



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 HOUSING AND HOME FINANCE [50000 - 54913] (*Division 31 repealed and added by Stats. 1977, Ch. 610.)*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 3. CALIFORNIA HOUSING FINANCE AGENCY [50900 - 51532] (*Heading of Part 3 amended (as amended by Stats. 1994, Ch. 94) by Stats. 2000, Ch. 471, Sec. 17.5.)*

CHAPTER 10. Multifamily Housing [51475 - 51484] (*Chapter 10 added by Stats. 1990, Ch. 577, Sec. 1.)*

51475. (a) The Legislature finds and declares:

(1) Significant amounts of housing built to serve lower income households and families is disappearing from the housing market. This phenomenon is due to government policies that allow prepayment of mortgages, termination of use restrictions and nonrenewal of subsidy contracts and to changes in market forces which increase property values and create pressure to convert to middle or upper income housing or other commercial uses. These conversions displace lower income tenants who have very limited options for relocating in comparable affordable housing.

(2) There are nearly 2,000 rental housing projects built in this state prior to 1980 under Section 236, Section 221(d)(3) and Section 8 programs of the United States Department of Housing and Urban Development and the Section 515 Program of the federal Farmers' Home Administration, containing approximately 123,000 units subject to potential conversion to higher market rent housing or condominium units which will result in the displacement of lower income tenants.

(3) It is in the public interest to preserve and expand our existing affordable lower income housing stock.

(b) It is the intent of the Legislature to provide a flexible and expeditious source of mortgage financing for bridge loans and gap financing to preserve and expand existing affordable lower income rental housing stock.

(*Added by Stats. 1990, Ch. 577, Sec. 1. Effective September 5, 1990.*)

51476. The agency shall administer a program for the preservation of multifamily housing under authority of this chapter with funds made available by the California Housing Bond Act of 1990.

(*Added by Stats. 1990, Ch. 577, Sec. 1. Effective September 5, 1990.*)

51477. There is hereby created in the State Treasury an Affordable Housing Preservation and Rehabilitation Fund. "Fund" as used in this chapter means the Affordable Housing Preservation and Rehabilitation Fund. Notwithstanding the provisions of Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the agency without regard to fiscal years, for expenditure pursuant to this chapter and for defraying the actual administrative costs of the agency incurred pursuant to this chapter. Notwithstanding Section 16305.7 of the Government Code, any interest earned or other increment derived from investments made from moneys in the fund shall be deposited in the fund.

(*Added by Stats. 1990, Ch. 577, Sec. 1. Effective September 5, 1990.*)

51478. All of the powers granted under this chapter are cumulative with powers of the agency under other provisions of this part, and this chapter constitutes an alternative method to issue bonds and to make mortgage loans pursuant to the provisions of this chapter.

(*Added by Stats. 1990, Ch. 577, Sec. 1. Effective September 5, 1990.*)

51479. In administering a program for the preservation of multifamily housing hereunder, the agency may segregate funds available for these purposes into separate accounts as necessary to reflect the different types of assistance authorized by this chapter.

(*Amended by Stats. 2002, Ch. 26, Sec. 5. Effective April 22, 2002. Operative after November 5, 2002 (Prop. 46 was adopted) by Sec. 9 of Ch. 26.*)

51480. (a) (1) Mortgage lending authorized by this chapter shall be for multifamily rental housing developments at risk of conversion. For the purposes of this chapter, multifamily rental housing developments at risk of conversion shall include any of the following:

(A) Federally assisted housing for which the low-income use restriction may terminate or be substantially modified within four years.

(B) State or locally assisted housing for which the low-income use restrictions may terminate or be substantially modified within four years.

(C) Other privately owned housing serving at least 30 percent lower income tenants which is demonstrated to be at risk of converting to other residential or nonresidential use within four years resulting in the displacement of lower income tenants.

(2) For the purposes of this chapter, "substantially modified" means any change to use restrictions which would result in reducing the number of units originally required to be set aside for lower income tenants or reducing the time the units are required to be set aside for lower income tenants.

(b) Mortgage lending authorized by this chapter for multifamily rental housing developments at risk of conversion shall include the following:

(1) Loans for the acquisition of an existing multifamily rental housing development for a temporary period prior to and pursuant to a plan made or approved by the agency for permanent financing and any necessary rehabilitation of the multifamily rental housing development. Loans made pursuant to this paragraph shall not exceed 90 percent of the value of the property and the costs of holding the housing for a period of up to three years and shall accrue simple interest at a rate of 3 percent per annum. All principal and accrued interest shall be due and payable not later than three years from the date of the loan, or earlier upon sale, refinancing, syndication, or permanent loan closing. The board may extend the term of the loan for one additional year based on a finding that additional time is needed to secure permanent financing for the development. The loan shall be subject to a regulatory agreement with an occupancy restriction for the assisted units for 40 years.

(2) Loans for acquisition or acquisition and rehabilitation secured by a lien junior to other permanent financing for a multifamily rental housing development pursuant to a plan made or approved by the agency for permanent financing and any necessary rehabilitation of the multifamily rental housing development. Loans made pursuant to this paragraph shall be made upon terms and conditions determined by the board, but in an amount which, when added to debt secured by a lien senior to the loan, does not exceed 90 percent of the value of the property or if the property is rehabilitated, 90 percent of the after rehabilitation value. The amount included in an acquisition and rehabilitation loan for rehabilitation shall not exceed \$5,000 per unit. The number of assisted units shall be at least equal to the proportion of project cost financed pursuant to this chapter to total project cost. Loans made pursuant to this paragraph shall be for a term of not less than 40 years and shall bear simple interest at a rate of 3 percent per annum. The board may extend the term of the loan for an additional 10 years as long as the rental housing development is operated in a manner consistent with the regulatory agreement. The board, in its discretion, may provide for the current payment of interest or for the accrual of interest over the term of the loan. All principal and any accrued interest shall be due and payable at the end of the loan term, or earlier upon sale, refinancing or syndication of the property unless the agency determines the proceeds obtained from a refinancing or syndication are necessary to maintain the housing development in accordance with the terms and conditions of the regulatory agreement or otherwise further the purposes of the chapter. The loan shall be subject to a regulatory agreement with an occupancy restriction for the assisted units for 40 years.

(c) (1) In making mortgage loans pursuant to this chapter, the agency shall consider the public benefit to be derived from the loan, and the amount of loan shall not exceed the amount necessary to ensure the preservation and or expansion of lower income housing consistent with paragraph (2).

The loan amount shall be limited to the total amount required, when considered with other available financing and assistance, in order to achieve all of the following:

(A) Enable the acquisition or acquisition and rehabilitation of assisted rental housing units.

(B) Ensure that rents for assisted units are in accordance with program requirements.

(C) Operate in compliance with all other program requirements.

(D) Allow a debt service coverage ratio in an amount sufficient to satisfy the requirements of other lenders providing financing for the rental housing development, but not to exceed 115 percent.

(2) In making loans pursuant to this chapter, the agency shall do the following:

- (A) Establish application forms and materials.
- (B) Accept applications at any time and make loan commitments at scheduled meetings of the board.
- (C) Ensure that the housing development meets minimum threshold requirements relating to the capability of the applicant to develop and manage the housing development.
- (D) Ensure that the housing development is economically feasible and complies with the program requirements of this chapter.
- (E) Use the following preferences in evaluating the housing developments and making loan commitments:
 - (i) The smallest percentage of the maximum allowable rents for lower income tenants.
 - (ii) The longest period of affordability.
 - (iii) The least permanent displacement of lower income tenants.
 - (iv) The greatest number of units consisting of three or more bedrooms.
 - (v) The greatest number of units for single room occupancy for very low income tenants.
 - (vi) The maximum use of private, local, federal, and other financing.
 - (vii) The greatest impact on the availability of affordable low-income housing in a community.
- (F) In making loans pursuant to this subdivision, the agency shall consider variances in market conditions relating to the cost of developing rental housing.

(d) (1) All loans made pursuant to this section shall be subject to a regulatory agreement executed by the borrower and recorded in the office of the county recorder of the county in which the property is located.

(2) The regulatory agreement shall contain at least all of the following:

- (A) Restrictions on occupancy of units within the housing development to meet the requirements of paragraphs (1) and (2) of subdivision (b).
- (B) Provisions governing tenant selection to ensure occupancy by lower income tenants.
- (C) Provisions governing occupancy standards and rental agreements.
- (D) Provisions for setting rents pursuant to subdivision (g).
- (E) Provisions limiting distribution of earnings pursuant to paragraphs (1) and (2) of subdivision (1).
- (F) Provisions specifying the conditions under which the agency and any intended beneficiary may enforce the regulatory agreement.

(3) The regulatory agreement shall be recorded against the property and shall be deemed a covenant running with the land and shall be binding upon the sponsor and any and all successors in interest in case of sale or transfer of the housing development for the original term of the loan, regardless of any prepayment of the loan, except when the sale or transfer is a result of a foreclosure by the first lienholder.

(e) Not less than 20 percent, nor more than 40 percent, of the assisted units financed pursuant to paragraph (3) of subdivision (a) shall be available on a priority basis to elderly or handicapped persons.

(f) (1) No loan shall be made pursuant to this section if, as a result of the loan, the aggregate number of units in the housing development available to persons of low and very low income would be less than the number of those units available prior to making the loan.

(2) No loan shall be made pursuant to this section unless the number of low- and very low income units is equal to or exceeds 30 percent of the total units in the housing development, except that a loan may be made when the number of units is equal to or exceeds 20 percent of the total units when the housing development was originally financed using tax-exempt bond proceeds and the housing sponsor agrees to increase the number of low- and very low income units to 30 percent of the total units as the units become available.

(g) (1) For all units not receiving assistance payments under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f), or other rental assistance payments, the respective rent for each assisted unit existing prior to loan assistance

shall be the base rent for that unit. The base rent for each occupied unit may be annually increased in accordance with the inflation index specified in subdivision (h).

(2) For all units receiving project-based payments under Section 8 of the United States Housing Act of 1937 or other rental assistance payments, at the time these payments cease to be available, base rents shall be established as follows: rents for units occupied by tenants earning less than 35 percent of median income shall be no more than 30 percent of 35 percent of median income adjusted for family size appropriate for the unit, rents for units occupied by tenants earning between 35 percent and 50 percent of median income shall be 30 percent of 50 percent of median income adjusted for family size appropriate for the unit, rents for units occupied by tenants earning between 51 percent and 80 percent of median income shall be 30 percent of 60 percent of median income adjusted for family size appropriate for the unit. The base rent for each unit may be annually increased in accordance with the inflation index specified in subdivision (h).

In determining the loan amount, the agency shall ensure that these rent levels are achieved at the time the rental assistance payments cease, taking into account the projected date for cessation of the rental payments. The agency shall require that sponsors make every effort to seek renewal of the rental assistance payments if renewal is possible.

(3) Upon vacancy of an assisted unit, the rent for that unit shall be the last rent charged pursuant to paragraph (1) or (2). The rent for units may be annually increased in accordance with the inflation index specified in subdivision (h).

(4) For the life of the project, the sponsor shall maintain the assisted units in the proportion of tenants with incomes less than 35 percent of median income, between 35 percent and 50 percent of median income, and between 51 percent and 80 percent of median income as existed in the project at the time of application. Upon request of the sponsor, the agency may allow vacated units originally occupied by tenants earning less than 35 percent of median income to be rented to tenants earning up to 50 percent of median income, adjusted for family size, in the event the agency determines that the base rent is not affordable to tenants below 35 percent of median income.

(h) Rents for units financed pursuant to this section may be automatically increased by the sponsor annually according to an inflation index to be determined by the board. The inflation index shall reflect anticipated annual changes in rental housing development operating costs from the base year in which rents are initially established for the housing development. Any sponsor may appeal to the agency in writing for a greater adjustment in rents necessary to ensure the fiscal integrity of the housing development; the request on appeal shall be deemed approved unless rejected by the agency within 60 days from the date of receipt of the appeal.

(i) Not less than 20 percent of funds made available to the agency for the purposes specified in this section shall be made available for loans in rural areas.

(j) (1) If a multifamily rental housing development assisted by this chapter is not economically feasible, the sponsor, with the approval of the agency, may remove one or more assisted units from the occupancy requirements for a period of time necessary for the development to again become economically feasible.

(2) For purposes of paragraph (1), "economically feasible" means that project revenue equals or exceeds project operating expenses, excluding any return on investment.

(3) For purposes of paragraph (2), "operating expenses" means the reasonable expenses necessary to operate and maintain the project in habitable condition, including debt service, taxes, and reasonable reserves.

(4) For purposes of this paragraph, debt service shall not include the portion of payments of principal and interest attributed to any excess refinanced principal over the outstanding principal of the loan that was refinanced, except to the extent the excess was used for the rehabilitation of the project.

(k) To the extent that any provisions of this section relating to use and rent restriction conflict with the requirements of federal law, the requirements of federal law shall prevail for the period the project is subject to federal restrictions.

(l) A loan made pursuant to paragraph (1) or (2) of subdivision (b) may be assumed if the terms, conditions, and requirements of the regulatory agreement are maintained.

(m) (1) A nonprofit sponsor, other than a governmental agency, may distribute earnings from assisted and nonassisted units in an amount no greater than 8 percent of the nonprofit sponsor's actual investment in the housing development. A for-profit sponsor may choose between the following options:

(A) It may distribute earnings from assisted and nonassisted units in an amount no greater than 8 percent of its actual investment in the housing development.

(B) It may forgo distribution of earnings from assisted units and not be subject to any limitation on the amount of distribution it receives from nonassisted units.

(2) The housing sponsor shall apply any earnings in excess of the amount eligible to be distributed under paragraph (1) to reduce rent of assisted units or to increase the number of assisted units.

(Added by Stats. 1990, Ch. 577, Sec. 1. Effective September 5, 1990.)

51481. Mortgages made by the agency under authority of this chapter shall be secured by a first deed of trust, or by a deed of trust junior to a first deed of trust if it is necessary to accomplish the purposes of this chapter. Except as otherwise specified in this chapter, the principal amount of, and the conditions of mortgage loans, shall be determined by the board.

(Added by Stats. 1990, Ch. 577, Sec. 1. Effective September 5, 1990.)

51482. The agency shall adopt policies by resolution of the board for the admission of tenants, termination of tenancies, and eligibility of developers of housing financed under this part.

(Added by Stats. 1990, Ch. 577, Sec. 1. Effective September 5, 1990.)

51483. The agency shall consult with an outside advisory committee to assist in the implementation of this chapter. The advisory committee shall be comprised of individuals who are knowledgeable about housing finance, the conversion of subsidized housing, the operation of low-income multifamily rental housing, the needs of lower income tenants and the intent and objectives of this chapter.

(Added by Stats. 1990, Ch. 577, Sec. 1. Effective September 5, 1990.)

51484. The agency shall have all powers granted under authority of this part to make commitments and execute agreements with developers, other lenders, and any public or private entity in making mortgage loans authorized by this chapter.

(Added by Stats. 1990, Ch. 577, Sec. 1. Effective September 5, 1990.)