Senate Bill No. 562

CHAPTER 239

An act to amend Section 8869.84 of the Government Code, to amend Sections 18028, 18070.2, 18214, 18218, 18218.5, 18551, 18866.2, 33420.1, 50668.5, 50771.1, and 50893 of, and to repeal Section 33334.29 of, the Health and Safety Code, and to amend Section 2705 of, and to repeal Section 2706 of, the Public Resources Code, relating to housing.

[Approved by Governor September 6, 2011. Filed with Secretary of State September 6, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 562, Committee on Transportation and Housing. Housing omnibus bill.

(1) Existing law authorizes the California Debt Limit Allocation Committee to require any issuer making an application to the committee or the California Tax Credit Allocation Committee for allocation of a portion of the state ceiling, as defined, to make a deposit of up to 1% of the portion requested. If an allocation is given, the committee is required to keep the deposit, in proportion to the amount of allocation given, until bonds are issued. If bonds are not issued prior to the expiration of the allocation, the committee is required to keep the deposit, unless the committee determines there is good cause to return all or part of the deposit.

This bill would specify that in cases where only a portion or none of the bonds are issued, the committee may return all or part of the deposit if it determines there is good cause to do so.

(2) Existing law establishes the Manufactured Home Recovery Fund, which is continuously appropriated to make payments and distributions for actual and direct losses, as defined, arising out of specified transactions regarding the purchase or sale of a manufactured home, if certain conditions are met. Existing law prescribes a fee collected by the Department of Housing and Community Development for each reported sale of a manufactured home, to be deposited in the fund. Whenever the balance in the fund exceeds $1,000,000 the department is authorized to reduce or increase the fee, respectively.

This bill would instead provide that the department may reduce the fee when the balance exceeds $2,000,000.

(3) Existing law authorizes the redevelopment agency of the City of Redding to borrow and use a specified amount from its Low and Moderate Income Housing Fund to provide financial assistance for the acquisition of property for a veterans home.

The bill would repeal this provision of law.

(4) Existing law authorizes the Department of Housing and Community Development to extend the terms and repayment schedules of loans for an additional 10 years, subject to specified conditions.

The bill would instead provide that the extension of terms be for a period of not less than 10 years and that the total term of the revised loan not exceed 55 years.

(5) Existing law requires a city and county to collect a fee from each applicant for a building permit, equal to a specific amount of the proposed construction for which the permit is being issued, or at specified rates, for seismic hazards mapping and for the strong-motion instrument program. The city and county is authorized to retain up to 5% of the total amount it collects for data utilization, for seismic education incorporating data interpretations from data of the strong-motion instruments program, the seismic hazards mapping program, and to improve the preparation for damage assessment after strong seismic motion events. Any other funds collected are required to be deposited in the Strong-Motion Instrumentation and Seismic Hazards Mapping Fund to be used exclusively for the strong-motion instruments program and the seismic hazards mapping program, as specified.

This bill would make technical changes to those provisions.

(6) The bill would correct and eliminate erroneous cross-references, update obsolete terms, correct technical errors, and make conforming changes to existing law relating to housing.

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

SECTION 1. Section 8869.84 of the Government Code is amended to read:

8869.84. (a) The committee shall, as soon as is practicable after the start of each calendar year, determine and announce the state ceiling for the calendar year.

(b) The entire state ceiling for each calendar year is hereby allocated to the committee to further allocate to state and local agencies as provided in this chapter.

(c) The committee shall prepare application forms and announce procedures for receipt and review of applications from state and local agencies desiring to issue private activity bonds.

(d) The committee may at any time, before or after granting any allocations in any calendar year to any state agencies or local agencies, announce priorities or reservations of any part of the state ceiling not theretofore allocated either for certain categories of bonds or categories of issuers.

(e) The committee may require any issuer making an application to the committee or MBTCAC for allocation of a portion of the state ceiling to make a deposit, as determined by the committee, of up to 1 percent of the portion requested. If an allocation is not given, the deposit shall be returned.

If an allocation is given, the deposit shall be kept, in proportion to the amount of allocation given, until bonds are issued. Upon that issuance, the deposit shall be returned to the issuer in an amount equal to the product of (1) the amount of the deposit retained times (2) the ratio between the amount of bonds issued divided by the amount of allocation granted. If no bonds are issued prior to the expiration of the allocation, the deposit shall be kept. However, in cases where only a portion or none of the bonds are issued, the committee may return all or part of the deposit if it determines there is good cause to do so. Any portion of a deposit kept shall be deposited in the fund.

(f) The committee may transfer part of the state ceiling to the MBTCAC, to be used for qualified mortgage bonds and exempt facility bonds or for qualified residential rental projects, as those terms are used in the Internal Revenue Code, together referred to as "housing bonds," with directions and conditions pursuant to which MBTCAC may allocate those amounts to issuers of housing bonds at both the state and local levels. In carrying out these functions, MBTCAC shall act solely as directed or authorized by the committee. If the committee makes the transfer to MBTCAC authorized by this subdivision, the references in Sections 8869.85, 8869.86, 8869.87, and 8869.88 to the "committee" shall, for purposes of any housing bonds, be deemed to mean MBTCAC.

(g) (1) The committee may establish the Extra Credit Teacher Home Purchase Program to provide federal mortgage credit certificates and reduced interest rate loans funded by mortgage revenue bonds to eligible teachers, principals, vice principals, assistant principals, and classified employees who agree to teach or provide administration or service in a high priority school. Priority for assistance shall be given to eligible teachers, principals, vice principals, and assistant principals.

(2) For purposes of this program, the following definitions shall apply:

(A) "High priority school" means a state K–12 public school that is ranked in the bottom half of the Academic Performance Index developed pursuant to subdivision (a) of Section 52052 of the Education Code. However, priority shall be given to schools that are ranked in the lowest three deciles.

(B) "Classified employee" means an employee of a school district, employed in a position not requiring certification qualifications.

(3) The committee may make reservations of a portion of future calendar year state ceiling limits for up to five future calendar years for that program. The committee may also make future allocations of the state ceiling for up to five years for any issuer under that program. Any future allocation made by the committee shall constitute an allocation of the state ceiling for a future year specified by the committee and shall be deemed to have been made on the first day of the future year so specified. The committee may condition allocations under the Extra Credit Teacher Home Purchase Program on any terms and conditions that the committee deems necessary or appropriate, including, but not limited to, the execution of a contract between the teacher, principal, vice principal, assistant principal, or classified employee and the issuer whereby the teacher, principal, vice principal,

assistant principal, or classified employee agrees to comply with the terms and conditions of the program. The contract may include, among other things, an agreement by the teacher, principal, vice principal, assistant principal, or classified employee to teach or provide administration or service in a high priority school for a minimum number of years, and provisions for enforcing the contract that the committee deems necessary or appropriate.

(4) If a teacher, principal, vice principal, assistant principal, or classified employee does not fulfill the requirements of a contract entered into pursuant to paragraph (3), the issuer of the mortgage credit certificate or mortgage revenue bond may recover as an assessment from the teacher, principal, vice principal, assistant principal, or classified employee a monetary amount equal to the lesser of (A) one-half of the teacher's, principal's, vice principal's, assistant principal's, or classified employee's net proceeds from the sale of the related residence or (B) the amount of monetary benefit conferred on the teacher, principal, vice principal, assistant principal, or classified employee as a result of the federal mortgage credit certificate or reduced interest rate loan funded by a mortgage revenue bond, offset by the amount of any federal recapture, as defined by Section 143(m) of the Internal Revenue Code. The assessment may be secured by a lien against the residence, which shall decline in amount over the term of the contract as the teacher, principal, vice principal, assistant principal, or classified employee fulfills the term of the contract, and which shall be collected at the time of sale of the residence. Any assessment collected pursuant to this paragraph shall be used for the issuer's costs in administering the Extra Credit Teacher Home Purchase Program. The issuers shall report annually to the committee the total amount of any assessments collected pursuant to this paragraph and how those assessments were used by the issuer.

(5) If the committee establishes the Extra Credit Teacher Home Purchase Program pursuant to this subdivision, the committee shall report annually to the Legislature the results of the program, including all of the following:

(A) The amount of state ceiling limits allocated to or reserved for the program.

(B) The agencies to which state ceiling limits were issued.

(C) The number of loans or mortgage credit certificates issued to teachers, principals, vice principals, assistant principals, and classified employees.

(D) The schools or school districts at which recipients of assistance are employed, aggregated by decile in which the schools rank on the Academic Performance Index and by the percentage of uncredentialed teachers employed at the schools.

(6) The committee shall not make any reservations of future calendar year state ceiling limits or future allocations of the state ceiling pursuant to this subdivision on or after January 1, 2004, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date. However, reservations and allocations made prior to that date shall remain valid.

SEC. 2. Section 18028 of the Health and Safety Code is amended to read:

18028. (a) The department may adopt regulations regarding the construction of commercial modulars and special purpose commercial modulars, other than mobile food facilities subject to Article 11 (commencing with Section 114250) of Chapter 4 of Part 7 of Division 104, and of multifamily manufactured homes, manufactured homes, and mobilehomes that are not subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401 et seq.) that the department determines are reasonably necessary to protect the health and safety of the occupants and the public.

(b) Requirements for the construction, alteration, or conversion of commercial modulars shall be those contained, with reasonably necessary additions or deletions, as adopted by department regulations, in all of the following:

(1) The 1991 Edition of the Uniform Building Code, published by the International Conference of Building Officials.

(2) The 1993 Edition of the National Electrical Code, published by the National Fire Protection Association.

(3) The 1991 Edition of the Uniform Mechanical Code, published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

(4) The 1991 Edition of the Uniform Plumbing Code, published by the International Association of Plumbing and Mechanical Officials.

(c) (1) The department shall, on or after January 1, 2008, adopt regulations for the construction, alteration, or conversion of commercial modulars based on Parts 2, 3, 4, 5, 6, and 11 of the California Building Standards Code, as contained in Title 24 of the California Code of Regulations, with appropriate additions, deletions, and other implementing provisions. The regulations adopted under this paragraph shall be placed within Title 25 of the California Code of Regulations.

(2) The requirements promulgated by the department pursuant to this section shall apply only to the construction, alteration, and conversion of commercial modulars, and not to the use or operation of commercial modulars.

(d) A municipality shall not prohibit the use of commercial modulars that bear a valid insignia, based on the date the insignia was issued.

SEC. 3. Section 18070.2 of the Health and Safety Code is amended to read:

18070.2. (a) Fees for the establishment and operation of the Manufactured Home Recovery Fund shall be collected on or after January 1, 1985. Claims against the fund arising from sales which occur after January 1, 1985, may not be submitted to the department before January 1, 1986. For purposes of this section, the date of sale shall be either of the following:

(1) The date escrow closes for sales by dealers that are subject to Section 18035 or 18035.2.

(2) For all other sales, including sales by dealers in which escrow does not close, the date when the purchaser has paid the purchase price or, in lieu thereof, has signed a security agreement, option to purchase, or purchase

contract and has taken physical possession or delivery of the manufactured home.

(b) Notwithstanding any other provision of law, whenever the balance in the Manufactured Home Recovery Fund exceeds two million dollars ($2,000,000) on January 1 of any year, the department may reduce the fee provided for in subdivision (c) of Section 18070.1. The department may again increase the fee up to a maximum of ten dollars ($10) whenever the balance in the fund falls below one million dollars ($1,000,000).

SEC. 4. Section 18214 of the Health and Safety Code is amended to read:

18214. (a) "Mobilehome park" is any area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate manufactured homes, mobilehomes, or recreational vehicles used for human habitation. The rental paid for a manufactured home, a mobilehome, or a recreational vehicle shall be deemed to include rental for the lot it occupies. This subdivision shall not be construed to authorize the rental of a mobilehome park space for the accommodation of a recreational vehicle in violation of Section 798.22 of the Civil Code.

(b) Notwithstanding subdivision (a), employee housing that has obtained a permit to operate pursuant to the Employee Housing Act (Part 1 (commencing with Section 17000)) and that both meets the criteria of Section 17021.6 and is comprised of two or more lots or units held out for lease or rent or provided as a term or condition of employment shall not be deemed a mobilehome park for the purposes of the requirement to obtain an initial or annual permit to operate or pay any related fees required by this part.

(c) Notwithstanding subdivision (a), an area or tract of land shall not be deemed a mobilehome park if the structures on it consist of residential structures that are rented or leased, or held out for rent or lease, if those residential structures meet both of the following requirements:

(1) The residential structures are manufactured homes constructed pursuant to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401 et seq.) or mobilehomes containing two or more dwelling units for human habitation.

(2) Those manufactured homes or mobilehomes have been approved by a city, county, or city and county pursuant to subdivision (e) of Section 17951 as an alternate which is at least the equivalent to the requirements prescribed in the California Building Standards Code or Part 1.5 (commencing with Section 17910) in performance, safety, and for the protection of life and health.

SEC. 5. Section 18218 of the Health and Safety Code is amended to read:

18218. "Commercial modular" as used in this part has the same meaning as defined in Section 18001.8.

SEC. 6. Section 18218.5 of the Health and Safety Code is amended to read:

18218.5. "Special purpose commercial modular" as used in this part has the same meaning as defined in Section 18012.5.

SEC. 7. Section 18551 of the Health and Safety Code is amended to read:

18551. The department shall establish regulations for manufactured home, mobilehome, and commercial modular foundation systems that shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to manufactured home, mobilehome, and commercial modular foundation systems. The department may approve alternate foundation systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system. A manufactured home, mobilehome, or commercial modular may be installed on a foundation system as either a fixture or improvement to the real property, in accordance with subdivision (a), or a manufactured home or mobilehome may be installed on a foundation system as a chattel, in accordance with subdivision (b).

(a) Installation of a manufactured home, mobilehome, or commercial modular as a fixture or improvement to the real property shall comply with all of the following:

(1) Prior to installation of a manufactured home, mobilehome, or commercial modular on a foundation system, the manufactured home, mobilehome, or commercial modular owner or a licensed contractor shall obtain a building permit from the appropriate enforcement agency. To obtain a permit, the owner or contractor shall provide the following:

(A) Written evidence acceptable to the enforcement agency that the manufactured home, mobilehome, or commercial modular owner owns, holds title to, or is purchasing the real property where the mobilehome is to be installed on a foundation system. A lease held by the manufactured home, mobilehome, or commercial modular owner, that is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial modular is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more, or if less than 35 years, for a term mutually agreed upon by the lessor and lessee, and the term of the lease is not revocable at the discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure.

(B) Written evidence acceptable to the enforcement agency that the registered owner owns the manufactured home, mobilehome, or commercial modular free of any liens or encumbrances or, in the event that the legal owner is not the registered owner, or liens and encumbrances exist on the manufactured home, mobilehome, or commercial modular, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the manufactured home, mobilehome, or commercial modular upon the discharge

of any personal lien, that may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(C) Plans and specifications required by department regulations or a department-approved alternate for the manufactured home, mobilehome, or commercial modular foundation system.

(D) The manufactured home, mobilehome, or commercial modular manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer covering the installation of an individual manufactured home, mobilehome, or commercial modular in the absence of the manufactured home, mobilehome, or commercial modular manufacturer's instructions.

(E) Building permit fees established by ordinance or regulation of the appropriate enforcement agency.

(F) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the manufactured home, mobilehome, or commercial modular, that shall be transmitted to the department at the time the certificate of occupancy is issued with a copy of the building permit and any other information concerning the manufactured home, mobilehome, or commercial modular which the department may prescribe on forms provided by the department.

(2) (A) On the same day that the certificate of occupancy for the manufactured home, mobilehome, or commercial modular is issued by the appropriate enforcement agency, the enforcement agency shall record with the county recorder of the county where the real property is situated, that the manufactured home, mobilehome, or commercial modular has been installed upon, a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial modular has been affixed to that real property by installation on a foundation system pursuant to this subdivision.

(B) When recorded, the document referred to in subparagraph (A) shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(C) Fees received by the department pursuant to subparagraph (F) of paragraph (1) shall be deposited in the Mobilehome-Manufactured Home Revolving Fund established under subdivision (a) of Section 18016.5.

(3) The department shall adopt regulations providing for the cancellation of registration of a manufactured home, mobilehome, or commercial modular that is permanently attached to the ground on a foundation system pursuant to subdivision (a). The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the manufactured home, mobilehome, or commercial modular owner and the document referred to in subparagraph (A) of paragraph (2) is recorded. Cancellation shall be effective as of that date and the department shall enter the cancellation on its records upon receipt of a copy of the

certificate of occupancy. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(4) Once installed on a foundation system in compliance with this subdivision, a manufactured home, mobilehome, or commercial modular shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the manufactured home, mobilehome, or commercial modular shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which the manufactured home, mobilehome, or commercial modular is affixed.

(5) For the purposes of this subdivision:

(A) "Physical removal" shall include, without limitation, the unattaching of the manufactured home, mobilehome, or commercial modular from the foundation system, except for temporary purposes of repair or improvement thereto.

(B) Consent to removal shall not be required from the owners of rights-of-way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(6) At least 30 days prior to a legal removal of the manufactured home, mobilehome, or commercial modular from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or commercial modular owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial modular. The department shall require written evidence that the necessary consents have been obtained pursuant to this section and shall require application for either a transportation permit or manufactured home, mobilehome, or commercial modular registration, as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home, mobilehome, or commercial modular shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home, mobilehome, or commercial modular.

(b) The installation of a manufactured home or a mobilehome on a foundation system as chattel shall be in accordance with Section 18613 and shall be deemed to meet or exceed the requirements of Section 18613.4. This subdivision shall not be construed to affect the application of sales and use or property taxes. No provisions of this subdivision are intended, nor shall they be construed, to affect the ownership interest of any owner of a manufactured home or mobilehome.

(c) Once installed on a foundation system, a manufactured home, mobilehome, or commercial modular shall be subject to state enforced health and safety standards for manufactured homes, mobilehomes, or commercial modulars enforced pursuant to Section 18020.

(d) No local agency shall require that any manufactured home, mobilehome, or commercial modular currently on private property be placed on a foundation system.

(e) No local agency shall require that any manufactured home or mobilehome located in a mobilehome park be placed on a foundation system.

(f) No local agency shall require, as a condition for the approval of the conversion of a rental mobilehome park to a resident-owned park, including, but not limited to, a subdivision, cooperative, or condominium for mobilehomes, that any manufactured home or mobilehome located there be placed on a foundation system. This subdivision shall only apply to the conversion of a rental mobilehome park that has been operated as a rental mobilehome park for a minimum period of five years.

SEC. 8. Section 18866.2 of the Health and Safety Code is amended to read:

18866.2. Any notice of violation of this part, or any rule or regulation adopted pursuant thereto, issued by the enforcement agency shall be issued to the appropriate persons designated in Section 18867 and shall include a statement that any willful violation is a misdemeanor under Section 18874.

SEC. 9. Section 33334.29 of the Health and Safety Code is repealed.

SEC. 10. Section 33420.1 of the Health and Safety Code is amended to read:

33420.1. Within a project area, for any project undertaken by an agency for building rehabilitation or alteration in construction, an agency may take those actions which the agency determines necessary and which is consistent with local, state, and federal law, to provide for seismic retrofits as follows:

(a) For unreinforced masonry buildings, to meet the requirements of Appendix Chapter A1 of the current California Existing Building Code (Part 10 of Title 24 of the California Code of Regulations).

(b) For any buildings that qualify as "historical property" under Section 37602, to meet the requirements of the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13) and the current California Historical Building Code (Part 8 of Title 24 of the California Code of Regulations).

(c) For buildings other than unreinforced masonry buildings and historical properties, to meet the requirements of Appendix A: Guidelines for the Seismic Retrofit of Existing Buildings of the International Existing Building Code unless superseding building standards for existing buildings are adopted in the California Building Code (Part 2 of Title 24 of the California Code of Regulations).

If an agency undertakes seismic retrofits and proposes to add new territory to the project area, to increase either the limitation on the number of dollars to be allocated to the redevelopment agency or the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1) and (2) of Section 33333.2, to lengthen the period during which the redevelopment plan is effective, to merge project areas, or to add significant additional capital improvement projects, as determined by the agency, the agency shall amend its redevelopment plan and follow the same

procedure, and the legislative body is subject to the same restrictions, as provided for in Article 4 (commencing with Section 33330) for the adoption of a plan.

SEC. 11. Section 50668.5 of the Health and Safety Code is amended to read:

50668.5. For the purpose of providing financial assistance pursuant to this chapter utilizing bond proceeds transferred to the Housing Rehabilitation Loan Fund pursuant to paragraph (2) of subdivision (a) of Section 53130, paragraph (2) of subdivision (b) of Section 53130, and Sections 8878.20 and 8878.21 of the Government Code, deferred payment loans made with these funds shall be subject to all of the following special provisions, which shall prevail over conflicting provisions of this chapter:

(a) (1) Applications for fund commitments shall be accepted by the department at any time. Fund commitments shall be based on a ranking of applications, which shall occur at least once every three months until there are insufficient funds available to commit according to this ranking. In making this ranking for rental housing developments, priority shall be given to those projects which (A) serve the greater number of eligible households as defined in Section 50105 with the lowest incomes, (B) provide the greater number of units with three or more bedrooms, (C) are located in areas where the housing need is great as determined by the department, taking into consideration, among other factors, low vacancy rates, high market rents, long waiting lists for subsidized housing, the stock of substandard housing, and the potential loss of subsidized rental housing to market-rate housing through demolition, foreclosure, or subsidy termination, (D) complement the implementation of an existing housing program, (E) maximize private, local, and other funding sources, and (F) maximize long-term benefits for eligible households, as defined in Sections 50079.5 and 50105. Subparagraph (B) above shall not apply to applications for fund commitments submitted pursuant to Section 50670 or to any application for residential hotels and motels. In making this ranking for owner-occupied housing, priority shall be given to those applications which (A) serve the greater number of eligible households, as defined in Section 50105, with the lowest income, (B) provide the greater number of units with three or more bedrooms, (C) are located in areas where the need for rehabilitation is great as determined by the department, taking into consideration, among other factors, the amount of substandard owner-occupied housing, low vacancy rates, and limited availability of affordable housing, (D) complement the implementation of an existing housing program, and (E) maximize available and appropriate private, local, and other funding sources. The department shall also evaluate the capability of the sponsor to rehabilitate, own, and manage the rental housing development or the capability of the applicant for funding for owner-occupied housing to implement the proposed program.

(2) Loans for rental housing developments may be reviewed, approved, and funded by the department directly to the sponsor. In these cases, the department shall ensure that the sponsor notifies the local legislative body of the sponsor's loan application prior to a funding award. Loans to

owner-occupants may be made by local public entities or nonprofit corporations which have received fund commitments from the department. The department shall ensure that the local public entity or nonprofit corporation applying for fund commitments for loans to owner-occupants notifies the local legislative body of the application prior to a funding award. When the department certifies a local public entity or nonprofit corporation as being capable of making these loans, the department shall delegate responsibility for reviewing and approving these loans to the local public entity or nonprofit corporation. If it is determined by the department that the local public entity or nonprofit corporation is no longer capable of making or managing these loans, the department may, at its sole discretion, revoke that delegation of responsibility or cancel the funding commitment to the local public entity or nonprofit corporation, or both. The department's regulations shall include procedures and standards for certification and decertification.

(3) A sponsor may apply for loans for one or more rental housing developments.

(b) (1) A housing development may utilize any combination of federal, state, local, and private financial resources necessary to make the development affordable, for the term of the state's regulatory agreement, to the eligible households. Notwithstanding the requirements of Section 50663, rental housing developments and owner-occupied units assisted by the program may be located anywhere in the state.

(2) In the case of loans for rental housing developments awarded to nonprofit sponsors, the total secured debt in a superior position to the department's loan, plus the department's loan, shall not exceed 100 percent of the after rehabilitation value of the property, as determined by an appraisal of the property conducted pursuant to guidelines established in regulations of the department.

(3) The maximum loan amounts per unit established in regulations pursuant to Section 50670 shall also apply to rental housing developments rehabilitated or acquired and rehabilitated pursuant to paragraph (1) of subdivision (a) of Section 50661, except that there shall not be a maximum loan amount established per project. These dollar limitations may be increased by the department, as necessary, in high-cost areas of the state or where the correction of severe health and safety defects or the provisions of handicapped accessibility standards necessitate greater assistance. The department, by regulation, may specify unit loan limits for loans made for owner-occupied housing and the circumstances under which it may grant exceptions to, or variances from, these limits.

(4) (A) Loans made to sponsors of rental housing developments for acquisition and rehabilitation shall be for terms of not less than 30 years. Loans made to sponsors of rental housing developments for rehabilitation only shall be for terms of not less than 20 years. However, the term shall not exceed the useful life of the rental housing development for which the loan is made. The sponsor may elect to begin to repay the loan at any time in accordance with the prepayment plan established in accordance with

paragraph (6), if it is determined by the department, that the sponsors can continue to maintain the rents at levels affordable to eligible households.

(B) The term of the loan and the time for repayment may be extended by the department for additional terms as long as the rental housing development is operated in a manner consistent with the regulatory agreement and the sponsor requires an extension in order to continue to operate in a manner consistent with this chapter. Each extension shall be for a period of not less than 10 years and the total term of the revised loan shall not exceed 55 years.

(5) (A) In the case of loans made for rental housing developments, eligible costs shall include those costs relating to (i) real property acquisition, including refinancing of existing debt to the extent necessary to reduce debt service to a level consistent with the provision of affordable rents and the fiscal integrity of the project; (ii) rehabilitation or reconstruction, including the conversion of nonresidential structures to residential use; (iii) general property improvements which are necessary to correct unsafe, unhealthy, or unsanitary conditions, including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping, and purchase or installation of central air conditioning; (iv) necessary and related onsite improvements; (v) reasonable administrative expenses in connection with the planning and execution of the project, as determined by the department; (vi) reasonable consulting costs; (vii) rent-up costs; (viii) seismic rehabilitation improvements; and (ix) any other costs of rehabilitation authorized by the department. “Rent-up costs,” as used in this section, means costs incurred while a unit is on the housing market but not rented to its first tenant. “Seismic rehabilitation improvements,” as used in this section, means improvements which are designed to increase seismic structural safety in accordance with a plan developed by a civil engineer, a structural engineer, or an architect for a particular building that has been identified as hazardous by the city or county in which the building is located in accordance with the criteria established by the Seismic Safety Commission pursuant to Section 8875.1 of the Government Code or in accordance with a previously adopted city or county seismic safety ordinance adopted pursuant to Section 19163.

(B) In the case of loans made for owner-occupied housing, eligible costs shall include those costs relating to (i) rehabilitation work expenses; (ii) cost of room additions necessary to alleviate overcrowding; (iii) costs of general property improvements including renovations and remodeling, including, but not limited to, remodeling of kitchens and bathrooms, installation of new appliances, landscaping and purchase or installation of central air conditioning, to the extent that they are necessary to correct unsafe, unhealthy, or unsanitary conditions; (iv) costs related to necessary architectural, engineering, and other technical consultants; (v) costs of preliminary reports, title policies, credit reports, appraisal reports, and fees for recording documents related to the department’s loans; (vi) costs of building permits and other governmental fees; and (vii) if in conjunction

with other rehabilitation work, costs for improvements related to making the housing accessible to the handicapped.

(C) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating costs, and Sections 53131 and 53133, the department may set aside or use any amounts available in the fund to establish a rental housing development default reserve for the purpose of curing or avoiding a sponsor's defaults on the terms of any loan or other obligation which jeopardizes the financial integrity of a rental housing development or the department's security in the rental housing development. The payment or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department and no sponsor shall be entitled to or have any right to payment of these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

(D) Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating costs, or Sections 53131 and 53133, the department may set aside or use proceeds in the fund in an amount not to exceed 3 percent of the amount of encumbrances for loans for owner-occupied housing to establish an owner-occupied housing default reserve for the purpose of curing or avoiding an owner's default on the terms of any loan or other obligation which jeopardizes the department's security in the owner-occupied housing. The payment or advance of funds by the department pursuant to this subparagraph shall be solely within the discretion of the department, and no homeowner shall be entitled to, or have any right to payment of, these funds. Funds advanced pursuant to this subparagraph shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand. Interest payments from loans for owner-occupied housing shall be allocated by the department into this reserve to replace the allocated proceeds until the percent established by the department is achieved solely with interest payments.

(6) Upon request of the sponsor, the department may permit repayment of a sponsor's loan on the basis of net cashflow. The department shall develop a prepayment plan in conjunction with the sponsor which will ensure the maintenance of affordable rents and the fiscal integrity of the rental housing development. As an incentive to encourage the prepayment of loans, the department may permit the sponsor to retain one-half of the net cashflow. The department shall determine the method for calculating net cashflow, which may include a factor for excess debt service coverage or a return on cash investment to the sponsor.

(7) If a loan is made pursuant to this chapter for both seismic rehabilitation improvements and other eligible rehabilitation costs, only those costs related to the seismic rehabilitation improvements shall be counted and included for purposes of the fund reservation made by Section 8878.20 of the Government Code.

(c) Principal and accumulated interest is due and payable upon completion of the term of the loan. The loan shall bear interest at the rate of 3 percent

per annum on the unpaid principal balance. However, the department shall reduce or eliminate interest payments on a loan for any year or, alternatively, defer interest until the deferred payment loan is repaid, if necessary to provide affordable rents to households of very low and low income. The ability to pay all or part of the 3 percent simple annual interest shall not be considered in determining the fiscal integrity of the rental housing development at the time of the rating and ranking of an application.

(1) "Maintain affordable rent levels," as used in this section, means rents may be automatically increased by the sponsor on an annual basis pursuant to an inflation index to be determined by the department. The inflation index shall reflect anticipated annual changes in rental housing development operating costs from a base year when the rents are initially established. Any sponsor may appeal to the department for a greater adjustment in rents necessary to ensure the fiscal integrity of the rental housing development. If the department does not respond within 60 days, the request shall be deemed approved. A 30-day written notice shall be given to each eligible household prior to an adjustment in the amount of rent.

(2) (A) Upon prior written approval by the department, a sponsor may set income limits for incoming tenants at a level below the limit specified in Section 50079.5. If a tenant's income exceeds this income limit established by the sponsor, but does not exceed the limit specified in Section 50079.5, that fact alone shall neither constitute cause for the tenant's eviction, nor be a violation of the sponsor's loan agreement. If a tenant's income exceeds the income limit for a household specified in Section 50079.5, the tenant shall be required to vacate the assisted unit within six months from the date of income recertification or notice to the sponsor of an increase in income over the permissible income level. That period may be extended by the sponsor for an additional six-month period in high cost rental areas with low vacancy rates, as determined by the department. Any vacant units shall be rented to eligible households until the required residency by eligible households is attained.

(B) In the case of limited equity housing cooperatives, the provisions of this paragraph shall apply, except that tenants whose incomes, upon recertification, exceed the limit specified in Section 50079.5 shall not be required to vacate their units. Instead, and upon six months' notice, these tenants shall be required to pay rent in an amount equal to the market rate rent for comparable units, as determined by the department. When a tenant's income exceeds the limit specified in Section 50079.5, the next available membership share for occupancy in a comparable unit shall be sold to a household with an income at or below this limit.

(3) When operating income as defined by the department is greater than operating expenses, debt service, deposits required for reserve accounts, payments pursuant to paragraph (6) of subdivision (b) if elected by the sponsor, approved annual distributions, and any other disbursements approved by the department, these excess funds shall be paid into an account established in the fund. Funds in this account shall be appropriated to the department for use to assist rental housing developments funded pursuant

to this section with proceeds of bonds issued pursuant to Chapter 27 of the Statutes of 1988, Chapter 30 of the Statutes of 1988, or Chapter 48 of the Statutes of 1988, subject to the following requirements:

(i) Excess funds in the account shall be allocated first into the rental housing development default reserve established pursuant to subparagraph (C) of paragraph (5) of subdivision (b). The balance of this default reserve shall not exceed the maximum level of funding established by regulations adopted by the department.

(ii) After the rental housing development default reserve is fully funded with these excess funds, the department shall use all additional excess funds in the account for payment of either unforeseen capital improvements, the cost of which would jeopardize the fiscal integrity and affordability of a rental housing development, or to further reduce rents in a rental housing development. The department may adopt regulations which specify the procedures and standards for application for, and use of, these funds. Those payments used for capital improvements shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

(d) Prior to disbursement of any funds for loans to rental housing developments made pursuant to this section, the department shall enter into a regulatory agreement with the sponsor in accordance with subdivision (d) of Section 50670, except that (1) the term of the regulatory agreement shall be for the original term of the loan and the agreement shall be binding upon the sponsor and successors in interest upon sale or transfer of the rental housing development or prepayment of the loan and (2) a nonprofit sponsor, other than a governmental agency, may maintain a debt service coverage ratio of 115 percent and distribute earnings in an amount no greater than 8 percent of the nonprofit sponsor's actual investment. The regulatory agreement also shall contain provisions requiring annual inspections and review of year-end fiscal audits and related reports by the department and provisions to maintain affordable rent levels to serve eligible households.

(e) Where loans will be used in conjunction with federal or other housing assistance or tax credits and a conflict exists between the other state or federal program requirements and those of this chapter with respect to the calculation of rents, the requirements of the Deferred Payment Rehabilitation Loan Program and the Special User Housing Rehabilitation Program may be waived only to the extent necessary to permit federal or other state financial participation or eligibility for tax credits.

(f) "Sponsor," for purposes of this section, has the same meaning as defined in subdivision (c) of Section 50669.

(g) (1) The department shall adopt emergency regulations to implement this chapter and to amend the maximum loan amounts per unit established in regulations adopted pursuant to Section 50670, with respect to loans made with funding subject to this section. The regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning or purposes of Section 11346.1 of the Government Code.

(2) Notwithstanding conflicting provisions of this chapter, the department may elect to make the regulations referred to in paragraph (1) additionally applicable until December 31, 1993, to all other deferred payment loan programs authorized by this chapter, except the programs specified in Sections 50662.5 and 50671, if the department determines that the uniformity achieved thereby will avoid significant additional administrative costs.

(h) For purposes of this section, "rental housing development" means a single family house or a multifamily structure or structures containing two or more dwelling units, including efficiency units. One or more of the dwelling units in a rental housing development shall be rented or leased or otherwise occupied as a primary residence by a person or household who is not the owner of the structure or structures. For the purposes of this section, motels operated pursuant to subdivision (b) of Section 50669, residential hotels, group or congregate homes, and limited equity housing cooperatives are rental housing developments. Except for motels, the limitations concerning types of residents and minimum number of units set forth in subdivision (b) of Section 50669 shall not apply.

(i) "Affordable rent" for the purposes of this section shall be established by the department in the regulations authorized by subdivision (g). However, the initial rents shall be established by the department based on a designated family size for each unit size, and those initial rents shall not exceed 30 percent of 50 percent of the area median income adjusted by that designated family size for units restricted to occupancy by very low income households; or 30 percent of 60 percent of area median income adjusted by that designated family size for units restricted to occupancy by low-income households. In establishing affordable rent levels, the department shall make provision in its regulations for projects serving the physically and mentally handicapped persons.

SEC. 12. Section 50771.1 of the Health and Safety Code is amended to read:

50771.1. For the purpose of providing deferred payment loans pursuant to this chapter for the development costs of rental housing developments utilizing moneys transferred to the Rental Housing Construction Fund pursuant to paragraph (1) of subdivision (a) of Section 53130 and paragraph (1) of subdivision (b) of Section 53130, the following special provisions shall prevail over conflicting provisions of this chapter:

(a) (1) Applications for fund commitments shall be accepted by the department at any time. Fund commitments shall be based on a ranking of applications which shall occur at least once every three months until there are insufficient funds available to make commitments according to the ranking. In making this ranking, notwithstanding Sections 50737 and 50737.5, priority shall be given to projects which (A) maximize program benefits to eligible households, as defined in Section 50105 with the lowest incomes, (B) maximize program benefits to eligible households needing assisted units with three or more bedrooms, (C) are located in areas where the housing need is great, as determined by the department, taking into consideration, among other factors, variations in local development costs,

low vacancy rates, high market rents, and long waiting lists for subsidized housing, (D) complement the implementation of an existing housing program, (E) maximize private, local, and other funding sources, (F) are economically feasible given local market conditions, and (G) maximize the number of units which can be assisted under the program, relative to variances in market conditions for the development of rental housing. Subparagraph (B) above does not apply to applications for residential hotels.

(2) All loans shall be made directly from the department to the housing sponsor which applies to the department and will own, operate, and develop the housing development. The sponsor shall notify the local legislative body of its loan application prior to the funding award.

(3) A sponsor may apply for awards for one or more rental housing developments.

(4) The department shall evaluate the capability of the sponsor to own, construct, and manage the rental housing development.

(b) (1) A rental housing development may utilize any combination of federal, state, local, and private financial resources necessary to make the development affordable, for the term of the state's regulatory agreement, to eligible households.

(2) (A) Loans to sponsors of housing developments shall be for a term not less than 40 years. After 30 years from the time the loan is made, the sponsor shall begin to repay the loan in accordance with a payment plan, as determined by the department, that will maintain the rents affordable to eligible households.

(B) The term of the loan and the time for repayment may be extended by the department for additional terms as long as the rental housing development is operated in a manner consistent with the regulatory agreement and the sponsor requires an extension in order to continue to operate in a manner consistent with this chapter. Each extension shall be for a period of not less than 10 years and the total term of the revised loan shall not exceed 55 years.

(C) Loans provided under this section shall bear an interest rate of 3 percent per annum. The department, by regulations, shall establish the conditions under which the interest may be reduced, waived, or deferred. At the request of the sponsor, the department may charge a higher interest rate.

(3) (A) Development costs shall include reasonable consulting fees, and other reasonable administrative expenses in connection with the planning and execution of the rental housing development, as determined by the department, and initial funding of emergency reserves, as required by the department. The development costs also shall further include the acquisition and completion of construction of a rental housing development where construction has halted due to financial distress, as determined by the department.

(B) A rental housing development shall include residential hotels, as defined in subdivision (b) of Section 50669, and group homes.

(4) The sponsor shall maintain an emergency reserve to defray unanticipated cost increases or revenue shortfalls to maintain the fiscal integrity of the rental housing development and maintain affordable rents for eligible households.

(5) The department, by regulation, shall specify minimum equity requirements not to exceed 10 percent of total project development costs. This requirement does not apply to proposed projects where assisted units are less than 80 percent of the total number of units.

The department, by regulation, shall define "equity" for the purposes of this section, which shall include, but shall not be limited to, cash, real property, items of personal property having monetary value contributed by the sponsor and applied toward project costs, and the capitalized value of any exemption from local taxes on real property.

(6) The department, by regulation, may specify per-unit loan limits and circumstances under which it may grant exceptions to, or variances from, these limits. The loan amount shall not exceed either 100 percent of the development costs attributable to the assisted units or the amount necessary to maintain affordable rents for the assisted units, as determined by the department.

(c) (1) Initial rents, including a reasonable utility allowance, for assisted units reserved for occupancy by very low income households, and for all assisted units in residential hotels and group homes, shall not exceed 30 percent of 35 percent of area median income, adjusted by unit size. Initial rents, including a reasonable utility allowance, for assisted units reserved for occupancy by lower income households shall not exceed 30 percent of 60 percent of area median income, adjusted by unit size. The department, by regulation, shall specify the method for adjusting rents by unit size and for computing allowances for utility costs.

(2) The department shall develop an inflation index reflecting the annual anticipated changes in rental housing development operating costs from a base year. The inflation index shall be used by the sponsor to adjust the initial rent of each unit occupied by an eligible household to determine the annual rent. Any sponsor may appeal to the department for a greater adjustment in rents necessary to ensure the fiscal integrity of the housing development. If the department does not respond within 60 days, the request shall be deemed approved. A 30-day written notice shall be given to each eligible household prior to an adjustment in the amount of rent.

(3) Upon prior written approval by the department, a sponsor may set income limits for occupancy of assisted units designated for lower income households at a level below the limit specified in Section 50079.5. If a tenant's income exceeds this income limit established by the sponsor, but does not exceed the limit specified in Section 50079.5, that fact alone shall neither constitute cause for the tenant's eviction, nor be a violation of the sponsor's loan agreement.

(4) The monthly rent including a reasonable utility allowance may be reduced by the sponsor, to make the units affordable to the lowest income household possible as long as the project remains economically feasible.

(5) (A) If a household's income exceeds the standard pursuant to which it was accepted for tenancy, that fact alone shall neither constitute cause for the household's immediate eviction nor be a violation of the owner's or sponsor's loan agreement.

(B) If, after annual income certification, an assisted unit becomes occupied by a household which does not meet the income limits specified in Section 50105, that household shall be permitted to continue to occupy that assisted unit. When there is a vacancy in an assisted unit formerly occupied by a household which meets the income limits specified in Section 50079.5, that unit shall be rented to a household which meets the income limits specified in Section 50105.

(C) If, after annual income certification, an assisted unit becomes occupied by a household which does not meet the income limits specified in Section 50079.5, that household shall be provided a six-month notice of termination. That period may be extended for an additional six-month period in high cost rental areas with low vacancy rates, as determined by the department. That household shall have first right of refusal to occupy any nonassisted unit which becomes available during both periods.

(D) In the case of limited equity housing cooperatives, the provisions of subparagraph (C) shall apply, except that tenants whose incomes, upon recertification, exceed the limit specified in Section 50079.5 shall not be required to vacate their units. Instead, and upon six months' notice, these tenants shall be required to pay rent in an amount equal to the market rate rent for comparable units, as determined by the department. When a tenant's income exceeds the limit specified in Section 50079.5, the next available membership share for occupancy in a comparable unit shall be sold to a household with an income at or below this limit.

(d) (1) The department may contract with the sponsor to pay all or a portion of the development costs incurred in connection with the construction of a rental housing development consistent with the requirements of this article. The department shall include such provisions in the contract as are necessary to ensure compliance with the requirements of the program.

Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the department. The regulatory agreement shall be recorded or referenced in a recorded document in the office of the county recorder for the county in which the rental housing development is located. The regulatory agreement shall contain at least all of the following:

(A) Restrictions on occupancy of dwelling units within the rental housing development, to meet the requirements of Section 50736 and this section for a period of at least 40 years.

(B) Provisions governing standards for tenant selection to ensure occupancy by eligible households of very low and low income for the term of the regulatory agreement.

(C) Provisions governing occupancy standards and rental agreements.

(D) Provisions for setting initial rents and rent increases consistent with paragraph (1) of subdivision (c) of Section 50771.1. Prior to the time any

rent increase is effective, the sponsor shall notify every affected tenant, in writing, of the availability of informal meetings with the sponsor to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the department pursuant to this subdivision.

(E) A requirement that the sponsor submit to the department for review and approval, annual operating budgets and periodic reports, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of the development, and the number of units occupied by eligible households.

(F) Provisions limiting distribution of sponsor's earnings as specified in paragraph (4).

(G) A provision which specifies the conditions under which the department and any intended beneficiary may enforce the regulatory agreement.

(H) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

The regulatory agreement shall be recorded against the property and shall be deemed a covenant running with the land and shall be binding upon the sponsor and any and all successors in interest in case of sale or transfer of the rental housing development for the original term of the loan, and any extensions thereof, regardless of any prepayment of the loan.

The department, by regulation, may require such other documents, instruments, and agreements as are reasonable and necessary to ensure compliance with the program requirements.

(2) The contract for the award of development funds to be provided as construction financing for a rental housing development shall contain at a minimum the provisions specified in Section 50766, excluding therefor subdivisions (j), (k), and (*l*).

(3) All state contracts and regulatory or development agreements subject to this article shall contain provisions requiring that assisted units remain affordable to eligible households for 40 years plus any permitted extension.

(4) A nonprofit sponsor, other than a governmental agency, may maintain a debt service coverage ratio of not more than 115 percent and distribute earnings from both assisted and nonassisted units in an amount no greater than 8 percent of the nonprofit sponsor's actual investment in the rental housing development. A for-profit sponsor may choose between the following options:

(A) It may distribute earnings from both assisted and nonassisted units in an annual amount no greater than 8 percent of its actual investment in the rental housing development.

(B) It may forego distribution of earnings from assisted units, and not be subject to any limitation on the amount of distributions it receives from nonassisted units.

(e) Where loans will be used in conjunction with federal and other state housing assistance or tax credit and a conflict exists between the other state and federal program requirements and this chapter regarding the test for determining a qualified low-income housing project, the requirements of

the Rental Housing Construction Program may be waived only to the extent necessary to permit the federal or other state financial participation or eligibility for tax credits.

(f) (1) The department shall establish specific minimum development criteria to (A) ensure that the useful life of the rental housing development is at least equal to the term of the loan; (B) enhance the physical security of the tenants; (C) minimize long-term operating and maintenance costs; and (D) ensure that project design features and amenities are modest.

(2) No energy standards shall be required of any housing development in excess of the energy standards required for housing developments financed by conventional funding sources.

(3) The department shall employ a licensed architect or an experienced building inspector, or both, to review plans, inspect, and monitor construction of, rental housing developments.

(g) A sponsor of a housing development may receive payments from the annuity fund pursuant to Section 50738 to the extent that there are unobligated moneys available in the fund.

(h) The department shall establish an emergency reserve account in the Rental Housing Construction Fund established pursuant to Section 50740 equal to 3 percent of the moneys transferred to that fund pursuant to Section 53130.

Moneys transferred to the fund pursuant to Section 53130 shall not be subject to the requirements of Section 50770 or be used to ensure economic feasibility or enable construction pursuant to Section 50738. Notwithstanding the provisions of Sections 53130 and 53133, the department may expend moneys in the account to defray unanticipated cost increases or revenue shortfalls not covered by a rental housing development emergency reserve to the extent necessary to maintain the fiscal integrity of a rental housing development and maintain affordable rents for eligible households.

Notwithstanding the provisions of Section 53130 which limit the use of allocated proceeds with respect to project operating costs, and Section 53133, the department may use any amounts available in the account for the purpose of curing or avoiding a sponsor's defaults on the terms of any loan or other obligation which will jeopardize the financial integrity of a rental housing development or the department's security in the rental housing development. The payment or advance of any funds by the department pursuant to this subdivision shall be solely within the discretion of the department, and no sponsor shall be entitled to, or have any right to, payment of these funds. Funds advanced pursuant to this subdivision shall be added to the loan amount secured by the deed of trust and shall be payable to the department upon demand.

SEC. 13. Section 50893 of the Health and Safety Code is amended to read:

50893. The department shall make, or undertake commitments to make, construction or rehabilitation loans, including land acquisition costs, and mortgage loans in accordance with subdivisions (a) and (c) for new construction, and subdivisions (b) and (c) for rehabilitation, to sponsors to

finance the development of community housing developments and congregate housing developments. The development cost payments may be provided as loans to be repaid at 3 percent interest and payments of principal or interest, or both, may be deferred or made payable over a period of time. For these purposes, the department shall enter into regulatory agreements and other agreements, and security documents, with the sponsors receiving funds from the fund. Upon the recordation, the regulatory agreement and all other agreements or documents included or incorporated by reference within the regulatory agreement shall constitute enforceable restrictions upon the property for the term of the loan. The term of the loan and its schedule for repayment may be extended by the department for additional periods as long as the community housing development or congregate housing development is operated in a manner consistent with the regulatory agreement and the sponsor needs an extension in order to continue to operate the community housing development or congregate housing development in a manner consistent with this chapter. Each extension shall be for a period of not less than 10 years and the total term of the revised loan shall not exceed 55 years. However, the term of any loan, including any extension thereof, shall not exceed the useful life of the community or congregate housing development for which the loan is made.

(a) Loans to sponsors for new construction of community housing developments or congregate housing developments shall be for terms not less than 40 years. After 30 years from the time the loans are made, the sponsor shall begin to repay the loan in accordance with a payment plan, as determined by the department, that shall maintain the rents affordable to eligible households.

(b) Loans made to sponsors of community housing developments or congregate housing developments for acquisition and rehabilitation shall be for terms of not less than 30 years. Loans made to sponsors of community housing developments or congregate housing developments for rehabilitation shall only be for terms of not less than 20 years. The sponsor may elect to begin to repay the loan at any time in accordance with a payment plan, as approved by the department, that shall maintain the rents at levels affordable to eligible households.

(c) Notwithstanding any loan payment plan approved by the department, the department may permit the prepayment of a loan at any time, on the basis of net cashflow of a development, provided that the term of the regulatory agreement shall not be reduced due to any prepayment.

SEC. 14. Section 2705 of the Public Resources Code is amended to read:

2705. (a) A city, county, and city and county shall collect a fee from each applicant for a building permit. Each fee shall be equal to a specific amount of the proposed building construction for which the building permit is issued as determined by the local building officials. The fee amount shall be assessed in the following way:

(1) Group R occupancies, as defined in the California Building Code (Part 2 of Title 24 of the California Code of Regulations), one to three stories in height, except hotels and motels, shall be assessed at the rate of ten dollars

($10) per one hundred thousand dollars ($100,000), with appropriate fractions thereof.

(2) All other buildings shall be assessed at the rate of twenty-one dollars ($21) per one hundred thousand dollars ($100,000), with appropriate fractions thereof.

(3) The fee shall be the amount assessed under paragraph (1) or (2), depending on building type, or fifty cents ($0.50), whichever is the higher.

(b) (1) In lieu of the requirements of subdivision (a), a city, county, and city and county may elect to include a rate of ten dollars ($10) per one hundred thousand dollars ($100,000), with appropriate fractions thereof, in its basic building permit fee for any Group R occupancy defined in paragraph (1) of subdivision (a), and a rate of twenty-one dollars ($21) per one hundred thousand dollars ($100,000), with appropriate fractions thereof, for all other building types. A city, county, and city and county electing to collect the fee pursuant to this subdivision need not segregate the fees in a fund separate from any fund into which basic building permit fees are deposited.

(2) "Building," for the purpose of this chapter, is any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

(c) (1) A city, county, and city and county may retain up to 5 percent of the total amount it collects under subdivision (a) or (b) for data utilization, for seismic education incorporating data interpretations from data of the strong-motion instrumentation program and the seismic hazards mapping program, and, in accordance with paragraph (2), for improving the preparation for damage assessment after strong seismic motion events.

(2) A city, county, and city and county may use any funds retained pursuant to this subdivision to improve the preparation for damage assessment in its jurisdiction only after it provides the Department of Conservation with information indicating to the department that data utilization and seismic education activities have been adequately funded.

(d) Funds collected pursuant to subdivisions (a) and (b), less the amount retained pursuant to subdivision (c), shall be deposited in the Strong-Motion Instrumentation and Seismic Hazards Mapping Fund, as created by Section 2699.5 to be used exclusively for purposes of this chapter and Chapter 7.8 (commencing with Section 2690).

SEC. 15. Section 2706 of the Public Resources Code is repealed.

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