Assembly Bill No. 702

Passed the Assembly August 26, 2010

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Chief Clerk of the Assembly

Passed the Senate August 19, 2010

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Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2010, at _____ o'clock ____M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Section 50517.5 of the Health and Safety Code, relating to housing and community development, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 702, Salas. Joe Serna, Jr. Farmworker Housing Grant Program: agricultural employees.

Existing law establishes the Joe Serna, Jr. Farmworker Housing Grant Program, administered by the Department of Housing and Community Development, under which, subject to the availability of funds, grants or loans, or both, are made available for the construction or rehabilitation of housing for agricultural employees, as defined, and their families or for the acquisition of manufactured housing to remedy the impacts of the displacement of farmworker families.

This bill would modify the definition for the term "agricultural employees."

This 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 50517.5 of the Health and Safety Code is amended to read:

50517.5. (a) (1) The department shall establish the Joe Serna, Jr. Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants or loans, or both, shall be made to local public entities, nonprofit corporations, limited liability companies, and limited partnerships, for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing as part of a program to address and remedy the impacts of current and potential displacement of farmworker families from existing labor camps, mobilehome parks, or other housing. Under this program, grants or loans, or both, may also be made for the cost of acquiring the land and any building thereon in connection with housing

assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to the housing. In its administration of this program, the department shall disburse grants or loans, or both, to the local public entities, nonprofit corporations, limited liability companies, or limited partnerships or may, at the request of the local public entity, nonprofit corporation, limited liability company, or limited partnership that sponsors and supervises the rehabilitation or construction program, disburse grant funds to agricultural employees who are participants in a rehabilitation or construction program sponsored and supervised by the local public entity, nonprofit corporation, limited liability company, or limited partnership. No part of a grant or loan made pursuant to this section may be used for project organization or planning.

(2) Notwithstanding any other provision of this chapter, upon the request of a grantee the program also may loan funds to a grantee at no more than 3 percent simple interest. Principal and accumulated interest is due and payable upon completion of the term of the loan. For any loan made pursuant to this subdivision, the performance requirements of the lien shall remain in effect for a period of no less than the original term of the loan.

(3) The program shall be administered by the Director of Housing and Community Development and officers and employees of the department as he or she may designate.

(b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for making grants or loans, or both, pursuant to this section and Section 50517.10, for purposes of Chapter 8.5 (commencing with Section 50710), and for costs incurred by the department in administering these programs.

(2) There shall be paid into the fund the following:

(A) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(B) Any moneys that the department receives in repayment or return of grants or loans from the fund, including any interest therefrom.

(C) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(D) All moneys appropriated to the department for the purposes of Chapter 8.5 (commencing with Section 50710) and any moneys received by the department from the occupants of housing or shelter provided pursuant to Chapter 8.5 (commencing with Section 50710). These moneys shall be separately accounted for from the other moneys deposited in the fund.

(c) (1) Grants and loans made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.

(2) For grant or loan requests of not more than five hundred thousand dollars ($500,000), the department may waive a part of the matching fund requirement in this subdivision if the grantee demonstrates an inability, as may be established by the department in "Notices of Funding Availability," to secure adequate financing from other sources. Not more than 5 percent of the total amount appropriated to the department for the purposes of this section may be used to meet grant or loan requests in which a part of the matching fund requirement has been waived pursuant to this paragraph.

(d) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents that may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds provided pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that the increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds provided pursuant to this section.

(4) (A) Require as a condition precedent to a grant or loan, or both, of funds that the applicant have site control that is satisfactory to the department; that the grantee be record owner in fee of the assisted real property or provide other security including a lien on the manufactured home that is satisfactory to the department to ensure compliance with the construction, financial, and program obligations; and that the grantee shall have entered into a written agreement with the department binding upon the grantee and successors in interest to the grantee. The agreement shall include the conditions under which the funds advanced may be repaid. The agreement shall include provisions for a lien on the assisted real property or manufactured home in favor of the State of California for the purpose of securing performance of the agreement. The agreement shall also provide that the lien shall endure until released by the Director of Housing and Community Development.

(B) If funds granted or loaned pursuant to this section constitute less than 25 percent of the total development cost or value, whichever is applicable, of a project assisted under this section, the department may adopt, by regulation, criteria for determining the number of units in a project to which the restrictions on occupancy contained in the agreement apply. In no event may these regulations provide for the application of the agreement to a percentage of units in a project that is less than the percentage of total development costs that funds granted or loaned pursuant to this section represent.

(C) Contemporaneously with the disbursement of the initial funds to a grantee, the department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, a notice of lien executed by the Director of Housing and Community Development. The notice of lien shall refer to the agreement required by this paragraph for which it secures and it shall include a legal description of the assisted real property that is subject to the lien. The notice of lien shall be indexed by the recorder in the Grantor Index to the name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development. For manufactured housing, the liens shall be recorded by the department in the same manner as other manufactured housing liens are recorded. The department shall adopt by regulation criteria

for the determination of the lien period. This regulation shall take into account whether the property is held by multifamily rental, single-family ownership, or cooperative ownership and whether it is new construction or rehabilitative construction. The lien period for manufactured housing liens for manufactured homes shall not exceed 10 years.

(D) Pursuant to regulations adopted by the department, the department may execute and cause to be recorded in the office of the recorder of the county in which a notice of lien has been recorded, or the department, as appropriate, a subordination of the lien. The regulations adopted by the department shall provide that any subordination of the lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in the subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

(E) Prior to funds granted pursuant to this section being used to finance the acquisition of a manufactured home, the grantee shall ensure that the home either is already installed in a location where it will be occupied by the eligible household or that a location has been leased or otherwise made available for the manufactured home to be occupied by the eligible household.

(5) Regulate the terms of occupancy agreements or resale controls, to be used in housing assisted pursuant to this section.

(6) Provide linguistically appropriate services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(7) The agreement between the department and the grantee shall provide, among other things, that both of the following occur:

(A) Upon the sale or conveyance of the real property, or any part thereof, for use other than for agricultural employee occupancy, the grantee or its successors shall, as a condition for the release of the lien provided pursuant to paragraph (4), repay to the fund the department's grant and loan funds.

(B) Upon the sale or conveyance of the real property or any part thereof for continued agricultural employee occupancy, the transferee shall assume the obligation of the transferor and the real property shall be transferred to the new owner; provided that the transferee agrees to abide by the agreement entered into between the transferor and the department and that the new owner takes

the property subject to the lien provided pursuant to paragraph (4), except that this lien shall, at the time of the transfer of the property to the new owner, be extended for an additional lien period determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, the lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4).

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit that is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 50408, a current report of the Joe Serna, Jr. Farmworker Housing Grant Program. The report shall include, but need not be limited to, (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants or loans, or both, made to each grantee in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant or loan, or both, under this section, and an identification of each source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance, and (7) the number of manufactured housing units assisted under this section.

(g) As used in this section:

(1) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code, but also includes any person who works on or off the farm in the processing of any agricultural commodity until it is shipped for distribution, whether or not this person is encompassed within the definition specified in subdivision (b) of Section 1140.4 of the Labor Code.

(2) "Grantee" means the local public entity, nonprofit corporation, limited liability company, or limited partnership that is awarded the grant or loan, or both, under this section, and, at the request thereof, may include an agricultural employee receiving direct payment of a grant for rehabilitation under this section who occupies the assisted housing both before and after the rehabilitation and may include an agricultural employee receiving direct payment of a grant for construction under this section who will occupy the assisted housing and who is a participant in a rehabilitation or construction program sponsored and supervised by a local public entity, nonprofit corporation, limited liability company, or limited partnership.

(3) "Housing" may include, but is not necessarily limited to, conventionally constructed units and manufactured housing installed pursuant to either Section 18551 or 18613.

(4) "Limited liability company" means a limited liability company where all the members are nonprofit public benefit corporations.

(5) "Limited partnership" means a limited partnership where all of the general partners are either nonprofit public benefit corporations, limited liability companies, or a combination of nonprofit public benefit corporations and limited liability companies.

(h) The department may provide the assistance offered pursuant to this chapter in any area where there is a substantial unmet need for farmworker housing.

SEC. 2. 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 increase the number of agricultural employees eligible for housing assistance, and to help address those individuals' urgent housing needs, it is necessary that this act take immediate effect.

Approved _____, 2010

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Governor