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AB-1386 Veterans housing: tenant referrals. (2023-2024)

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Assembly Bill No. 1386

CHAPTER 760

An act to amend Sections 987.003 and 987.005 of, and to add Article 3.3 (commencing with Section 987.300) to Chapter 6 of Division 4 of, the Military and Veterans Code, relating to veterans.

[Approved by Governor October 11, 2023. Filed with Secretary of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, Gabriel. Veterans housing: tenant referrals.

Existing law, the Veterans Housing and Homeless Prevention Act of 2014, requires the California Housing Finance Agency, the Department of Housing and Community Development, and the Department of Veterans Affairs (referred to collectively as "the departments") to establish and implement programs that focus on veterans at risk for homelessness or experiencing temporary or chronic homelessness, as specified. In this regard, existing law requires the departments to establish and implement programs that, among other things, ensure projects combine housing and supportive services. Existing law requires the departments to ensure at least 50% of funds awarded for capital development are used to provide housing to veterans with extremely low incomes, and requires that at least 60% of units funded targeting extremely low income households are supportive housing.

This bill would authorize an entity tasked with making referrals of units targeted to extremely low income households to submit a petition to the departments requesting authority to lease the qualified unit to a secondary tenant, as defined, if a qualified entity is unable to locate, match, or otherwise place a qualified tenant in a qualified unit with 60 days of the unit becoming available. The bill would require a qualified unit that is leased to a secondary tenant to be redesignated to an area median income level commensurate with the income level of the secondary tenant and would require the secondary tenant to pay rent commensurate with their household income's percentage of the area medium income. The bill would, 12 months after a petition is approved, require the next available comparable unit to be rented to a qualified tenant at 30% of the median income. The bill would require a qualified entity tasked with making referrals to these units to make a good faith effort to match a tenant with an extremely low income before submitting a petition, document these good faith efforts, submit this documentation as a part of the petition, and make this documentation available to the housing sponsor and, upon request, to the departments. The bill would prohibit the departments from approving a petition if it would result in changes that may impact the project's regulatory agreement, as specified.

The bill would require the departments to create a standardized form for the submission of petitions described above. The bill would require the departments, upon receipt of a petition, to (1) review the petition and decide if the qualified unit is eligible to accept secondary tenants under all applicable guidelines, rules, and regulations, and (2) provide a written determination approving or denying the petition no later than 30 days after receipt of the petition.

Existing law establishes the California Tax Credit Allocation Committee, composed of specified members, and requires that the California Tax Credit Allocation Committee, among other things, allocate specified federal low-income housing tax credits, as provided.

This bill, for purposes of supportive housing units that are restricted to extremely low income veterans pursuant to a regulatory agreement with the committee, would authorize an entity tasked with making referrals of those units targeted to extremely low income households to match prospective secondary tenants with incomes at or below 60% of the area median income that are receiving income as a result of service-connected disability benefits if a qualified tenant is unable to be matched to and accept placement in an available unit within 28 days of the unit becoming available. If a secondary tenant is unable to be matched to and accept placement in an available unit within 14 days, the bill would authorize the entity to match a veteran experiencing homelessness with an income at or below 60% of the area median income, regardless of the source of the income, in an available unit. The bill would require a qualified unit that is leased to a secondary tenant or other veteran experiencing homelessness pursuant to these provisions to be redesignated to an area median income level commensurate with the income level of the tenant and would require the tenant to pay rent commensurate with their household income's percentage of the area median income. The bill, 12 months after a secondary tenant or other tenant who is a veteran experiencing homelessness has been placed, would require the next available comparable unit to be rented to a qualified tenant at 30% of the median income. The bill would require a qualified entity tasked with making referrals to these units to make a good faith effort to match a tenant with an extremely low income, document these good faith efforts, and make this documentation available to the housing sponsor and, upon request, to the departments.

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

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

SECTION 1. Section 987.003 of the Military and Veterans Code is amended to read:

987.003. As used in this article:

(a) "Affordable rental housing" shall mean a rental housing development, as defined in subdivision (d) of Section 50675.2 of the Health and Safety Code, with affordable rents, as defined in subdivision (a) of Section 50675.2 of the Health and Safety Code, but neither definition is restrictive to only projects with five or more units.

(b) "Extremely low income" has the same meaning as defined in Section 50106 of the Health and Safety Code.

(c) "Homeless" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 10, 2019.

(d) "Qualified entity" means an entity that is responsible for making referrals of qualified tenants to qualified units.

(e) "Qualified tenant" means an extremely low income veteran who is homeless.

(f) "Qualified unit" means a supportive housing unit restricted to extremely low income veterans pursuant to this article.

(g) "Secondary tenants" means a veteran who is homeless who has an income of up to 50 percent of the area median income and is receiving income as a result of service-connected disability benefits, or a veteran who is homeless and has an income of up to 60 percent of the area median income, but would otherwise have an income below 50 percent of area median income if not for their income as a result of service-connected disability.

(h) "Supportive housing" has the same meaning as defined in paragraph (2) of subdivision (b) of Section 50675.14 of the Health and Safety Code, but is not restrictive to only projects with five or more units.

(i) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code, but is not restrictive to only projects with five or more units.

(j) "Veteran" means any person who served in the active military, naval, or air service of the United States, or as a member of the National Guard who was called to and released from active duty or active service, for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within that 90-day period.

SEC. 2. Section 987.005 of the Military and Veterans Code is amended to read:

987.005. (a) The departments shall establish and implement programs pursuant to the purposes of this article that focus on veterans at risk for homelessness or experiencing temporary or chronic homelessness. To the extent feasible, the departments shall establish and implement programs that, among other things, do the following:

(1) Leverage public (federal, state, and local), private, and nonprofit program and fiscal resources.

(2) Ensure projects combine housing and supportive services, including, but not limited to, job training, mental health and drug treatment, case management, care coordination, or physical rehabilitation.

(3) Promote public and private partnerships.

(4) Foster innovative financing opportunities.

(5) Ensure program guidelines and terms provide threshold requirements to advance applicants with experience in combining permanent or transitional housing, or both, with supportive services for veterans, or for partnering with housing developers or service providers with experience offering housing or services to veterans.

(b) (1) The departments shall ensure at least 50 percent of funds awarded for capital development under this article provide housing to veteran households with extremely low incomes.

(2) Except as provided in paragraph (5), in determining whether a potential tenant is eligible for supportive, affordable, or transitional housing targeted to extremely low income households under this provision, eligibility shall take into consideration all of a household's income sources upon initial tenancy.

(3) At least 60 percent of units funded targeting extremely low income households shall be supportive housing.

(4) This section shall not deter the departments from funding projects serving mixed-income populations.

(5) (A) A qualified entity tasked with making referrals to qualified units targeted to extremely low income households may submit a petition to the departments pursuant to subdivision (c) for the purposes of requesting authority to lease the qualified unit to secondary tenants if the qualified entity is unable to locate, match, or otherwise place a qualified tenant in a qualified unit within 60 days of the unit becoming available. The qualified entity may submit an application to the departments 30 days after the unit becoming available for occupancy, provided that the unit is vacant for at least 60 days at the time the departments approve the petition. The departments may not approve a petition if it would result in any changes other than tenant income eligibility criteria, as described in this section, that may impact the project's regulatory agreement.

(B) This shall include circumstances in which approving a petition for a qualified entity to house tenants with incomes up to 60 percent of the area median income would cause a supported development to have less than 50 percent of its units occupied by tenants with extremely low incomes. The supported development shall not have less than 30 percent of its units occupied by tenants with extremely low incomes.

(C) If a qualified unit that is restricted to a qualified tenant with an extremely low income is occupied by a secondary tenant or other tenant who is a veteran experiencing homelessness with an income between 30 and 60 percent of area median income pursuant to subparagraph (A) or (B), that unit shall be redesignated to an area medium income level commensurate with the income level of the secondary tenant and the secondary tenant shall pay rent commensurate with their household income's percentage of the area medium income.

(D) Beginning 12 months after the petition has been approved, if a qualified unit that is restricted to a qualified tenant with an extremely low income is occupied by a secondary tenant or other tenant who is a veteran experiencing homelessness with an income between 30 and 60 percent of area median income pursuant to subparagraph (A) or (B), the next available comparable unit shall then be rented to a qualified tenant at 30 percent of the area medium income with the goal of returning the project into compliance with the unit mix required by the project regulatory agreement.

(6) The qualified entity tasked with making referrals to these units shall make a good faith effort to match a tenant with an extremely low income before submitting a petition to the departments, document these good faith efforts, submit this documentation as part of the petition, and make this documentation available to the housing sponsor, who shall include the documentation in the tenant file, and, upon request, to the departments. Documentation of these good faith efforts shall include, but not be limited to, the following:

(A) Efforts to advertise to the community at least 90 days prior to the lease-up of the building.

(B) Efforts to work in partnership with local homeless services providers, including those that serve veterans experiencing homelessness.

(C) Efforts to coordinate with the local continuum of care to identify veterans experiencing homelessness with extremely low incomes.

(D) Efforts to coordinate with the United States Department of Veterans Affairs to identify veterans experiencing homelessness with extremely low incomes.

(E) Documentation of contact with veterans experiencing homelessness with extremely low incomes and their case managers who were matched to the available unit and chose not to lease the unit.

(c) The departments shall create a standardized form for the submission of petitions described in paragraph (5) of subdivision (b).

(1) Upon receiving a petition pursuant to this section, the departments shall do both of the following:

(A) Review the petition and decide if the qualified unit is eligible to accept secondary tenants under all applicable guidelines, rules, and regulations, and other laws established by the Internal Revenue Service and the departments.

(B) Provide a written determination approving or denying the petition. The written determination shall be provided to the qualified entity as soon as possible, but no later than 30 days after the departments receive the petition.

(2) If necessary, the departments may create written rules for the review of and determination on the petitions that are consistent with the requirements of this section, including, but not limited to, additional rules related to projects seeking approval before permanent loan conversion.

(d) The departments may review, adopt, amend, and repeal guidelines or terms, or both, to implement this article. Any guidelines or terms adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Nothing in this article permits the departments or the board to purchase, operate, or manage properties except in the event of a foreclosure on a borrower or grantee.

(f) (1) Notwithstanding any other law, a housing developer or service provider that provides housing or services pursuant to this article may provide housing or services to female veterans and their children in women-only facilities in limited instances in which a female veteran (A) has suffered any form of sexual abuse, trauma, or intimidation or harassment while serving in the military and is seeking treatment for that sexual abuse, trauma, or intimidation or harassment, or (B) is seeking the housing or services as a result of being a victim of sexual abuse or domestic violence.

(2) A housing developer or service provider that provides housing or services to female veterans in women-only facilities pursuant to paragraph (1) shall ensure that the housing or services shall provide supportive housing or services with a focus on, among others, treating the effects of military sexual abuse, trauma, or intimidation in a gender-specific manner.

(3) For purposes of this subdivision, "women-only facilities" means the facilities may house and provide services to female veterans only and their children, and shall not house or provide services to any adult who is not a dependent of a female veteran.

(g) In administering the programs established under this article, the departments shall do all of the following:

(1) Make program funds available at the same time funds, if any, are made available under the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code).

(2) Rate and rank applications in a manner consistent with the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code), except that the department may establish additional point categories for the purposes of rating and ranking applications that seek funding pursuant to this article in addition to those used in the Multifamily Housing Program.

(3) Administer funds subject to this article in a manner consistent with the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code).

(4) Only applications serving veterans and meeting any additional threshold requirements established by the departments, shall be eligible to receive funds pursuant to this article.

SEC. 3. Article 3.3 (commencing with Section 987.300) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

Article 3.3. Supportive Housing for Veterans Funded by Tax Credits and Private Activity Bonds

987.300. (a) If a qualified entity is unable to locate, match, or otherwise place a qualified tenant in a qualified unit within 28 days of the qualified unit becoming available, the qualified entity shall be eligible to match secondary tenants to the qualified units and the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee shall treat secondary tenants as eligible for the qualified unit.

(b) If, subsequent to the 14 days of the unit becoming available to secondary tenants, the qualified entity is unable to locate, match, or otherwise place either a qualified tenant or a secondary tenant in a qualified unit, the qualified entity shall be eligible to match a veteran experiencing homelessness with an income at or below 60 percent of area median income to the qualified unit and the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee shall treat the tenants as eligible for the qualified unit.

(c) If a qualified unit that is restricted to a qualified tenant with an extremely low income is occupied by a secondary tenant or other tenant who is a veteran experiencing homelessness with an income between 30 and 60 percent of area median income pursuant to subdivision (a) or (b), that unit shall be redesignated to an area medium income level commensurate with the income level of the secondary tenant and the secondary tenant shall pay rent commensurate with their household income's percentage of the area medium income.

(d) Beginning 12 months after a secondary tenant or other tenant who is a veteran experiencing homelessness has been placed pursuant to subdivision (a) or (b), if a qualified unit that is restricted to a qualified tenant with an extremely low income is occupied by a tenant with an income between 30 and 60 percent of area median income pursuant to subdivisions (a) or (b), the next available comparable unit shall then be rented to a qualified tenant at 30 percent of the area medium income with the goal of returning the project into compliance with the unit mix required by the project regulatory agreement.

(e) (1) The qualified entity tasked with making referrals to qualified units shall make a good faith effort to match a qualified tenant with an extremely low income, shall document these good faith efforts, and shall make this documentation available to the housing sponsor, who shall include the documentation in the tenant file, and, upon request, to the California Housing Finance Agency, the Department of Housing and Community Development, and the Department of Veterans Affairs. Documentation of these good faith efforts shall include, but not be limited to, the following:

(A) Efforts to advertise to the community at least 90 days prior to the lease-up of the building.

(B) Efforts to work in partnership with local homeless services providers, including those that serve veterans experiencing homelessness.

(C) Efforts to coordinate with the local continuum of care to identify veterans experiencing homelessness with extremely low incomes.

(D) Efforts to coordinate with the United States Department of Veterans Affairs to identify veterans experiencing homelessness with extremely low incomes.

(E) Documentation of contact with veterans experiencing homelessness with extremely low incomes and their case managers who were matched to the available unit and chose not to lease the unit.

(2) The California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee may adopt regulations to establish additional documentation standards for demonstrating a good faith effort.

(f) If a qualified entity has submitted a petition to the department pursuant to Section 987.005 for a unit that is a qualified unit under both this section and Section 987.003, the outcome of the petition submitted pursuant to Section 987.005 shall determine whether the qualified entity is able to refer secondary tenants.

(g) For purposes of this section, the following definitions apply:

(1) "Extremely low income" has the same meaning as defined in Section 50106 of the Health and Safety Code.

(2) "Homeless" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, as that section read on January 10, 2019.

(3) "Qualified entity" means an entity that is responsible for making referrals of qualified tenants to qualified units.

(4) "Qualified tenant" means an extremely low income veteran who is homeless.

(5) "Qualified unit" means a supportive housing unit restricted to extremely low income veterans pursuant to a regulatory agreement with the California Tax Credit Allocation Committee or with a bond issuer under the private activity bonds program administered by the California Debt Limit Allocation Committee.

(6) "Secondary tenants" means a veteran who is homeless who has an income of up to 60 percent of the area median income and is receiving income as a result of service-connected disability benefits.

(7) "Supportive housing unit" has the same meaning as defined in Section 987.003.

(8) "Veteran" has the same meaning as defined in Section 987.003.