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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 HOUSING AND HOME FINANCE [50000 - 54913] (*Division 31 repealed and added by Stats. 1977, Ch. 610.)*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 9. Rental Housing Construction Program [50735 - 50771.3] (*Chapter 9 added by Stats. 1979, Ch. 1043.)*

ARTICLE 1. Definitions and General Provisions [50735 - 50744.5] (*Article 1 added by Stats. 1979, Ch. 1043.)*

50735. The following definitions shall apply to all activities conducted pursuant to this chapter. Except as otherwise provided in this article or unless the context otherwise requires, the definitions contained in Chapter 2 (commencing with Section 50050) of Part 1 of this division shall also apply to this chapter.

(a) "Assisted unit" means a unit which is affordable to an eligible household as a result of a payment made by the department pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), 4 (commencing with Section 50765) or 6 (commencing with Section 50771.1), or as a result of establishment of, or assistance from, an annuity trust fund or both. The department shall adopt regulations which establish a method for computing rents for eligible households.

(b) "Below-market interest financing" means any of the following:

(1) A long-term loan made by the agency with below-market interest, as defined by Section 50056.

(2) A long-term loan made by a local finance entity at a below-market interest rate no higher than that established from time to time by the department, provided such rate shall not exceed by more than $1\frac{1}{2}$ percent the interest rate on long-term loans, if any, made by the agency for rental housing development proposals being submitted or processed for department assistance under this chapter at the same time.

(3) The use of subsidies, assistance, or financing, other than as provided in paragraphs (1) and (2), which reduce rent levels by an amount equivalent to that enabled by long-term loans at the interest rate established for purposes of paragraph (2).

(4) Subsidies, assistance, or financing provided to the sponsor by or through the agency or local finance entity and which is a loan made at below-market interest by an agency of the federal government.

(c) "Development costs" means the aggregate of all costs incurred in connection with construction of a rental housing development pursuant to this chapter, including (1) the cost of land acquisition, whether by purchase or lease, (2) the cost of construction, (3) the cost of overhead including architectural, legal, and accounting fees incurred in connection with the construction of the rental housing development, (4) the cost of related offsite improvements, such as sewers, utilities, and streets, and (5) the cost of necessary and related onsite improvements. The department shall adopt regulations consistent with this section specifying the expenses qualifying as development costs for which a payment may be made pursuant to Section 50745.

(d) "Eligible households" means lower income households, as defined by Section 50079.5, including very low income households, as defined by Section 50105.

(e) "Local finance entity" means a redevelopment agency, housing authority, duly constituted governing body of an Indian rancheria, city, county, or city and county, or any combination thereof, which, in connection with the program established pursuant to this chapter, provides or utilizes financing, at below-market interest or the equivalent under subdivision (b) of Section 50745, for development of rental housing developments eligible for assistance under this chapter.

(f) "Rental housing development" means a development of five or more rental or cooperative units, on one or more sites and includes a mobilehome park with five or more mobilehome spaces.

(g) "Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian rancheria, or other legal entity, or any combination thereof, certified by the department

and the agency or the department and a local finance entity as the case may be, to own and manage or construct a rental housing development assisted pursuant to this chapter. A sponsor may be organized for profit or limited profit or be nonprofit.

(Amended by Stats. 1989, Ch. 1346, Sec. 1.5. Effective October 2, 1989.)

50736. (a) Not less than 30 percent of the units in each rental housing development consisting of 10 or more units which receives any funds pursuant to this chapter shall be available on a priority basis to or occupied by eligible households pursuant to the agreement required by Section 50739, and not less than 20 percent of all the units in each rental housing development shall be available on a priority basis to, or occupied by, very low income households.

(b) Every sponsor shall, with respect to assisted units, conduct an affirmative marketing program, on a continuous basis, which program has been approved by the department or by the agency in cases where the agency provides financing. For the purposes of this subdivision, "affirmative marketing program" means any program approved by the department that is designed to achieve greater access to housing opportunities created by this chapter for eligible households. Such program shall include educational, promotional, and other appropriate activity designed to secure greater housing opportunities for those households. Where a significant number of persons in a community have limited fluency in the English language, publications implementing an affirmative marketing program in that community shall be provided in the native language of those persons.

(c) Of all assisted units, under this chapter, not less than two-thirds shall be allocated to very low income households and the balance for lower income households.

(d) Elderly or handicapped households shall be allocated not less than 20 percent, nor more than 30 percent, of the assisted units provided pursuant to this chapter. Other handicapped households shall be eligible for assisted units pursuant to this subdivision or subdivision (a), (b), (c), or (e) if they otherwise meet the requirements imposed by those provisions.

(e) Not less than 20 percent of the funds loaned pursuant to this chapter after November 1988 shall be allocated to rural areas.

For the purposes of this section "rural area" shall have the same meaning as defined in Section 50199.21.

(Amended by Stats. 1992, Ch. 496, Sec. 1. Effective January 1, 1993.)

50737. The department shall adopt rules and regulations, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter. The rules and regulations shall give priority in the allocation of funds available for the purposes of this chapter to the following:

(a) Rental housing developments which are of the lowest possible cost, given local market conditions.

(b) Rental housing developments which incorporate innovative or energy-efficient design and construction techniques and higher densities that will result in lower costs while retaining quality.

(c) Rental housing developments which complement the implementation of a local housing program of increased housing supply for persons and families of low or moderate income.

(d) Rental housing developments for which the housing sponsor, whether public or private, has contributed or received funds, services, or land or for which Community Development Block Grant Funds have been allocated under Title I of Federal Public Law 93-383 for eligible expenditures, including, but not limited to, rent subsidies, site acquisition, development costs, or construction costs.

(e) Rental housing developments which utilize available funds in the most efficient manner to produce the maximum number of housing units.

(f) To the extent feasible and consistent with the other priorities contained in this section, rental housing developments which are located within existing public transit corridors as defined in Section 50093.5. However, this priority shall not apply to rental housing developments located in rural areas which are assisted pursuant to this chapter.

(Amended by Stats. 1980, Ch. 1154, Sec. 3.2.)

50737.5. Funds available for the purposes of this chapter shall be allocated by the department throughout the state in accordance with identified housing needs.

(Added by Stats. 1979, Ch. 1043.)

50738. The department may make payments pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or contract to make annuity fund payments, or both, only if such payments or trust fund assistance result in affordable rents in assisted units for eligible households. The payments may be provided as loans to be repaid and payments of principal or interest may be deferred or made payable over a period of time. The payments may also be provided to acquire rights of occupancy or leaseholds, or to write down the development costs of a rental housing development. In addition to making payments to provide assisted units for eligible households, the department may provide funds if necessary to

ensure the economic feasibility of, and to enable the construction of, rental housing developments assisted under this chapter, but no more than 10 percent of the moneys appropriated to the Rental Housing Construction Fund may be used for this purpose.

(Amended by Stats. 1980, Ch. 1154.)

50738.5. (a) The department shall establish and administer an annuity fund and may, notwithstanding any other provision of this chapter, make commitments to provide annuity payments from the fund directly to sponsors of rental housing developments which will receive construction or mortgage financing, or both, from the Farmers Home Administration to ensure affordable rents to eligible households.

(b) The department shall require annual reports on the use of annuity funds and any audits necessary to ensure the proper use of moneys from the annuity fund. The department shall review all complaints received concerning those funds and shall have all powers necessary to assure the lawful application of those funds.

(c) Any rental housing development assisted pursuant to this section shall be governed by a regulatory agreement between the sponsor and the department. The regulatory agreement shall meet all of the requirements imposed by subdivisions (b), (c), (d), and (e) of Section 50757. The regulatory agreement shall also contain restrictions on the occupancy of the dwelling units within the rental housing development necessary to meet the requirements of subdivisions (a), (b), (c), and (e) of Section 50736 and Section 50739. In addition, elderly or physically handicapped households shall be allocated not less than 20 percent, or more than 50 percent, of the assisted units provided pursuant to this section. Other handicapped households shall be eligible for assisted units pursuant to this subdivision or subdivision (a), (b), (c), or (e) of Section 50736 if they otherwise meet the requirements imposed by those provisions.

(d) The department may utilize up to 2 $\frac{1}{2}$ percent of the moneys appropriated for purposes of this section for administrative costs incurred in administering this section.

(e) The department shall make requests for proposals available to all potential sponsors of rental housing developments to be financed by the Farmers Home Administration who request them. The department shall encourage nonprofit sponsors and public agency sponsors to submit proposals. The request for proposals shall provide information about the availability of annuity payments to ensure affordable rents in rental housing developments financed by the Farmers Home Administration, the department's criteria for making commitments of its annuity funds, and the appropriate application procedure. The applicant shall be required by the department to concurrently submit a preapplication for financing to the Farmers Home Administration. The department shall submit to the Farmers Home Administration those applications for which the department has made commitments for annuity payments under this section. This section does not prohibit a sponsor of a rental housing development from applying directly to the Farmers Home Administration for financing and for federal rental assistance payments.

(f) "Rental housing development," as used in this section, includes farm labor housing developments financed or insured by the Farmers Home Administration pursuant to Section 1484, 1485, or 1486 of Title 42 of the United States Code.

(Amended by Stats. 1985, Ch. 697, Sec. 1.)

50739. At the time the department makes a payment pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or contracts to make annuity fund payments in connection with a rental housing development, or both, a written agreement between the department and the agency, local finance entity, or local public entity shall be executed, designating the number of units within the rental housing development available to, or occupied by, very low income households, other lower income households, and other households. If the number of units occupied by very low income households or other lower income households in any housing development ever falls below the number agreed to by the department and agency, local finance entity, or local public entities, then units which become available for occupancy shall be made available on a priority basis to very low income households or other lower income households, as required, until the number of units so occupied equals at least the number specified in the agreement.

The department and the agency, local finance entity, or local public entity, may reduce the number of assisted units to less than 30 percent of a rental housing development only if necessary to maintain the development's fiscal integrity. Any reduction in the number of assisted units shall be reviewed annually to determine whether it is necessary to continue that reduction in the number of assisted units.

(Amended by Stats. 1985, Ch. 375, Sec. 2.)

50740. (a) The Rental Housing Construction Incentive Fund established in the State Treasury is hereby renamed the Rental Housing Construction Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are hereby continuously appropriated to the Department of Housing and Community Development, and, except as provided in subdivisions (b) and (c), shall be utilized for purposes of this chapter, Section 50775.5, and Chapter 15 (commencing with Section 50880). All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Except as described in subdivision (d), moneys in the fund shall not be subject to transfer to any other fund pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund.

(b) An amount not to exceed four million dollars (\$4,000,000) of the moneys from the fund utilized by the agency for development costs which is repaid to the agency or disencumbered on or after July 1, 1983, shall be deposited in a separate account and utilized and apportioned in accordance with the following percentages as it becomes available:

(1) Fifty percent of the moneys shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for making deferred payment loans for residential hotels as authorized by subdivision (b) of Section 50661 and for purposes of subdivision (c) of that section.

(2) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800.5.

(3) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5.

(c) Notwithstanding any other provision of law, effective with the date of the act adding this subdivision, appropriations authorized for support of the department from the Family Housing Demonstration Account shall instead be authorized for expenditure from the Rental Housing Construction Fund.

(d) Notwithstanding any other law, the Controller may use the moneys in the Rental Housing Construction Fund for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. However, interest shall be paid on all moneys loaned to the General Fund from the Rental Housing Construction Fund. Interest payable shall be computed at a rate determined by the Pooled Money Investment Board to be the current earning rate of the fund from which loaned. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the Rental Housing Construction Fund was created.

(Amended by Stats. 2009, 3rd Ex. Sess., Ch. 9, Sec. 15. Effective February 20, 2009.)

50740.7. If money committed by the department prior to the effective date of the act which enacted this section cannot be used by the local finance entity or housing authority to which funds are committed, the department may allocate these funds to assist any other housing developments, including those financed by the agency, eligible under this chapter.

(Added by Stats. 1981, Ch. 102.)

50741. Only rental housing developments on which construction is commenced on or after six months from the effective date of this chapter shall be eligible for assistance under this chapter.

(Added by Stats. 1979, Ch. 1043.)

50742. For purposes of acting as a local finance entity pursuant to this chapter, a city, county, or city and county may, pursuant to an enabling ordinance of its legislative body, issue revenue bonds to provide below-market interest financing of a rental housing development. Any city, county, or city and county may act jointly with one or more other cities, counties, or cities and counties in the exercise of powers under this section. The proceeds of local revenue bonds issued pursuant to this section shall be used solely to finance rental housing developments containing assisted units, for any and all costs of administering such finance program and for complying with mandated reserve requirements. Any interest or other increment received by a local finance entity acting under the authority of this section from the investment or reinvestment of the proceeds of such revenue bonds, any payments of principal or interest on financing provided by the local finance entity or part of such program, and any other revenues received by the local finance entity in connection with, or for purposes of, such program shall be held and applied solely for the purposes of such program.

(Amended by Stats. 1980, Ch. 1154.)

50744. Where a local finance entity or local public entity is authorized to receive payments from the annuity fund established pursuant to Section 50748, under a written agreement with the department, the local finance entity or local public entity may with the approval of the department designate in writing either the project sponsor or the sponsor's approved management agent for the rental housing development as a substitute payee for these payments. Upon the approval of the department and the local finance entity or local public entity, the department shall make the authorized payments directly to the designated payee until the entity and the department agree to revoke or rescind the designation.

(Added by Stats. 1987, Ch. 1034, Sec. 3.)

50744.5. The same notice requirements as specified in Section 65863.10 of the Government Code shall apply to rental housing developments that receive financial assistance pursuant to this chapter.

(Added by Stats. 1988, Ch. 1563, Sec. 4.)