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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 HOUSING AND HOME FINANCE [50000 - 54913] (*Division 31 repealed and added by Stats. 1977, Ch. 610.)*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 6.4. Tribal Housing Reconstitution and Resiliency Act [50651 - 50651.4] (*Chapter 6.4 added by Stats. 2024, Ch. 295, Sec. 3.)*

50651. For purposes of this chapter, all of the following definitions apply:

(a) "Department" means the Department of Housing and Community Development.

(b) "Eligible applicant" means all of, or a combination of, the following:

(1) The duly constituted governing body of a California-based federally recognized Indian reservation or rancheria.

(2) A tribally designated housing entity delegated by a California-based federally recognized Indian reservation or rancheria to perform housing and housing-related activities on behalf of one or more Indian tribes.

(3) A consortium of one or more of the following:

(A) California-based federally recognized Indian reservations or rancherias.

(B) Tribally designated housing entities.

(4) An eligible development partnership between the duly constituted governing body of a California-based federally recognized Indian reservation or rancheria or tribally designated housing entity with a nonnative nonprofit housing sponsor.

(c) "Eligible development partnership" means the partnership of a duly constituted governing body of a California-based federally recognized Indian reservation or rancheria or tribally designated housing entity with a nonnative nonprofit housing sponsor, evinced by a development agreement, joint venture agreement, or other type of agreement with equitable and fair terms to the tribal entity. The agreement must specify the development, ownership, and management responsibilities between the parties and the tribal entity shall receive no less than 50 percent of the developer fee, including upfront developer fee and deferred developer fee, and hold a controlling or at least equivalent interest in the ownership entity or if the owner is a low-income housing tax credit limited partnership for the purposes of syndicating tax credits, have a first option to acquire the property at the end of the tax credit compliance period.

(d) "Essential families" means families or individuals whose presence is determined to be essential to the well-being of the reservation or rancheria, as defined in Section 201(b)(3) of NAHASDA.

(e) "Federally recognized tribe" means any Indian tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

(f) "Housing" means home ownership housing and rental housing that may be single-family units, attached units such as duplexes and triplexes, multifamily housing projects, permanent supportive housing for the homeless, single room occupancy units, mobile or manufactured homes, group homes for persons with special needs such as the elderly and disabled, congregate housing, transitional housing, halfway housing, domestic violence shelters, and homeless emergency shelters.

(g) "Indian" means any person who is a member of an Indian tribe.

(h) "Indian area" means the area within which an Indian tribe operates affordable housing programs or the area in which a tribally designated housing entity, as authorized by one or more Indian tribes, operates affordable housing programs. Whenever the term is used in this chapter, it shall mean the Indian area of a California-based Indian reservation or rancheria.

- (i) "Indian tribe" means a tribe that is a federally recognized tribe.
- (j) "NAHASDA" means the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. Sec. 4101 et seq.).
- (k) "Nonprofit housing sponsor" means a nonprofit corporation incorporated pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code.
- (l) "Median income for the area" means for purposes of this chapter, the greater of the following:
- (1) The median income of the county or counties in which the Indian area is located.
 - (2) The median income for the United States.
- (m) "Rancheria" means a small tract of California Indian land under federal trust.
- (n) "Tribally designated housing entity" means an entity as that term is defined in Section 50104.6.5.
- (o) "Tribal housing grant program trust fund advisory committee" means a state advisory body established pursuant to Section 15990 of the Government Code to represent tribal interests in state housing programs, including providing guidance to the department on proposed guidelines and making recommendations. Committee composition shall consist of at least 51 percent tribal housing staff, tribal leaders, and a tribal attorney and shall include diverse representation from tribes in terms of geographic location, size of tribe, and revenue from sources other than NAHASDA.
- (Added by Stats. 2024, Ch. 295, Sec. 3. (SB 1187) Effective January 1, 2025.)*

50651.1. There is hereby created in the State Treasury the Tribal Housing Grant Program Trust Fund to be administered by the department. All interest or other increments resulting from the investment of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code.

(a) Moneys in the Tribal Housing Grant Program Trust Fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund.

(b) Both of the following shall be paid and deposited in the fund:

(1) Any moneys appropriated and made available by the Legislature through the annual Budget Act for purposes of the fund.

(2) Ten percent of any moneys that will be appropriated and made available by the Legislature to the department through the annual Budget Act for the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675)), Infill Infrastructure Grant Program of 2019 (Part 12.5 (commencing with Section 53559)), Veterans Housing and Homeless Prevention Act of 2014 (Article 3.2 (commencing with Section 987.001) of Chapter 6 of Division 4 of the Military and Veterans Code), and Joe Serna, Jr. Farmworker Housing Grant Program (Chapter 3.2 (commencing with Section 50515.2)). The use of moneys deposited into the fund pursuant to this subdivision shall only be subject to this chapter, regardless of any other law governing the use of the balance of the funds appropriated to programs governed by this division.

(c) Separate from the fund, and subject to appropriation by the Legislature, moneys made available to the department through voter-approved bonds for the Multifamily Housing Program, Infill Infrastructure Grant Program of 2019, Veterans Housing and Homelessness Prevention Program, and Joe Serna, Jr. Farmworker Housing Grant Program may be made available as tribal set-asides in alignment with the eligible uses of those funds.

(d) The department shall monitor the balance of the fund. When the department determines that sufficient moneys are available in the fund to allocate, the department shall allocate the moneys as follows:

(1) Ninety-five percent of deposits into the fund pursuant to subdivision (b) shall be made available on an entitlement basis to the duly constituted governing body of a California-based federally recognized Indian reservation or rancheria in accordance with a formula allocation to be determined by the department. The formula shall be based on input and guidance from Indian tribes and the tribal housing grant program trust fund advisory committee, which may include, but not be limited to, a specific formula or factors to be used in a formula for allocation. Funds shall be provided in the form of multipurpose block grants for eligible uses in support of housing and housing-related planning, program, project predevelopment, operating subsidies, staffing, and administrative activities as specified in this chapter.

(2) Five percent of deposits into the fund shall be available for technical assistance to eligible tribes and tribally designated housing entities to build their capacity to independently plan, design, apply for, implement, and operate affordable housing programs and projects.

(e) Recipients that receive an allocation pursuant to paragraph (1) of subdivision (d) shall use no more than 20 percent of that allocation for costs related to the administration of funds received on an entitlement basis, unless the recipient receives approval by the department.

(f) To receive moneys pursuant to this section, tribal governments shall do both of the following:

(1) Annually submit a plan to the department detailing the way allocated funds will be used by the tribe in a manner consistent with this section.

(2) Submit an annual report to the department that provides ongoing tracking of the uses and expenditures of any allocated funds.

(g) The department shall ensure geographic equity in the distribution and expenditure of funds allocated pursuant to this section.

(h) In close consultation with California tribes and a tribal housing grant program trust fund advisory committee, the department shall adopt guidelines to implement this section, including determining allocation methodologies. Thereafter, the department may adopt, amend, or repeal guidelines for the administration and implementation of this chapter, in consultation with California tribes and a tribal housing grant program trust fund advisory committee.

(Added by Stats. 2024, Ch. 295, Sec. 3. (SB 1187) Effective January 1, 2025.)

50651.2. The moneys in the fund allocated in accordance with Section 50651.1 to eligible applicants may be expended for all of the following purposes:

(a) Housing and housing-related program services for affordable housing that include, but are not limited to, all of the following:

(1) Home buyer assistance, such as first-time home buyer loans, downpayment assistance, closing costs, and mortgage subsidies.

(2) Owner-occupied home rehabilitation loans and grants.

(3) Homeowner, home buyer, and renter counseling, including credit counseling.

(4) Rental assistance, student rental assistance, emergency rental assistance, move-in and utility expenses, and rental subsidies, including tenant-based rental assistance to individual tribal members, or similar assistance.

(5) Energy audits, retrofits to achieve greater energy efficiencies, water conservation measures, resident training, and other activities related to climate resilience, fire protection, and sustainability, or similar activities.

(6) Improvements to remediate lead-based paint, mold, and other hazards.

(7) Improvements to increase physical accessibility for elderly and disabled persons, including universal design.

(8) Wrap-around services, including childcare, after school programs, and job training for tribal members living in affordable housing.

(9) Community outreach to tribal members experiencing homelessness.

(10) Model activities that provide creative approaches to solving affordable housing activities.

(11) Other affordable housing program services permissible under NAHASDA.

(b) Housing and community development project costs including, but not limited to, all of the following:

(1) The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable multifamily and single-family housing projects for rent or ownership, including real property acquisition, demolition, and relocation.

(2) The conversion of nonresidential buildings into affordable housing.

(3) Site preparation, including grading and drainage improvements, development and rehabilitation of utilities, including sewer, water, and electrical systems, and other necessary infrastructure.

(4) Site amenities, including recreational areas, playgrounds, and on-site streets and sidewalks for affordable housing units.

(5) The construction or rehabilitation of community-serving amenities, including childcare centers, health services, supportive services space, or other activities and services that are colocated with an affordable housing project.

(6) The construction or rehabilitation of commercial uses that create job or economic development opportunities for tribal members that is colocated with an affordable housing project.

(7) Other predevelopment costs including, but not limited to, administration and planning of affordable housing projects, market studies, soils, engineering, and architectural plans, grant writers contracted to work on project funding applications, and finance professionals to assist with financial packaging of state and nonstate housing assistance programs.

(8) Other affordable housing project development costs permissible under NAHASDA.

(c) Management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, the costs of operation and maintenance of units developed with funds provided under this chapter, all activities related to maintaining compliance with housing loan or grant sources, and management of affordable housing projects.

(d) Allowable administrative costs shall include, but not be limited to, all of the following:

(1) Comprehensive housing and community development activities.

(2) Overhead subject to a federally negotiated indirect cost rate and the salaries and benefits of individuals engaged in overall program administration and management of affordable housing activities assisted with funds allocated under this chapter.

(3) Grant writers contracted to work on program applications to prospective funders.

(4) Monitoring, data collection, evaluation, and preparation of annual performance reports to the department.

(5) A recipient may request the department's approval for use of more than 20 percent of entitlement funds allocated under Section 50651.1 to help cover administrative costs.

(Added by Stats. 2024, Ch. 295, Sec. 3. (SB 1187) Effective January 1, 2025.)

50651.3. The moneys in the fund allocated to eligible applicants in accordance with Section 50651.1 shall only be expended for the benefit of one or more of the following eligible beneficiaries:

(a) Indian and essential families and individuals residing in an Indian area.

(b) Households residing in an Indian area with annual incomes up to 80 percent of the median income for the area for rental housing programs and projects and up to 120 percent of median income for the area for home ownership programs and projects.

(c) In high-cost areas, tribes may provide financial assistance to households with incomes up to 150 percent of median income for the area for home ownership programs and projects provided the total dollar amount of assistance does not exceed more than 10 percent of total funds allocated.

(Added by Stats. 2024, Ch. 295, Sec. 3. (SB 1187) Effective January 1, 2025.)

50651.4. (a) (1) Recipients shall have five years from the date of execution of a funding agreement with the department to expend all funds allocated to programs and services.

(2) Recipients shall have seven years from the date of execution of a funding agreement with the department to expend all funds allocated to projects.

(3) An extension to expend funds may be approved by the department when the recipient demonstrates significant progress toward completing the approved activities and a reasonable plan to complete them within the extension period.

(b) If it is determined, on the basis of a review of the recipient's annual reports, that the eligible activities have not been completed or are unlikely to be completed in the required timeframes, the award may be reallocated to another eligible activity, reduced, or withdrawn except that funds already expended on eligible activities shall not be recaptured. A reallocation of an award will not be made until the recipient has submitted an explanation as to why the original eligible activity will not proceed and has requested reallocation to another eligible activity. A reduction or withdrawal of an award will not be made until the recipient has been provided notice, and only then if the recipient has not made an appropriate and timely response which may include submittal of revised implementation schedules and plans to achieve the eligible activities.

(Added by Stats. 2024, Ch. 295, Sec. 3. (SB 1187) Effective January 1, 2025.)