

Summary of AB 1487 (Chiu, 2019)

San Francisco Bay Area Regional Housing Finance Act

Overview

Assembly Bill 1487 (Chiu, 2019) authorizes San Francisco Bay Area voters to approve various new taxes, that would be applicable regionwide, to help pay for new affordable housing, preserve existing affordable housing, and protect tenants from displacement or eviction. Specifically, the bill authorizes the Association of Bay Area Governments Executive Board and the newly-established Bay Area Housing Finance Authority (BAHFA), which is governed by the same board that governs the Metropolitan Transportation Commission (MTC), to place on the ballot four new revenue options and to impose a commercial linkage fee once certain conditions have been satisfied.

Why Establish a Regional Funding Source for Housing?

Housing is a regional issue that requires policy and funding coordination across jurisdictions. The Bay Area's 101 cities and nine counties are now responsible for solving the region's housing crisis on their own with limited resources and capacity. While MTC and ABAG have provided planning and policy tools to address the crisis, more money is needed to boost affordable housing construction and to preserve existing affordable housing at a regional scale.

What are the New Revenue Options ?

Any new revenue source to be placed upon the ballot will require a two-thirds vote. Options include a parcel tax, a general obligation bond, and two employer-based taxes—a per-employee “head tax” and a gross receipts tax. After conducting a regional nexus study subject to various findings, ABAG and BAHFA also may impose a regional commercial linkage fee capped at \$10 per square foot (plus an annual inflation adjustment) for affordable housing, but only if voters already have approved either a general obligation bond or a parcel tax.



How Can the Funds Be Used?

AB 1487 invests funds across the “3Ps” of production, preservation and protection. Specifically:

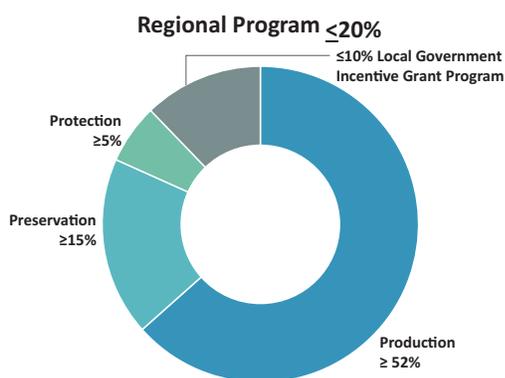
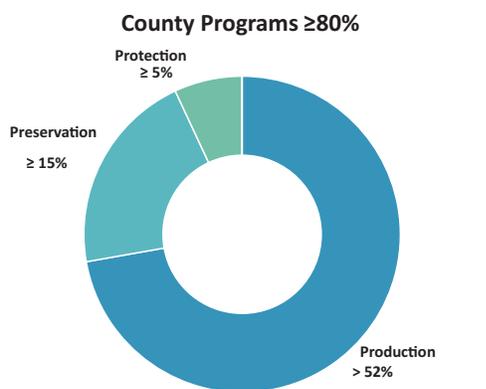
- Two-thirds of voter-approved funds must be dedicated to the production and preservation of affordable housing.
 - At least 52% must be spent on the production of rental housing restricted to be affordable to lower-income households (at or below 80% of the area median income or AMI) for at least 55 years.
 - At least 15% must be spent on the acquisition, rehabilitation and preservation of existing housing units that are restricted to be affordable to low-or moderate-income households (up to 120% of AMI) for 55 years.
- At least 5% must be spent on tenant protection
- Up to 10% of regional funds (see below) may be spent on a grant program for cities and counties that support housing and related uses. These may include infrastructure needs such as transportation, schools and parks; homeless shelters and homelessness prevention programs; programs to support home-ownership for low- or moderate-income households; and additional tenant protection efforts.

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- In sum, 28 percent of the funds are uncommitted to any particular 3P category and can be flexibly invested in accordance with local and regional housing needs across the 3P categories, and adjusted over time. See below for further details on how the 3P terms are defined in the bill.

Who Makes Spending Decisions?

- Local governments, specifically counties, will make the vast majority of investment decisions for the use of AB 1487 funds, subject to guidelines to be developed by the ABAG Executive Board and BAHFA.
- Specifically:
 - At least 80% of the revenue generated from a parcel tax, a general obligation bond or a gross receipts tax must be invested in the county in which it was generated, leaving 20% for a regional funding pool that can be spent in any county in which the measure appears on the ballot.



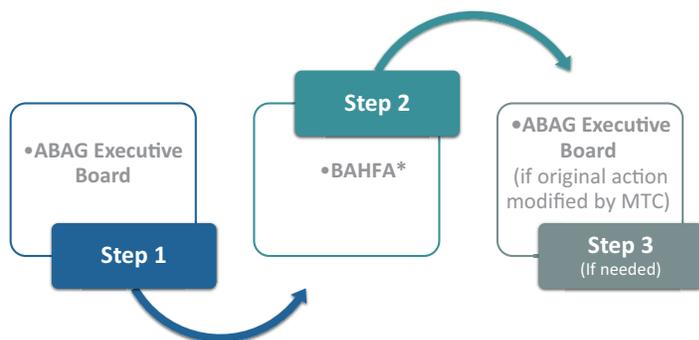
- For the “head tax” (based on the number of employees), the bill requires a lower “return to source” minimum share of “at least 50%”. This enables a larger share of revenue from cities or counties with a high concentration of jobs to be shared with other jurisdictions that may be zoning for and building a significant share of housing to support jobs outside boundaries.

- Investment of commercial linkage fee revenue is subject to the findings and analysis of a nexus study which must be prepared and adopted by the ABAG Executive Board, and ratified by BAHFA, before it is instituted. As such, no formulas are associated with this fee.

- Decisions about how to spend the county-based funds will be made in expenditure plans adopted by each county board of supervisors. Each county will determine the appropriate entity to administer its share of the funds. The bill provides that these expenditure plans may span multiple years, but counties must submit annual reports on their expenditures to date by July 1 each year after the first year of revenue is received.
- Regional funding will be controlled jointly by the ABAG Executive Board and BAHFA and will also be set forth in an expenditure plan.

How Will Ballot Decisions be Made?

- All major decisions related to revenue and expenditure of funds will be made by both ABAG and BAHFA, with ABAG acting first. If BAHFA’s action differs from ABAG’s, such changes must be subsequently approved by ABAG.
- AB 1487 states that the Legislature’s intent is to transfer governing powers to a new regional agency if MTC and ABAG merge, or if a new regional agency takes their place, but the bill does not require the two organizations to merge. Any ABAG-MTC merger would require subsequent legislation.
- The ABAG Executive Board and MTC each may, upon mutual agreement, defer to the other a responsibility assigned to it.



* AB 1487 establishes the Bay Area Housing Finance Authority (BAHFA) with the same board and staff as MTC (like the Bay Area Toll Authority).

Role and Powers of BAHFA

- AB 1487 states that the purpose of BAHFA is to “raise, administer and allocate funding and provide technical assistance at a regional level for tenant protection, affordable housing preservation and new affordable housing production.”
- BAHFA's jurisdiction includes the nine-county San Francisco Bay Area, but a ballot measure may be limited to as few as four counties.
- BAHFA is governed by the same board that governs MTC but is a separate legal entity.
- BAHFA is staffed by MTC or any successor agency with the understanding that new staff with expertise in affordable housing finance will be needed.
- All BAHFA meetings are subject to the Ralph M. Brown Act's public meeting requirements.

Direct Allocation to Certain Cities

- For larger cities or those that are expected to meet a significant share of their county's housing needs, the bill provides funds to them directly rather than to the counties in which they reside. This includes Oakland, San Francisco and San Jose
- In counties other than Alameda, SF and Santa Clara, cities that receive more than 30% of their county's regional housing needs allocation (RHNA) for low-income households may receive a direct allocation upon request. Cities currently exceeding this 30% threshold include Fairfield, Napa, San Rafael and Santa Rosa. Counties may elect to provide suballocation to other cities but are only required to offer suballocation to those cities that exceed the 30% threshold.
- The amount provided to a city receiving a direct allocation is determined by that city's share of the county's regional RHNA allocation for low-income households.
- A city receiving a direct allocation is allowed five years to spend the funds after they are committed to a specific project. Counties may authorize an extension for up to two years if needed.

How Are the “3P” Terms Defined in AB 1487?

- **Production** is defined broadly based on an existing definition in state law for housing development costs and includes the cost of land, site preparation, permits, construction and financing.
- **Preservation** includes preserving publicly-subsidized housing, purchasing existing private housing to preserve its affordability, and converting hotels and motels to affordable housing.
- **Protection** includes:
 - Pre-eviction and eviction legal services, counseling, education, representation, and services to improve habitability
 - Emergency rental assistance for lower-income households
 - Relocation assistance for lower-income households beyond local or state requirements already in effect
 - Collection and tracking of information related to displacement and displacement risks, rents, and evictions in the Bay Area.

Adjustments to Minimum 3P Shares

- Changes to the minimum “3P” shares for production, preservation and protection is subject to a two-thirds vote of the ABAG Executive Board and BAHFA, and may only be considered five years after voter approval of a funding measure. Any such changes also are subject to public participation requirements and consultation with a new AB 1487-related advisory committee.
- To make an adjustment, the ABAG Executive Board and BAHFA must also adopt a finding — with the ABAG Executive Board acting first — that the region's needs in a given category differ from the 3P shares specified in the bill.

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Protection from Displacement

The bill includes a number of provisions to limit displacement of existing residents resulting from demolition to make way for new affordable housing or rehabilitation of existing housing. Specifically:

- Funds used for affordable housing preservation shall not result in the displacement of existing residents even if their household income exceeds 120% of AMI.
- Buildings shall achieve 100% occupancy by low-or moderate-income households over time through unit turnover
- If existing residents are relocated due to rehabilitation or demolition of units for preservation purposes, the developer is required to:
 1. provide such residents a “right of first refusal” to rent or buy comparable units at an affordable rent or purchase price.
 2. provide such residents with relocation benefits in an area convenient to their current employment and at a cost or rent no greater than 30% of their income.
 3. at least the same number of units at equivalent rent or affordable housing cost to persons and families in the same or lower income category as those residing in the units at the time of demolition or rehabilitation.

Report Requirements

BAHFA and the ABAG Executive Board must conduct a review of any voter-approved measure after five years. This review must include expenditures to date; number of affordable housing units produced or preserved at different income levels; tenant protection services provided; and the roles of BAHFA and the Executive Board.

Advisory Committee & Public Participation Requirements

AB 1487 requires formation of an advisory committee to provide input and recommendations to the ABAG Executive Board and BAHFA about funding guidelines and overall implementation. The board is required to be comprised of nine representatives with knowledge of affordable housing finance, tenant protection, and housing preservation.

In addition, the bill requires outreach efforts to include broad participation of stakeholder groups and for BAHFA to hold at least one public meeting 30 days before it acts on a plan or proposal in order to provide ample time for discussion.

For more information, contact **Rebecca Long**, Manager of Government Relations, rlong@bayareametro.gov or info@bayareametro.gov.



ASSOCIATION OF BAY AREA GOVERNMENTS
METROPOLITAN TRANSPORTATION COMMISSION

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