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AB-723 Housing: finance. (2015-2016)

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Assembly Bill No. 723

CHAPTER 552

An act to amend Sections 50833, 51335, and 51340 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2016. Filed with Secretary of State September 24, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 723, Chiu. Housing: finance.

(1) Existing law requires the Department of Housing and Community Development to allocate funds under the federal Community Development Block Grant Program to cities and counties. Existing law requires the department to determine and announce, in the applicable Notice of Funding Availability, the maximum amount of grant funds that may be used for economic development projects and programs, housing for persons and families of low or moderate income or for purposes directly related to the provision or improvement of housing opportunities for these persons and families, and for cities and counties that apply on behalf of certain Indian tribes. Existing law requires the department to develop and use certain eligibility criteria and requirements for certain economic development fund applications.

This bill would authorize the Department of Housing and Community Development to issue a Notice of Funding Availability under which the director of the department could determine that an applicant previously awarded funds is eligible to apply for, and receive, additional funds pursuant to the Community Development Block Grant Program, without regard to whether the applicant has expended at least a certain percentage of funds previously awarded.

(2) Existing law authorizes the Housing Finance Agency to issue revenue bonds for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and for the provision of capital improvements in connection with, and determined necessary to, that multifamily rental housing. Existing law requires no less than 20%, or 15% for those multifamily rental housing developments located in a target area, as defined, of the total number of units in a multifamily rental housing development, financed or for which financing has been extended or committed from the proceeds of sale of each bond issuance of the agency, to be for occupancy on a priority basis by lower income households. Existing law further requires that not less than $\frac{1}{2}$ of the units required for occupancy on a priority basis by lower income households be for occupancy on a priority basis for very low income households.

This bill would authorize the agency to waive the priority requirements for very low income households upon approval of the board and a specified determination.

Existing law prohibits rental payments on units required for occupancy by very low income households paid by persons occupying the units from exceeding 30% of 50% of the area median income, and sets forth occupancy assumptions for adjusting rents for household size, as specified.

This bill would, commencing September 1, 2016, authorize the agency to also utilize occupancy assumptions that it has determined are appropriate and commercially reasonable for financing extended pursuant to these provisions.

Existing law provides that the authorization to issue revenue bonds for these purposes constitutes an alternative method to issue bonds for making construction loans and mortgage loans for multifamily rental housing.

This bill would instead provide that the authorization to issue revenue bonds for these purposes constitutes an alternative method to finance construction loans and mortgage loans for multifamily rental housing.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 50833 of the Health and Safety Code is amended to read:

50833. (a) The department shall determine and announce in the applicable NOFA the percentage of the total amount of the State Block Grant Program funds set aside for economic development that shall be allocated to make economic development planning and technical assistance grants to eligible small cities or counties for business attraction, retention, and expansion programs for the development of local economic development strategies, predevelopment grant feasibility studies, and downtown revitalization programs. Eligible small cities or counties may contract with public agencies or nonprofit economic development corporations and other eligible subgrantees or for-profit corporations or entities to provide these services. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this set-aside is in addition to the city or county ceiling, under Section 50832, or its ability to apply under the economic development or general program set-asides. The department shall determine and announce in the applicable NOFA the maximum per year grant amount. Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in excess of the maximum amount determined by the department and announced in the applicable NOFA in any one year. Funds not applied for or allocated under this section may be used for other economic development purposes under Sections 50832 and 50832.1.

(b) The department shall determine and announce in the applicable NOFA the percentage of the total amount of the State Block Grant Program funds not used for economic development that shall be set aside to make technical assistance grants to eligible small cities or counties for purposes including, but not limited to: inventory of housing needing rehabilitation in the district, income surveys of area residents, and any general studies of housing needs in the district. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this set-aside is in addition to the city or county ceiling or its ability to apply under the economic development or general program set-asides. Unexpended funds allocated under this section shall revert to the general program, but not to the economic development set-aside. The department shall determine and announce in the applicable NOFA the maximum grant amount per application. Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in excess of the maximum amount determined by the department and announced in the applicable NOFA in any one year.

(c) If, under federal law, the economic development planning and technical assistance grants and the general allocation planning and assistance grants are considered to be administrative expenditures, the department may reduce the percentages of the set-asides by up to the amount necessary to remain within the allowable limits for administrative expenditures.

(d) Two or more jurisdictions may pool their funds and make a joint application for the same project.

(e) General administrative activity planning studies shall not be counted against allocations under this section.

(f) The department may issue a NOFA under which the director may determine that an applicant with one or more current Community Development Block Grant agreements signed in 2012 or later, for which the expenditure deadline established in the grant agreement or agreements has not yet passed, is eligible to apply for and receive an award of, funds pursuant to this chapter, without regard to whether the applicant has expended at least 50 percent of Community Development Block Grant Funds awarded in 2012 or thereafter. For any applicant that is so determined, the director shall include in the application file a written confirmation of eligibility and any award of funds. An application made pursuant to the director's determination under this section may be evaluated solely on the basis of eligibility, need, benefit, or readiness, without regard to any specific rating criteria provided by Section 7078 of the California Code of Regulations. The awarding of funds to an applicant pursuant to the director's determination under this section does not exempt those funds from consideration under any expenditure requirement under law.

SEC. 2. Section 51335 of the Health and Safety Code is amended to read:

51335. (a) (1) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter shall be for occupancy on a priority basis by lower income households. If a multifamily rental housing development is located within a targeted area, as described by Section 143(j) of Title 26 of the United States Code, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by lower income households. Not less than one-half of the units required for occupancy on a priority basis by lower income households shall be for occupancy on a priority basis for very low income households. However, with approval of the board, the agency may waive the priority requirements for very low income households in designated geographic areas of the state upon a determination that the housing needs of a substantial number of lower income households will not otherwise be met.

The rental payments on the units required for occupancy by very low income households paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed 30 percent of 50 percent of area median income. If the sponsor elects to establish a base rent for all or part of the units for lower income households and very low income households, the base rents shall be adjusted for household size. In adjusting rents for household size, the agency shall either assume that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will occupy a two-bedroom unit, four persons will occupy a three-bedroom unit, and five persons will occupy a four-bedroom unit, or commencing September 1, 2016, utilize occupancy assumptions that it determines to be appropriate and commercially reasonable for financing extended pursuant to this chapter.

(2) The local agency issuing permits for the development of the multifamily rental housing development shall consider opportunities to contribute to the economic feasibility of the units and to the provision of units for very low income households through concessions and inducements such as the following:

(A) Reductions in construction and design requirements.

(B) Reductions in setback and square footage requirements and the ratio of vehicular parking spaces that would otherwise be required.

(C) Granting density bonuses.

(D) Providing expedited processing of permits.

(E) Modifying zoning code requirements to allow mixed use zoning.

(F) Reducing or eliminating fees and charges for filing and processing applications, petitions, permits, planning services, water and sewer connections, and other fees and charges.

(G) Reducing or eliminating requirements relating to monetary exactions, dedications, reservations of land, or construction of public facilities.

(H) Other financial incentives or concessions for the multifamily rental housing development which result in identifiable cost reductions, as determined by the agency. The agency shall ensure that the local agency issuing permits for the development considers its responsibilities under this section and makes a good faith effort to enhance the feasibility of the project and to provide housing for lower income households and very low income households.

(3) The agency shall not permit a selection criteria to be applied to certificate holders under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f) that is any more burdensome than the criteria applied to all other prospective tenants.

(4) It is the intent of the Legislature that the agency finance projects that assist in meeting the urgent need for providing shelter for lower income households, very low income households, and persons and families of low or moderate income. To that end, the quality of materials and the amenities provided should not be excessive so as to hinder the prospect of achieving the stated goal. The Legislature finds and declares that the design standards utilized by the agency in the past including, but not limited to, the design requirements adopted to govern the new construction program under Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), are substantially in excess of those required for a decent, healthy, and safe residential unit and intends, by the amendment adding this paragraph to this section by the Statutes of 1985, that the agency finance multifamily rental developments with substantially less costly design requirements than those required by the agency prior to January 1, 1986.

(5) It is the intent of the Legislature that the agency finance projects that assist in meeting the urgent need for providing shelter for families. To that end, developments with three- and four-bedroom units affordable to larger families shall have priority over competing developments.

(b) As a condition of financing pursuant to this chapter, the housing sponsor shall enter into a regulatory agreement with the agency providing that units reserved for occupancy by lower income households remain available on a priority basis for occupancy until the bonds are retired. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor and, notwithstanding any other provision of law, these burdens of the regulatory agreement shall run with the land. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located. The regulatory agreement shall be recorded in the grantor-grantee index to the name of the property owner as grantor and to the name of the agency as grantee.

(c) The agency shall ensure that units occupied by lower income households are of comparable quality and offer a range of sizes and number of bedrooms comparable to those units which are available to other tenants.

(d) (1) The agency shall give priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees for multifamily rental housing developments which incorporate innovative and energy-efficient techniques which reduce development or operating costs and which have the lowest feasible per unit cost, as determined by the agency, based on efficiency of design, the elimination of improvements that are not required by applicable building standards, or a reduction in the amount of local fees imposed on the development.

(2) The agency shall give equal priority to processing construction loans and mortgage loans or may take other steps such as reducing loan fees on multifamily rental housing developments which do any of the following:

(A) Utilize federal housing or development assistance.

(B) Utilize redevelopment funds or other local financial assistance, including, but not limited to, contributions of land, or for which local fees have been reduced.

(C) Are sponsored by a nonprofit housing organization.

(D) Provide a significant number of housing units, as determined by the agency, as part of a coordinated jobs and housing plan adopted by a local government.

(E) Exceed a ratio whereby 20 percent of the units are reserved for occupancy by lower income households, or whereby 10 percent of the units are reserved for occupancy by very low income households, or which provide units for lower income households or very low income households for the longest period of time beyond the minimum number of years.

(e) (1) New and existing rental housing developments may be syndicated after prior written approval of the agency. The agency shall grant that approval only after the agency determines that the terms and conditions of the syndication comply with this section.

(2) The terms and conditions of the syndication shall not reduce or limit any of the requirements of this chapter or regulations adopted or documents executed pursuant to this chapter. No requirements of the state shall be subordinated to the syndication agreement. A syndication shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

SEC. 3. Section 51340 of the Health and Safety Code is amended to read:

51340. This chapter constitutes an alternative method to finance construction loans and mortgage loans for multifamily rental housing pursuant to the provisions of this chapter.

SEC. 4. Nothing in this act shall be interpreted to modify the terms of any regulatory agreement recorded on or before August 31, 2016, including, but not limited to, terms that incorporate Section 51335 of the Health and Safety Code by reference.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The lack of availability of affordable housing is of vital statewide importance and must be addressed as quickly as possible, and therefore this act must take immediate effect.