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HEALTH AND SAFETY CODE - HSC

DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING [33000 - 37964] (*Heading of Division 24 amended by Stats. 1975, Ch. 1137.*)

PART 13. RESIDENTIAL REHABILITATION [37910 - 37964] (*Part 13 added by Stats. 1973, Ch. 1201.*)

CHAPTER 2. Powers and Procedures [37915 - 37925] (*Chapter 2 added by Stats. 1973, Ch. 1201.*)

37915. A local agency may determine the location and character of any residential rehabilitation to be financed under the provisions of this part and may lend financial assistance to any participating party for the purpose of financing residential rehabilitation in areas designated as residential rehabilitation areas by the local agency, or for the purpose of financing residential rehabilitation outside such areas, as provided in Section 37922.1 or 37924.5.

(*Amended by Stats. 1977, Ch. 920.*)

37915.5. In developing criteria for selection of residential rehabilitation areas pursuant to subdivision (a) of Section 37922, the local agency shall analyze the need for senior citizen housing within its jurisdiction and shall, at a public hearing, consider criteria which give priority to rehabilitation of senior citizen housing.

(*Added by Stats. 1976, Ch. 319.*)

37916. The local agency may issue bonds and bond anticipation notes of the local agency for the purpose of financing residential rehabilitation authorized by this part and for the purpose of funding or refunding such bonds or notes.

(*Added by Stats. 1973, Ch. 1201.*)

37917. The local agency may fix fees, charges, and interest rates for financing residential rehabilitation and may from time to time revise such fees, charges, and interest rates to reflect changes in interest rates on the local agency's bonds, losses due to defaults, changes in loan servicing charges, or other expenses related to administration of the residential rehabilitation financing program. Any change in interest rate shall conform to the provisions of Section 1916.5 of the Civil Code, except that paragraph (3) of subdivision (a) of Section 1916.5 shall not apply and that the "prescribed standard" specified in Section 1916.5 shall be periodically determined by the governing body of the local agency after hearing preceded by public notice to affected parties, and shall reflect changes in interest rates on the local agency's bonds, losses due to defaults, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this part.

The local agency may purchase loans made to participating parties by qualified mortgage lenders without premium, if the loan was approved for such purpose prior to consummation of the loan and is of the character and on the terms previously established by the local agency for the residential rehabilitation program. The local agency may fix fees for servicing of such loans by qualified mortgage lenders, or may itself undertake collection, or may contract to pay any person, partnership, association, corporation, or public agency for such collection and disbursal. In determining fees and charges for financing and servicing of loans by qualified mortgage lenders, the local agency shall endeavor to obtain participation of not less than two qualified mortgage lenders, and shall apply the same fees and charges to all participating qualified mortgage lenders.

The local agency may hold deeds of trust or mortgages, including, but not limited to, mortgages insured under Title II of the National Housing Act (12 U.S.C., 1707 et seq.), as security for financing residential rehabilitation and may pledge or assign the same as security for repayment of bonds issued pursuant to this part. The local agency may establish the terms and conditions for the financing of residential rehabilitation undertaken pursuant to this part, and may require that any note evidencing a loan made to a participating party be insured or guaranteed, in whole or in part, by an instrumentality of the United States or of the State of California or by a person licensed to insure mortgages in this state. Notwithstanding any other provision of law, any person licensed to insure mortgages or to write residential mortgage guarantee insurance in the state shall be authorized to insure or guarantee, in whole or in part, any loan made for residential rehabilitation, excluding residential infill construction, pursuant to and in accordance with the provisions of this part, and such insurance shall not exceed 95 percent of the after-rehabilitation value of the property

subject to such loan. Such insurance may include insurance of construction advances for purposes of residential rehabilitation and need not require completion of said residential rehabilitation for payment of claims thereunder.

Such notes, deeds of trust, or mortgages may be assigned to, and held on behalf of the local agency by, any bank or trust company appointed to act as trustee or fiscal agent by the local agency in any indenture or resolution providing for issuance of bonds pursuant to this part.

Notwithstanding Section 711 of the Civil Code, the full amount owed on any loan for residential rehabilitation made pursuant to this part shall be due and payable upon sale or other transfer of ownership of the property subject to such rehabilitation, except that assignment of the loan to the buyer or transferee may be permitted where required by the federal or state insurer or in cases of hardship, which shall be defined, and procedures established for the determination of their existence, in the guidelines established pursuant to subdivision (c) of Section 37922.

(Amended by Stats. 1980, Ch. 1330.)

37918. The local agency may employ engineering, architectural, accounting, collection, or other services, including services in connection with the servicing of loans made to participating parties, as may be necessary in the judgment of the local agency for the successful financing of such residential rehabilitation. The local agency may pay the reasonable costs of consulting engineers, architects, accountants, and construction experts, if, in the judgment of the local agency, such services are necessary to the successful financing of any residential rehabilitation and if the local agency is not able to provide such services. The local agency may employ and fix the compensation of financing consultants, bond counsel, and other advisers as may be necessary in its judgment to provide for the issuance and sale of any bonds or bond anticipation notes of the local agency.

(Added by Stats. 1973, Ch. 1201.)

37919. In addition to all other powers specifically granted by this part, the local agency may do all things necessary or convenient to carry out the purposes of this part.

(Added by Stats. 1973, Ch. 1201.)

37920. Revenues and the proceeds of mortgage insurance or guarantee claims, if any, shall be the sole source of funds pledged by the local agency for repayment of its bonds. Bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the local agency or a pledge of the faith and credit of the local agency but shall be payable solely from revenues and the proceeds of mortgage insurance or guarantee claims, if any. The issuance of bonds shall not directly, indirectly, or contingently obligate the legislative body to levy or pledge any form of taxation or to make any appropriation for their payment.

(Amended by Stats. 1977, Ch. 931.)

37921. All residential rehabilitation shall be constructed or completed subject to the rules and regulations of the local agency. A local agency may acquire by deed, purchase, lease, contract, gift, devise, or otherwise any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands necessary or convenient for the financing of residential rehabilitation, upon such terms and conditions as it deems advisable, and may lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objectives and purposes of this part.

(Added by Stats. 1973, Ch. 1201.)

37922. Prior to the issuance of any bonds or bond anticipation notes of the local agency for residential rehabilitation, the local agency shall by ordinance or resolution adopt a comprehensive residential rehabilitation financing program which shall include, but is not limited to, the following items:

(a) Criteria for selection of residential rehabilitation areas by the local agency which shall include findings by the local agency that:

- (1) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe, sanitary housing.
- (2) Financial assistance from the local agency for residential rehabilitation is necessary to arrest the deterioration of the area.
- (3) Financing of residential rehabilitation in the area is economically feasible.

However, these findings are not required when the residential rehabilitation area is a redevelopment project area to which the provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)) apply.

(b) Procedures for selection of residential rehabilitation areas by the local agency which shall include:

- (1) Provisions for citizen participation in selection of residential rehabilitation areas.

(2) Provisions for a public hearing by the governing body of the local agency prior to selection of any particular residential rehabilitation area by the local agency.

(c) A commitment that, subject to budgeting and fiscal limitations of the local agency, rehabilitation standards will be enforced in 95 percent of the residences in each residential rehabilitation area.

(d) Guidelines for financing rehabilitation of existing residences, which shall be subject to the following limitations:

(1) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property to be rehabilitated, including the amount of the loans for rehabilitation, shall not exceed 80 percent of the anticipated after-rehabilitation value of the property to be rehabilitated, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 95 percent of the anticipated after-rehabilitation value of the property if such loans are made for the purpose of rehabilitating the property for residential purposes, there is demonstrated need for such higher limit, and there is a high probability that the value of the property will not be impaired during the term of the loan. Outstanding loans on property to be rehabilitated may be authorized up to 97 percent of the anticipated after-rehabilitation value of the property, if the person to whom the loan is made is of low income, as defined in Section 50093. A nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding either 98 or 100 percent of the estimated after-rehabilitation value or of its total development cost, according to the standards for nonprofit housing sponsors set forth in Section 50958, if the dwelling units within the residence rehabilitated with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(2) The maximum repayment period for such residential rehabilitation loans shall be 40 years or four-fifths of the economic life of the structure, whichever is less.

(3) Except as authorized in this paragraph, the maximum amount loaned for rehabilitation, exclusive of costs of acquisition, or exclusive of refinancing, for each dwelling unit and for each commercial unit which is, or is part of, a "residence" within the meaning of that term as defined in this part, shall be forty-five thousand dollars (\$45,000). Financing provided pursuant to this part by the redevelopment agency of a city and county may exceed such limitation with respect to loans for rehabilitation of one-to-four unit dwellings, provided the total amount financed, including any amount loaned for acquisition or refinancing, shall not exceed eighty thousand dollars (\$80,000) per dwelling unit or 90 percent of the after-rehabilitation value specified in paragraph (1), whichever is less, regardless of whether the loan is or is not insured or guaranteed.

(4) No more than 20 percent of any loan for such residential rehabilitation shall be used for residential rehabilitation which is not required under the local agency's rehabilitation standards except that in the case of owner-occupied one- to four-dwelling-unit properties, up to 40 percent of the loan for such residential rehabilitation may be used for residential rehabilitation not required under the local agency's rehabilitation standards.

(5) Except with respect to move-on residences, loans shall not be made for the purpose of refinancing the outstanding indebtedness of a participating party with respect to property which is subject to residential rehabilitation or for financing the acquisition of property which has been, or is to be, subject to residential rehabilitation, unless the cost, including in such costs any amounts previously expended for residential rehabilitation of that property by a participating party, within a residential rehabilitation area or a redevelopment project area established at the time of such expenditure, of meeting the rehabilitation standards is at least 20 percent of the principal amount of the loan.

(e) Guidelines for financing residential infill construction within any residential rehabilitation area which is approved for such a program by the legislative body. The guidelines for residential infill construction shall be subject to the following limitations:

(1) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property, including the amount of the loans for residential infill construction, shall not exceed 80 percent of the anticipated value of the property, following completion of the construction, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 90 percent of the anticipated value of the property following completion of the construction, if such loans are made for the purpose of constructing residences containing two or more dwelling units. A nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding 100 percent of the estimated value of the property following completion of construction, if the dwelling units constructed with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(2) The maximum repayment period for loans for residential infill construction shall be 40 years or four-fifths of the economic life of the structure, whichever is less.

(f) Guidelines for financing the purchase of residences previously rehabilitated or constructed with financing under this part, if authorized by the legislative body, which shall be subject to the following limitations:

(1) Purchasers of single-family dwellings eligible to receive such financing shall be persons or families of low or moderate income.

(2) All rental dwelling units in the residence financed shall be committed for the period during which the loan is outstanding for occupancy by persons and families of low or moderate income, as defined by Section 50093. Upon recordation of the deed, other instrument of conveyance, lease, or instrument of financing in the office of the county recorder of the county in which the real property is located, the rental dwelling units reserved for occupancy by persons of low income shall remain for such occupancy for not less than 30, nor more than 55, years. Such recorded agreement shall be binding upon successors in interest.

(3) Unless insured or guaranteed in whole or in part by an instrumentality of the United States or the State of California or by a person licensed to insure loans in this state, outstanding loans on the property to be acquired shall not exceed 80 percent of the value of the property, except that the local agency may authorize loans, which are neither insured nor guaranteed, of up to 90 percent of the value of the property if such loans are made for the purpose of financing residences containing two or more dwelling units. A nonprofit corporation incorporated pursuant to, or otherwise made subject to the provisions of, Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of Section 17265 of the Revenue and Taxation Code, may be authorized a loan not exceeding 100 percent of the value of the property, if the dwelling units within the residence are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(4) The maximum repayment period for acquisition loans shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(g) No more than 35 percent of the aggregate principal amount of all loans made in a residential rehabilitation area may be for residential infill construction or acquisition financing.

(h) A requirement that a plan for public improvements necessary to successful rehabilitation of the residential rehabilitation area be developed, with citizen participation, for each residential rehabilitation area and that the plan for public improvements be adopted by the local agency prior to the financing of residential rehabilitation in any residential rehabilitation area, together with a commitment that, subject to budgetary and fiscal limitations, such plan will be carried out by the local agency.

(Amended by Stats. 1982, Ch. 1160, Sec. 3.)

37922.1. (a) A comprehensive residential rehabilitation financing program may authorize residential rehabilitation outside residential rehabilitation areas of residences which meet the following qualifications:

(1) The residence is located in an area determined by the legislative body to be a stable and viable residential neighborhood.

(2) Rehabilitation of the residence is determined by the legislative body to be economically feasible.

(3) Dwelling units rehabilitated within the residence with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(b) Guidelines for financing residential rehabilitation of residences specified in subdivision (a) shall be included in the comprehensive residential rehabilitation financing program if financing of such rehabilitation is authorized pursuant to this section. Such guidelines shall be subject to the limitations prescribed by subdivision (d) of Section 37922. The maximum repayment period for residential rehabilitation loans for residences described in subdivision (a) shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(c) With respect to rehabilitation of residences specified in subdivision (a), the comprehensive residential rehabilitation financing program shall provide for notice to affected owners and tenants of the proposed rehabilitation and for an opportunity for participation by them in the designation of dwelling units to be rehabilitated and in the planning of the proposed rehabilitation.

(Amended by Stats. 1977, Ch. 931.)

37922.2. If anticipated rent increases or other increases in housing costs will result in dislocation of residential rehabilitation area residents or will result in residents paying a disproportionately large percentage of their incomes for housing, the local agency shall take every possible action to prevent displacement of all residents as a result of the operation of the residential rehabilitation program in residential rehabilitation areas. Such actions shall include relocation payments to persons and families of low or

moderate income, as defined by Section 50093, who are tenants displaced because of the temporary or permanent displacement for rehabilitation work or residential infill construction assisted under this part, or rent increases resulting from rehabilitation, pursuant to the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 U.S.C., Sec. 4601) or Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. Such actions shall also include, but need not be limited to, utilization of all federal, state, or local funding programs which are available for housing subsidies. In allocating funds which may become available through federal revenue sharing and through the federal Housing and Community Development Act of 1974 (P.L. 93-383; 88 Stat. 633), the local agency shall give consideration to measures which will assist in preventing displacement of such residents, the consideration of such measures to be evidenced in writing.

For purposes of this section, displacement includes relocation occurring because of the inability of a person or family of low or moderate income to pay increased rentals resulting from rehabilitation, or involuntary temporary or permanent displacement of such a person or family.

The relocation payments required under this section shall be mandatory only if federal or state funds are available. However, nothing shall preclude the public entity from using local funds or funds from the sale of bonds.

(Amended by Stats. 1979, Ch. 1191, Sec. 17.5.)

37922.5. (a) A local agency, in order to prevent precipitous increases in rent which the loans would engender as to residential rental property, may require, as a condition of making a loan pursuant to this part, that the borrower contract during the term of the loan not to raise the rental amount over an amount which the agency by regulation establishes will yield a fair rate of return for similar investments and will allow for increases that are reasonably necessary to provide and continue proper maintenance of the property. This subdivision shall apply only to structures which will contain 12 or more dwelling units after rehabilitation and to structures for which loans exceeding five thousand dollars (\$5,000) per dwelling unit have been extended pursuant to this part.

(b) A local agency may require that an owner of a residential property provide notice to tenants at the time of application for a loan pursuant to this part, so that, in the event of protest by tenants, the amount of rehabilitation work may, at the discretion of the local agency, be limited in order to prevent precipitous rent increases which may cause displacement.

(Amended by Stats. 1979, Ch. 1190.)

37923. (a) The local agency shall require that any residence that is rehabilitated, constructed, or acquired with financing obtained under this part shall be open, upon sale or rental of any portion thereof, to all regardless of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code. The local agency shall also require that contractors and subcontractors engaged in residential rehabilitation financed under this part provide equal opportunity for employment, without discrimination as to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, and except as otherwise provided in Section 12940 of the Government Code. All contracts and subcontracts for residential rehabilitation financed under this part shall be let without discrimination as to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, and except as otherwise provided in Section 12940 of the Government Code. It shall be the policy of the local agency financing residential rehabilitation under this part to encourage participation by minority contractors, and the local agency shall adopt rules and regulations to implement this section.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 4760 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

(Amended by Stats. 2012, Ch. 181, Sec. 74. (AB 806) Effective January 1, 2013. Operative January 1, 2014, by Sec. 86 of Ch. 181.)

37924. The authority of this part may be used to issue bonds for the purpose of financing residential rehabilitation in areas which were designated for concentrated code enforcement and have received federal funds under the Federally Assisted Code Enforcement program (Sections 115, 117, and 312 of the Housing Act of 1949, 42 U.S.C. 1466, 1468, and 1452b), and nothing in this part shall prevent using funds generated by bonds issued pursuant to the provisions of this part to finance residential rehabilitation in such areas.

(Added by Stats. 1973, Ch. 1201.)

37924.5. The local agency may include, in the comprehensive residential rehabilitation financing program adopted by ordinance or resolution pursuant to Section 37922, criteria for selection or order of selection of dwelling structures to be inspected in a systematic enforcement program to be carried out citywide or countywide in addition to the concentrated enforcement of rehabilitation standards in one or more residential rehabilitation areas, during the period in which such concentrated enforcement is carried out. Guidelines

for financing residential rehabilitation of residences subjected to systematic enforcement shall be subject to the financing limitations prescribed by subdivision (d) of Section 37922. The comprehensive residential rehabilitation financing program shall, in such case, provide notice and opportunities to be involved in planning and operation of the program to persons potentially affected by the systematic enforcement program.

(Added by Stats. 1977, Ch. 920.)

37925. Any action challenging the legality of a comprehensive residential rehabilitation financing program, the selection of a residential rehabilitation area, the selection of residences for residential rehabilitation pursuant to Section 37922.1, or the adoption of a plan for public improvements for a residential rehabilitation area, shall be commenced within 60 days of the adoption of such program, selection of such area or residences, or adoption of such plan for public improvements.

(Amended by Stats. 1975, Ch. 558.)