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AB-1637 City of San Diego: County of Santa Clara: housing authority: middle-income housing projects.
(2017-2018)

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Assembly Bill No. 1637

CHAPTER 801

An act to add and repeal Article 4.5 (commencing with Section 34340) of Chapter 1 of Part 2 of Division 24 of the Health and Safety Code, relating to housing.

[Approved by Governor October 14, 2017. Filed with Secretary of State October 14, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1637, Gloria. City of San Diego: County of Santa Clara: housing authority: middle-income housing projects.

The Housing Authorities Law authorizes a housing authority of a city or county to, among other things, prepare, carry out, acquire, lease, and operate housing projects and housing developments for persons of low income, as provided. That law grants powers to an authority relating to, among other things, the issuance of bonds.

This bill would make findings and declarations relating to affordable housing. The bill, until January 1, 2022, would authorize a housing authority located in the City of San Diego or the County of Santa Clara to implement a pilot program to develop and finance a middle-income housing project, as defined, if the project receives gap financing, as defined. The bill would prohibit financial or other assistance from any public or private source, as specified, from being used to provide gap financing to units that will be occupied at or above market-rate rents. The bill would require any gap financing to be approved by the housing authority's legislative body, as provided, and would require the housing authority to provide a report to the Legislature, as specified.

This bill would also make legislative findings and declarations as to the necessity of a special statute for the City of San Diego and the County of Santa Clara.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Housing authorities are vitally important public agencies dedicated to preserving and increasing affordable housing throughout California.

(b) It is in the public interest that housing authorities maintain their focus on providing affordable housing options for extremely low, very low, and low-income Californians.

(c) It is also in the public interest that a continuum of housing be provided for a broad spectrum of persons, but specifically including those of low income and also including those earning middle incomes.

(d) It is in the public interest that mixed-income projects be developed by housing authorities so that persons of divergent income levels may live in the same project, with each "mixed-income housing project" including persons of low and very low incomes.

(e) By allowing housing authorities located in the City of San Diego and the County of Santa Clara to implement a pilot program to develop and finance mixed-income projects, additional low-income housing will be built, much of which would not otherwise have been constructed because of insufficient financing options.

(f) Currently, there are inadequate sources of financing available to encourage developers to develop, construct, and operate a sufficient number of mixed-income projects to provide for a continuum of housing at various income levels.

(g) The lack of an adequate supply of housing at all levels drives up the rents and costs of ownership of all levels of housing, which has a detrimental effect upon the residents of the State of California. The absence of an adequate supply of housing for those households earning very low, low, moderate, and middle incomes causes a disproportionate hardship on those households.

(h) The creation of additional middle-income housing would allow for the development of housing for persons who are school teachers, nurses, police, first responders, and firefighters, among others.

(i) Section 42 of the Internal Revenue Code, relating to low-income tax credit, allows federal tax credits to be used to finance projects in which not less than 20 percent of the units are affordable to, and occupied by, persons and families earning 50 percent or less of the area median gross income, or in projects in which not less than 40 percent of the units are affordable to, and occupied by, persons and families that earn 60 percent or less of the area median gross income. Current state law, the Housing Authorities Law (Article 1 (commencing with Section 34200) of Part 2 of Division 24 of the Health and Safety Code), allows for multifamily housing bonds to be issued to serve the same populations that are provided for under Section 142(d) of the Internal Revenue Code, relating to qualified residential projects.

SEC. 2. Article 4.5 (commencing with Section 34340) is added to Chapter 1 of Part 2 of Division 24 of the Health and Safety Code, to read:

Article 4.5. Middle-Income Housing Projects

34340. (a) A housing authority located in the City of San Diego or the County of Santa Clara may implement a pilot program to develop and finance a middle-income housing project as follows:

(1) Middle-income housing projects may receive gap financing from funds received pursuant to Section 34315.3.

(2) Financial or other assistance received from any public source pursuant to Section 34315.3 shall not be used to provide gap financing to units that will be occupied at or above market-rate rents.

(3) Any gap financing for middle-income housing projects shall first be approved by the housing authority's legislative body by resolution after a public hearing. Notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community at least once per week for at least two successive weeks, as specified in Section 6066 of the Government Code, prior to the hearing.

(4) The resolution approving the gap financing agreement shall contain a finding that gap financing will provide housing for low- and middle-income persons and is consistent with this section.

(5) (A) On or before January 1, 2020, and on or before January 1, 2022, the housing authority shall provide a report to the Legislature that contains the following information for each calendar year during which the housing authority implemented a pilot program pursuant to this section:

(i) The number of units produced using gap financing.

(ii) The amount of gap financing per regulated unit.

(iii) The levels of affordability of those units produced using gap financing.

(iv) The term of affordability for those units produced using gap financing.

(B) A report submitted to the Legislature pursuant to this paragraph shall be submitted in compliance with Section 9795 of the Government Code.

(b) For the purposes of this article, the following terms have the following meanings:

(1) "Middle-income housing project" means a housing project that includes at least 40 percent of units, excluding units available for managers, that are affordable to and will be occupied by persons of low income, as well as at least 10 percent of units that are affordable to and will be occupied by persons and families of middle income.

(2) "Persons of low income" has the same meaning as in Section 34213.

(3) "Persons and families of middle income" has the same meaning as in Section 65008 of the Government Code.

(4) "Gap financing" means a loan from a housing authority to fund the remaining cost of development of a middle-income housing project after other funds have been secured, including, but not limited to, bond funds, tax credits, conventional loans, or other private and public funds.

(c) Nothing in this section shall be construed to change current law regarding housing authority bond authority pursuant to this part or low-income housing tax credits, as described by Section 42(g) of the Internal Revenue Code.

(d) This article does not require a housing authority in the City of San Diego or the County of Santa Clara to implement the pilot program described by this section.

34341. This article shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique needs of the City of San Diego and the County of Santa Clara to develop and finance middle-income housing projects.