

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1951**

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**Introduced by Assembly Member Atkins**

February 23, 2012

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*An act to amend Sections 50705, 50708, and 53545.9 of, and to repeal Section 50707 of, the Health and Safety Code, relating to ~~bonds~~ housing.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1951, as amended, Atkins. Housing bonds.

Existing law, the Housing and Emergency Shelter Trust Fund Act of 2006, authorizes the issuance of bonds to finance various housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, housing-related parks, and transit-oriented development programs. *The act establishes the Housing and Emergency Shelter Trust Fund of 2006 in the State Treasury and requires the sum of \$1,500,000,000 to be deposited in the Affordable Housing Account, which the act establishes in the fund. The act continuously appropriates the money in the account in accordance with a specified schedule that requires, among other things, the transfer of the sum of \$100,000,000 to the Affordable Housing Innovation Fund, which the act establishes in the State Treasury, to be administered by the Department of Housing and Community Development. Existing law requires the funds in the Affordable Housing Innovation Fund to be allocated in the amount of \$50,000,000 for the Affordable Housing Revolving Development and Acquisition Program, of which \$25,000,000 would be made available to the Loan Fund and \$25,000,000 would be made available to the Practitioner Fund; \$5,000,000 for the Construction Liability Insurance Reform Pilot Program; \$35,000,000*

for a local housing trust fund matching grant program established under a specified provision of existing law; and \$10,000,000 for the Innovative Homeownership Program.

This bill would state the intent of the Legislature to enact legislation relating to housing bond programs.

This bill would repeal the provisions relating to the Practitioner Fund and make conforming changes. This bill would delete the provisions establishing the Construction Liability Insurance Reform Pilot Program.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

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

1 SECTION 1. Section 50705 of the Health and Safety Code is  
2 amended to read:

3 50705. (a) The Affordable Housing Revolving Development  
4 and Acquisition Program is hereby established for the purpose of  
5 funding the acquisition of property to develop or preserve  
6 affordable housing. The program will be comprised of a Loan Fund  
7 and a Practitioner Fund.

8 (b) The department shall adopt guidelines for the operation of  
9 the program. The guidelines shall not be subject to the requirements  
10 of Chapter 3.5 (commencing with Section 11340) of Part 1 of  
11 Division 3 of Title 2 of the Government Code. The department  
12 shall adopt regulations for the program prior to issuing any request  
13 for qualifications funded with loan repayments or any other  
14 sources.

15 SEC. 2. Section 50707 of the Health and Safety Code is  
16 repealed.

17 ~~50707. (a) The department shall issue a request for~~  
18 ~~qualification to select one or more nonprofit entities that qualify~~  
19 ~~under Section 501(e)(3) of the Internal Revenue Code to borrow~~  
20 ~~moneys from the Practitioner Fund to purchase real property for~~  
21 ~~the development or preservation of housing affordable to low- and~~  
22 ~~moderate-income households. The selection of one or more~~  
23 ~~nonprofit entities that qualify shall be made by the department,~~  
24 ~~based on the review and recommendation of the department's Loan~~  
25 ~~and Grant Committee. The loan from the Practitioner Fund will~~  
26 ~~be for a maximum of five years.~~

- 1 ~~(b) The entity or entities selected pursuant to subdivision (a)~~  
2 ~~shall demonstrate all of the following:~~
- 3 ~~(1) Operation as a nonprofit entity that qualifies under Section~~  
4 ~~501(e)(3) of the Internal Revenue Code with housing development~~  
5 ~~experience in this state and a minimum of 25 employees.~~
- 6 ~~(2) Availability of additional funds of at least three times the~~  
7 ~~loan amount.~~
- 8 ~~(3) Completion of not less than 2,500 total housing units, with~~  
9 ~~each housing development project having a majority of its units~~  
10 ~~affordable to low- and moderate-income families, as defined in~~  
11 ~~Section 50052.5 or 50053. For purposes of this requirement, the~~  
12 ~~applicant shall be the developer of record with primary day-to-day~~  
13 ~~management and financial responsibility for the development.~~
- 14 ~~(4) Sufficient organizational stability and capacity to use the~~  
15 ~~Practitioner Fund to achieve scale economies in the development~~  
16 ~~and preservation of affordable housing. Capacity may be~~  
17 ~~demonstrated by substantial successful experience in affordable~~  
18 ~~housing development and management, including successful~~  
19 ~~partnerships with local government entities.~~
- 20 ~~(5) Assets worth at least two hundred million dollars~~  
21 ~~(\$200,000,000), to demonstrate evidence of sufficient net worth~~  
22 ~~for assurance of repayment of the loan.~~
- 23 ~~(c) The guidelines and regulations, at a minimum, shall do all~~  
24 ~~of the following:~~
- 25 ~~(1) Establish the minimum criteria required of the practitioner~~  
26 ~~and a point system for rating and ranking responses.~~
- 27 ~~(2) Provide that any equity not originally contributed by the~~  
28 ~~borrower shall be returned to the state for the purposes of this~~  
29 ~~program, if property acquired with state funds is sold or transferred~~  
30 ~~for purposes other than affordable housing.~~
- 31 ~~(3) Give priority to those respondents who demonstrate an~~  
32 ~~immediate need of funds from the committee and who can~~  
33 ~~demonstrate the greatest levels of efficiency and economies of~~  
34 ~~scale.~~
- 35 ~~(4) Establish a reasonable practitioner administrative fee.~~
- 36 ~~(d) Funds not used by a practitioner within 36 months after their~~  
37 ~~availability to the practitioner shall be disencumbered and~~  
38 ~~transferred to the Loan Fund.~~
- 39 ~~(e) The guidelines and regulations shall require that before~~  
40 ~~expending any state funds, the borrower shall obtain binding~~

1 commitments for at least three dollars (\$3) of nonstate acquisition  
 2 capital to leverage every dollar of loan funds. To be considered  
 3 nonstate acquisition capital, those funds shall be committed for a  
 4 term at least equal to the term of the loan made under this section,  
 5 and shall be available to be used for the purposes of this section.  
 6 ~~Equity from the anticipated sale of either federal or state~~  
 7 ~~low-income housing tax credits shall not be considered nonstate~~  
 8 ~~acquisition capital. If the selected entity is unable to meet these~~  
 9 ~~capital leveraging requirements within 180 days after selection,~~  
 10 ~~the loan shall be repaid, with accumulated interest, to the~~  
 11 ~~department, deposited in the fund, and made available to the next~~  
 12 ~~highest rated qualified project sponsor. If, within 270 days after~~  
 13 ~~selection, there is no remaining qualified applicant available in the~~  
 14 ~~case of the Practitioner Fund, any unexpended funds shall be made~~  
 15 ~~available for the purposes of Section 50706.~~

16 (f) ~~The department shall establish a schedule for the timely~~  
 17 ~~expenditure of funds by the applicant. The department may require~~  
 18 ~~repayment in the event that a selected entity fails to use the funds~~  
 19 ~~consistently with the schedule and the other terms of the program.~~

20 *SEC. 3. Section 50708 of the Health and Safety Code is*  
 21 *amended to read:*

22 50708. The department shall collect all of the following from  
 23 each borrower and include a summary of this information in its  
 24 last annual report submitted to the Legislature on or before  
 25 December 31, 2013, pursuant to Section 50408:

26 (a) A general description of activities undertaken pursuant to  
 27 this chapter.

28 (b) For each property acquired, the acquisition price; the amount  
 29 and terms of the nonstate funds leveraged, and a statement as to  
 30 whether the state acquisition funds were essential to the leveraging  
 31 of these other acquisition funds; a description of the expiration  
 32 date of the project’s rent or sales restrictions; the number of assisted  
 33 units created or preserved; the amount of state funds required for  
 34 each assisted unit created or preserved; and the level of  
 35 affordability maintained.

36 (c) If any borrower sells any property acquired with assistance  
 37 through these state funds, a description of the name and location  
 38 of the purchaser, the purchase price, and the total transaction costs.

39 (d) ~~A comparison of the cost of creating or preserving units~~  
 40 ~~under Section 50706 with that of Section 50707.~~

1 (e)

2 (d) An overall assessment of the effectiveness of these funds as  
3 tools in creating and preserving affordable housing.

4 *SEC. 4. Section 53545.9 of the Health and Safety Code is*  
5 *amended to read:*

6 53545.9. Of the one hundred million dollars (\$100,000,000)  
7 transferred to the Affordable Housing Innovation Fund established  
8 in the State Treasury under subparagraph (F) of paragraph (1) of  
9 subdivision (a) of Section 53545, the following amounts shall be  
10 allocated as follows:

11 (a) (1) The department shall make available the amount of fifty  
12 million dollars (\$50,000,000) for the Affordable Housing  
13 Revolving Development and Acquisition Program.

14 (2) Of the amount made available for the program, twenty-five  
15 million dollars (\$25,000,000) shall be made available for the Loan  
16 Fund and twenty-five million dollars (\$25,000,000) shall be made  
17 available for the Practitioner Fund.

18 ~~(b) The department shall make available the amount of five~~  
19 ~~million dollars (\$5,000,000) for the Construction Liability~~  
20 ~~Insurance Reform Pilot Program, which is hereby established in~~  
21 ~~the Department of Housing and Community Development. The~~  
22 ~~purpose of the program is to promote best practices for residential~~  
23 ~~construction quality control in housing programs sponsored by the~~  
24 ~~department or the California Housing Finance Agency, as a means~~  
25 ~~of reducing insurance rates for condominium developers in this~~  
26 ~~state. Funds shall be made available in the form of grants for~~  
27 ~~predevelopment costs of condominium projects funded by the~~  
28 ~~department or the California Housing Finance Agency that utilize~~  
29 ~~enhanced construction oversight and monitoring programs and~~  
30 ~~processes, including, but not limited to, video recording of the~~  
31 ~~construction process, use of quality control manuals, and increased~~  
32 ~~quality control inspections.~~

33 (e)

34 (b) The department shall make available the amount of  
35 thirty-five million dollars (\$35,000,000) for the local housing trust  
36 fund matching grant program established under Section 50843.5.  
37 The department shall make available 50 percent of this amount  
38 exclusively for newly established housing trust funds.

39 (1) When awarding grants from the funds allocated under this  
40 subdivision to existing trust funds, the department shall grant

1 preference to a housing trust fund that agrees to expend more than  
2 65 percent of state funds for the purpose of downpayment  
3 assistance to first-time homebuyers.

4 (2) When awarding grants from the funds allocated under this  
5 subdivision to newly established housing trust funds, the  
6 department shall set aside funding, for a period of 36 months from  
7 the date funds are first made available, for newly established  
8 housing trust funds that are in a county with a population of less  
9 than 425,000 persons, based on the decennial United States Census  
10 for the year 2000.

11 (3) (A) Notwithstanding any other ~~provision~~ of law, funds set  
12 aside for newly established housing trust funds shall be available  
13 for encumbrance for 42 months after the date the funds are first  
14 made available and disbursements in liquidation of the  
15 encumbrance shall be made before or during 48 months after the  
16 date funds are first made available.

17 (B) Notwithstanding subparagraph (F) of paragraph (1) of  
18 subdivision (a) of Section 53545, any funds not encumbered for  
19 newly established housing trust funds within 42 months after the  
20 date the funds are first made available shall revert to the Self-Help  
21 Housing Fund created by Section 50697.1 and shall be available  
22 for the purposes described in subparagraph (D) of paragraph (1)  
23 of subdivision (a) of Section 53545.

24 ~~(c)~~

25 (c) The department shall make available the amount of ten  
26 million dollars (\$10,000,000) for the Innovative Homeownership  
27 Program, which the department shall develop and implement as  
28 follows:

29 (1) The program shall be designed to increase or maintain  
30 affordable homeownership opportunities for Californians with  
31 lower incomes.

32 (2) The department shall adopt guidelines for the program that,  
33 among other things, shall maximize the number of units assisted,  
34 limit the expenditure of funds for administrative costs, and  
35 maximize the leverage of public and private financing sources.

36 (3) The guidelines adopted by the department shall provide for  
37 the issuance of a notice of funding availability soliciting  
38 competitive proposals for the use of funds consistent with those  
39 guidelines and with subparagraph (F) of paragraph (1) of  
40 subdivision (a) of Section 53545.

1 (4) The guidelines adopted by the department shall not be subject  
2 to the requirements of Chapter 6.5 (commencing with Section  
3 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

4 (5) The department shall include within the annual report  
5 required under Section 50408 a detailed summary and description  
6 of the manner in which funds made available under this subdivision  
7 were expended during the previous year and a statement regarding  
8 the manner in which those expenditures meet the intent of the  
9 Legislature and the voters that funds from the Innovative Housing  
10 Fund be expended in support of innovative, cost-saving approaches  
11 to creating or preserving affordable housing.

12 ~~SECTION 1. It is the intent of the Legislature to enact~~  
13 ~~legislation that would advance the will of the voters by making~~  
14 ~~changes to underperforming housing bond programs to better align~~  
15 ~~them with the extraordinary housing crisis facing Californians.~~