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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 HOUSING AND HOME FINANCE [50000 - 54913] (*Division 31 repealed and added by Stats. 1977, Ch. 610.)*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 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 4. General Powers [51050 - 51070] (*Chapter 4 added by Stats. 1977, Ch. 610.)*

51050. The agency shall have all of the following powers:

- (a) To sue and be sued in its own name.
- (b) To have an official seal and to alter the same at pleasure.
- (c) To have perpetual succession.
- (d) To maintain offices at any place or places within the state which it may designate.
- (e) To adopt, and from time to time amend and repeal, by action of the board, either resolutions, or rules or regulations, not inconsistent with this part, to carry into effect the powers and purposes of the agency and the conduct of its business, except where this part expressly requires the agency to act by rule or regulation. If the agency acts by rule or regulation, the rule or regulation shall be adopted, amended, repealed, and published in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (f) Notwithstanding any other provision of law, to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this part with any governmental agency, private corporation or other entity, or individual, and to contract with any local public entity for processing of any aspect of financing housing developments. Contracts made or executed under the authority of this part shall not be subject to any applicable provision of law requiring competitive bidding or the supervision or approval of another division or officer of state government.
- (g) To acquire real or personal property, or any interest therein, on either a temporary or long-term basis in its own name by gift, purchase, transfer, foreclosure, a deed in lieu of foreclosure, lease, option, or otherwise, including easements or other incorporeal rights in property.
- (h) To hold, sell, assign, lease, encumber, mortgage, or otherwise dispose of any real or personal property or any interest therein; to hold, sell, assign, or otherwise dispose of any mortgage interest owned by it, under its control or custody, or in its possession; and, as applicable, to do any of the acts specified in this subdivision by public or private sale, with or without public bidding, notwithstanding any other provision of law.
- (i) To release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in real property foreclosed by it or acquired by it by a deed in lieu of foreclosure.
- (j) To determine the terms and conditions of any mortgage instrument, deed of trust, or promissory note used or executed in conjunction with the financing of any housing development.
- (k) To employ architects, engineers, attorneys, accountants, housing construction and financial experts, and such other advisers, consultants, and agents as may be necessary in its judgment and to fix their compensation.
- (l) To provide advice, technical information, and consultative and technical service in connection with the financing of housing developments pursuant to this part.
- (m) Notwithstanding any other provision of law, to insure or reinsure against any loss in connection with its property and other assets, including mortgages and mortgage loans, in amounts, in the manner, and from those insurers as it deems desirable.
- (n) To establish, revise from time to time, and charge and collect fees and charges in connection with loans made or insured by the agency.
- (o) To borrow money and issue bonds, as provided in this part.

(p) To enter agreements and perform acts as are necessary to obtain and maintain federal housing subsidies for use in connection with housing developments.

(q) To provide bilingual staff and make available agency publications in a language, other than English, where necessary to effectively serve all groups for which those services or publications are made available.

(r) To require any individual, corporation, or other legal entity operating, managing, or providing maintenance services for a housing development or a residential structure to maintain a current certificate of qualification developed and approved by the agency.

(s) To do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this part.

(Amended by Stats. 2008, Ch. 281, Sec. 2. Effective September 25, 2008.)

51050.1. The agency may make loans to finance affordable housing, including residential structures, housing developments, multifamily rental housing, special needs housing, and other forms of housing permitted by this part.

(Added by Stats. 2006, Ch. 748, Sec. 3. Effective January 1, 2007.)

51051. The agency shall be a state representative for purposes of receiving and allocating financial aid and contributions from agencies of the federal government which are provided to the state or to the agency for the purpose of subsidizing housing for persons and families of low or moderate income and may utilize federal subsidies available to it in providing housing for persons and families of low or moderate income or for exercising any other of its powers. The agency shall have priority among all other units of state government for receipt of federal housing subsidies to the extent units financed under this part are eligible for such assistance.

(Added by Stats. 1977, Ch. 610.)

51053. The agency may make and execute contracts with qualified mortgage lenders for the initiation or servicing of mortgage loans, construction loans, property improvement loans, or development loans made or acquired by the agency pursuant to this part or for other services rendered to the agency. The agency may pay the reasonable value of services rendered to the agency pursuant to such contracts.

(Amended by Stats. 1979, Ch. 1207.)

51054. The agency may make or undertake commitments to make development loans, construction loans, mortgage loans, and property improvement loans to housing sponsors to finance housing developments, as provided in Chapter 5 (commencing with Section 51100) of this part.

The agency may, in conjunction with a construction loan, set aside a reserve to provide improvement security required under subdivision (c) of Section 66462 and Chapter 5 (commencing with Section 66499) of Division 2 of Title 7 of the Government Code, which shall be in lieu of improvement security otherwise required by such provisions.

(Amended by Stats. 1979, Ch. 1207.)

51055. The agency may purchase and sell construction loans, mortgage loans, property improvement loans, obligations secured by these loans, insurance on these loans, and participation therein.

(Amended by Stats. 1987, Ch. 1034, Sec. 27.)

51056. Construction loans, mortgage loans, and property improvement loans made, purchased, assigned or serving as security for obligations or participations pursuant to this part shall be limited as to charges, interest, maximum loan amount, which shall be consistent with the purposes of this part.

(Amended by Stats. 1979, Ch. 1207.)

51058. (a) The agency may renegotiate, refinance, foreclose, or contract for the foreclosure of, any mortgage in default and may waive any default or consent to the modification of the terms of any mortgage. With respect to housing developments, the agency shall require that mortgage servicing and foreclosure practices, including forbearance and recasting of mortgages in default, conform to agency policies or resolutions.

(b) The agency may commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract, or other agreement and may bid for and purchase property sold in satisfaction thereof at any foreclosure or other sale or may otherwise acquire and take possession of that property. Subject to any agreement with bondholders, the agency may operate, manage, lease, dispose of, and otherwise deal with that property in such manner as may be necessary to protect the interest of the agency and the holders of its bonds.

(Amended by Stats. 1997, Ch. 580, Sec. 27. Effective January 1, 1998.)

51058.5. Notwithstanding any other provision of law, the agency is not required to promulgate rules and regulations in order to establish or operate a mortgage refinance program. Instead, that program may be established by the governing board of the agency through resolutions adopted by that board, and operated by the agency in accordance with resolutions adopted by the board. Those resolutions shall be exempt from 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).

(Amended by Stats. 2011, Ch. 296, Sec. 168. (AB 1023) Effective January 1, 2012.)

51059. The agency may procure insurance or coinsurance or guarantees from the federal government or from any governmental agency or instrumentality thereof, or from any private insurance company, of the payment of principal, redemption price of, and interest on any bonds issued by the agency. The agency may pay premiums on any such insurance.

(Added by Stats. 1977, Ch. 610.)

51060. The agency may, for services performed, charge and collect from housing sponsors and qualified mortgage lenders such fees and charges for the purpose of defraying administrative and other expenses as the agency may establish from time to time for its lending and mortgage-purchase programs.

(Added by Stats. 1977, Ch. 610.)

51061. The agency may sell or convey real property owned by the agency to persons and families of low or moderate income, nonprofit housing sponsors, and local public entities. Such sale or conveyance may be without consideration if the agency received the property upon condition that it be so conveyed or sold and if such sale or conveyance will inure primarily to the benefit of persons and families of low or moderate income living in a housing development.

(Added by Stats. 1977, Ch. 610.)

51062. The agency shall establish criteria for housing sponsors and qualified mortgage lenders, which shall be designed to assure the financial integrity of programs authorized by this division and which shall provide for effective implementation of the policies and purposes set forth in this part. The criteria shall take into account the differences between private and public institutions qualifying as housing sponsors and qualified mortgage lenders.

(Added by Stats. 1977, Ch. 610.)

51063. Relocation payments shall be made to persons and families of low or moderate income who are residents displaced because of temporary or permanent displacement for rehabilitation work assisted under this part, or rent increases resulting from rehabilitation, pursuant to the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 U.S.C., Sec. 4601) or Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. Notwithstanding the provisions of this section, middle-income families who decide against occupying the rehabilitated housing shall not continue to receive relocation payments.

The agency shall also insure that the relocation payments and the relocation advisory assistance specified therein shall be provided. Pursuant to the provisions of this section, the agency shall insure relocation payments are provided to persons and families involuntarily displaced in making a site or structure available for rehabilitation or construction financed under this part, or in the alternative may require the housing sponsor receiving a loan commitment pursuant to this part to make such payments and provide such assistance, whether such displacement has occurred in anticipation of the loan commitment or will occur subsequent thereto.

For purposes of this section, displacement includes relocation occurring because of a qualified person or family's inability to pay increased rentals resulting from rehabilitation, or involuntary temporary or permanent displacement of a qualified person or family to allow rehabilitation work to be done.

(Amended by Stats. 1979, Ch. 96.)

51064. The agency shall establish maximum sale prices for the initial sale of residential structures, the acquisition, construction, or rehabilitation of which is financed by the agency in anticipation of sale to persons and families of low or moderate income. The agency shall also establish a price for any residential structure whenever the buyer of such residential structure receives a mortgage loan from the agency. The maximum sale prices established by the agency pursuant to this section may provide a reasonable profit to the seller while serving the purposes of this division.

(Amended by Stats. 1982, Ch. 1452, Sec. 10. Effective September 27, 1982. Operative January 1, 1983, by Sec. 16 of Ch. 1452.)

51065. The agency may make grants to nonprofit housing sponsors and local public entities to meet expenses incurred in planning, constructing, rehabilitating, or managing housing developments. The agency may make grants to housing sponsors for the purpose of lowering the rents on some or all of the units within a housing development. Grants authorized by this section shall not be made with proceeds from the sale of bonds.

(Amended by Stats. 1979, Ch. 96.)

51065.1. The agency may make grants to buyers of residential structures combined with first mortgage loans financed by the agency to be used in conjunction with the FHA Energy Efficient Mortgage Program, for the purpose of making repairs or improvements to increase energy efficiency in the home. Grants authorized by this section shall not be made with proceeds from the sale of bonds. Any such grant, and any costs directly associated with it, shall be funded through revenues realized by the agency from the grantee's first mortgage loan, or securities backed by it, except that the agency may provide short-term interim funding of the grant to facilitate the transaction.

(Added by Stats. 2013, Ch. 82, Sec. 3. (AB 984) Effective August 12, 2013.)

51065.5. The agency may make unsecured loans or loans secured by assets other than real property to local public entities. The loans may be funded by the proceeds of bonds or other agency funds to assist local public entities in providing or making affordable housing available to low- or moderate-income persons or families.

(Added by Stats. 2003, Ch. 193, Sec. 1. Effective January 1, 2004.)

51066. For housing developments financed by a mortgage loan from the agency, the agency shall establish a grievance procedure or require housing sponsors to establish a grievance procedure, or both, for the purpose of resolving complaints by housing sponsors and tenants of housing sponsors and contractual disputes between two or more housing sponsors or between a housing sponsor and a tenant of the housing sponsor. Notwithstanding any other provision of law, no individual or family shall be evicted from a housing development unless the following requirements are met:

(a) The eviction is for good cause as defined by rules and regulations of the agency.

(b) Eviction proceedings shall be commenced by the giving of notice as required by Section 1946 of the Civil Code or Section 1161 or 1161a of the Code of Civil Procedure and served as provided by Section 1162 of the Code of Civil Procedure. The notice shall contain a statement of the cause for eviction and of the right of the tenant to a hearing and decision pursuant to regulations of the agency if a request for such a hearing is made to the landlord in writing within the period specified in Section 1946 of the Civil Code or Section 1161 of the Code of Civil Procedure, as the case may be.

(c) When the tenant so requests the landlord in writing within the period specified in Section 1946 of the Civil Code or Section 1161 of the Code of Civil Procedure, as the case may be, a hearing, in accordance with procedures established pursuant to regulations of the agency, shall be held by an impartial individual or panel selected or approved by the agency and a decision rendered within two weeks after receipt by the landlord of the tenant's written request for a hearing. Good cause for eviction shall be established at the hearing by the weight of the evidence. Before a right to a hearing vests, the tenant shall pay rent for the two-week hearing period to the owner or to an escrow account of the agency, if not already paid.

A defendant in an unlawful detainer proceeding may assert as a defense the failure of the plaintiff or the agency to comply with the requirements of this section or regulations adopted pursuant to this section. A defendant in an unlawful detainer proceeding may assert as a defense that the findings at the hearing were not supported by the weight of evidence.

The costs of any hearing conducted pursuant to this section shall be assessed to, and paid by, the losing party as provided in regulations of the agency. If neither party prevails, the costs of the hearing shall be equitably apportioned.

As used in this section, "tenant" includes a resident shareholder of a cooperative housing development. Nothing in this section shall be construed as a limitation of the rights of a resident shareholder of a cooperative housing development.

(Amended by Stats. 1987, Ch. 1034, Sec. 29.)

51067. The agency shall adopt standards for the admission of tenants, termination of tenancies, and eligibility of purchasers of housing financed under this part as well as standards establishing maximum percentages of income which a tenant or purchaser may allocate to housing costs, which shall provide consideration for proven ability in individual cases to pay what would otherwise be an unusually high percentage of income for housing costs.

(Added by Stats. 1977, Ch. 610.)

51068. (a) Except as otherwise provided in subdivision (b) and notwithstanding the provisions of Sections 711, 711.5, and 1916.5 of the Civil Code, the agency shall not permit assumption of the obligation of any mortgage loan made pursuant to Chapter 5 (commencing with Section 51100) by a subsequent ineligible purchaser or transferee of the prior borrower. If the subsequent purchaser or transferee does not meet the agency's eligibility requirements, the agency shall require acceleration of repayment of the principal balance of the loan to be all due and payable upon the sale or transfer of the property.

(b) With respect to mortgage loans made prior to July 1, 1979, the agency may waive the requirements of subdivision (a) when necessary to permit participation in mortgage insurance, guarantee, or purchase programs, or when the provisions of subdivision (a) would interfere with the financial structuring or the administration of any bond financing program.

(c) The requirements of subdivision (a) may be waived pursuant to subdivision (b) with respect to any mortgage loan made on or after July 1, 1979, only if the loan is federally assisted or insured and the waiver is necessary to obtain the federal assistance or insurance. As a condition to authorizing assumption of a mortgage loan pursuant to this subdivision, the agency shall recast the repayment schedule for the remainder of the term of the loan by increasing the interest to the current market rate at the time of assumption, or to any lower rate of interest which is the maximum allowed by an entity that provided any insurance or other assistance with respect to which a waiver was granted pursuant to this subdivision. Any additional increment of interest produced by increasing the rate of interest upon a mortgage loan pursuant to this subdivision shall be transmitted or forwarded to the agency for deposit in the California Housing Finance Fund.

(d) The agency may also waive the requirements of subdivision (a) if it determines that its application would result in undue hardship, that the failure to meet the agency's eligibility requirements resulted from circumstances beyond the mortgagor's control, and if the waiver is for a limited period of time as specified by the agency.

(e) The agency shall implement appropriate measures to assure compliance with this section.

(f) This section applies to all mortgage loans made by the agency pursuant to Chapter 5 (commencing with Section 51100), whether directly or through a qualified mortgage lender, and including mortgage loans made prior to September 22, 1979.

(Added by renumbering Section 51068.5 by Stats. 1987, Ch. 1034, Sec. 31.)

51069. The agency, after approving an application for mutual self-help housing, may make development loans and construction loans for land acquisition and development costs to eligible housing sponsors on terms and conditions and in amounts as it deems necessary to accomplish the purposes of this part. These development loans and construction loans may be interest free if sufficient surplus funds exist for that purpose and the loans can be made without jeopardizing the financial self-sufficiency of the agency or the adequacy of its reserves. Land acquired and housing developments financed pursuant to this section shall be sold or conveyed to eligible housing sponsors or for the purpose of developing other mutual self-help housing.

In making loans pursuant to this section, the agency, as an alternative to disbursing the loans directly to eligible housing sponsors or persons and families of low or moderate income, may establish procedures retaining the loans or portions thereof, and disburse those amounts directly to the person or entity performing a service, or providing goods, material, land or improvements.

(Amended by Stats. 1987, Ch. 1034, Sec. 32.)

51070. The agency shall require that qualified mortgage lenders do not substitute funds made available under this part for the lenders' own resources, without permission of the agency. Qualified mortgage lenders may provide financing under this part until the agency makes a finding that the lender is in violation of this section or decertifies the lender pursuant to Section 50094.

(Amended by Stats. 1987, Ch. 1034, Sec. 33.)