Protection Agency, "The City of Richmond, California and the Richmond Community Foundation (RCF Connects) developed a unique approach to address significant challenges with blighted properties and barriers to local home ownership. The city and RCF Connects established a new social impact bond that uses private capital to fund the rehabilitation of abandoned properties in the Richmond area.

"In addition, the city and RCF Connects leveraged EPA Brownfields Assessment and Cleanup grants to address some of the city's most challenging residential properties. Since the project began in 2015, RCF Connects has rehabilitated and sold dozens of affordable homes to first time homebuyers, facilitated millions of dollars of local spending, and attracted new investments to continue the organization's housing work.

"RCF Connects established a strong framework for their rehabilitation projects by working with the city to issue a social impact bond through a city ordinance. The ordinance and the associated Memorandum of Understanding set financial and social metrics for the work and defined each partner's role. In addition, they established a common vision for RCF Connects, the city, and the bond's investor (locally-based Mechanics Bank). The ordinance also guaranteed that the city would not be liable for the bonds.

"The long-standing relationship between RCF Connects and the city, developed through years of partnering on community development efforts, provided the foundation for this collaboration. Through partnering on the social impact bond, both entities leveraged their strengths for mutual benefits and success. The city can now expedite review of construction permits on social impact bond-funded properties. RCF Connects can obtain access to properties with liens from the city. These are just two examples of how the social impact bond has made addressing pervasive blight more efficient, resulting in the rehabilitation of homes, as well as increases in tax revenue and related benefits.

"RCF Connects focused on properties that developers and homebuyers considered too risky, including properties with significant environmental challenges and those in the court system for tax delinquency and probate. Social impact bond funds allowed RCF Connects to access many blighted homes in the Richmond area. Before acquiring a potentially contaminated property, RCF Connects conducted a Phase I Environmental Site Assessment or All Appropriate Inquiries. Some properties required additional assessment and cleanup due to historic contamination. After RCF Connects identified certain properties as "brownfields," they worked with EPA and the city to use EPA Brownfields Assessment and Cleanup funding. This additional grant funding allowed RCF Connects to tackle some of the most environmentally challenging properties in the city…

"Additionally, RCF Connects worked with SparkPoint Contra Costa, a local financial services collaborative partnership that helps individuals build a financially secure future. RCF Connects prioritized selling rehabilitated homes to graduates of SparkPoint Contra Costa's homebuyer program, connecting buyers with the program's newly renovated and energy efficient properties. RCF Connects also ensured the homes sold through their program would be lien-free, allowing homeowners to accrue value on their property and build wealth for themselves and their community.

"The combination of pairing the city's social impact bond investments with EPA Brownfields grant-funded work has highlighted a new way to locally finance challenging redevelopment projects. Mechanics Bank was motivated to become the social impact bond's initial investor because it helped them meet federal Community Reinvestment Act requirements. However, the compelling results of the social impact bond has led Mechanics Bank to extend their investment for another five years. RCF Connects' success has also attracted investment interest from new sources. Most recently, a group of donors contacted RCF Connects to build a Black homeownership fund. This fund will help members of the Black community purchase homes by providing up to $15,000 for down payment assistance or to cover closing costs. The loan is only repaid when the home is sold or the mortgage is refinanced."

6) **Redevelopment**. Article XVI, Section 16 of the California Constitution authorizes the Legislature to provide for the formation of redevelopment agencies (RDAs) to eliminate blight in an area by means of a self-financing schedule that pays for the redevelopment project with tax increment derived from any increase in the assessed value of property within the redevelopment project area (or tax increment). Generally, property tax increment financing involves a local government forming a tax increment financing district to issue bonds and use the bond proceeds to pay project costs within the boundaries of a specified project area. To repay the bonds, the district captures increased property tax revenues that are generated when projects financed by the bonds increase assessed property values within the project area.

   To calculate the increased property tax revenues captured by the district, the amount of property tax revenues received by any local government participating in the district is "frozen" at the amount it received from property within a project area prior to the project area's formation. In future years, as the project area's assessed valuation grows above the frozen base, the resulting additional property tax revenues — the so-called property tax "increment" revenues — flow to the tax increment financing district instead of other local governments. After the bonds have been fully repaid using the incremental property tax revenues, the district is dissolved, ending the diversion of tax increment revenues from participating local governments.

Prior to Proposition 13 very few RDAs existed; however, after its passage, RDAs became a source of funding for a variety of local infrastructure activities. Eventually, RDAs were required to set-aside 20% of funding generated in a project area to increase the supply of low and moderate income housing in the project areas. At the time RDAs were dissolved, the Controller estimated that statewide, RDAs were obligated to spend $1 billion on affordable housing. At the time of dissolution, over 400 RDAs statewide were diverting 12% of property taxes, over $5.6 billion yearly.

In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Ultimately, the Legislature approved and the Governor signed two measures, ABX1 26 (Blumenfield), Chapter 5 and ABX1 27 (Blumenfield), Chapter 6 that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) and the League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. As a result, all RDAs were required to dissolve as of February 1, 2012.

7) **Attempts to Replace RDAs**. After the Supreme Court’s 2011 Matosantos decision dissolved all RDAs, legislators enacted several measures creating new tax increment financing tools to pay for local economic development. The Legislature authorized the creation of EIFDs [SB 628 (Beall), Chapter 785, Statutes of 2014] quickly followed by CRIAs [AB 2 (Alejo), Chapter 319, Statutes of 2015]. Similar to EIFDs, CRIAs use tax increment financing to fund infrastructure projects. CRIAs may currently only be formed in economically depressed areas. The Legislature has also authorized the formation of affordable housing authorities (AHAs), which may use tax increment financing exclusively for rehabilitating and constructing affordable housing and also do not require voter approval to issue bonds [AB 1598 (Mullin), Chapter 764, Statutes of 2017]. SB 961 (Allen), Chapter 559, Statutes of 2018, removed the vote requirement for a subset of EIFDs to issue bonds and required these EIFDs to instead solicit public input, and AB 116 (Ting), Chapter 656, Statutes of 2019, removed the voter requirement for any EIFD to issues bonds in favor of a formal protest process. While these entities share fundamental similarities with RDAs in terms of using various forms of tax-increment financing, they differ in one significant aspect, which is not having access to the school’s share of property tax revenue.

8) **Policy Considerations**. The Committee may wish to consider the following:

   a) **Statewide Requirement**. While this bill does not require local governments to enter into social impact bonds, it requires them to build similar groundwork for issuing social impact bonds. Given that this is a relatively new financing model that also contains relatively high risks for investors, local agencies could invest significant time and resources in an effort that ultimately yields minimal results. The Committee may wish to consider whether all cities and counties in the state should be required to develop these kinds of collaborations, or whether a smaller-scale “pilot” might be more appropriate.

b) **Definition of Blight**. This bill defines "blighted property" to include vacant, unimproved, or blighted property, or vacant homes. This definition is very broad and could encompass properties that don't result in blight. For example, a vacant home does not necessarily present blight conditions, nor does vacant or unimproved property. The Committee may wish to consider if this definition should be clarified.

9) **Committee Amendments**. The Committee may wish to consider the following amendments to address the considerations raised above:

a) Limit the bill's provisions to Alameda and Contra Costa County, and the cities within those counties.

b) Use the definition of blight from Redevelopment Law (commencing with Health and Safety Code Section 33030).

c) Add a sunset date of January 1, 2028.

10) **Arguments in Support**. Richmond Neighborhood Housing Services, the Richmond Community Foundation, and California Community Builders, co-sponsors of this measure, write, "AB 2560 will promote homeownership and wealth-building for first-time homebuyers and reduce the incidence of vacant and blighted homes. This fund will be available for nonprofit, and/or emerging developers to acquire and rehabilitate existing infill housing to sell to families at an affordable price point.

"The bill will do this by directing local governments to collaborate with social equity investors, banks and regional charitable foundations, and infill community developers to turn blighted properties into new homeownership opportunities for first-time homebuyers at or below 120% of AMI. Existing public and private financing tend to focus exclusively on supporting multi-family rental housing aimed at families making 80% of AMI or less. It is critical to also fund development targeted at 120% of AMI to close the gap for struggling working-class families. Many BIPOC individuals, despite having the same income as their white counterparts, struggle to buy a home since they do not have the same generational wealth to rely on.

"This bill offers one solution to address the needs of families whose incomes are too high for most public financing programs, but far too low to compete in the housing market effectively."

11) **Arguments in Opposition**. None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Community Builders [CO-SPONSOR]
Richmond Community Foundation [CO-SPONSOR]
Richmond Neighborhood Housing Services [CO-SPONSOR]
The San Francisco Foundation

Opposition

None on file

Analysis Prepared by: Angela Mapp / L. GOV. / (916) 319-3958