



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

## AB-1878 Housing programs: tribal housing program. (2023-2024)

SHARE THIS:  

Date Published: 09/20/2024 02:00 PM

### Assembly Bill No. 1878

#### CHAPTER 266

An act to add Part 14 (commencing with Section 15990) to Division 3 of Title 2 of the Government Code, to amend Sections 50406 and 50513 of, and to add Section 50469 to, the Health and Safety Code, and to add Section 17131.18 to the Revenue and Taxation Code, relating to housing.

[ Approved by Governor September 19, 2024. Filed with Secretary of State September 19, 2024. ]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1878, Garcia. Housing programs: tribal housing program.

Existing law sets forth the general responsibilities and roles of the Business, Consumer Services, and Housing Agency, the Department of Housing and Community Development (department), and the California Housing Finance Agency in carrying out state housing policies and programs. Existing law, the G. David Singleton California Indian Assistance Program, requires the department to provide comprehensive technical assistance to tribal housing authorities, housing sponsors, and governmental agencies on reservations, rancherias, and on public domain to facilitate the planning and orderly development of suitable, decent, safe, and sanitary housing for American Indians residing in these areas. Upon request of the governing body of a reservation or rancheria, existing law authorizes the department to act on behalf of the tribal housing authority and perform the functions thereof.

This bill would remove the authority for the department to act on behalf of the tribal housing authority. The bill would also require the department to provide comprehensive technical assistance to tribes, designated tribal housing entities, and tribal housing departments on reservations, rancherias, and on public domain, and tribes that want to participate in tribal housing grant programs on fee simple land. The bill would additionally require the department to provide comprehensive technical assistance to facilitate the planning and orderly development of suitable, decent, safe, and sanitary housing for American Indians residing within a tribe's designated service area, as defined by the tribe. The bill would require the department to provide outreach, education, and comprehensive technical assistance to tribes, tribal housing authorities, tribally designated housing entities, housing departments of a tribe, housing sponsors, and governmental agencies on reservations, rancherias, and on public domain in the development of tribal housing grant programs, and before, during, and after the grant application process. The bill would require data collected pursuant to these provisions to be kept confidential and not subject to public disclosure.

Existing law authorizes the department to modify or waive various requirements of any state financing being provided to a housing development by the department in specified situations, if tribal law, tribal governance, tribal charter, or difference in tribal entity or agency legal structure would cause a violation or not satisfy the requirements for the financing. Existing law authorizes the department to waive, among other things, target population percentage requirements, not to exceed a change of more than 5% of any amount expressly set forth in statute and affordability levels, and unit mix requirements, not to exceed a change of more than 5% of any amount expressly set forth in statute.

This bill would change the limitations on the department's authority to waive the target population percentage requirements and affordability levels and unit mix requirements, as specified. The bill would additionally authorize the department to waive, among other things, timeline requirements, service area requirements, fund matching requirements, shovel-ready project requirements, requirements related to housing elements and housing plans, and income limits. To provide assistance with these waivers, the bill would require the department to, among other things, assign each waiver or modification request submitted a reference number and post on its internet website a waiver or modification request submitted to the department, including the nature of the waiver or modification request and the reference number. The bill would authorize the Director of the department or designee to incorporate a waiver or modification into any of the department's state financing programs if the department makes a specified determination.

This bill would require the department to take specified actions with respect to loans made by the department to tribal sponsors.

This bill would create in the department the Tribal Housing Grant Program Trust Fund Advisory Committee, upon appropriation by the Legislature. The bill would require the committee to be composed of, among others, members who are representatives of federally recognized tribal governments and have knowledge, experience, and expertise in the area of tribal housing, tribal land, tribal government, tribal policy, and tribal law, as specified. The bill would require the department to appoint members to the committee and to take into account geographic diversity and proven quality experience and expertise in tribal housing when appointing members to be on the committee. The bill would, subject to funding availability, authorize specified members to receive per diem and expense reimbursements, as specified, and would provide that the per diem and expense reimbursements shall not be deemed to be gross income, as specified.

This bill would require the committee, among other things, to identify and report annually to the department specified information, including barriers that exist for tribes when applying for funds from a specified fund. The bill would require the department to provide input and guidance to assist in the creation of a standard grant agreement to be used by the department for a specified program. The bill would provide that these provisions only take effect upon sufficient funds appropriated from the Legislature to implement these provisions, as specified.

This bill would require the department, to the extent practicable, to include its designated tribal liaison or their designee in discussions with tribes that are eligible recipients of state funds. The bill would require the designated tribal liaison and their designee to complete a culturally competent training course before engaging in these discussions with tribes, as specified. The bill would prohibit the department from requiring a tribe that is an eligible recipient of state funding to waive tribal sovereign immunity in order to access funds, as specified.

The Personal Income Tax Law, in modified conformity with federal law, generally defines "gross income" as income from whatever source derived, except as specifically excluded, and provides various exclusions from gross income for purposes of computing tax liability.

This bill would provide that gross income does not include any payment received by an individual pursuant to the provisions described above, as specified.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

---

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

**SECTION 1.** Part 14 (commencing with Section 15990) is added to Division 3 of Title 2 of the Government Code, to read:

### **PART 14. Tribal Housing Grant Program Fund Advisory Committee**

**15990.** (a) There is hereby created in the Department of Housing and Community Development the Tribal Housing Grant Program Fund Advisory Committee, upon appropriation by the Legislature.

(b) (1) The membership of the committee shall be composed of members who are representatives of federally recognized tribal governments and have knowledge, experience, and expertise in the area of tribal housing, tribal land, tribal government, tribal policy, and tribal law to close the gap of inconsistencies and barriers for tribes to successfully access state-funded grant programs. These members shall consist of at least the following:

(A) Three members from central California.

(B) Three members from northern California.

(C) Three members from southern California.

(D) Four nonvoting members, as follows:

(i) The Secretary of Business, Consumer Services, and Housing or their designee.

(ii) The Director of the Department of Housing and Community Development or a designee.

(iii) The executive officer of the Interagency Council on Homelessness or a designee.

(iv) The executive director of the California Housing Finance Agency or a designee.

(2) The committee shall be cochaired by both of the following:

(A) The Director of the Department of Housing and Community Development or a designee.

(B) A tribal representative voted upon by the committee members.

(3) (A) Subject to funding availability, a voting member of the committee who represents a tribe shall receive a per diem of one hundred dollars (\$100) for each day during which the member is engaged in the performance of official duties and shall be reimbursed for travel and other expenses necessarily incurred in the performance of official duties.

(B) Notwithstanding any other law, assistance provided pursuant to this paragraph shall not be deemed to be income for purposes of the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) or used to determine eligibility for any state program or local program financed wholly or in part by state funds.

(c) (1) The Department of Housing and Community Development shall appoint the voting members to the committee. Voting membership on the committee shall be served on a volunteer basis for four-year terms with no term limits so long as the member is active and does not miss three consecutive meetings.

(2) The Department of Housing and Community Development shall take into account both of the following when appointing members to be on the committee:

(A) Geographic diversity.

(B) Proven qualifying experience and expertise in tribal housing.

(3) An individual may apply to be a member on the committee by submitting an application with all of the following information to the Business, Consumer Services, and Housing Agency:

(A) A letter of nomination and support from their respective tribal chairperson.

(B) A portfolio of qualifying experience, including, but not limited to, demonstrated expertise and experience in tribal housing.

(C) A defined region of representation.

**15990.1.** The committee shall do all of the following:

(a) Identify and report annually to the Department of Housing and Community Development all of the following:

(1) Issues within the Tribal Housing Grant Program Trust Fund that require waivers to receive state financing, as described in subdivision (p) of Section 50406 of the Health and Safety Code.

(2) Inconsistencies that impact the Tribal Housing Grant Program Trust Fund within state housing program streamlined regulations.

(3) Barriers that exist for tribes when applying for funds from the Tribal Housing Grant Program Trust Fund.

(b) Provide input and guidance to the Department of Housing and Community Development on guidelines to implement the Tribal Housing Grant Program Trust Fund, including, but not limited to, determining allocation methodologies to ensure the Tribal Housing Grant Program is implemented to provide the most benefit to tribes.

(c) Provide input and guidance to assist in the creation of a standard grant agreement to be used by the Department of Housing and Community Development for the Tribal Housing Grant Program.

(d) (1) Create and adopt bylaws to govern committee meetings, determine attendance policies, and establish any other provision necessary to effectuate the committee's responsibilities.

(2) Bylaws adopted pursuant to this subdivision shall be adopted upon a majority vote of the committee's voting members.

(e) Provide recommendations to the Department of Housing and Community Development for minimum job requirements of advisors and attorneys providing technical assistance as part of the G. David Singleton California Indian Assistance Program (Section 50513 of the Health and Safety Code).

**15990.3.** This part shall only take effect upon sufficient funds appropriated by the Legislature to implement this part through funding made available to the Tribal Housing Grant Program Trust Fund established pursuant to Section 50651.1 of the Health and Safety Code.

**SEC. 2.** Section 50406 of the Health and Safety Code is amended to read:

**50406.** For the purposes of this division, the department has all of the following powers:

(a) To sue and be sued in its own name.

(b) To have an official seal and to alter it at pleasure.

(c) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions.

(d) To employ architects, planners, engineers, attorneys, accountants, experts in housing construction, management and finance, and any other advisers, consultants, and agents necessary for the performance of its functions and to fix their compensation in accordance with applicable law.

(e) To provide advice, technical information, and consultative and technical services as provided in this division.

(f) To establish, revise from time to time, and charge and collect fees and charges for services provided pursuant to this division.

(g) To accept gifts, grants, or loans of funds or property, or financial or other aid, from any federal or state agency or private source and to comply with conditions thereof not contrary to law.

(h) To enter into agreements or other transactions with any governmental agency, including an agreement for administration of a housing or community development program of the governmental agency by the department, or for administration by another governmental agency of a program of the department, either in whole or in part.

(i) To enter into any agreements and perform any acts necessary to obtain subsidies for use in connection with the exercise of powers and functions of the department, and to transfer those subsidies to others as required by the agreement.

(j) To appear on its own behalf before boards, commissions, departments, or other agencies of local, state, or federal government.

(k) To establish any regional offices necessary to effectuate the department's purposes and functions.

(l) 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, lease, option, or otherwise, including easements or other incorporeal rights in property.

(m) To provide bilingual staff in connection with services of the department and make available departmental publications in a language other than English when necessary to effectively serve groups for which the services or publications are made available.

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

(o) (1) To sell real property acquired by the department in a foreclosure, by deed in lieu of foreclosure, or sale under a power of sale on a deed of trust, lien, or by exercise of any other security interest on real property securing repayment of a loan or performance under a grant or loan made by the department. Real property so acquired shall be sold for market value and sale proceeds shall be placed in the fund from which the secured loan or grant was made.

(2) The department may establish terms, conditions, and restrictions for the sale of real property, including a requirement that the real property be used for housing for persons and families of low or moderate income, and those terms, conditions, and restrictions shall be set forth in the deed or other instrument of conveyance.

(3) The department may conduct the sale, utilize the assistance of any local public agency authorized to conduct sales of real property, contract with a licensed real estate broker to conduct the sale, or utilize other reasonable marketing methods if the

department determines that one of these options will result in a more prompt or cost-efficient sale.

(4) If the director offers to sell residential real property directly pursuant to this subdivision, the department shall close escrow within 120 days after both of the following have occurred: a qualified buyer has received approval of the department; and the buyer has obtained adequate financing for the purchase. If the deadline set forth in this paragraph is not met, the director shall employ a licensed real estate broker in connection with the proposed sale. The department may exceed the time requirements of this paragraph if the director finds that this is necessary due to factors outside the control of the department, including death of the buyer, inability of the borrower to qualify for financing from a lender, substantial damage to the property resulting from a natural disaster or other act of God, or extraordinary procedural requirements or conditions imposed by the lender or title and escrow company.

(5) The director shall perform all of the actions specified in subparagraphs (A), (B), and (C) within 30 days after both of the following have occurred: a qualified buyer has received approval of the department; and the buyer has obtained adequate financing for the purchase.

(A) Identify repair work needed to be performed on the property.

(B) Cause an appraisal of the property to be completed.

(C) Determine whether it is appropriate to rent the property until it is sold.

(6) Sales of real property made pursuant to this section are not subject to the requirements of Sections 11011 and 11011.1 of the Government Code.

(7) Failure to comply with this subdivision does not invalidate any right, title, or interest acquired by a bona fide purchaser or encumbrancer for value.

(p) (1) Where the provisions of tribal law, tribal governance, tribal charter, or difference in tribal entity or agency legal structure would cause a violation or not satisfy the requirements of any state financing being provided to a housing development by the department, the requirements of financing provided by the department, including state statutory requirements, may be modified as necessary to ensure program compatibility. Where provisions of tribal law, tribal governance, tribal charter, or difference in tribal entity legal structure or agency create minor inconsistencies, as determined by the director of the department, the department may waive the requirements of the financing provided by the department, including state statutory requirements, as deemed necessary, to avoid an unnecessary administrative burden.

(2) Matters that may be waived or modified pursuant to paragraph (1) include, but are not limited to, all of the following:

(A) Instrument recordation requirements.

(B) Security requirements for state financing provided pursuant to department programs.

(C) Title insurance requirements.

(D) Target population percentage requirements. A change of target population based on income shall not be of more than one category of income between extremely low, very low, lower, and moderate income households, as those terms are defined in Chapter 2 (commencing with Section 50050) of Health and Safety Code.

(E) Affordability levels and unit mix requirements. A waiver for affordability levels shall not be of more than one category of income between extremely low, very low, lower, and moderate income households, as those terms are defined in Chapter 2 (commencing with Section 50050) of Health and Safety Code.

(F) Any matter not expressly or objectively set forth in statute, but is set forth with specificity in guidelines or regulations promulgated by the department.

(G) Timeline requirements.

(H) Service area requirements.

(I) Fund matching requirements.

(J) Shovel-ready project requirements.

(K) Requirements related to housing elements and housing plans.

(L) Income limits.

(M) Form of funding provided, including, but not limited to, a grant or a loan.

(N) Phase of funding, including, but not limited to, predevelopment, construction, or permanent financing.

(O) Requirements regarding infill location and density.

(3) Any standard requirements or general rules of application that the department develops or implements to carry out modifications or waivers set forth in this subdivision shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Divisions 3 of Title 2 of the Government Code.

(4) Repayment of principal and interest on loans made by the department to tribal sponsors shall be deferred for the full term of the loan.

(5) The department shall forgive loans made by the department to tribal sponsors if all conditions for the loans have been satisfied.

**SEC. 3.** Section 50469 is added to the Health and Safety Code, to read:

**50469.** (a) The department shall not require a tribe that is an eligible recipient of state funding to waive tribal sovereign immunity in order to access state or federal funds, as long as not requiring the waiver is not in conflict with applicable law. This subdivision does not apply to Sections 50237, 50244, 50675.1.1, or 50675.1.3, or any affordable housing programs administered by the department under those sections.

(b) (1) In order to facilitate better coordination between the department and the tribes that are eligible recipients of state funds, the department shall, to the extent practicable, include its designated tribal liaison or their designee in all discussions with tribes that are eligible recipients.

(2) The department's designated tribal liaison and their designee shall complete a culturally competent training course before engaging in these discussions with tribes to equip the tribal liaison and their designee with the knowledge, skills, and mindsets necessary to interact effectively with tribes.

**SEC. 4.** Section 50513 of the Health and Safety Code is amended to read:

**50513.** (a) This section shall be known, and may be cited, as the G. David Singleton California Indian Assistance Program.

(b) The department shall provide comprehensive technical assistance to tribes, tribal housing authorities, designated tribal housing entities, tribal housing departments, housing sponsors, and governmental agencies on reservations, rancherias, and on public domain, and tribes that want to participate in tribal housing grant programs on fee simple land to facilitate the planning and orderly development of suitable, decent, safe, and sanitary housing for American Indians residing in those areas or within a tribe's designated service area, as defined by the tribe. This assistance may include technical assistance in land use planning, natural and environmental resource planning, and economic resource planning.

(c) To provide assistance with waivers or modification requests submitted pursuant to subdivision (p) of Section 50406, the department shall do all of the following:

(1) Assign each waiver or modification request submitted a reference number.

(2) Post on its internet website a waiver or modification request submitted to the department, including the nature of the waiver or modification request and the reference number.

(3) Post on its internet website whether a waiver or modification request is accepted, denied, or accepted or denied in part. If the waiver or modification request is denied, post on its internet website the reason the department denied the waiver or modification request.

(4) Where the department has made a determination that tribal law, tribal governance, tribal charter, or difference in tribal entity or agency legal structure causes a violation or does not satisfy the requirements of specific state financing being provided to a housing development administered by the department for more than two tribal applicants for a specific notice of funding availability, the Director of the department or designee may incorporate that waiver or modification into any of its the department's state financing programs.

(d) The department shall provide outreach, education, and comprehensive technical assistance to tribes, tribal housing authorities, tribally designated housing entities, housing departments of a tribe, housing sponsors, and governmental agencies on reservations, rancherias, and on public domain in the development of tribal housing grant programs, and before, during, and after the grant application process.

(e) Notwithstanding any other law, data collected pursuant to this section shall be kept confidential and shall not be subject to public disclosure, including, but not limited to, any person or entity that provides technical assistance.

**SEC. 5.** Section 17131.18 is added to the Revenue and Taxation Code, to read:

**17131.18.** Gross income does not include any payment received by an individual pursuant to Section 15990 of the Government Code.

**SEC. 6.** The Legislature finds and declares that Section 4, which amends Section 50513 of the Health and Safety Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy of California residents, while also collecting useful data on housing and services to tribes and tribal members, it is necessary to preserve the confidentiality of this information.