

AMENDED IN SENATE APRIL 2, 2013

SENATE BILL

No. 391

Introduced by Senator DeSaulnier

(Principal coauthors: Assembly Members ~~Atkins and Bocanegra~~ *Atkins, Bocanegra, and Gordon*)

(Coauthors: Senators ~~Correa, Hancock, Hill, Leno, Lieu, and Pavley~~ *Pavley, and Roth*)

(Coauthors: Assembly Members Ammiano, Bloom, Bonilla, ~~Gordon~~, Mullin, Quirk-Silva, ~~and Torres~~ *Torres, and Wieckowski*)

February 20, 2013

An act to add Section 27388.1 to the Government Code, and to add Chapter 2.5 (commencing with Section 50470) to Part 2 of Division 31 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 391, as amended, DeSaulnier. California Homes and Jobs Act of 2013.

Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time homebuyers. Existing law also authorizes the issuance of bonds in specified amounts pursuant to the State General Obligation Bond Law. Existing law requires that proceeds from the sale of these bonds be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks.

This bill would enact the California Homes and Jobs Act of 2013. The bill would make legislative findings and declarations relating to

the need for establishing permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program. The bill would require that revenues from this fee be sent quarterly to the Department of Housing and Community Development for deposit in the California Homes and Jobs Trust Fund, which the bill would create within the State Treasury. The bill would provide that moneys in the fund may be expended for supporting affordable housing, administering housing programs, and the cost of periodic audits, as specified. The bill would impose certain auditing and reporting requirements.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. This act shall be known as the California Homes
- 2 and Jobs Act of 2013.
- 3 SEC. 2. The Legislature finds and declares that having a healthy
- 4 housing market that provides an adequate supply of homes
- 5 affordable to Californians at all income levels is critical to the
- 6 economic prosperity and quality of life in the state. The Legislature
- 7 further finds and declares all of the following:
- 8 (a) Funding approved by the state's voters in 2002 and 2006,
- 9 as of June 2011, has financed the construction, rehabilitation, and
- 10 preservation of over 11,600 shelter spaces and 57,220 affordable
- 11 apartments, including 2,500 supportive homes for people
- 12 experiencing homelessness. In addition, these funds have helped

1 57,290 families become or remain homeowners. Nearly all of the
2 voter-approved funding for affordable housing was awarded by
3 the beginning of 2012.

4 (b) The requirement in the Community Redevelopment Law
5 that redevelopment agencies set aside 20 percent of tax increment
6 for affordable housing generated roughly one billion dollars
7 (\$1,000,000,000) per year. With the elimination of redevelopment
8 agencies, this funding stream has disappeared.

9 (c) California has 12 percent of the United States population
10 but 21.4 percent of its homeless population. Seventy-three percent
11 of people experiencing homelessness in California fell into it
12 because they could not afford a place to live. Sixty-two percent of
13 homeless Californians are unsheltered, 14 percent are veterans,
14 and 20 percent are families.

15 (d) Furthermore, 4 of the top 10 metropolitan areas in the
16 country for homeless are in the following metropolitan areas in
17 California: San Jose-Sunnyvale-Santa Clara, Los Angeles-Long
18 Beach-Santa Ana, Fresno, and Stockton.

19 (e) California continues to have the second lowest
20 homeownership rate in the nation, and minimum wage earners
21 have to work 120 hours per week to afford the average
22 two-bedroom apartment.

23 (f) Millions of Californians are affected by the state's chronic
24 housing shortage, including seniors, veterans, people experiencing
25 chronic homelessness, working families, people with mental,
26 physical, or developmental disabilities, agricultural workers, people
27 exiting jails, prisons, and other state institutions, survivors of
28 domestic violence, and former foster and transition-aged youth.

29 (g) While the current credit and foreclosure crisis has resulted
30 in reductions in home prices in some areas, it has increased pressure
31 on the rental housing market and slowed new housing production
32 of all types, exacerbating the mismatch between the ever increasing
33 number of households that need housing they can afford and the
34 supply.

35 (h) California's workforce continues to experience longer
36 commute times as persons in the workforce seek affordable housing
37 outside the areas in which they work. If California is unable to
38 support the construction of affordable housing in these areas,
39 congestion problems will strain the state's transportation system
40 and exacerbate greenhouse gas emissions.

1 (i) Many economists agree that the state's higher than average
2 unemployment rate is due in large part to massive shrinkage in the
3 construction industry from 2005 to 2009, including losses of nearly
4 700,000 construction-related jobs, a 60-percent decline in
5 construction spending, and an 83-percent reduction in residential
6 permits. Restoration of a healthy construction sector will
7 significantly reduce the state's unemployment rate.

8 (j) The lack of sufficient housing impedes economic growth
9 and development by making it difficult for California employers
10 to attract and retain employees.

11 (k) To keep pace with continuing demand, the state should
12 identify and establish a permanent, ongoing source or sources of
13 funding dedicated to affordable housing development. Without a
14 reliable source of funding for housing affordable to the state's
15 workforce and most vulnerable residents, the state and its local
16 and private housing development partners will not be able to
17 continue increasing the supply of housing after existing housing
18 bond resources are depleted.

19 (l) The investment will leverage billions of dollars in private
20 investment, lessen demands on law enforcement and dwindling
21 health care resources as fewer people are forced to live on the
22 streets or in dangerous substandard buildings, and increase
23 businesses' ability to attract and retain skilled workers.

24 (m) In order to promote housing and homeownership
25 opportunities, the recording fee imposed by this act should not be
26 applied to any recordings made in connection with a sale of real
27 property. Purchasing housing is likely the largest purchase made
28 by Californians, and it is the intent of this act not to increase
29 transaction costs associated with these transfers.

30 SEC. 3. Section 27388.1 is added to the Government Code, to
31 read:

32 27388.1. (a) (1) Except as provided in paragraph (2), in
33 addition to any other recording fees specified in this code, a fee
34 of seventy-five dollars (\$75) shall be paid at the time of recording
35 of every real estate instrument, paper, or notice required or
36 permitted by law to be recorded except those expressly exempted
37 from payment of recording fees. "Real estate instrument" includes,
38 but is not limited to, the following documents: deed, grant deed,
39 trustee's deed, deed of trust, reconveyance, quit claim deed,
40 fictitious deed of trust, assignment of deed of trust, request for

1 notice of default, abstract of judgment, subordination agreement,
2 declaration of homestead, abandonment of homestead, notice of
3 default, release or discharge, easement, notice of trustee sale, notice
4 of completion, UCC financing statement, mechanic's lien, maps,
5 and covenants, conditions, and restrictions.

6 (2) The fee described in paragraph (1) shall not be imposed on
7 any real estate instrument, paper, or notice recorded in connection
8 with a transfer subject to the imposition of a documentary transfer
9 tax as defined in Section 11911 of the Revenue and Taxation Code.

10 (b) The fees, after deduction of any actual and necessary
11 administrative costs incurred by the county recorder in carrying
12 out this section, shall be sent quarterly to the Department of
13 Housing and Community Development for deposit in the California
14 Homes and Jobs Trust Fund established by Section 50471 of the
15 Health and Safety Code, to be expended for the purposes set forth
16 in that section. In addition, the county shall pay to the Department
17 of Housing and Community Development interest, at the legal
18 rate, on any funds not paid to the Controller within 30 days of the
19 end of a quarter.

20 SEC. 4. Chapter 2.5 (commencing with Section 50470) is added
21 to Part 2 of Division 31 of the Health and Safety Code, to read:

22 CHAPTER 2.5. CALIFORNIA HOMES AND JOBS TRUST FUND

23 Article 1. General Provisions

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27 50470. This chapter shall be known, and may be cited, as the
28 California Homes and Jobs Act of 2013.

29 50471. (a) There is hereby created in the State Treasury the
30 California Homes and Jobs Trust Fund. All interest or other
31 increments resulting from the investment of moneys in the fund
32 shall be deposited in the fund, notwithstanding Section 16305.7
33 of the Government Code. Moneys in the California Homes and
34 Jobs Trust Fund shall not be subject to transfer to any other fund
35 pursuant to any provision of Part 2 (commencing with Section
36 16300) of Division 4 of Title 2 of the Government Code, except
37 to the Surplus Money Investment Fund. Upon appropriation by
38 the Legislature, moneys in the fund may be expended for the
39 following purposes:

1 (1) Supporting the development, acquisition, rehabilitation, and
2 preservation of housing affordable to low- and moderate-income
3 households, including, but not limited to, emergency shelters;
4 transitional and permanent rental housing, including necessary
5 service and operating subsidies; foreclosure mitigation; and
6 homeownership opportunities.

7 (2) Administering housing programs that receive an
8 appropriation from the fund. Moneys expended for this purpose
9 shall not exceed 5 percent of the moneys in the fund.

10 (3) The cost of periodic audits required by Section 50475.

11 (b) Both of the following shall be paid and deposited in the
12 fund:

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

15 (2) Any other moneys that may be made available to the
16 department for the purposes of the fund from any other source or
17 sources.

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Article 2. Audits and Reporting

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21 50475. ~~The Bureau of State Audits~~ *California State Auditor's*
22 *Office* shall conduct periodic audits to ensure that the annual
23 allocation to individual programs is awarded by the department in
24 a timely fashion consistent with the requirements of this chapter.
25 The first audit shall be conducted no later than 24 months from
26 the effective date of this section.

27 50476. In its annual report to the Legislature pursuant to
28 Section 50408, the department shall report how funds that were
29 made available pursuant to this chapter and allocated in the prior
30 year were expended, *including efforts to promote a geographically*
31 *balanced distribution of funds*. The department shall make the
32 report available to the public on its Internet Web site.

33 SEC. 5. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 a local agency or school district has the authority to levy service
36 charges, fees, or assessments sufficient to pay for the program or
37 level of service mandated by this act, within the meaning of Section
38 17556 of the Government Code.

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