

AMENDED IN SENATE MAY 7, 2013  
AMENDED IN SENATE APRIL 2, 2013

**SENATE BILL**

**No. 391**

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**Introduced by Senator DeSaulnier**

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

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

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

February 20, 2013

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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, *and declaring the urgency thereof, to take effect immediately.*

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.

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

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:

1 (a) Funding approved by the state’s voters in 2002 and 2006,  
2 as of June 2011, has financed the construction, rehabilitation, and  
3 preservation of over 11,600 shelter spaces and 57,220 affordable  
4 apartments, including 2,500 supportive homes for people  
5 experiencing homelessness. In addition, these funds have helped  
6 57,290 families become or remain homeowners. Nearly all of the  
7 voter-approved funding for affordable housing was awarded by  
8 the beginning of 2012.

9 (b) The requirement in the Community Redevelopment Law  
10 that redevelopment agencies set aside 20 percent of tax increment  
11 for affordable housing generated roughly one billion dollars  
12 (\$1,000,000,000) per year. With the elimination of redevelopment  
13 agencies, this funding stream has disappeared.

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

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

24 (e) California continues to have the second lowest  
25 homeownership rate in the nation, and minimum wage earners  
26 have to work 120 hours per week to afford the average  
27 two-bedroom apartment.

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

34 (g) While the current credit and foreclosure crisis has resulted  
35 in reductions in home prices in some areas, it has increased pressure  
36 on the rental housing market and slowed new housing production  
37 of all types, exacerbating the mismatch between the ~~ever-increasing~~  
38 *ever-increasing* number of households that need housing they can  
39 afford and the supply.

1 (h) California’s workforce continues to experience longer  
2 commute times as persons in the workforce seek affordable housing  
3 outside the areas in which they work. If California is unable to  
4 support the construction of affordable housing in these areas,  
5 congestion problems will strain the state’s transportation system  
6 and exacerbate greenhouse gas emissions.

7 (i) Many economists agree that the state’s higher than average  
8 unemployment rate is due in large part to massive shrinkage in the  
9 construction industry from 2005 to 2009, including losses of nearly  
10 700,000 construction-related jobs, a 60-percent decline in  
11 construction spending, and an 83-percent reduction in residential  
12 permits. Restoration of a healthy construction sector will  
13 significantly reduce the state’s unemployment rate.

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

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

25 (l) The investment will leverage billions of dollars in private  
26 investment, lessen demands on law enforcement and dwindling  
27 health care resources as fewer people are forced to live on the  
28 streets or in dangerous substandard buildings, and increase  
29 businesses’ ability to attract and retain skilled workers.

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

36 SEC. 3. Section 27388.1 is added to the Government Code, to  
37 read:

38 27388.1. (a) (1) ~~Except~~ *Commencing January 1, 2014, and*  
39 *except* as provided in paragraph (2), in addition to any other  
40 recording fees specified in this code, a fee of seventy-five dollars

1 (\$75) shall be paid at the time of recording of every real estate  
 2 instrument, paper, or notice required or permitted by law to be  
 3 recorded except those expressly exempted from payment of  
 4 recording fees. ~~“Real estate instrument” includes, but is not limited~~  
 5 ~~to, the following documents:~~ *“Real estate instrument, paper, or*  
 6 *notice” means a document relating to real property, including,*  
 7 *but not limited to, the following:* deed, grant deed, trustee’s deed,  
 8 deed of trust, reconveyance, quit claim deed, fictitious deed of  
 9 trust, assignment of deed of trust, request for notice of default,  
 10 abstract of judgment, subordination agreement, declaration of  
 11 homestead, abandonment of homestead, notice of default, release  
 12 or discharge, easement, notice of trustee sale, notice of completion,  
 13 UCC financing statement, mechanic’s lien, maps, and covenants,  
 14 conditions, and restrictions.

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

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

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

31  
 32 CHAPTER 2.5. CALIFORNIA HOMES AND JOBS TRUST FUND

33  
 34 Article 1. General Provisions

35  
 36 50470. This chapter shall be known, and may be cited, as the  
 37 California Homes and Jobs Act of 2013.

38 50471. (a) There is hereby created in the State Treasury the  
 39 California Homes and Jobs Trust Fund. All interest or other  
 40 increments resulting from the investment of moneys in the fund

1 shall be deposited in the fund, notwithstanding Section 16305.7  
2 of the Government Code. Moneys in the California Homes and  
3 Jobs Trust Fund shall not be subject to transfer to any other fund  
4 pursuant to any provision of Part 2 (commencing with Section  
5 16300) of Division 4 of Title 2 of the Government Code, except  
6 to the Surplus Money Investment Fund. Upon appropriation by  
7 the Legislature, moneys in the fund may be expended for the  
8 following purposes:

9 (1) Supporting the development, acquisition, rehabilitation, and  
10 preservation of housing affordable to low- and moderate-income  
11 households, including, but not limited to, emergency shelters;  
12 transitional and permanent rental housing, including necessary  
13 service and operating subsidies; foreclosure mitigation; and  
14 homeownership opportunities.

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

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

19 (b) Both of the following shall be paid and deposited in the  
20 fund:

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

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

26

## 27 Article 2. Audits and Reporting

28

29 50475. The California State Auditor's Office shall conduct  
30 periodic audits to ensure that the annual allocation to individual  
31 programs is awarded by the department in a timely fashion  
32 consistent with the requirements of this chapter. The first audit  
33 shall be conducted no later than 24 months from the effective date  
34 of this section.

35 50476. In its annual report to the Legislature pursuant to  
36 Section 50408, the department shall report how funds that were  
37 made available pursuant to this chapter and allocated in the prior  
38 year were expended, including efforts to promote a geographically  
39 balanced distribution of funds. The department shall make the  
40 report available to the public on its Internet Web site.

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

7 *SEC. 6. This act is an urgency statute necessary for the*  
8 *immediate preservation of the public peace, health, or safety within*  
9 *the meaning of Article IV of the Constitution and shall go into*  
10 *immediate effect. The facts constituting the necessity are:*

11 *In order to provide affordable housing opportunities at the*  
12 *earliest possible time, it is necessary for this act to take effect*  
13 *immediately.*