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HEALTH AND SAFETY CODE - HSC

DIVISION 31. HOUSING AND HOME FINANCE [50000 - 54913] (*Division 31 repealed and added by Stats. 1977, Ch. 610.*)

PART 2. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT [50400 - 50899.7] (*Heading of Part 2 amended by Stats. 1981, Ch. 996.*)

CHAPTER 5. Preservation Interim Loan Programs [50600 - 50605] (*Chapter 5 added by Stats. 2002, Ch. 721, Sec. 1.*)

50600. The Legislature finds and declares all of the following:

(a) The federal Housing and Urban Development Department subsidizes over 147,000 units of California's affordable rental housing. As the owners' obligations expire, more than 19,000 of these units have already been converted to market-rate housing, and an additional 78,000 units are considered at risk of imminent conversion. In addition, more than 7,600 units financed with state and federal low-income housing tax credits will face some risk of conversion as the first generation of tax credit developments reach the expiration of their income and rent restrictions over the next five years. These at-risk units will likely convert to market-rate housing unless they are acquired by organizations that commit to maintaining their affordable rents.

(b) The loss of these assisted units represents not only a loss of precious affordable housing stock and hardship and potential dislocation for tenants, 40 percent of whom are seniors, but also the loss of billions of dollars of federal housing assistance to California each year.

(c) This looming loss of affordable rental housing is exacerbated by California's failure to produce more than 50 percent of the new housing units needed to house the state's population for each of the last eight years. The shortage is most strongly felt in the areas of low-cost housing for working families, people moving from welfare to work, and seniors and disabled people.

(d) Affordable housing organizations that wish to purchase properties at risk of converting to market rate housing often do not have access to the short-term capital needed to purchase the properties quickly. This lack of short-term capital greatly reduces the likelihood that these properties will remain affordable.

(e) The intent of this chapter is to create a short-term capital loan program to ensure that California's supply of affordable housing is not depleted by the conversion of existing government-assisted rental housing to market-rate housing.

(*Added by Stats. 2002, Ch. 721, Sec. 1. Effective January 1, 2003.*)

50601. (a) The Preservation Opportunity Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department without regard to fiscal years for the purposes of this chapter and for costs incurred in administering the program. The combined administrative expenses of the department and the agency shall not exceed 5 percent of the funds deposited in the fund for the purposes of this chapter.

(b) The following shall be paid into the fund:

(1) Any money appropriated and made available by the Legislature for purposes of the fund.

(2) Any money that the department or the agency receives in repayment of loans from the fund, including interest therefrom, except as provided in subdivision (f) of Section 50603.

(3) Any other money that may be made available to the department for the purposes of this chapter from any other source.

(*Amended by Stats. 2005, Ch. 74, Sec. 50. Effective July 19, 2005.*)

50602. The definitions contained in Chapter 2 (commencing with Section 50050) of Part 1 shall apply to this chapter, except as follows:

(a) "Assisted housing development" has the same meaning as in paragraph (3) of subdivision (a) of Section 65863.10 of the Government Code.

(b) "Fund" means the Preservation Opportunity Fund created by Section 50601.

(Added by Stats. 2002, Ch. 721, Sec. 1. Effective January 1, 2003.)

50603. (a) There is hereby created the Preservation Opportunity Program.

(b) The department shall contract with the agency for the administration of this section, and the agency shall establish the terms upon which loans may be made consistent with this section.

(c) A project shall meet all of the following requirements to be eligible for a loan:

(1) It shall be an assisted housing development.

(2) The borrower shall, in conjunction with this loan, receive a loan from the agency's Preservation Acquisition Program for the acquisition of this project.

(3) The borrower shall agree to obligate itself and any successors in interest to maintain the affordability of the assisted housing development for households of very low, low, or moderate income for a term of not less than 30 years. To the extent economically feasible, the development shall be continuously occupied in the approximate percentages that those households have occupied that development as of the date of acquisition by the purchaser or the approximate percentages specified in existing federal, state, or locally imposed use restrictions, whichever is higher. This obligation shall be recorded at the close of escrow in the office of the county recorder of the county in which the development is located. In addition, the regulatory agreement shall contain provisions requiring the renewal of rental subsidies, if they are available and are provided at a level sufficient to maintain the project's fiscal viability. Nothing in this paragraph shall be construed to require the future income restriction of units unrestricted under the new regulatory agreement required by this subdivision.

(d) Projects that meet the requirements of subdivision (c) shall be evaluated for funding based on their ability to address the following priorities:

(1) First priority shall be given to projects whose rent restrictions have expired or are eligible to expire within two years of application for a loan under this program.

(2) Second priority shall be given to projects with rent restrictions expiring within five years.

(e) The loans for assisted housing developments under this section shall include the following terms:

(1) The agency shall determine the term of the loan. A loan may not exceed a term of two years, unless the agency determines, in its discretion, that a longer term is required to do both of the following:

(A) To preserve the affordability of a project.

(B) To ensure the financial viability of a project.

(2) The rate of interest shall not exceed 3 percent per annum on the unpaid balance for that portion of the loan made with General Fund or general obligation bond moneys. The rate of interest for portions of the loan made with non-General Fund, nongeneral obligation bond moneys shall be established by the agency.

(3) Simple interest shall accrue but be deferred until loan maturity or transfer of the property.

(4) Any other terms and provisions that the agency may deem proper.

(f) Notwithstanding paragraph (2) of subdivision (b) of Section 50601, with the exception of five million dollars (\$5,000,000), all money that the agency receives in repayment of loans made with funds from the Housing and Emergency Shelter Trust Fund Act of 2002 shall be deposited into the Housing Rehabilitation Loan Fund created by Section 50661 for use in the Multifamily Housing Program. The five million dollars (\$5,000,000) remaining in the Preservation Opportunity Fund and subsequent interest payments on loans made from this five million dollars (\$5,000,000) shall be made available for the purposes of the Preservation Opportunity Program through at least December 31, 2008, at which time the agency may, based on an analysis of need, either continue to make these funds available for the purposes of the Preservation Opportunity Program or transfer all remaining funds to the Housing Rehabilitation Loan Fund for use in the Multifamily Housing Program.

(Amended by Stats. 2005, Ch. 74, Sec. 51. Effective July 19, 2005.)

50604. (a) There is hereby created the Interim Repositioning Program, the purpose of which is to leverage private capital to increase the funding available to preserve at-risk housing.

(b) The department shall administer this program and establish the terms upon which loans may be made consistent with this section.

(c) The department shall select a single sponsor through a competitive process. The sponsor shall meet all of the following criteria:

(1) Be a not-for-profit corporation based in California.

(2) Demonstrate sufficient organizational stability and capacity to carry out the activity for which it is requesting funds, including the capacity to acquire, renovate, or rehabilitate, asset manage and property manage a portfolio of assisted housing developments, and, if applicable, to underwrite, close, and service loans. Capacity may be demonstrated by substantial successful experience performing similar activities, or through other means acceptable to the department.

(3) Demonstrate a feasible strategy to meet the leveraging requirements of subdivision (g) within 60 days after being chosen as the sponsor.

(4) Demonstrate past experience in the cost-effective use of public resources.

(5) Submit a detailed business plan as to how the sponsor intends to meet the requirements of this section. The business plan shall include a description of appropriate financial controls, acquisition procedures, underwriting procedures, and internal controls.

(d) The department shall give bonus points in the rating and ranking process to an applicant who can demonstrate letters of intent from private entities to provide capital to meet the leverage requirement of this section.

(e) The department shall make a loan for a term of not more than five years to the project sponsor for the purposes of subdivision (i).

(f) Principal and accumulated interest is due and payable upon completion of the term of the loan. The loan shall bear simple interest at a rate of 3 percent per annum on the unpaid principal balance.

(g) Before expending any state funds, the sponsor shall raise at least three dollars (\$3) of private capital as equity to match every dollar of Interim Repositioning Program loan proceeds. To be considered private capital, outside funds shall be committed for a term at least equal to the term of the loan made pursuant to this section and available to be used for the purposes of this section. If the sponsor is unable to meet these matching requirements within 60 days of selection as the sponsor, the loan shall be repaid with accumulated interest to the department, deposited in the fund, and made available to the next highest rated qualified project sponsor identified pursuant to subdivision (c). If, within 180 days, there is no remaining qualified project sponsor available, any unexpended funds shall be made available for the purposes of Section 50603.

(h) Funds lent to the project sponsor pursuant to this section and the required private matching funds shall be used to finance up to 20 percent of the cost of acquiring an assisted housing development.

(i) The sponsor shall use Interim Repositioning Program loan proceeds and the required private matching funds for the following purposes:

(1) To acquire an assisted housing development in California for which rent restrictions have expired or are eligible to expire within five years of the date that the department chooses the sponsor. First priority shall be given to projects for which rent restrictions have expired or are eligible to expire within two years.

(2) To make loans not to exceed a term of three years to any entity described in subdivision (d) of Section 65863.11 of the Government Code for the acquisition of an assisted housing development for which rent restrictions have expired or are eligible to expire within five years of the date the agency chooses the project sponsor. First priority for loans shall be given to projects for which rent restrictions have expired or are eligible to expire within two years. The rate of interest on loans made pursuant to this paragraph shall be equal to the lowest feasible rate sufficient to cover the cost of capital to the sponsor.

(j) The sponsor, in the event he or she directly acquires an assisted housing development, or the borrower, if he or she has received a loan from the project sponsor pursuant to this section, shall agree to obligate himself or herself and any successors in interest to maintain the affordability of the assisted housing development for households of very low, low, or moderate income for a term of not less than 30 years. To the extent economically feasible, the development shall be continuously occupied in the approximate percentages that those households who have occupied that development as of the date of acquisition by the purchaser or the approximate percentages specified in existing federal, state, or locally imposed use restrictions, whichever is higher. This obligation shall be recorded at the close of escrow in the office of the county recorder of the county in which the development is located. In addition, the regulatory agreement shall contain provisions requiring the renewal of rental subsidies, if they are available and provided at a level sufficient to maintain the project's fiscal viability. Nothing in this paragraph shall be construed to require the future income restriction of units unrestricted under the new regulatory agreement required by this subdivision.

(k) The department, in its loan agreement with the sponsor, shall establish a schedule for the timely expenditure of funds by the sponsor.

(l) The department shall select a sponsor for the purposes of this section within six months of the date funding becomes available.

(m) The department may, upon consultation with interested parties, including potential applicants and housing advocates, administer this program through a notice of funding availability that shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(Added by Stats. 2002, Ch. 721, Sec. 1. Effective January 1, 2003.)

50605. The department shall include in its last annual report submitted to the Legislature, pursuant to Section 50408, on or before December 31, 2005, all of the following:

- (a) A general description of activities undertaken pursuant to this chapter.
- (b) For each project assisted pursuant to this chapter, a description of the expiration date of the project's rent restrictions; the name and location of the purchaser; the acquisition price; the number of assisted units preserved; and the level of affordability maintained.
- (c) If the sponsor for the Interim Repositioning Program subsequently sells any projects, a description of the name and location of the purchaser, the purchase price, and the total transaction costs.
- (d) With respect to the Interim Repositioning Program, an evaluation of the sponsor's success in leveraging private capital.
- (e) A comparison of the cost of preserving units under the Preservation Opportunity Program versus the Interim Repositioning Program.
- (f) If sufficient data exist, a comparison of the cost of preserving units with rent restrictions that have expired or are eligible to expire within two years versus units with rent restrictions that are eligible to expire within three to five years.
- (g) An overall assessment of the effectiveness of the Preservation Opportunity Program and the Interim Repositioning Program as tools for preserving affordable housing.

(Added by Stats. 2002, Ch. 721, Sec. 1. Effective January 1, 2003.)