



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

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 HOUSING AND HOME FINANCE [50000 - 54913] (*Division 31 repealed and added by Stats. 1977, Ch. 610.)*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 2. Rental Construction Incentive Program [50745 - 50750] (*Article 2 added by Stats. 1979, Ch. 1043.)*

50745. (a) Upon application by the agency or a local finance entity, the department may contract with the agency or local finance entity to pay all or a portion of the development costs incurred by a sponsor in connection with the construction of a rental housing development which is financed, or otherwise assisted pursuant to subdivision (b), by the agency, local finance entity, or a federal agency.

(b) In lieu of providing financing of a rental housing development at below-market interest, a local finance entity to be eligible for assistance under this article, may utilize other types of subsidies including, but not limited to, federal funds, as authorized by law, which reduce by an equivalent amount the rental levels of a rental housing development.

(c) Pursuant to such a contract the agency or local finance entity shall, in accordance with criteria established by the department, (1) ensure the feasibility of the proposed rental housing development to be financed and assisted pursuant to this chapter, (2) supervise the design and construction of the rental housing development to be financed by it and assisted pursuant to this chapter, and (3) supervise the management of such rental housing development while the financing thereof remains outstanding and unpaid or for a period of 30 years, whichever is greater. The department shall adopt criteria to ensure that a local finance entity has the capability of performing such functions prior to entering a contract pursuant to this section.

(Amended by Stats. 1979, Ch. 1045.)

50745.1. (a) Notwithstanding any other provision or requirement of this chapter, and any regulations adopted thereunder, the department may contract with the agency, a local finance entity, or a sponsor to pay all or any portion of the development costs incurred in connection with the construction of a rental housing development consistent with the requirements of this section.

(b) Pursuant to this section, funds may be utilized only to assist the development of rental housing developments in Anaheim where the department determines that such assistance is necessary to alleviate hardship resulting from the destruction of rental units in Anaheim caused by a fire which resulted in a state of emergency proclaimed on April 23, 1982, by the Governor, as provided by Section 8625 of the Government Code.

(c) Any rental housing development assisted pursuant to this section shall not be governed by the percentage requirements contained in Section 50736, nor shall units assisted pursuant to this section be used in determining compliance with the percentage requirements contained in Section 50736.

(d) As a condition of assistance provided pursuant to this section, the department may establish such rent levels as the department may determine are necessary to alleviate hardship in the disaster area consistent with the economic feasibility of the assisted rental housing development. Contracts and agreements governing the provision of financial assistance pursuant to this section shall not be subject to the requirements of Sections 50746 and 50749. The department may require such terms and conditions as it determines are necessary to meet the needs of the disaster area and its victims, to ensure fiscal integrity of the rental housing development and to protect the interests of the state. The terms and conditions required by the department, including the restrictions on rent levels for assisted units, shall remain binding on sponsors of developments assisted pursuant to this section, and heirs, successors, and assigns, for a period of at least 20 years or such a longer term as the department may require. The department shall require that priority in occupancy of any units in a development assisted pursuant to this section shall be given first to households of low income, as defined in Section 50093, who have been displaced from their dwelling units as a result of this disaster, and, secondly, to any other victim of this disaster. After no additional victims of this disaster qualify for, or remain in, any assisted units, these units shall be available to, on a priority basis, or occupied by households of low income.

(e) The department may allocate funds to an annuity fund established pursuant to Section 50748, or utilize existing annuity funds, to ensure that the rent levels established by the department are maintained consistent with the fiscal integrity of the rental housing development.

(f) The department may require funds utilized pursuant to this section to be returned to the Rental Housing Construction Fund from the present allocation of funds to the agency. Any repayment of funds originating from the Rental Housing Construction Fund and utilized pursuant to this section shall be utilized by the department pursuant to this chapter.

(g) Any rule, policy or standard of general application employed by the department in implementing the provisions of this section, shall not be subject to the requirements of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1982, Ch. 312, Sec. 8. Effective June 28, 1982.)

50746. Each contract pursuant to Section 50745 shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California. The contract shall contain at least the following provisions:

(a) The amount and terms of payments to be provided under this article, including specific items to be covered by such payments.

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying assisted units within the rental housing development.

(c) Projected rent levels for all units, and the number of units to be occupied by eligible households.

(d) Requirements for payment of prevailing wage rates on construction.

(e) A requirement for a periodic report to be made at least annually by the agency or local finance entity which shall include, at a minimum, information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households.

(f) A provision for department approval prior to the execution of the terms of the regulatory agreement to be entered into between the sponsor and the agency or local finance entity pursuant to Section 50749.

(g) A provision that failure to operate the rental housing development in accordance with the regulatory agreement shall be deemed a violation of the regulatory agreement or deed of trust, as the case may be. In the alternative or in addition, the contract may contain a lien on the rental housing development for the purpose of securing performance of the agreement. Such lien shall include a legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien upon the assisted real property.

(h) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments.

(i) Provisions sufficient to ensure that dwelling units in the rental housing development available to and occupied by eligible households in accordance with Section 50736 and in accordance with the written agreement required by Section 50739 remain available to such households for a period of not less than 30 years or the duration of the long-term financing, whichever is greater.

(j) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state.

(k) A provision making the covenants and conditions of the contract binding upon successors in interest of the sponsor.

(l) When the sponsor is not a nonprofit housing sponsor or a local public entity, a provision limiting distribution of the sponsor's earnings to an annual amount no greater than 6 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development. The department may allow an earnings distribution of no greater than 10 percent on a nonelderly rental housing development if the department finds it necessary to do so to fulfill the requirements of Section 50736. With respect to such nonelderly rental housing developments, the department may adopt regulations consistent with this section governing the conditions under which an earnings distribution over 6 percent but not to exceed 10 percent may be allowed.

(m) A provision which specifies the conditions under which the department and agency may enforce the regulatory agreement with respect to a rental housing development financed by the agency.

(n) Provisions necessary for the administration, disbursement, and protection of annuity fund payments including provisions specifying the conditions under which the department may recover or reallocate all or any part of such payments for the benefit of eligible households in existing or additional assisted units.

(o) Provisions (1) governing the recovery and reallocation by the department of rent revenues derived by the sponsor from the assisted units and which are not necessary to defray costs of operation attributable to such units and (2) specifying the return on the sponsor's investment pursuant to subdivision (b). Such rent revenue shall be handled by the department in the same manner as annuity payments recovered pursuant to subdivision (n).

(p) Authorization for the agency or local finance entity to fix and alter rents pursuant to the provisions of subdivision (c) of Section 50749.

(q) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

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

50747. The development cost payments provided by the department pursuant to this article shall not exceed 100 percent of the development costs of a rental housing development, and shall not exceed the amount required, when considered with any subsidy or assistance provided by the agency, local finance entity or housing sponsor, including below-market interest financing, to ensure the economic feasibility of restricting occupancy of the rental housing development in accordance with Sections 50736 and 50739. The department may defray all or a portion of development costs as they are incurred, or in accordance with a schedule developed pursuant to subdivision (j) of Section 50746.

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

50748. (a) The department may establish and administer an annuity fund, with respect to rental housing developments assisted under this article or Article 3 (commencing with Section 50755) or Article 4 (commencing with Section 50765) for the purpose of reducing rent levels to ensure occupancy by eligible households pursuant to Sections 50736 and 50739. The annuity funds shall be structured so that the principal and interest accumulated thereon is not depleted prior to the expiration of the agreements or contracts required by Section 50749.

(b) Payments made by the department pursuant to this section shall not constitute a subsidy under subdivision (b) of Section 50745, and shall not constitute an advance payment within the meaning of state law restricting advance payments under state contracts.

(c) The department shall require annual reports on the use of annuity funds and such audits as may be required to ensure the proper use of moneys from the annuity fund. The department shall review all complaints received concerning such trust funds and shall have all powers necessary to assure the lawful application of such funds.

(d) When the amount of moneys made payable from an annuity fund pursuant to this section exceeds the amount necessary to ensure that eligible households in a rental housing development assisted under this chapter are paying affordable rents, or if payments from the annuity fund become unnecessary for such purpose, the department may by contract (1) require that such unneeded moneys be paid into the Rental Housing Construction Incentive Fund or (2) authorize use of such moneys to reduce rents to an affordable level for additional eligible households in the rental development.

(e) Not less than 20 percent of the moneys appropriated for the purposes of this chapter shall be utilized pursuant to this section. However, moneys transferred to the Rental Housing Construction Fund pursuant to subdivision (d) shall be used for any purpose authorized by this chapter.

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

50748.1. (a) The department shall from time to time direct the Treasurer to invest moneys set aside or otherwise deposited in the annuity fund established by Section 50748 as an account in the Rental Housing Construction Fund, which are not required for its current needs, in the eligible securities specified in Section 16430 of the Government Code that are designated by the department. The department may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state, or in other investments which are consistent with state policy and achieve returns adequate to fulfill the requirements of this chapter. The department may alternatively require the transfer of moneys in the annuity fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

All interest or other increment resulting from the investment or deposit shall be deposited in the annuity fund account, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund are not 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) Upon request of the department, the Controller shall transfer from the annuity fund account in the Rental Housing Construction Fund, an aggregate amount not exceeding five million dollars (\$5,000,000) to the Predevelopment Loan Fund. The department shall determine the respective amount to be deposited in these funds.

Transfers made pursuant to this subdivision shall be treated as advances and shall be repaid, with interest specified in this subdivision, within three years of the effective date of transfer of the moneys, except that the department may defer repayment if (1) the balance of moneys in the annuity fund account is sufficient to meet current or anticipated financial obligations and (2) the financial integrity of any component or fund of the Rental Housing Construction Program is not at risk. Moneys advanced pursuant to this subdivision shall be repaid with interest at the rate of 7 percent.

(Amended by Stats. 2001, Ch. 395, Sec. 13. Effective October 1, 2001.)

50749. Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the agency or local finance entity. Such regulatory agreements shall be recorded or referenced in a recorded document in the office of the county recorder for the county in which the rental housing development is located. The regulatory agreements shall contain at least all of the following:

- (a) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739.
- (b) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring.
- (c) The authorization for the agency or local finance entity to fix and alter, from time to time, a schedule of rents such as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the maintenance of the financial integrity of the rental housing development.

With respect to rental housing developments financed by the agency, no housing sponsor may increase rents except in accordance with the provisions of Section 51200. With respect to units under the supervision of a local finance entity, no housing sponsor shall increase the rent without the prior permission of such entity which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development. Prior to the time any rent increase is effective, the housing sponsor shall notify every affected tenant, in writing, of informal meetings with the housing sponsor to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the local housing finance entity pursuant to this subdivision.

Notwithstanding Section 51200 with respect to rental housing developments assisted under this article, if the agency or local finance entity does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved.

Thirty days' notice of any rent increase shall be given in writing.

- (d) Provisions implementing standards governing selection of tenants by sponsors to ensure initial and continued occupancy by eligible households consistent with the requirements of Sections 50736 and 50739.
- (e) Provisions implementing the terms of occupancy agreements.
- (f) Provisions necessary for the administration and protection of annuity trust funds established pursuant to Section 50748 and for recovery and reallocation of annuity fund payments and rent revenues pursuant to subdivisions (n) and (o) of Section 50746.
- (g) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

The regulatory agreement shall remain in effect so long as any financing for the rental housing development provided by the agency or local finance entity remains outstanding, but in any event not less than 30 years. The regulatory agreement shall be enforceable as specified in subdivision (m) of Section 50746 by the department, the agency or local finance entity or by any intended beneficiary of housing assisted under this chapter as against the sponsor or any successor in interest of the sponsor.

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

50750. Upon consent of the legislative body of the city or county in which a rental housing development is or will be located, the department may contract with a local finance entity located in a rural area to ensure that the terms of the agreement between such entity and a sponsor entered into pursuant to Section 50749 are carried out.

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