HEALTH AND SAFETY CODE - HSC

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

PART 2. HOUSING AUTHORITIES [34200 - 34606] *(Part 2 added by Stats. 1951, Ch. 710.)*

CHAPTER 1. Housing Authorities Law [34200 - 34380] *(Chapter 1 added by Stats. 1951, Ch. 710.)*

ARTICLE 5.5. Loans to Tax-Exempt Organizations [34376 - 34379] *(Article 5.5 added by Stats. 1988, Ch. 1610, Sec. 3.)*

34376. The Legislature hereby finds and declares that it would be beneficial to empower housing authorities to issue tax-exempt revenue bonds for the purpose of lending the proceeds to nonprofit organizations exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (26 U.S.C. Sec. 501(c)(3)), for the housing purposes specified in Section 34377.

(Added by Stats. 1988, Ch. 1610, Sec. 3.)

34377. An authority may issue bonds to provide funds to be loaned by the authority to nonprofit organizations exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (26 U.S.C. Sec. 501(c)(3)), for use by the organization to finance the acquisition, construction and rehabilitation, refinancing, or development of multifamily rental housing, including mobilehome parks that are or will be nonprofit or cooperatively owned, or both, in which residents rent spaces and either rent or own the mobilehomes occupying these spaces, to provide housing within the territorial jurisdiction of the authority in accordance with the organization’s tax-exempt purposes under that federal law. The bonds shall be issued so as to satisfy the requirements of Section 145 of the Internal Revenue Code of 1986, as amended (26 U.S.C. Sec. 145).

(Amended by Stats. 1996, Ch. 27, Sec. 4. Effective April 8, 1996.)

34377.2. (a) Occupancy and rent restrictions with respect to housing acquired pursuant to this article shall either meet the requirements of subparagraphs (A) and (B) of paragraph (1) or the requirements of paragraph (2) as follows:

(1) (A) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this article from the proceeds of the sale of bonds of each bond issuance of the authority shall be for occupancy on a priority basis by lower income households, as defined by Section 50079.5. If a multifamily rental housing development is located within a targeted area project, as defined by Section 103(b)(12)(A) of Title 26 of the United States Code, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by lower income households. Not less than one-half of the units required for occupancy on a priority basis by lower income households shall be for occupancy on a priority basis for very low income households, as defined by Section 50105.

(B) (i) With respect to multifamily rental developments that are not mobilehome parks, the rental payments on the units required for occupancy by very low income households paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed 30 percent of an amount equal to 50 percent of area median income. If the nonprofit organization elects to establish a base rent for all or part of the units for lower income households and very low income households, the base rents shall be adjusted for household size. In adjusting rents for household size for this purpose, it shall be assumed that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will occupy a two-bedroom unit, four persons will occupy a three-bedroom unit, and five persons will occupy a four-bedroom unit.

(ii) With respect to mobilehome parks:

(I) Where a resident rents both the mobilehome and the space occupied by the mobilehome, for spaces and mobilehomes required for occupancy by very low income households, the total rental payments paid by the household on the mobilehome and the space occupied by the mobilehome (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to that household or on behalf of that space and mobilehome) shall not exceed 30 percent of an amount equal to 50 percent of the area median income, adjusted for household size as appropriate for the unit that occupies the space.

(II) Where a resident is both the registered and legal owner of the mobilehome, is not making mortgage payments for the purchase of that home, and rents the space that the mobilehome occupies, for spaces and mobilehomes required for occupancy by very low income households, the total rental charge for occupancy of that space, excluding a reasonable allowance for other related housing costs determined at the time of acquisition of the mobilehome park by the nonprofit corporation, excluding any supplemental rental assistance from the state, the federal government, or any other public agency to that household on behalf of that space and mobilehome, shall not exceed 30 percent of 50 percent of the area median income, adjusted for household size as appropriate for the unit that occupies the space.

(III) Where a resident is the registered owner of the mobilehome, is making mortgage payments for the purchase of that mobilehome, and rents the space occupied by the mobilehome, for spaces and mobilehomes required for occupancy by very low income households, the rental charge for occupancy of a space by a mobilehome, exclusive of any charges for utilities and storage (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to that household or on behalf of that space and mobilehome), shall not exceed 15 percent of 50 percent of the area median income, adjusted for household size as appropriate for the unit that occupies the space.

(IV) In adjusting rents for household size, either the occupancy standards established in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) or the alternative standards that assume that one person will occupy a recreational vehicle, two persons will occupy a single-wide mobilehome, and three persons will occupy a multisectional mobilehome may be utilized.

(2) The multifamily rental housing development is a “qualified low-income housing project,” within the meaning of Section 42(g) of the Internal Revenue Code (26 U.S.C. Sec. 42), because it meets the criteria set forth in Section 42(g)(1)(B) and (2) of the Internal Revenue Code.

(b) If at the time of acquisition any of the units or mobilehome spaces are occupied by ineligible households, that fact alone shall neither constitute a cause for the tenant’s eviction nor render the project ineligible. Upon vacation of any unit initially occupied by an ineligible household, that unit shall be rented to an eligible household until the required residency by eligible households is attained.

(c) As a condition of financing pursuant to this article, the nonprofit organization shall enter into a regulatory agreement with the authority, which shall require that units reserved for occupancy by lower income households shall remain available on a priority basis for occupancy for the term of the bonds issued to provide the financing or 30 years, whichever is greater. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the nonprofit organization. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located. The regulatory agreement shall be recorded in the grantor-grantee index to the name of the property owner as grantor and to the name of the authority as grantee.

(Amended by Stats. 1994, Ch. 379, Sec. 4. Effective January 1, 1995.)

34377.4. An authority may, in conjunction with the financing of multifamily rental housing pursuant to this article, finance the acquisition of commercial property for lease, subject to all of the following conditions:

(a) No more than 10 percent of the proceeds of any revenue bonds issued pursuant to this article may be used to acquire the commercial property for lease.

(b) The commercial property acquired will be located on the same parcel or on a parcel adjacent to a multifamily rental housing development.

(c) As a condition of the financing, any lease payments collected in excess of payments necessary for debt service, operating expenses and any required reserves related to such property, shall be used to reduce rents on units reserved for occupancy by lower income households and very low income households in a multifamily rental housing development.

(Added by Stats. 1988, Ch. 1610, Sec. 3.)

34377.6. Whenever a complaint is received concerning a violation of the restrictions imposed pursuant to Section 34377.2, the authority shall investigate promptly and make a report to the complaining party on whether the violation existed and whether it persists, and if it persists, what action the authority will take to remedy the violation. When the authority detemines that a violation exists, whether determined upon an investigation of a complaint or on its own motion, the authority shall take all appropriate action, including necessary legal action, to promptly eliminate the violation.

Notwithstanding other provisions of this section, any person aggrieved by a violation of the restrictions imposed pursuant to Section 34377.2 may seek a judicial remedy without regard to whether a complaint has been made to the agency or whether the agency is then taking any action to remedy the violation.

(Added by Stats. 1988, Ch. 1610, Sec. 3.)

34378. For the purposes of this article, an authority shall have the power to issue its bonds to defray, in whole or in part, the costs of studies and surveys, insurance premiums, underwriting fees, and legal, accounting and marketing services incurred in connection with the issuance and sale of bonds pursuant to this chapter, including bond and mortgage reserve accounts; trustee, custodian, and rating agency fees, and any other costs which are reasonably related to the foregoing.

(Added by Stats. 1988, Ch. 1610, Sec. 3.)

34379. (a) Bonds issued pursuant to this article shall be repayable solely from payments of principal and interest on account of the loans funded thereby. The agency may pledge all or any portion of these payments to secure the bonds.

(b) Neither the members of the authority nor any person executing the bonds shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(c) The exercise of the powers granted by this article shall be in all respects for the benefit of the people of this state and for their health and welfare. Any bonds issued under this article, their transfer, and income therefrom shall at all times be free from taxation of every kind by the state and by the municipalities and political subdivisions of the state, except estate taxes.

(d) This article provides an alternative method for issuing bonds and lending moneys for acquisition of multifamily rental housing by private nonprofit organizations.

(Added by Stats. 1988, Ch. 1610, Sec. 3.)