

## Senate Bill No. 870

### CHAPTER 281

An act to amend Sections 50086, 51050, and 51101 of, and to add Section 51058.5 to, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 2008. Filed with  
Secretary of State September 25, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 870, Ridley-Thomas. California Housing Finance Agency: resolutions, rules, and regulations.

Existing law requires the California Housing Finance Agency to make financing opportunities available for the construction, rehabilitation, and purchase of housing for persons and families of low or moderate income by borrowing in the securities markets and relending to housing sponsors, developers, and homeowners and by insuring loans made by the agency or by others for these same purposes.

Existing law enumerates the powers of the agency, including the power to adopt, and from time to time amend and repeal, by action of the agency's governing board, resolutions, rules, and regulations, not inconsistent with existing law, to carry into effect the powers and purposes of the agency and the conduct of its business.

This bill would authorize the agency to act through resolution, except when expressly required under existing law to act through rule or regulation, and would delete certain requirements that the agency adopt rules or regulations.

The bill would specify that the agency is not required to promulgate rules and regulations in order to establish or operate a mortgage refinance program. The bill would authorize the agency to establish that program through resolutions adopted by the agency governing board, and operated by the agency in accordance with resolutions adopted by the board. The bill would exempt those resolutions from the requirements of the Administrative Procedures Act.

The bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 50086 of the Health and Safety Code is amended to read:

50086. “Mortgage loan” means a loan that is secured by a mortgage and is made for financing, including refinancing of existing mortgage obligations, to create or preserve the long-term affordability of a housing development or a residential structure in the state, or a buy-down mortgage loan secured by a mortgage, of an owner-occupied unit in this state.

SEC. 2. Section 51050 of the Health and Safety Code is amended to read:

51050. The agency shall have all of the following powers:

- (a) To sue and be sued in its own name.
- (b) To have an official seal and to alter the same at pleasure.
- (c) To have perpetual succession.
- (d) To maintain offices at any place or places within the state which it may designate.
- (e) To adopt, and from time to time amend and repeal, by action of the board, either resolutions, or rules or regulations, not inconsistent with this part, to carry into effect the powers and purposes of the agency and the conduct of its business, except where this part expressly requires the agency to act by rule or regulation. If the agency acts by rule or regulation, the rule or regulation shall be adopted, amended, repealed, and published in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (f) Notwithstanding any other provision of law, to make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this part with any governmental agency, private corporation or other entity, or individual, and to contract with any local public entity for processing of any aspect of financing housing developments. Contracts made or executed under the authority of this part shall not be subject to any applicable provision of law requiring competitive bidding or the supervision or approval of another division or officer of state government.
- (g) 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, a deed in lieu of foreclosure, lease, option, or otherwise, including easements or other incorporeal rights in property.
- (h) To hold, sell, assign, lease, encumber, mortgage, or otherwise dispose of any real or personal property or any interest therein; to hold, sell, assign, or otherwise dispose of any mortgage interest owned by it, under its control or custody, or in its possession; and, as applicable, to do any of the acts specified in this subdivision by public or private sale, with or without public bidding, notwithstanding any other provision of law.
- (i) To release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in real property foreclosed by it or acquired by it by a deed in lieu of foreclosure.
- (j) To determine the terms and conditions of any mortgage instrument, deed of trust, or promissory note used or executed in conjunction with the financing of any housing development.

(k) To employ architects, engineers, attorneys, accountants, housing construction and financial experts, and such other advisers, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(l) To provide advice, technical information, and consultative and technical service in connection with the financing of housing developments pursuant to this part.

(m) Notwithstanding any other provision of law, to insure or reinsure against any loss in connection with its property and other assets, including mortgages and mortgage loans, in amounts, in the manner, and from those insurers as it deems desirable.

(n) To establish, revise from time to time, and charge and collect fees and charges in connection with loans made or insured by the agency.

(o) To borrow money and issue bonds, as provided in this part.

(p) To enter agreements and perform acts as are necessary to obtain and maintain federal housing subsidies for use in connection with housing developments.

(q) To provide bilingual staff and make available agency publications in a language, other than English, where necessary to effectively serve all groups for which those services or publications are made available.

(r) To require any individual, corporation, or other legal entity operating, managing, or providing maintenance services for a housing development or a residential structure to maintain a current certificate of qualification developed and approved by the agency.

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

SEC. 3. Section 51058.5 is added to the Health and Safety Code, to read:

51058.5. Notwithstanding any other provision of law, the agency is not required to promulgate rules and regulations in order to establish or operate a mortgage refinance program. Instead, that program may be established by the governing board of the agency through resolutions adopted by that board, and operated by the agency in accordance with resolutions adopted by the board. Those resolutions shall be exempt from the requirements of the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 4. Section 51101 of the Health and Safety Code is amended to read:

51101. The agency may make and publish rules and regulations respecting the making of development loans, construction loans, property improvement loans, and mortgage loans pursuant to this part, the terms and conditions upon which such loans may be made to housing sponsors, the admission of tenants to a housing development, the inclusion of nonhousing facilities in housing developments, the construction of nonhousing facilities, and supervision of housing sponsors, including housing sponsors owning and occupying a housing development.

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:

In order to provide the California Housing Finance Agency, at the earliest possible time, with the authority necessary to develop and implement in a timely manner a refinance program that uses funds received from certain tax-exempt bonds that are available only for a limited time, it is necessary that this act take effect immediately.