

ASSEMBLY BILL

No. 532

Introduced by Assembly Member Gordon

February 20, 2013

An act to amend Sections 50843.5 and 53545.9 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 532, as introduced, Gordon. Local Housing Trust Fund.

Existing law establishes the Local Housing Trust Fund Matching Grant Program for the purpose of supporting local housing trust funds dedicated to the creation or preservation of affordable housing. Existing law requires the Department of Housing and Community Development to make available the amount of \$35,000,000 for the Local Housing Trust Fund Matching Grant Program, from the continuously appropriated Housing and Emergency Shelter Trust Fund of 2006.

Under the grant program, the department is authorized to make matching grants available to cities, counties, cities and counties, and existing charitable nonprofit organizations that have created, funded, and operated housing trust funds. The minimum allocation to a program applicant is \$1,000,000 for existing trust funds, or \$500,000 for newly established housing trust funds. The maximum allocation for any applicant is \$2,000,000. Under existing law, all funds provided under the grant program are to be matched on a dollar-for-dollar basis with moneys that are not required by any state or federal law to be spent on housing.

This bill would revise the law applicable to the above grant program, including (1) reducing the maximum allocation to \$1,000,000 per notice of funding availability, (2) eliminating funding priorities for certain

types of local housing trust funds, and (3) revising requirements relative to deed restrictions and equity sharing agreements applicable to for-sale housing projects or units within for-sale housing projects.

Under existing law, an applicant is required to continue funding the local housing trust fund from identified local sources, and continue the trust in operation for a period of no less than five years from the date of award.

This bill would extend that minimum time period for one additional year, for a housing trust fund already participating in the program on January 1, 2014.

Existing law requires 50% of the funds allocated to the Local Housing Trust Fund Matching Grant Program to be made available exclusively for newly established housing trust funds. Existing law requires funds set aside for newly established housing trust funds to be available for encumbrance for 42 months and, after that time, to revert to another specified housing fund.

This bill would remove the above restrictions, making the funds continuously available for purposes of the program and not reverting to another fund, thus making an appropriation. The bill also would authorize funding for a housing trust fund that had previously received a grant under the program.

Under existing law, the department awards funds under the grant program through the issuance of a Notice of Funding Availability (NOFA), as specified.

This bill would require the department to issue a new NOFA, no later than June 30, 2014.

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

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

- 1 SECTION 1. Section 50843.5 of the Health and Safety Code
- 2 is amended to read:
- 3 50843.5. (a) Subject to the availability of funding, the
- 4 department shall make matching grants available to cities, counties,
- 5 city and counties, and charitable nonprofit organizations organized
- 6 under Section 501(c)(3) of the Internal Revenue Code that have
- 7 created and are operating or will operate housing trust funds. A
- 8 *city, county, city and county, or charitable nonprofit organization*
- 9 *that has previously been awarded funding under this section shall*

1 *be eligible to apply for subsequent matching grants.* These funds
2 shall be awarded through the issuance of a Notice of Funding
3 Availability (NOFA).

4 (1) Applicants that provide matching funds from a source or
5 sources other than impact fees on residential development shall
6 receive a priority for funding.

7 (2) The department shall set aside funding for new trusts, as
8 defined by the department in the NOFA.

9 (3) *Notwithstanding any other law, the department shall issue*
10 *a new NOFA no later than June 30, 2014.*

11 (b) Housing trusts eligible for funding under this section shall
12 have the following characteristics:

13 (1) Utilization of a public or joint public and private fund
14 established by legislation, ordinance, resolution, or a public-private
15 partnership to receive specific revenue to address local housing
16 needs.

17 (2) Receipt of ongoing revenues from dedicated sources of
18 funding such as taxes, fees, loan repayments, or private
19 contributions.

20 (c) (1) The minimum allocation to an applicant that is a newly
21 established trust shall be five hundred thousand dollars (\$500,000).
22 The minimum allocation for all other trusts shall be one million
23 dollars (\$1,000,000). No applicant may receive an allocation in
24 excess of ~~two million dollars (\$2,000,000)~~ *one million dollars*
25 *(\$1,000,000) per NOFA.* All funds provided pursuant to this section
26 shall be matched on a dollar-for-dollar basis with moneys that are
27 not required by any state or federal law to be spent on housing.
28 No application for an existing housing trust shall be considered
29 unless the department has received adequate documentation of the
30 deposit in the local housing trust fund of the local match and the
31 identity of the source of matching funds. An application for a new
32 trust shall not be considered unless the department has received
33 adequate documentation, as determined by the department, that
34 an ordinance imposing or dedicating a tax or fee to be deposited
35 into the new trust has been enacted or the applicant has adopted a
36 legally binding commitment to deposit matching funds into the
37 new trust. Funds shall not be disbursed by the department to any
38 trust until all matching funds are on deposit and then funds may
39 be disbursed only in amounts necessary to fund projects identified
40 to receive a loan from the trust within a reasonable period of time,

1 as determined by the department. Applicants shall be required to
2 continue funding the local housing trust fund from these identified
3 local sources, and continue the trust in operation, for a period of
4 no less than five years from the date of award. If the funding is
5 not continued for a five-year period, then (1) the amount of the
6 department's grant to the local housing trust fund, to the extent
7 that the trust fund has unencumbered funds available, shall be
8 immediately repaid, and (2) any payments from any projects funded
9 by the local housing trust fund that would have been paid to the
10 local housing trust fund shall be paid instead to the department
11 and used for the program or its successor. The total amount paid
12 to the department pursuant to (1) and (2), combined, shall not
13 exceed the amount of the department's grant.

14 (2) *Notwithstanding paragraph (1), the required minimum*
15 *period of a housing trust fund already participating in the program*
16 *on January 1, 2014, shall be extended for one additional year.*

17 (d) (1) Funds shall be used for the predevelopment costs,
18 acquisition, construction, or rehabilitation of the following types
19 of housing or projects:

20 (A) Rental housing projects or units within rental housing
21 projects. The affordability of all assisted units shall be restricted
22 for not less than 55 years.

23 (B) Emergency shelters, safe havens, and transitional housing,
24 as these terms are defined in Section 50801.

25 (C) For-sale housing projects or units within for sale housing
26 projects.

27 (2) At least 30 percent of the total amount of the grant and the
28 match shall be expended on projects, units, or shelters that are
29 affordable to, and restricted for, extremely low income households,
30 as defined in Section 50106. No more than 20 percent of the total
31 amount of the grant and the match shall be expended on projects
32 or units affordable to, and restricted for, moderate-income persons
33 and families whose income does not exceed 120 percent of the
34 area median income. The remaining funds shall be used for
35 projects, units, or shelters that are affordable to, and restricted for,
36 lower income households, as defined in Section 50079.5.

37 (3) If funds are used for the acquisition, construction, or
38 rehabilitation of for-sale housing projects or units within for-sale
39 housing projects, the grantee shall record a deed restriction against
40 the property that will ensure compliance with one of the following

1 requirements upon resale of the for-sale housing units, unless it is
2 in conflict with the requirements of another public funding source
3 or law:

4 (A) If the property is sold within 30 years from the date that
5 trust funds are used to acquire, construct, or rehabilitate the
6 property, the owner or subsequent owner shall sell the home at an
7 affordable housing cost, as defined in Section 50052.5, to a
8 household that meets the relevant income qualifications.

9 (B) The owner and grantee shall share the equity in the unit
10 pursuant to an equity-sharing agreement. The grantee shall reuse
11 the proceeds of the equity-sharing agreement consistent with this
12 section. To the extent not in conflict with another public funding
13 source or law, all of the following shall apply to the equity-sharing
14 agreement provided for by the deed restriction:

15 (i) Upon resale by an owner-occupant of the home, the
16 owner-occupant of the home shall retain the market value of any
17 improvements, the downpayment, and his or her proportionate
18 share of appreciation. The grantee shall recapture any initial
19 subsidy and its proportionate share of appreciation, which shall
20 then be used to make housing available to persons and families of
21 the same income category as the original grant and for any type
22 of housing or shelter specified in paragraph (1).

23 (ii) For purposes of this subdivision, the initial subsidy shall be
24 equal to the fair market value of the home at the time of initial sale
25 to the owner-occupant minus the initial sale price to the
26 owner-occupant, plus the amount of any downpayment assistance
27 or mortgage assistance. If upon resale by the owner-occupant the
28 market value is lower than the initial market value, then the value
29 at the time of the resale shall be used as the initial market value.

30 (iii) For purposes of this subdivision, the grantee's proportionate
31 share of appreciation shall be equal to the ratio of the initial subsidy
32 to the fair market value of the home at the time of the initial sale.

33 (4) *Notwithstanding paragraph (3), a local housing trust fund*
34 *shall not be required to do either of the following:*

35 (A) *Record a separate deed restriction or equity sharing*
36 *agreement for any project or home that it finances, if a restriction*
37 *or agreement that meets the local housing trust fund's requirements*
38 *has been, or will be, recorded against the property by another*
39 *public agency or charitable nonprofit organizations organized*
40 *under Section 501(c)(3) of the Internal Revenue Code.*

1 (B) *Record a deed restriction or equity sharing agreement for*
 2 *any home that is, or will be, sold at fair market value.*

3 (e) Loan repayments shall accrue to the grantee housing trust
 4 for use pursuant to this section. If the trust no longer exists, loan
 5 repayments shall accrue to the department for use in the program
 6 or its successor.

7 (f) (1) In order for a city, county, or city and county to be
 8 eligible for funding, the applicant shall, at the time of application,
 9 meet both of the following requirements:

10 (A) Have an adopted housing element that the department has
 11 determined, pursuant to Section 65585 of the Government Code,
 12 is in substantial compliance with the requirements of Article 10.6
 13 (commencing with Section 65580) of Chapter 3 of Division 1 of
 14 Title 7 of the Government Code. *The city, county, or city and*
 15 *county shall maintain current substantial compliance of its housing*
 16 *element in order to maintain eligibility for funding pursuant to*
 17 *this section.*

18 (B) Have submitted to the department the annual progress report
 19 required by Section 65400 of the Government Code within the
 20 preceding 12 months, if the department has adopted the forms and
 21 definitions pursuant to subparagraph (B) of paragraph (2) of
 22 subdivision (a) of Section 65400 of the Government Code.

23 (2) In order for a nonprofit organization applicant to be eligible
 24 for funding, the applicant shall agree to utilize funds provided
 25 under this chapter only for projects located in cities, counties, or
 26 a city and county that, at the time of application, meet both of the
 27 following requirements:

28 (A) Have an adopted housing element that the department has
 29 determined, pursuant to Section 65585 of the Government Code,
 30 to be in substantial compliance with the requirements of Article
 31 10.6 (commencing with Section 65580) of Chapter 3 of Division
 32 1 of Title 7 of the Government Code.

33 (B) Have submitted to the department the annual progress report
 34 required by Section 65400 of the Government Code within the
 35 preceding 12 months, if the department has adopted the forms and
 36 definitions pursuant to subparagraph (B) of paragraph (2) of
 37 subdivision (a) of Section 65400 of the Government Code.

38 (g) Recipients shall have held, or shall agree to hold, a public
 39 hearing or hearings to discuss and describe the project or projects
 40 that will be financed with funds provided pursuant to this section.

1 As a condition of receiving a grant pursuant to this section, any
2 nonprofit organization shall agree that it will hold one public
3 meeting a year to discuss the criteria that will be used to select
4 projects to be funded. That meeting shall be open to the public,
5 and public notice of this meeting shall be provided, except to the
6 extent that any similar meeting of a city or county would be
7 permitted to be held in closed session.

8 (h) No more than 5 percent of the funds appropriated to the
9 department for the purposes of this program shall be used to pay
10 the costs of administration of this section.

11 (i) A local housing trust fund shall encumber funds provided
12 pursuant to this section no later than 36 months after receipt. Any
13 funds not encumbered within that period shall revert to the
14 department for use in the program or its successor.

15 (j) Recipients shall be required to file periodic reports with the
16 department regarding the use of funds provided pursuant to this
17 section. No later than December 31 of each year in which funds
18 are awarded by the program, the department shall provide a report
19 to the Legislature regarding the number of trust funds created, a
20 description of the projects supported, the number of units assisted,
21 and the amount of matching funds received.

22 SEC. 2. Section 53545.9 of the Health and Safety Code is
23 amended to read:

24 53545.9. Of the one hundred million dollars (\$100,000,000)
25 transferred to the Affordable Housing Innovation Fund established
26 in the State Treasury under subparagraph (F) of paragraph (1) of
27 subdivision (a) of Section 53545, the following amounts shall be
28 allocated as follows:

29 (a) The department shall make available the amount of
30 twenty-five million dollars (\$25,000,000) for the Affordable
31 Housing Revolving Development and Acquisition Program
32 established pursuant to Section 50705.

33 (b) (1) The department shall make available the amount of
34 thirty-five million dollars (\$35,000,000) for the local housing trust
35 fund matching grant program established under Section 50843.5.
36 ~~The department shall make available 50 percent of this amount~~
37 ~~exclusively for newly established housing trust funds.~~

38 ~~(1) When awarding grants from the funds allocated under this~~
39 ~~subdivision to existing trust funds, the department shall grant~~
40 ~~preference to a housing trust fund that agrees to expend more than~~

1 ~~65 percent of state funds for the purpose of downpayment~~
2 ~~assistance to first-time homebuyers.~~

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

10 ~~(3) (A)~~

11 ~~(2) Notwithstanding any other law, funds set aside for newly~~
12 ~~established housing trust funds pursuant to this subdivision shall~~
13 ~~be continuously available for encumbrance for 42 months after the~~
14 ~~date the funds are first made available and disbursements in~~
15 ~~liquidation of the encumbrance shall be made before or during 48~~
16 ~~months after the date funds are first made available and~~
17 ~~disbursement to those trust funds, and shall not revert to the~~
18 ~~Self-Help Housing Fund created by Section 50697.1, or any other~~
19 ~~fund.~~

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

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

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

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

38 ~~(3) The guidelines adopted by the department shall provide for~~
39 ~~the issuance of a notice of funding availability soliciting~~
40 ~~competitive proposals for the use of funds consistent with those~~

1 guidelines and with subparagraph (F) of paragraph (1) of
2 subdivision (a) of Section 53545.

3 (4) The guidelines adopted by the department shall not be subject
4 to the requirements of Chapter 6.5 (commencing with Section
5 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

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

14 (d) (1) The amount of thirty million dollars (\$30,000,000) is
15 transferred from the Affordable Housing Innovation Fund to a
16 subaccount, which is hereby created, within the Housing
17 Rehabilitation Loan Fund. Notwithstanding Section 13340 of the
18 Government Code, the moneys transferred to the subaccount shall
19 be continuously appropriated to the department for the Multifamily
20 Housing Program authorized by Chapter 6.7 (commencing with
21 Section 50675) of Part 2 of Division 31.

22 (2) The department shall provide for the issuance of a notice of
23 funding availability soliciting competitive proposals for the use
24 of the funds appropriated in paragraph (1). The notice of funding
25 availability shall provide that the department will consider persons
26 with developmental disabilities, including, but not limited to, those
27 with autism, and homeless veterans as special needs populations
28 for purposes of granting bonus points to developments serving
29 special needs populations.