Senate Bill No. 1065

CHAPTER 283

An act to amend, repeal, and add Sections 52013 and 52020 of the Health and Safety Code, relating to housing.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1065, Correa. Home financing programs.

Existing law, for purposes of a home financing program, provides that a city or county has specified powers and duties and may administer a home financing program to acquire, contract, and enter into advance commitments to acquire home mortgages, as defined, made or owned by lending institutions at the purchase prices and upon other terms and conditions as determined by the city or county.

This bill would include the refinancing of home mortgages in the criteria for establishing a maximum household income for the purposes of a city- or county-administered home financing program. The bill would also revise the definition of home mortgage for purposes of the above provisions. These provisions would be repealed January 1, 2012.

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

SECTION 1. Section 52013 of the Health and Safety Code is amended to read:

52013. (a) "Home mortgage" or "mortgage" means an interest-bearing loan made as provided in this part to a mortgagor, whether originated in the manner provided in subdivision (a) or (b) of Section 52020, which is either of the following:

(1) Evidenced by a promissory note and secured by a mortgage, deed of trust, or other security instrument on a home, and which may be, but is not required to be, additionally secured by insurance on the payment of the note, for the purposes of purchasing, constructing, or improving a home that meets any of the criteria described in paragraphs (1) to (3), inclusive, of subdivision (b).

(2) Evidenced by a promissory note and secured by a mortgage, deed of trust, or other security instrument on a home, and which is federally insured, federally guaranteed, or eligible to be purchased by the Federal National Mortgage Association or the Federal Home Loan and Mortgage Corporation, for the purposes of refinancing a home that meets the criteria described in paragraph (3) of subdivision (b).

(b) The following criteria apply for the purposes of subdivision (a):

(1) Is newly constructed or is being rehabilitated and that, in either case, is located within an area or neighborhood in which the city or county is conducting a housing rehabilitation or code enforcement program; a neighborhood preservation area or concentrated rehabilitation area designated pursuant to this division; an area for which federal funds are being made available; or a residential rehabilitation area as defined in Section 37912. However, a loan may be made for the purchase of a newly constructed home anywhere within the city or county if the purchase is in connection with a program adopted by ordinance of the city or county the purpose of which is to increase the housing supply.

(2) Is a home upon which no rehabilitation is being undertaken in connection with any financing pursuant to this part, where the purchaser will not be the first occupant and that is located within the city or county making or purchasing the home mortgage.

(3) Is an existing home within the city or county making or purchasing the home mortgage and the owner is, and will be, the occupant of the house.

(c) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 2. Section 52013 is added to the Health and Safety Code, to read:

52013. (a) "Home mortgage" or "mortgage" means an interest-bearing loan made as provided in this part to a mortgagor, whether originated in the manner provided in subdivision (a) or (b) of Section 52020, which is evidenced by a promissory note and secured by a mortgage, deed of trust, or other security instrument on a home, and which may but is not required to be additionally secured by insurance on the payment of the note, for the purpose of purchasing, constructing, or improving a home that meets either of the following criteria:

(1) Is newly constructed or is being rehabilitated and that, in either case, is located within an area or neighborhood in which the city or county is conducting a housing rehabilitation or code enforcement program; a neighborhood preservation area or concentrated rehabilitation area designated pursuant to this division; an area for which federal funds are being made available; or a residential rehabilitation area as defined in Section 37912. However, a loan may be made for the purchase of a newly constructed home anywhere within the city or county if the purchase is in connection with a program adopted by ordinance of the city or county the purpose of which is to increase the housing supply.

(2) Is a home upon which no rehabilitation is being undertaken in connection with any financing pursuant to this part, where the purchaser will not be the first occupant, and that is located within the city or county making or purchasing the home mortgage.

(b) A "home mortgage" or "mortgage" shall not include a loan to a mortgagor for the purpose of refinancing an existing obligation of the mortgagor, unless substantial rehabilitation is to be undertaken in connection with the loan.

(c) This section shall become operative January 1, 2012.

SEC. 3. Section 52020 of the Health and Safety Code is amended to read:

52020. (a) For purposes of a home financing program authorized by this part, a city or county has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the city or county or other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages, and to pay the reasonable value of services rendered under those contracts. Prior to executing any contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall, with respect to each home financing program, permit each qualified lending institution that transacts business in the city or county the opportunity to participate in the program on an equitable basis with other participating lending institutions. Two or more cities in the same county, a county and one or more cities within the county, or two or more adjacent counties and any number of cities within those counties may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of the entities.

(2) To make loans to lending institutions under terms and conditions that, in addition to other provisions as determined by the city or county, require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds, or in any documents relating to the issuance, standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation any of the following:

(A) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages, and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as deemed relevant by the city or county.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(b) Each city or county that finances housing pursuant to this part shall designate a person or entity to administer the program.

(c) Each city or county that finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing these criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) (1) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(A) One hundred twenty percent of the median household income for mortgages made for improving a home, for refinancing a home, or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families also shall be 120 percent of the median household income.

(B) One hundred twenty percent of the median household income for mortgages where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 50 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 90 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of median household income. The resolution is final and conclusive as to the findings required by this paragraph.

(C) One hundred fifty percent of the median household income for mortgages made for improving a home, for refinancing a home, or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and that is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased, refinanced, or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

(2) As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for an area, as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(e) (1) Subdivision (d) shall not apply with respect to home finance programs funded with amounts made available by the issuance of revenue bonds that, for federal tax law purposes, are bonds refunding qualified mortgage bonds issued before January 1, 1987, and that satisfy the requirements of subdivision (a) of Section 1313 of the federal Tax Reform Act of 1986. With respect to these programs, the maximum household income for qualification of persons and families pursuant to this section shall be the following:

(A) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families also shall be 150 percent of the median household income. For purposes of this paragraph, a mortgage made for improving a home includes a home improvement loan as defined in Section 143 of Title 26 of the United States Code.

(B) One hundred twenty percent of the median household income where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 20 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 110 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 120 percent of the median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 110 percent of the median household income. The resolution is final and conclusive as to the findings required by this paragraph. However, the finding shall not be made by the legislative body before six months from the date mortgages were first made under the program and only if participating lenders have entered into an agreement with the city, county, or city and county that lenders will advertise at least monthly the availability of funds and will forfeit one-quarter of their origination fees if they are unable to use 20 percent of the funds to make mortgages to households whose income does not exceed 110 percent of the median income.

(C) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and that is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

(2) As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for an area, as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(f) Each city or county that finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases determined by the city or county.

(g) Each city and county may do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

(h) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 4. Section 52020 is added to the Health and Safety Code, to read:

52020. (a) For purposes of a home financing program authorized by this part, a city or county has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the city or county or other person as it may designate as its agent, to make

and execute contracts with lending institutions for the origination and servicing of home mortgages, and to pay the reasonable value of services rendered under those contracts. Prior to executing any contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall, with respect to each home financing program, permit each qualified lending institution that transacts business in the city or county the opportunity to participate in the program on an equitable basis with other participating lending institutions. Two or more cities in the same county, a county and one or more cities within the county, or two or more adjacent counties and any number of cities within those counties may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of the entities.

(2) To make loans to lending institutions under terms and conditions that, in addition to other provisions as determined by the city or county, require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds, or in any documents relating to the issuance, standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation any of the following:

(A) The time within which lending institutions are required to make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages, and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as deemed relevant by the city or county.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending

institution to make home mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(b) Each city or county that finances housing pursuant to this part shall designate a person or entity to administer the program.

(c) Each city or county that finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing these criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) (1) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(A) One hundred twenty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families also shall be 120 percent of the median household income.

(B) One hundred twenty percent of the median household income for mortgages where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 50 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 90 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of median household income. The resolution is final and conclusive as to the findings required by this paragraph.

(C) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and that is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

(2) As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for an area, as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(e) (1) Subdivision (d) shall not apply with respect to home finance programs funded with amounts made available by the issuance of revenue bonds that, for federal tax law purposes, are bonds refunding qualified mortgage bonds issued before January 1, 1987, and that satisfy the requirements of subdivision (a) of Section 1313 of the federal Tax Reform Act of 1986. With respect to these programs, the maximum household income for qualification of persons and families pursuant to this section shall be the following:

(A) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families also shall be 150 percent of the median household income. For purposes of this paragraph, a mortgage made for improving a home includes a home improvement loan as defined in Section 143 of Title 26 of the United States Code.

(B) One hundred twenty percent of the median household income where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 20 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 110 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 120 percent of the median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 110 percent of the median household income. The resolution is final and conclusive as to the findings required by this paragraph. However, the finding shall not be made by the legislative body before six months from the date mortgages were first made under the program and only if participating lenders have entered into an agreement with the city, county, or city and county that lenders will advertise at least monthly the availability of funds and will forfeit one-quarter of their origination fees if they are unable to use 20 percent of the funds to make mortgages to households whose income does not exceed 110 percent of the median income.

(C) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and that is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

(2) As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for an area, as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(f) Each city or county that finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after receiving a home mortgage, with appropriate exceptions in hardship cases determined by the city or county.

(g) Each city and county may do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

(h) This section shall become operative January 1, 2012.

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