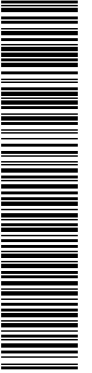


An act to amend Sections 50560, 50561, and 50562 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

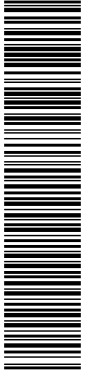
SECTION 1. Section 50560 of the Health and Safety Code is amended to read:

50560. (a) Subject to the requirements of this chapter, the department may approve an extension of a department loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, the payoff of a department loan in whole or part before the end of its term, the extraction of equity from a development for purposes approved by the department, or an investment of tax credit equity under one or more of the following rental housing finance programs: the original Rental Housing Construction Program established by Chapter 9 (commencing with Section 50735), the Special User Housing Rehabilitation Program established by Section 50670, ~~the Deferred Payment~~ Deferred-Payment Rehabilitation Loan Program established by Chapter 6.5 (commencing with Section 50660), the rental component of the California Natural Disaster Assistance Program established by Chapter 6.5 (commencing with Section 50671), the State Earthquake Rehabilitation Assistance Program established by Chapter 6.5 (commencing with Section 50671), the rental component of the California Housing Rehabilitation Program established by Section 50668.5, the component of the Rental Housing Construction Program funded with bond proceeds governed by Section 50771.1, the Family Housing Demonstration Program established by Chapter 15 (commencing with Section 50880), the Families Moving to Work Program established by Chapter 15 (commencing with Section 50880), the Multifamily Housing Program established by Chapter 6.7 (commencing with Section 50675), and any and all other multifamily housing loans funded or monitored by the department.

(b) Once the department has approved a loan extension, reinstatement of a qualifying unpaid matured loan, subordination, payoff of a department loan in whole or part before the end of its term, extraction of equity from a development for purposes approved by the department, or tax credit investment pursuant to this chapter, the statutes enumerated in subdivision (a), and the regulations or guidelines promulgated pursuant to these statutes, shall no longer apply to developments restructured pursuant to this chapter. These developments shall instead be governed by this chapter and guidelines adopted pursuant to subdivision (h).

(c) All projects restructured pursuant to this chapter shall comply with the affirmative marketing and language accessibility requirements set forth in Section 50736 of this code and Section 65863 of the Government Code.

(d) The department may approve an extension of a loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, the payoff of a department loan in whole or part before the end of its term, the extraction of equity from a development for purposes approved by the department, or an investment of tax credit equity if it determines that the project has, or will have after rehabilitation or repairs, a potential remaining useful life equal to or greater than the term of the ~~restructured loan.~~ department's regulatory agreement. Eligible uses of loan and equity sources under this subdivision include, but are not limited to, the purchase of a limited partner interest of a tax credit investor in the project, payment for necessary repairs and rehabilitation of the project, and the establishment or replenishment of department-approved project reserves.



(e) The department may subordinate its loan to refinance existing senior debt only as necessary for project feasibility for eligible activities pursuant to subdivision (d) and to reimburse borrower advances for predevelopment costs, recent capital improvements, and recent operating deficits. deficits, only if the department's security is not jeopardized, as determined by the department. The department shall not withhold consent unreasonably.

(f) If the extension of a department loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, the payoff of a department loan in whole or part before the end of its term, the extraction of equity from a development for purposes approved by the department, or an investment of tax credit equity will result in a rent increase for tenants of a development, development exceeding the annual adjustment to the tenants' rents under the department's regulatory agreement, the department may only subordinate a loan to senior debt if necessary to increase the feasibility of a project and to fund reasonable rehabilitation or improvements including soft costs. The application to refinance shall include a third-party analysis that supports the need for refinancing.

(g) The department may approve additional senior debt for eligible activities pursuant to subdivision (d), and only as necessary to finance rehabilitation or repairs, including soft costs, that are modest reasonable in size, scope, and cost, as determined by the department. In approving additional senior debt, the department may consider information from third-party capital needs assessment reports.

(h) It is the intent of the Legislature in enacting this chapter to provide to the department the flexibility necessary to maintain the quality of the affordable rental housing units for which the state has already made a significant public investment. The department may implement this chapter through guidelines that shall not be subject to Chapter ~~2.5~~ 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These guidelines shall be developed through the following process:

(1) The department shall provide a notice of proposed action as described in Section 11346.5 of the Government Code to the public at least 21 days before the close of the public comment period.

(2) The department shall schedule at least one public hearing as described in Section 11346.8 of the Government Code before the close of the public comment period.

(3) The department shall maintain a rulemaking file as described in Section 11347.3 of the Government Code.

(4) The final version of the guidelines shall be accompanied by a final statement of reason as described in subdivision (a) of Section 11346.9 of the Government Code.

(5) The rules and guidelines shall be effective immediately upon adoption by the department.

SEC. 2. Section 50561 of the Health and Safety Code is amended to read:

50561. (a) The department may approve an extension of an existing rental housing development ~~loan, loan or regulatory agreement,~~ if the extension facilitates the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, the extraction of equity from a development for purposes approved by the department, or an investment of tax credit equity as long as equity, only if the rental housing development is being operated in a manner consistent with the regulatory



agreement and the development requires an extension in order to continue to operate in a manner consistent with this chapter. Each extension shall be for a period of not less than 10 years and each extension shall not exceed 55 years, or 58 years if needed to match the term of tax credit restrictions. The interest rate shall be 3 percent simple interest. All loan payments shall be deferred for the full term of the loan, except for residual receipts payments. These residual receipts payments shall be structured to avoid reducing the amount of payments on local public agency loans resulting solely from changes in the payment terms on the department's loan, and not resulting from fees or other payments to the borrower, and shall otherwise be consistent with the provisions of the department's Uniform Multifamily Regulations or successor regulations. The department may charge a monitoring fee to cover the aggregate monitoring costs it incurs ~~in years that the loan is extended and~~ from the date of the recordation of the loan or regulatory documents regarding any of the eligible activities pursuant to this subdivision, and may charge a transaction fee or other fees to cover its costs for processing restructuring transactions. The monitoring fees shall continue until the end of the term of the department regulatory agreement, notwithstanding any payoff of the department loan, and the monitoring fees shall not be diminished in the event of any paydown of the department loan. The department may waive or defer some or all fees, if it determines that a particular development or class of developments does not have the ability to make these payments. In determining the fees and payments to be charged, the department shall seek to share monitoring activities with other regulatory agencies and to minimize the impact on tenants with the lowest incomes and on the capacity of the developments to support private debt or secure tax credit investments.

(b) To the minimum extent necessary to support new debt to pay for rehabilitation, but not for extraction of equity, rents for assisted units in these developments may be adjusted. adjusted pursuant to the department guidelines and Section 42 of the Internal Revenue Code. This rehabilitation shall be determined by the department to be demonstrably necessary, based on third-party assessment and on the department's own ~~inspection. inspection, if the department deems an inspection necessary.~~ Assisted units in developments with a specific, department-approved plan to undertake the necessary rehabilitation, at a level that equals or exceeds the minimum per-unit rehabilitation cost standards under the low-income housing tax credit program, may be adjusted as follows:

(1) For developments originally financed under the bond-funded component of the Rental Housing Construction Program pursuant to Section 50771.1, and the Family Housing Demonstration Program, rents may be increased up to a maximum of 30 percent of 60 percent of area median income, for units designated in the development's original regulatory agreement as lower income units, and up to a maximum of 30 percent of 35 percent of area median income, for units designated in the development's original regulatory agreement as very low income units.

(2) For developments originally financed under other programs, rents for at least 35 percent of the assisted units, or as specified in the original regulatory agreement governing the development, whichever is greater, shall be restricted to the midlevel target used by the Multifamily Housing Program. Rents for the balance of the assisted units may be increased up to a maximum of 30 percent of 60 percent of area median



income. For purposes of this paragraph, “midlevel target used by the Multifamily Housing Program” shall mean either of the following:

(A) For counties with an area median income of 110 percent or less of state median income, it shall mean 30 percent of 30 percent of state median income, expressed as a percentage of area median income.

(B) For counties with an area median income that exceeds 110 percent of the state median income, it shall mean 30 percent of 35 percent of state median income, expressed as a percentage of area median income.

(c) Rent increases for tenants living in assisted units at the time of restructuring pursuant to this chapter shall be limited as follows:

(1) For existing tenants with incomes not exceeding 35 percent of area median income, increases shall be limited to 5 percent per year, until the rents reach the levels set under subdivision (b).

(2) For existing tenants with incomes exceeding 35 percent of area median income, increases shall be limited to 10 percent per year, until they reach the levels specified in paragraphs (1) and (2) of subdivision (b) of Section 50561.

(3) It is the intent of the Legislature that rent increases for existing tenants authorized by this subdivision shall not be greater than necessary to ensure the financial feasibility of the project. The projected maximum rent for tenants in assisted units, as determined by subdivision (b), shall not exceed 50 percent of the household’s actual income. This requirement shall be applied using maximum rent levels and household incomes determined at the time of restructuring or at the time of the department’s approval of the restructuring.

(4) If the refinance of a loan results in a rent increase, the project sponsor shall provide tenants with the following notifications:

(A) Notice six months ~~prior to~~ before the scheduled rent increase with an estimate of the amount of the increase.

(B) Notice 90 days ~~prior to~~ before the actual increase with the exact amount of the new rent.

(d) If existing tenants move, the rent for these units may be increased immediately up to the level specified in paragraphs (1) and (2) of subdivision (b). The income limit for new tenants shall correspond with the rent limit set pursuant to paragraphs (1) and (2) of subdivision (b).

(e) Once rents achieve the levels set forth in paragraphs (1) and (2) of subdivision (b), income levels and rent limits shall be calculated consistent with the calculation methodology used under the Low Income Housing Tax Credit program and the Multifamily Housing Program, and rent increases shall be based on increases in the area median income.

(f) Eligible households displaced as a result of rehabilitation pursuant to this section shall be accorded first priority in occupying comparable units in the development from which they were displaced, subsequent to rehabilitation. Tenants of rental housing developments repaired with assistance provided under this chapter who are temporarily or permanently displaced as a result of rehabilitation or other repair work, shall be entitled to relocation benefits pursuant to, and subject to, the requirements of Section 7260 of the Government Code. Sponsors of assisted rental housing developments shall be responsible for providing the benefits and assistance. The costs of the benefits and



the assistance provided to tenants shall be eligible for funding by a loan provided pursuant to this section.

(g) The guidelines adopted by the department pursuant to subdivision (h) of Section 50560 shall be patterned after the regulations governing the Multifamily Housing Program, including the Uniform Multifamily Regulations, except that the department may adopt different standards for the following factors:

- (1) Commercial vacancy loss assumptions must reflect project operating history.
- (2) Debt service coverage ratios.
- (3) Payment terms and principal amount of senior debt, considering financial market conditions, including costs and department risk, as determined by the department.
- (4) Developer fee limitations shall be consistent with California Tax Credit Allocation Committee regulations for inclusion in the basis for projects receiving 9 percent tax credits, for projects receiving the special rent increases contemplated by this chapter, and, consistent with the requirements of other funding sources, for projects not receiving special rent increases. increases, but developer fees shall not exceed the amount allowed by the California Tax Credit Allocation Committee regulations for projects receiving 9 or 4 percent tax credits, as applicable, and shall not exceed 25 percent of actual rehabilitation costs where there is no tax credit resyndication. Developer fees shall only be payable in the event of a resyndication involving major rehabilitation, as defined by the California Tax Credit Allocation Committee in regulations.

(5) Replacement reserve deposit amounts must be based on projected costs over 20 years, adjusted for inflation, and as shown in an independent replacement reserve analysis.

(h) It is the intent of the Legislature in enacting this section that the department shall manage its reserves for the original Rental Housing Construction Program in a manner that will allow for the continuation of benefits to current low-income tenants for the longest period of time possible up to the term of the original regulatory agreement or the depletion of the annuity funds, whichever occurs first. Accordingly, rents for those households in units subsidized by the annuity fund established pursuant to Section 50748 may be increased to 30 percent of household income. A household affected by the rent increase permitted by this subdivision shall be given at least 90 days advanced notice of the increase.

(i) (1) The department shall, within available resources, post on its ~~Internet Web site~~ internet website information regarding household incomes and rents for developments approved for restructuring.

(2) The information shall be provided within six months of a restructuring and, thereafter, no less than every three years.

(3) The information shall include the following or similar information:

(A) The monthly rent of each household at the time of restructuring.

(B) The current monthly rent of each household.

(C) The annual income of each household as a percentage of area median income at the time of restructuring.

(D) The current income of each household as a percentage of area median income.

SEC. 3. Section 50562 of the Health and Safety Code is amended to read:

50562. (a) If a department loan is ~~extended or~~ extended, subordinated, or paid off before the end of its term, the department approves the reinstatement of a qualifying



unpaid matured loan, the department approves the extraction of equity from a development, or a new tax credit investment occurs, then the department shall enter into a new regulatory agreement with the development's owner, or amend the existing agreement. agreement, and may add another regulatory agreement if the department determines it necessary. The agreement shall be binding upon the development's owner and successors in interest upon sale or transfer of the development property, regardless of any prepayment of the loan. The agreement shall be recorded in the office of the county recorder in the county in which the development is located. The new or amended regulatory agreement shall:

- (1) Set standards for tenant selection to ensure occupancy by the eligible households.
- (2) Govern the terms of occupancy agreements.
- (3) Restrict rents for assisted units, consistent with this chapter.
- (4) Provide for periodic inspections by the department.
- (5) Require occupancy and financial reports, and financial audits for the ~~development.~~ development, unless waived by the department if the department loan is paid off and the waiver may be rescinded in the sole determination of the department.
- (6) Govern the use of operating income for the ~~development.~~ development, unless waived by the department if the department loan is paid off and the waiver may be rescinded in the sole determination of the department.
- (7) Govern the use of reserves for the ~~development.~~ development, unless waived by the department if the department loan is paid off and the waiver may be rescinded in the sole determination of the department.
- (8) Have a term for not less than the term of the loan, including any extension.
- (9) Include other provisions necessary to carry out the purposes of this ~~chapter.~~ chapter, including the requirement that any extraction of equity from the development is subject to being shared with the department in an amount determined solely by the department.

(b) The development's owner shall agree to replace or amend any other loan document to accomplish the purposes of this chapter.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the statewide affordable housing crisis in California and to provide immediate assistance to affordable housing developers, it is necessary that this act take effect immediately.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, Ward.
General Subject: Housing programs: financing.

Existing law establishes the Department of Housing and Community Development and requires it to administer various programs intended to promote the development of housing and to provide housing assistance and home loans. Existing law sets forth various general powers of the department in implementing these programs, including authorizing the department to enter into long-term contracts or agreements of up to 30 years for the purpose of servicing loans or grants or enforcing regulatory agreements or other security documents.

Existing law, unless an extension of a department loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, or an investment of tax credit equity would result in a rent increase for tenants of a development, authorizes the Department of Housing and Community Development to approve an extension, reinstatement, subordination, payoff, extraction, or investment pursuant to specified rental housing finance programs, as specified, or if the department determines that a project has, or will have after rehabilitation or repairs, a potential remaining useful life equal to or greater than the term of the restructured loan. Existing law authorizes the department to charge a monitoring fee to cover the aggregate monitoring costs in years the loan is extended and a transaction fee to cover its costs for processing restructuring transactions, and requires developer fee limitations to be consistent with specified laws and regulations, including regulations by the California Tax Credit Allocation Committee.

This bill would revise and recast these provisions, including additionally authorizing the department to approve the payoff of a department loan in whole or part before the end of its term and the extraction of equity from a development for purposes approved by the department. The bill would specify eligible uses of loan and equity sources, if the department determines that a project has, or will have after rehabilitation or repairs, a potential remaining useful life equal to or greater than the term of the department's regulatory agreement for purposes of approving an extension, reinstatement, subordination, payoff, extraction, or investment, as described above. The bill would prohibit the extension, reinstatement, subordination, payoff, extraction, or investment, as described above, if it would result in a rent increase for tenants of a development over and above the annual adjustment to the tenants' rents under the department's regulatory agreement. The bill would authorize the department to waive specified requirements in the regulatory agreement if the loan is paid off, including requiring occupancy and financial reports and governing the use of operating income and reserves for the development. The bill would authorize the department to charge additional fees as necessary to cover its costs for processing restructuring transactions, and would provide that the monitoring fees continue until the end of the term of the department's regulatory agreement, as specified. The bill would limit developer fees



to the amount allowed by the California Tax Credit Allocation Committee or to 25% of actual rehabilitation costs, as applicable.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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