

Assembly Bill No. 984

CHAPTER 82

An act to amend Sections 50901, 50902, 51175, and 51504 of, and to add Section 51065.1 to, the Health and Safety Code, relating to the California Housing Finance Agency, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 12, 2013. Filed with
Secretary of State August 12, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 984, Chau. The California Housing Finance Agency.

Existing law provides that there is the California Housing Finance Agency in the Department of Housing and Community Development administered by an 11-member board of directors that includes various state officers and 6 members appointed by the Governor.

This bill would add the Secretary of Veterans Affairs to the board. The bill would also increase the number of members appointed by the Governor to 7 and require that at least one member appointed by the Governor have specific knowledge of bonds and related financial instruments, interest rate swaps, and risk management. The bill would specify, notwithstanding other provisions of the bill, that these provisions relating to the membership of the board would not become effective until January 1, 2014.

Existing law authorizes the agency, among other things, to make or undertake commitments to make development loans, construction loans, mortgage loans, and property improvement loans to housing sponsors to finance housing developments, as specified.

This bill would authorize the agency to make grants to buyers of residential structures combined with first mortgage loans financed by the agency to be used in conjunction with the Federal Housing Administration (FHA) Energy Efficient Mortgage Program, for the purpose of making repairs or improvements to increase energy efficiency in the home, as specified.

Existing law provides that the agency shall not, except as provided, make construction loans or mortgage loans for the purpose of financing owner-occupied residential structures unless those loans are made through a qualified mortgage lender.

This bill would instead provide that the agency shall not make construction loans or first mortgage loans, except as provided, as specified above.

Existing law requires the agency to administer the California Homebuyer's Downpayment Assistance Program for the purpose of providing downpayment assistance to first-time low- and moderate-income home buyers. Existing law requires that the amount of the downpayment assistance

shall be due and payable at the end of the term, or upon sale of or refinancing of the home, except that the agency may, in its discretion, permit the downpayment assistance to be subordinated to refinancing, as specified.

This bill would also provide that the downpayment assistance shall not be due and payable upon sale of the home if the first mortgage loan is insured by the FHA, transferred to the FHA, or the requirement is otherwise contrary to federal regulations, as specified.

This bill would incorporate additional changes to Section 51504 of the Health and Safety Code made by this bill and AB 637, to take effect if both bills are chaptered and this bill is chaptered last.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 50901 of the Health and Safety Code, as amended by Section 21 of Chapter 147 of the Statutes of 2012, is amended to read:

50901. The agency shall be administered by a board of directors consisting of 13 voting members, including a chairperson selected by the Governor from among his or her appointees. The Treasurer; the Secretary of Business, Consumer Services, and Housing; the Director of Housing and Community Development; and the Secretary of Veterans Affairs, or their designees, shall be members, in addition to seven members appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Senate Committee on Rules. The Director of Finance, the Director of Planning and Research, and the executive director of the agency shall serve as nonvoting ex officio members of the board.

SEC. 2. Section 50902 of the Health and Safety Code is amended to read:

50902. (a) Appointed members of the board shall be able persons broadly reflective of the economic, cultural, and social diversity of the state, including ethnic minorities and women. However, it is not intended that formulas or specific ratios be applied in order to achieve that diversity.

(b) The Governor shall select four of his or her seven appointees from among the following categories: (1) an elected official of a city or county engaged in the planning or implementation of a housing, housing-assistance, or housing-rehabilitation program; (2) a person experienced in residential real estate in the savings and loan, mortgage banking, or commercial banking industry; (3) a person experienced as a builder of residential housing; (4) a person experienced in organized labor in the residential construction industry; (5) a person experienced in the management of rental or cooperative housing occupied by lower income households; (6) a person experienced in manufactured housing finance and development; and (7) a person representing the public. Not more than one person from each category may serve on the board at any one time, except that two members may be appointed by the Governor to represent the public.

(c) The Governor shall also appoint two members who are residents of rental or cooperative housing financed by the agency or who are persons experienced in counseling, assisting, or representing tenants.

(d) At least one of the members appointed by the Governor shall be a resident of a rural or nonmetropolitan area.

(e) At least one of the members appointed by the Governor shall have specific knowledge of bonds and related financial instruments, interest rate swaps, and risk management.

(f) The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a person representing the public.

The term of members of the board shall be six years. Any person appointed to fill a vacancy on the board shall serve only for the remainder of the unexpired term. Members of the board shall, subject to continued qualification, be eligible for reappointment. If a member of the board ceases to meet the qualifications specified in this section, the membership of that person on the board shall be terminated.

SEC. 3. Section 51065.1 is added to the Health and Safety Code, to read:

51065.1. The agency may make grants to buyers of residential structures combined with first mortgage loans financed by the agency to be used in conjunction with the FHA Energy Efficient Mortgage Program, for the purpose of making repairs or improvements to increase energy efficiency in the home. Grants authorized by this section shall not be made with proceeds from the sale of bonds. Any such grant, and any costs directly associated with it, shall be funded through revenues realized by the agency from the grantee's first mortgage loan, or securities backed by it, except that the agency may provide short-term interim funding of the grant to facilitate the transaction.

SEC. 4. Section 51175 of the Health and Safety Code is amended to read:

51175. Except as provided in this article, the agency shall not make construction loans or first mortgage loans for the purpose of financing owner-occupied residential structures unless those loans are made through a qualified mortgage lender.

SEC. 5. Section 51504 of the Health and Safety Code is amended to read:

51504. (a) The agency shall administer a downpayment assistance program that includes, but is not limited to, all of the following:

(1) Downpayment assistance shall include, but not be limited to, a deferred-payment, low-interest, junior mortgage loan to reduce the principal and interest payments and make financing affordable to first-time low- and moderate-income home buyers.

(2) (A) Except as provided in subparagraph (B) or (C), the amount of downpayment assistance shall not exceed 3 percent of the home sale price.

(B) The amount of downpayment assistance for a new home within an infill opportunity zone, as defined in Section 65088.1 of the Government Code, a transit village development district, as defined in Section 65460.4 of the Government Code, or a transit-oriented development specific plan

area, as defined in paragraph (6), shall not exceed 5 percent of the purchase price or the appraised value, whichever amount is less, of the new home. The borrower of the downpayment assistance shall provide the lender originating the loan with a certification from the local government agency administering the infill opportunity zone, the transit village development district, or the transit-oriented development specific plan area that states that the property involved in the loan transaction is within the boundaries of either the infill opportunity zone, the transit village development district, or the transit-oriented development specific plan area.

(C) Notwithstanding paragraph (1), the agency may, but is not required to, provide downpayment assistance that does not exceed 6 percent of the home sale price to first-time low-income home buyers who, as documented to the agency by a nonprofit organization that is certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization as a neighborhood in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families. The agency shall not use more than six million dollars (\$6,000,000) in funds made available pursuant to Section 53533 for the purposes of this paragraph.

(3) The amount of the downpayment assistance shall be secured by a deed of trust in a junior position to the primary financing provided. The term of the loan for the downpayment assistance shall not exceed the term of the primary loan.

(4) (A) Except as provided in subparagraphs (B) and (C), the amount of the downpayment assistance shall be due and payable at the end of the term or upon sale of or refinancing of the home. The borrower may refinance the mortgages on the home provided that the principal and accrued interest on the junior mortgage loan securing the downpayment assistance are repaid in full. All repayments shall be made to the agency to be reallocated for the purposes of this chapter.

(B) The agency may, in its discretion, permit the downpayment assistance loan to be subordinated to refinancing if it determines that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and the new loan meets the agency's underwriting requirements. The agency may permit subordination on those terms and conditions as it determines are reasonable.

(C) The amount of the downpayment assistance shall not be due and payable upon sale of the home if the first mortgage loan is insured by the Federal Housing Administration (FHA) or if the first mortgage loan is, or has been, transferred to the FHA, or if the requirement is otherwise contrary to regulations of the United States Department of Housing and Urban Development governing FHA insured first mortgage loans.

(5) The agency may use up to 5 percent of the funds appropriated by the Legislature for purposes of this chapter to administer this program.

(6) For purposes of this section, "transit-oriented development specific plan area" means a specific plan that meets the criteria set forth in Section

65451 of the Government Code, is centered around a rail or light-rail station, ferry terminal, bus hub, or bus transfer station, and is intended to achieve a higher density use of land that facilitates use of the transit station.

(b) In addition to the downpayment assistance program authorized by subdivision (a), the agency may, at its discretion, use not more than seventy-five million dollars (\$75,000,000) of the funds available pursuant to this chapter to finance the acquisition of land and the construction and development of for-sale residential structures, through short-term loans pursuant to its authority pursuant to Section 51100. However, the agency shall make downpayment assistance provided pursuant to paragraph (1), subparagraphs (A) and (B) of paragraph (2), and paragraphs (3) to (5), inclusive, of subdivision (a) the priority use for these funds. A loan made pursuant to this section is not subject to Article 4 (commencing with Section 51175) of Chapter 5.

SEC. 5.5. Section 51504 of the Health and Safety Code is amended to read:

51504. (a) The agency shall administer a downpayment assistance program that includes, but is not limited to, all of the following:

(1) Downpayment assistance shall include, but not be limited to, a deferred-payment, low-interest, junior mortgage loan to reduce the principal and interest payments and make financing affordable to first-time low- and moderate-income home buyers.

(2) (A) Except as provided in subparagraph (B) or (C), the amount of downpayment assistance shall not exceed 3 percent of the home sale price.

(B) The amount of downpayment assistance for a new home within an infill opportunity zone, as defined in Section 65088.1 of the Government Code, a transit village development district, as defined in Section 65460.4 of the Government Code, or a transit-oriented development specific plan area, as defined in paragraph (6), shall not exceed 5 percent of the purchase price or the appraised value, whichever amount is less, of the new home. The borrower of the downpayment assistance shall provide the lender originating the loan with a certification from the local government agency administering the infill opportunity zone, the transit village development district, or the transit-oriented development specific plan area that states that the property involved in the loan transaction is within the boundaries of either the infill opportunity zone, the transit village development district, or the transit-oriented development specific plan area.

(C) Notwithstanding paragraph (1), the agency may, but is not required to, provide downpayment assistance that does not exceed 6 percent of the home sale price to first-time low-income home buyers who, as documented to the agency by a nonprofit organization that is certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization as a neighborhood in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families. The

agency shall not use more than six million dollars (\$6,000,000) in funds made available pursuant to Section 53533 for the purposes of this paragraph.

(3) The amount of the downpayment assistance shall be secured by a deed of trust in a junior position to the primary financing provided. The term of the loan for the downpayment assistance shall not exceed the term of the primary loan.

(4) (A) Except as provided in subparagraphs (B) and (C), the amount of the downpayment assistance shall be due and payable at the end of the term or upon sale of or refinancing of the home. The borrower may refinance the mortgages on the home provided that the principal and accrued interest on the junior mortgage loan securing the downpayment assistance are repaid in full. All repayments shall be made to the agency to be reallocated for the purposes of this chapter.

(B) The agency may, in its discretion, permit the downpayment assistance loan to be subordinated to refinancing if it determines that the borrower has demonstrated hardship, subordination is required to avoid foreclosure, and the new loan meets the agency's underwriting requirements. The agency may permit subordination on those terms and conditions as it determines are reasonable.

(C) The amount of the downpayment assistance shall not be due and payable upon sale of the home if the first mortgage loan is insured by the Federal Housing Administration (FHA) or if the first mortgage loan is, or has been, transferred to the FHA, or if the requirement is otherwise contrary to regulations of the United States Department of Housing and Urban Development governing FHA insured first mortgage loans.

(5) The agency may use up to 5 percent of the funds appropriated by the Legislature for purposes of this chapter to administer this program.

(6) For purposes of this section, "transit-oriented development specific plan area" means a specific plan that meets the criteria set forth in Section 65451 of the Government Code, is centered around a rail or light-rail station, ferry terminal, bus hub, or bus transfer station, and is intended to achieve a higher density use of land that facilitates use of the transit station.

(b) In addition to the downpayment assistance program authorized by subdivision (a), the agency may, at its discretion, use not more than seventy-five million dollars (\$75,000,000) of the funds available pursuant to this chapter to finance the acquisition of land and the construction and development of housing developments, as defined in Section 50073.5, and for-sale residential structures, through short-term loans pursuant to its authority pursuant to Section 51100. However, the agency shall make downpayment assistance provided pursuant to paragraph (1), subparagraphs (A) and (B) of paragraph (2), and paragraphs (3) to (5), inclusive, of subdivision (a) the priority use for these funds. A loan made pursuant to this section is not subject to Article 4 (commencing with Section 51175) of Chapter 5.

SEC. 6. Section 5.5 of this bill incorporates amendments to Section 51504 of the Health and Safety Code proposed by both this bill and Assembly Bill 637. It shall only become operative if (1) both bills are enacted

and become effective on or before January 1, 2014, but this bill becomes operative first, (2) each bill amends Section 51504 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 637, in which case Section 51504 of the Health and Safety Code, as amended by Section 5 of this bill, shall remain operative only until the operative date of Assembly Bill 637, at which time Section 5.5 of this bill shall become operative.

SEC. 7. Notwithstanding Section 8, Sections 1 and 2 of this act shall not become effective until January 1, 2014.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the California Housing Finance Agency to continue to combine its downpayment assistance with first mortgage loans insured by the Federal Housing Administration after June 2013, it is necessary that this act take effect immediately.