AB-2483 Housing for individuals experiencing homelessness. (2021-2022)

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Assembly Bill No. 2483

CHAPTER 655

An act to amend Sections 1504.5, 50675.1, and 50675.5 of, and to add Section 50675.15 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 28, 2022. Filed with Secretary of State September 28, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2483, Maienschein. Housing for individuals experiencing homelessness.

Existing law establishes the Department of Housing and Community Development and requires it to administer various programs intended to promote the development of housing, including the Multifamily Housing Program, pursuant to which the department provides financial assistance in the form of deferred payment loans to pay for the eligible costs of development of specified types of housing projects.

This bill would require the department, by December 31, 2023, to award incentives, as specified, to Multifamily Housing Program project applicants that agree to set aside at least 20% of the project’s units, or no more than 50% of the projects units if the project includes more than 100 units, for individuals that are either experiencing homelessness, as defined, or eligible to receive specified services, including, among others, those received under the Program of All-Inclusive Care for the Elderly. The bill would also require the department to partner with the State Department of Health Care Services to determine the most effective way to align qualifying services in housing projects funded by the Multifamily Housing Program. The bill would require the department to assess tenant outcomes and engage with an evaluator to identify specified information with respect to projects receiving incentives under these provisions, including the number and demographics, including age, race, or ethnicity, and presubsidy housing status, of people being served.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care and residential facilities by the State Department of Social Services. Existing law authorizes counties to contract with agencies or individuals to assist persons with disabilities in securing their own homes and to provide persons with disabilities with the supports needed to live in their own homes, including supportive housing. Existing law defines “community living support services” to include, among others, supports that are designed to develop and improve independent living and problem solving skills and assistance with arrangements to meet the individual’s basic needs, such as financial benefits, food, and housing.

This bill would authorize the state to contract with agencies or individuals to assist persons with disabilities in securing their own homes and to provide persons with disabilities with the supports needed to live in their own homes, including supportive housing. This bill would additionally include assistance with independent activities of daily living or personal care, when needed, in the definition of “community living support services.”

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

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

SECTION 1. The Legislature finds and declares the following:

(a) Californians who are older or experience disabilities, many of whom live on fixed incomes, face increasing rental cost burdens, with roughly 8 out of 10 extremely low income older renters paying more than one-half of their monthly income on rent. Fair market rents in California for an efficiency apartment range from $716 to $2,145 per month, far more than an older adult or person with a disability on a fixed income can afford, particularly when the maximum Supplemental Security Income payment for an individual in 2022 is $974 per month.

(b) The state has also estimated that over 11,000 people live in nursing facilities simply because they have nowhere to live if discharged.

(c) Research shows that residents of California over 50 years of age are now the fastest growing population of homeless people in many parts of the state, with the median age of the homeless expected to rise.

(d) The solution to homelessness is affordable housing. For many older adults and people with disabilities, housing and health care must be integrated to ensure housing stability, foster independence, and avoid institutionalization in home and community-based settings. The state's leadership can help developers and health providers break down housing and health care silos and form productive partnerships.

(e) The California Master Plan for Aging, adopted in early 2021, calls for working to end homelessness among older adults through increasing housing options for older adults and expanding supports in those housing placements.

SEC. 2. Section 1504.5 of the Health and Safety Code is amended to read:

1504.5. (a) (1) This chapter does not apply to any independent living arrangement or supportive housing, described in paragraph (2) of subdivision (c), for individuals with disabilities who are receiving community living support services, as described in paragraph (1) of subdivision (c).

(2) This section does not affect the provisions of Section 1503.5 or 1505.

(3) Community living support services described in paragraph (1) of subdivision (c) do not constitute care or supervision.

(b) (1) The Legislature finds and declares that there is an urgent need to increase the access to supportive housing, as described in paragraph (2) of subdivision (c), and to foster community living support services, as described in paragraph (1) of subdivision (c), as an effective and cost-efficient method of serving persons with disabilities who wish to live independently and to avoid institutionalization.

(2) It is the intent of the Legislature that persons with disabilities be permitted to do both of the following:

(A) Receive one or more community living support services in the least restrictive setting possible, such as in a person's private home or supportive housing residence.

(B) Voluntarily choose to receive support services in obtaining and maintaining supportive housing.

(3) It is the intent of the Legislature that community living support services, as described in paragraph (1) of subdivision (c), enable persons with disabilities to live more independently in the community for long periods of time.

(c) (1) "Community living support services," for purposes of this section, are voluntary and chosen by persons with disabilities in accordance with their preferences and goals for independent living. "Community living support services" may include, but are not limited to, any of the following:

(A) Supports that are designed to develop and improve independent living and problem solving skills.

(B) Education and training in meal planning and shopping, budgeting and managing finances, medication self-management, transportation, vocational and educational development, and the appropriate use of community resources and leisure activities.

(C) Assistance with arrangements to meet the individual's basic needs such as financial benefits, food, clothing, household goods, and housing, and locating and scheduling for appropriate medical, dental, and vision benefits and care.

(D) When needed, assistance with independent activities of daily living or personal care.

(2) "Supportive housing," for purposes of this section, is rental housing that has all of the following characteristics:

(A) It is affordable to people with disabilities.

(B) It is independent housing in which each tenant meets all of the following conditions:

(i) Holds a lease or rental agreement in their own name and is responsible for paying their own rent.

(ii) Has their own room or apartment and is individually responsible for arranging any shared tenancy.

(C) It is permanent, wherein each tenant may stay as long as they pay their share of rent and comply with the terms of their lease.

(D) It is tenancy housing under which supportive housing providers are required to comply with applicable state and federal laws governing the landlord-tenant relationship.

(E) Participation in services or any particular type of service is not required as a condition of tenancy.

(d) Counties or the state may contract with agencies or individuals to assist persons with disabilities in securing their own homes and to provide persons with disabilities with the supports needed to live in their own homes, including supportive housing.

(e) For purposes of this section and notwithstanding any other provision of law, an individual with disabilities may contract for the provision of any of the community support services specified in paragraph (1) of subdivision (c) in the individual's own home including supportive housing, as part of that individual's service, care, or independent living plan, only through a government funded program or a private health or disability insurance plan.

(f) An individual's receipt of community living support services as defined in paragraph (1) of subdivision (c) shall not be construed to mean that the individual requires care or supervision or is receiving care or supervision.

SEC. 3. Section 50675.1 of the Health and Safety Code is amended to read:

50675.1. (a) This chapter shall be known and may be cited as the Multifamily Housing Program.

(b) Assistance provided to a project pursuant to this chapter, excluding assistance provided pursuant to Section 50675.1.1 or 50675.1.3, shall be provided in the form of a deferred payment loan to pay for the eligible costs of development as hereafter described, or as otherwise specified in subdivision (b) of Section 50675.15.

(c) Except as provided in paragraph (3), on and after January 1, 2008, of the total assistance provided under this chapter, the percentage that is awarded for units restricted to senior citizens, as defined in paragraph (1) of subdivision (b) of Section 51.3 of the Civil Code, shall be proportional to the percentage of lower income renter households in the state that are lower income elderly renter households, as reported by the United States Department of Housing and Urban Development on the basis of the most recent American Community Survey or successor survey conducted by the United States Census Bureau.

(1) The department shall be deemed to have met its obligation under this subdivision if the assistance awarded is not less than 1 percent below the proportional share.

(2) This subdivision does not require the department to provide loans to projects that fail to meet minimum threshold requirements under subdivision (b) of Section 50675.7.

(3) Assistance for projects funded pursuant to Section 50675.1.1 or 50675.1.3, and assistance for projects meeting the definition in paragraph (3) of subdivision (b) of Section 50675.14 shall be excluded from the total assistance calculation under this subdivision.

(4) The department shall determine the time period over which it will measure compliance with this section, but that period shall not be less than one year or two funding cycles, whichever period is longer.

(5) If, at the end of the time period determined by the department, the total amount of funding for which sponsors have submitted qualified applications is lower than the proportional share, the department may award the remaining funds to units that are not restricted to senior citizens.

(6) The department's annual report to the Legislature submitted under Section 50408 shall include a breakdown of funding awards between units restricted to senior citizens and units that are not age-restricted.

(d) This chapter shall be administered by the department and the department shall establish the terms upon which loans or grants may be made consistent with the provisions of this chapter.

(e) In any notice of funding availability offered pursuant to this chapter, or for any funding that is to be offered by using rating and ranking criteria that is consistent with the Multifamily Housing Program or the CalHome program authorized by Chapter 6 (commencing with Section 50650), the department may require applicants to specify the source and amount of funding being applied for. The requirement may be set forth in either the application materials or notice of funding availability. Any requirement imposed by the department pursuant to this subdivision shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(f) Any reference outside this chapter to rating and ranking applications in a manner consistent with the Multifamily Housing Program or CalHome Program authorized by Chapter 6 (commencing with Section 50650), or administering funds consistent with the Multifamily Housing Program or CalHome Program, shall not be interpreted to authorize funding criteria or requirements that conflict with those that are or were approved by the voters through a statewide initiative or referendum.

(g) This section shall become operative on January 1, 2022.

SEC. 4. Section 50675.5 of the Health and Safety Code is amended to read:

50675.5. (a) Eligible costs shall include the cost of developing dwelling units, transitional housing, and childcare, and after school care and social service facilities integrally linked to the assisted dwelling units.

(b) Eligible cost categories shall include all of the following:

(1) Real property acquisition, including refinancing of existing debt to the extent necessary to reduce debt service to a level consistent with the provision of affordable rents and the fiscal integrity of the project.

(2) New construction or rehabilitation, including the conversion of nonresidential structures to residential use.

(3) General property improvements that are necessary to correct unsafe, unhealthy, or unsanitary conditions, including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping, and purchase or installation of central air-conditioning.

(4) Necessary and related onsite and offsite improvements.

(5) Reasonable developer fees.

(6) Reasonable consulting costs.

(7) Initial operating costs for housing units.

(8) Capitalized reserves for replacement and operation. The department may allow capitalized operating reserves to be used for rent subsidies for assisted units reserved for occupancy by households with incomes below limits determined by the department, which shall not exceed the income limit for very low income households. The department may offer capitalized reserves for operations and supportive services in the form of a grant.

(9) Any other costs of rehabilitation or new construction authorized by the department.

SEC. 5. Section 50675.15 is added to the Health and Safety Code, to read:

50675.15. (a) For purposes of this section, the following definitions shall apply:

(1) “Eligible individual” means an individual who meets both of the following criteria:

(A) The individual is experiencing homelessness, as defined in this chapter.

(B) The individual or head of household is eligible to receive qualifying services.

(2) “Experiencing homelessness” means the same as “homeless” and “homelessness,” as those terms are each defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 1, 2022, except that people who were homeless upon admission to an institutional setting shall continue to be considered homeless upon discharge, regardless of the length of time residing in the institutional setting. For the purposes of this paragraph, people who have lost their housing as a result of institutionalization, including, but not limited to, institutionalization in skilled nursing facilities, acute care hospitals, psychiatric facilities, jails, and prisons, and have no home to live in upon discharge are considered homeless regardless of the length of time residing in the institutional setting.

(3) “Qualifying services” includes all of the following:

(A) Services received under the Assisted Living Waiver pursuant to state law and Section 1915(c) of the federal Social Security Act (42 U.S.C. Sec. 1396n(c)).

(B) Services received under the Home and Community-Based Alternatives Waiver pursuant to state law and Section 1915(c) of the federal Social Security Act (42 U.S.C. Sec. 1396n(c)).

(C) Services received under the Program of All-Inclusive Care for the Elderly (PACE) pursuant to Chapter 8.75 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) By December 31, 2023, the department shall do both of the following:

(1) With respect to funds made available under this chapter, award incentives listed in subdivision (c) to project applicants that agree to all of the following:

(A) Set aside at least 20 percent of the project’s units for eligible individuals. If the project includes more than 100 units, the applicant shall agree to set aside no more than 50 percent of the project’s units for eligible individuals.

(B) Demonstrate viability of linking the units to qualifying services.

(C) Accept referrals from local coordinated entry systems.

(2) Partner with the State Department of Health Care Services to determine the most effective way to align qualifying services in housing projects funded under this chapter, including, but not limited to, expediting enrollment, prioritizing waiver and PACE programs for eligible individuals, reducing administrative barriers to using qualifying services in publicly subsidized housing, creating partnerships between developers and providers of qualifying services, and developing sample memoranda of understanding or contracts between developers and providers of qualifying services.

(c) The department shall offer project applicants the following incentives:

(1) Loan limits for impacted units that are higher than offered to other units for people experiencing homelessness.

(2) An exemption for project applicants to submit a services plan for units set aside under this section, so long as the project applicant has completed an executed agreement with a provider of qualifying services to offer services in set aside units. The department shall determine whether the qualifying services are provided in a manner that complies with the applicable requirements of Section 8255 of the Welfare and Institutions Code, and that services provided in each project are meeting applicable department requirements governing staff-to-client ratios.

(3) Based on data and a best practice analysis, providers may receive a higher services cap or an exemption from services caps the department imposes.

(4) Allowing project applicants to use funds made available under this chapter for creating alternative care sites for projects aligning with PACE or other service space to offer other qualifying services to eligible individuals. Alternative care sites shall be funded to operate in a manner consistent with state law, department regulations, and program guidelines.

(d) The department shall engage a consultant to examine to what extent caps are needed on the amount of supportive services that can be paid through project operating budgets on any project funded under this chapter.

(e) No later than 180 days following the first year of operation of a representative sample of projects, with respect to projects receiving incentives under subdivision (b), the department shall assess tenant outcomes and engage with an evaluator to identify both of the following:

(1) The number and demographics, including age, race, or ethnicity, and presubsidy housing status, of people being served.

(2) Housing retention rates.