

AMENDED IN SENATE JUNE 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1516**

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**Introduced by Committee on Housing and Community Development**

March 9, 2015

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An act to amend Section 5570 of the Civil Code, to amend Section 65589.5 of the Government Code, and to amend Section 51345 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1516, as amended, Committee on Housing and Community Development. Housing.

(1) *The Davis-Stirling Common Interest Development Act regulates common interest developments and requires the governing association of a common interest development, among other things, to distribute to its members an annual budget report and the Assessment and Reserve Funding Disclosure Summary form. The act requires the form to contain certain information and disclosures regarding the association's assessments and reserves, including a statement that the major components, as defined, are included in the association's reserve study and calculations.*

*This bill would make technical changes to the form.*

~~The~~

(2) *The Housing Accountability Act, among other things, prohibits a local agency from disapproving a housing development project unless the local agency makes specified written findings.*

*This bill would update cross-references and make technical changes to the act.*

(3) Existing law requires the California Housing Finance Agency to administer the California Homebuyer’s Downpayment Assistance Program for the purpose of assisting first-time low- and moderate-income homebuyers by utilizing existing mortgage financing. Existing law authorizes a borrower to refinance a mortgage under specified circumstances. Existing law authorizes the agency, in its discretion, to permit a downpayment assistance loan to be subordinated to refinancing if it determines that certain criteria have been met. Existing law authorizes the agency to permit subordination on those terms and conditions as it determines are reasonable. Existing law requires the repayment of the home purchase assistance amount at the end of the term, upon the sale of the home, or upon refinancing, unless a showing of hardship is established, as specified.

This bill would instead provide that the amount of home purchase assistance would not be due upon the 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 the regulations of the United States Department of Housing and Urban Development governing FHA insured first mortgage loans.

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

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

1 SECTION 1. Section 5570 of the Civil Code is amended to  
2 read:

3 5570. (a) The disclosures required by this article with regard  
4 to an association or a property shall be summarized on the  
5 following form:

6  
7  
8 Assessment and Reserve Funding Disclosure Summary For the  
9 Fiscal Year Ending \_\_\_\_\_

10  
11 (1) The regular assessment per ownership interest is \$\_\_\_\_\_  
12 per \_\_\_\_\_. Note: If assessments vary by the size or type of  
13 ownership interest, the assessment applicable to this ownership  
14 interest may be found on page \_\_\_\_\_ of the attached summary.

1 (2) Additional regular or special assessments that have already  
 2 been scheduled to be imposed or charged, regardless of the purpose,  
 3 if they have been approved by the board and/or members:

Date assessment will be due:	Amount per ownership interest per month or year (If assessments are variable, see note immediately below):	Purpose of the assessment:
	Total:	

15 Note: If assessments vary by the size or type of ownership  
 16 interest, the assessment applicable to this ownership interest may  
 17 be found on page \_\_\_\_ of the attached report.

18 (3) Based upon the most recent reserve study and other  
 19 information available to the board of directors, will currently  
 20 projected reserve account balances be sufficient at the end of each  
 21 year to meet the association’s obligation for repair and/or  
 22 replacement of major components during the next 30 years?

23 Yes \_\_\_\_\_ No \_\_\_\_\_

24 (4) If the answer to (3) is no, what additional assessments or  
 25 other contributions to reserves would be necessary to ensure that  
 26 sufficient reserve funds will be available each year during the next  
 27 30 years that have not yet been approved by the board or the  
 28 members?

Approximate date assessment will be due:	Amount per ownership interest per month or year:
	Total:

1 (5) All major components are included in the reserve study and  
2 are included in its calculations.

3 (6) Based on the method of calculation in paragraph (4) of  
4 subdivision (b) of Section 5570, the estimated amount required in  
5 the reserve fund at the end of the current fiscal year is \$\_\_\_\_, based  
6 in whole or in part on the last reserve study or update prepared by  
7 \_\_\_\_ as of \_\_\_\_ (month), \_\_\_\_ (year). The projected reserve fund  
8 cash balance at the end of the current fiscal year is \$\_\_\_\_, resulting  
9 in reserves being \_\_\_\_ percent funded at this date.

10 If an alternate, but generally accepted, method of calculation is  
11 also used, the required reserve amount is \$\_\_\_\_. (See attached  
12 explanation)

13 (7) Based on the method of calculation in paragraph (4) of  
14 subdivision (b) of Section 5570 of the Civil Code, the estimated  
15 amount required in the reserve fund at the end of each of the next  
16 five budget years is \$\_\_\_\_\_, and the projected reserve fund cash  
17 balance in each of those years, taking into account only assessments  
18 already approved and other known revenues, is \$\_\_\_\_\_, leaving  
19 the reserve at \_\_\_\_\_ percent ~~funding~~. *funded*. If the reserve  
20 funding plan approved by the association is implemented, the  
21 projected reserve fund cash balance in each of those years will be  
22 \$\_\_\_\_\_, leaving the reserve at \_\_\_\_\_ percent ~~funding~~. *funded*.

23  
24 Note: The financial representations set forth in this summary  
25 are based on the best estimates of the preparer at that time. The  
26 estimates are subject to change. At the time this summary was  
27 prepared, the assumed long-term before-tax interest rate earned  
28 on reserve funds was \_\_\_\_ percent per year, and the assumed  
29 long-term inflation rate to be applied to major component repair  
30 and replacement costs was \_\_\_\_ percent per year.

31  
32 (b) For the purposes of preparing a summary pursuant to this  
33 section:

34 (1) “Estimated remaining useful life” means the time reasonably  
35 calculated to remain before a major component will require  
36 replacement.

37 (2) “Major component” has the meaning used in Section 55530.  
38 Components with an estimated remaining useful life of more than  
39 30 years may be included in a study as a capital asset or disregarded  
40 from the reserve calculation, so long as the decision is revealed in

1 the reserve study report and reported in the Assessment and  
2 Reserve Funding Disclosure Summary.

3 (3) The form set out in subdivision (a) shall accompany each  
4 annual budget report or summary thereof that is delivered pursuant  
5 to Section 5300. The form may be supplemented or modified to  
6 clarify the information delivered, so long as the minimum  
7 information set out in subdivision (a) is provided.

8 (4) For the purpose of the report and summary, the amount of  
9 reserves needed to be accumulated for a component at a given time  
10 shall be computed as the current cost of replacement or repair  
11 multiplied by the number of years the component has been in  
12 service divided by the useful life of the component. This shall not  
13 be construed to require the board to fund reserves in accordance  
14 with this calculation.

15 ~~SECTION 4.~~

16 *SEC. 2.* Section 65589.5 of the Government Code is amended  
17 to read:

18 65589.5. (a) The Legislature finds and declares all of the  
19 following:

20 (1) The lack of housing, including emergency shelters, is a  
21 critical problem that threatens the economic, environmental, and  
22 social quality of life in California.

23 (2) California housing has become the most expensive in the  
24 nation. The excessive cost of the state's housing supply is partially  
25 caused by activities and policies of many local governments that  
26 limit the approval of housing, increase the cost of land for housing,  
27 and require that high fees and exactions be paid by producers of  
28 housing.

29 (3) Among the consequences of those actions are discrimination  
30 against low-income and minority households, lack of housing to  
31 support employment growth, imbalance in jobs and housing,  
32 reduced mobility, urban sprawl, excessive commuting, and air  
33 quality deterioration.

34 (4) Many local governments do not give adequate attention to  
35 the economic, environmental, and social costs of decisions that  
36 result in disapproval of housing projects, reduction in density of  
37 housing projects, and excessive standards for housing projects.

38 (b) It is the policy of the state that a local government not reject  
39 or make infeasible housing developments, including emergency  
40 shelters, that contribute to meeting the need determined pursuant

1 to this article without a thorough analysis of the economic, social,  
2 and environmental effects of the action and without complying  
3 with subdivision (d).

4 (c) The Legislature also recognizes that premature and  
5 unnecessary development of agricultural lands for urban uses  
6 continues to have adverse effects on the availability of those lands  
7 for food and fiber production and on the economy of the state.  
8 Furthermore, it is the policy of the state that development should  
9 be guided away from prime agricultural lands; therefore, in  
10 implementing this section, local jurisdictions should encourage,  
11 to the maximum extent practicable, in filling existing urban areas.

12 (d) A local agency shall not disapprove a housing development  
13 project, including farmworker housing as defined in subdivision  
14 (h) of Section 50199.7 of the Health and Safety Code, for very  
15 low, low-, or moderate-income households, or an emergency  
16 shelter, or condition approval in a manner that renders the project  
17 infeasible for development for the use of very low, low-, or  
18 moderate-income households, or an emergency shelter, including  
19 through the use of design review standards, unless it makes written  
20 findings, based upon substantial evidence in the record, as to one  
21 of the following:

22 (1) The jurisdiction has adopted a housing element pursuant to  
23 this article that has been revised in accordance with Section 65588,  
24 is in substantial compliance with this article, and the jurisdiction  
25 has met or exceeded its share of the regional housing need  
26 allocation pursuant to Section 65584 for the planning period for  
27 the income category proposed for the housing development project,  
28 provided that any disapproval or conditional approval shall not be  
29 based on any of the reasons prohibited by Section 65008. If the  
30 housing development project includes a mix of income categories,  
31 and the jurisdiction has not met or exceeded its share of the regional  
32 housing need for one or more of those categories, then this  
33 paragraph shall not be used to disapprove or conditionally approve  
34 the project. The share of the regional housing need met by the  
35 jurisdiction shall be calculated consistently with the forms and  
36 definitions that may be adopted by the Department of Housing and  
37 Community Development pursuant to Section 65400. In the case  
38 of an emergency shelter, the jurisdiction shall have met or exceeded  
39 the need for emergency shelter, as identified pursuant to paragraph  
40 (7) of subdivision (a) of Section 65583. Any disapproval or

1 conditional approval pursuant to this paragraph shall be in  
2 accordance with applicable law, rule, or standards.

3 (2) The development project or emergency shelter as proposed  
4 would have a specific, adverse impact upon the public health or  
5 safety, and there is no feasible method to satisfactorily mitigate or  
6 avoid the specific adverse impact without rendering the  
7 development unaffordable to low- and moderate-income  
8 households or rendering the development of the emergency shelter  
9 financially infeasible. As used in this paragraph, a “specific,  
10 adverse impact” means a significant, quantifiable, direct, and  
11 unavoidable impact, based on objective, identified written public  
12 health or safety standards, policies, or conditions as they existed  
13 on the date the application was deemed complete. Inconsistency  
14 with the zoning ordinance or general plan land use designation  
15 shall not constitute a specific, adverse impact upon the public  
16 health or safety.

17 (3) The denial of the project or imposition of conditions is  
18 required in order to comply with specific state or federal law, and  
19 there is no feasible method to comply without rendering the  
20 development unaffordable to low- and moderate-income  
21 households or rendering the development of the emergency shelter  
22 financially infeasible.

23 (4) The development project or emergency shelter is proposed  
24 on land zoned for agriculture or resource preservation that is  
25 surrounded on at least two sides by land being used for agricultural  
26 or resource preservation purposes, or which does not have adequate  
27 water or wastewater facilities to serve the project.

28 (5) The development project or emergency shelter is inconsistent  
29 with both the jurisdiction’s zoning ordinance and general plan land  
30 use designation as specified in any element of the general plan as  
31 it existed on the date the application was deemed complete, and  
32 the jurisdiction has adopted a revised housing element in  
33 accordance with Section 65588 that is in substantial compliance  
34 with this article.

35 (A) This paragraph cannot be utilized to disapprove or  
36 conditionally approve a housing development project if the  
37 development project is proposed on a site that is identified as  
38 suitable or available for very low, low-, or moderate-income  
39 households in the jurisdiction’s housing element, and consistent  
40 with the density specified in the housing element, even though it

1 is inconsistent with both the jurisdiction's zoning ordinance and  
2 general plan land use designation.

3 (B) If the local agency has failed to identify in the inventory of  
4 land in its housing element sites that can be developed for housing  
5 within the planning period and are sufficient to provide for the  
6 jurisdiction's share of the regional housing need for all income  
7 levels pursuant to Section 65584, then this paragraph shall not be  
8 utilized to disapprove or conditionally approve a housing  
9 development project proposed for a site designated in any element  
10 of the general plan for residential uses or designated in any element  
11 of the general plan for commercial uses if residential uses are  
12 permitted or conditionally permitted within commercial  
13 designations. In any action in court, the burden of proof shall be  
14 on the local agency to show that its housing element does identify  
15 adequate sites with appropriate zoning and development standards  
16 and with services and facilities to accommodate the local agency's  
17 share of the regional housing need for the very low and low-income  
18 categories.

19 (C) If the local agency has failed to identify a zone or zones  
20 where emergency shelters are allowed as a permitted use without  
21 a conditional use or other discretionary permit, has failed to  
22 demonstrate that the identified zone or zones include sufficient  
23 capacity to accommodate the need for emergency shelter identified  
24 in paragraph (7) of subdivision (a) of Section 65583, or has failed  
25 to demonstrate that the identified zone or zones can accommodate  
26 at least one emergency shelter, as required by paragraph (4) of  
27 subdivision (a) of Section 65583, then this paragraph shall not be  
28 utilized to disapprove or conditionally approve an emergency  
29 shelter proposed for a site designated in any element of the general  
30 plan for industrial, commercial, or multifamily residential uses. In  
31 any action in court, the burden of proof shall be on the local agency  
32 to show that its housing element does satisfy the requirements of  
33 paragraph (4) of subdivision (a) of Section 65583.

34 (e) Nothing in this section shall be construed to relieve the local  
35 agency from complying with the congestion management program  
36 required by Chapter 2.6 (commencing with Section 65088) of  
37 Division 1 of Title 7 or the California Coastal Act of 1976  
38 (Division 20 (commencing with Section 30000) of the Public  
39 Resources Code). Neither shall anything in this section be  
40 construed to relieve the local agency from making one or more of

1 the findings required pursuant to Section 21081 of the Public  
2 Resources Code or otherwise complying with the California  
3 Environmental Quality Act (Division 13 (commencing with Section  
4 21000) of the Public Resources Code).

5 (f) (1) Nothing in this section shall be construed to prohibit a  
6 local agency from requiring the development project to comply  
7 with objective, quantifiable, written development standards,  
8 conditions, and policies appropriate to, and consistent with, meeting  
9 the jurisdiction's share of the regional housing need pursuant to  
10 Section 65584. However, the development standards, conditions,  
11 and policies shall be applied to facilitate and accommodate  
12 development at the density permitted on the site and proposed by  
13 the development.

14 (2) Nothing in this section shall be construed to prohibit a local  
15 agency from requiring an emergency shelter project to comply  
16 with objective, quantifiable, written development standards,  
17 conditions, and policies that are consistent with paragraph (4) of  
18 subdivision (a) of Section 65583 and appropriate to, and consistent  
19 with, meeting the jurisdiction's need for emergency shelter, as  
20 identified pursuant to paragraph (7) of subdivision (a) of Section  
21 65583. However, the development standards, conditions, and  
22 policies shall be applied by the local agency to facilitate and  
23 accommodate the development of the emergency shelter project.

24 (3) This section does not prohibit a local agency from imposing  
25 fees and other exactions otherwise authorized by law that are  
26 essential to provide necessary public services and facilities to the  
27 development project or emergency shelter.

28 (g) This section shall be applicable to charter cities because the  
29 Legislature finds that the lack of housing, including emergency  
30 shelter, is a critical statewide problem.

31 (h) The following definitions apply for the purposes of this  
32 section:

33 (1) "Feasible" means capable of being accomplished in a  
34 successful manner within a reasonable period of time, taking into  
35 account economic, environmental, social, and technological factors.

36 (2) "Housing development project" means a use consisting of  
37 any of the following:

38 (A) Residential units only.

39 (B) Mixed-use developments consisting of residential and  
40 nonresidential uses in which nonresidential uses are limited to

1 neighborhood commercial uses and to the first floor of buildings  
2 that are two or more stories. As used in this paragraph,  
3 “neighborhood commercial” means small-scale general or specialty  
4 stores that furnish goods and services primarily to residents of the  
5 neighborhood.

6 (C) Transitional housing or supportive housing.

7 (3) “Housing for very low, low-, or moderate-income  
8 households” means that either (A) at least 20 percent of the total  
9 units shall be sold or rented to lower income households, as defined  
10 in Section 50079.5 of the Health and Safety Code, or (B) 100  
11 percent of the units shall be sold or rented to persons and families  
12 of moderate income as defined in Section 50093 of the Health and  
13 Safety Code, or persons and families of middle income, as defined  
14 in Section 65008 of this code. Housing units targeted for lower  
15 income households shall be made available at a monthly housing  
16 cost that does not exceed 30 percent of 60 percent of area median  
17 income with adjustments for household size made in accordance  
18 with the adjustment factors on which the lower income eligibility  
19 limits are based. Housing units targeted for persons and families  
20 of moderate income shall be made available at a monthly housing  
21 cost that does not exceed 30 percent of 100 percent of area median  
22 income with adjustments for household size made in accordance  
23 with the adjustment factors on which the moderate-income  
24 eligibility limits are based.

25 (4) “Area median income” means area median income as  
26 periodically established by the Department of Housing and  
27 Community Development pursuant to Section 50093 of the Health  
28 and Safety Code. The developer shall provide sufficient legal  
29 commitments to ensure continued availability of units for very low  
30 or low-income households in accordance with the provisions of  
31 this subdivision for 30 years.

32 (5) “Disapprove the development project” includes any instance  
33 in which a local agency does either of the following:

34 (A) Votes on a proposed housing development project  
35 application and the application is disapproved.

36 (B) Fails to comply with the time periods specified in  
37 subdivision (a) of Section 65950. An extension of time pursuant  
38 to Article 5 (commencing with Section 65950) shall be deemed to  
39 be an extension of time pursuant to this paragraph.

1 (i) If any city, county, or city and county denies approval or  
2 imposes restrictions, including design changes, a reduction of  
3 allowable densities or the percentage of a lot that may be occupied  
4 by a building or structure under the applicable planning and zoning  
5 in force at the time the application is deemed complete pursuant  
6 to Section 65943, that have a substantial adverse effect on the  
7 viability or affordability of a housing development for very low,  
8 low-, or moderate-income households, and the denial of the  
9 development or the imposition of restrictions on the development  
10 is the subject of a court action which challenges the denial, then  
11 the burden of proof shall be on the local legislative body to show  
12 that its decision is consistent with the findings as described in  
13 subdivision (d) and that the findings are supported by substantial  
14 evidence in the record.

15 (j) When a proposed housing development project complies  
16 with applicable, objective general plan and zoning standards and  
17 criteria, including design review standards, in effect at the time  
18 that the housing development project's application is determined  
19 to be complete, but the local agency proposes to disapprove the  
20 project or to approve it upon the condition that the project be  
21 developed at a lower density, the local agency shall base its  
22 decision regarding the proposed housing development project upon  
23 written findings supported by substantial evidence on the record  
24 that both of the following conditions exist:

25 (1) The housing development project would have a specific,  
26 adverse impact upon the public health or safety unless the project  
27 is disapproved or approved upon the condition that the project be  
28 developed at a lower density. As used in this paragraph, a "specific,  
29 adverse impact" means a significant, quantifiable, direct, and  
30 unavoidable impact, based on objective, identified written public  
31 health or safety standards, policies, or conditions as they existed  
32 on the date the application was deemed complete.

33 (2) There is no feasible method to satisfactorily mitigate or  
34 avoid the adverse impact identified pursuant to paragraph (1), other  
35 than the disapproval of the housing development project or the  
36 approval of the project upon the condition that it be developed at  
37 a lower density.

38 (k) The applicant or any person who would be eligible to apply  
39 for residency in the development or emergency shelter may bring  
40 an action to enforce this section. ~~If~~ If, in any action brought to

1 enforce the provisions of this section, a court finds that the local  
2 agency disapproved a project or conditioned its approval in a  
3 manner rendering it infeasible for the development of an emergency  
4 shelter, or housing for very low, low-, or moderate-income  
5 households, including farmworker housing, without making the  
6 findings required by this section or without making sufficient  
7 findings supported by substantial evidence, the court shall issue  
8 an order or judgment compelling compliance with this section  
9 within 60 days, including, but not limited to, an order that the local  
10 agency take action on the development project or emergency  
11 shelter. The court shall retain jurisdiction to ensure that its order  
12 or judgment is carried out and shall award reasonable attorney's  
13 fees and costs of suit to the plaintiff or petitioner who proposed  
14 the housing development or emergency shelter, except under  
15 extraordinary circumstances in which the court finds that awarding  
16 fees would not further the purposes of this section. If the court  
17 determines that its order or judgment has not been carried out  
18 within 60 days, the court may issue further orders as provided by  
19 law to ensure that the purposes and policies of this section are  
20 fulfilled, including, but not limited to, an order to vacate the  
21 decision of the local agency, in which case the application for the  
22 project, as constituted at the time the local agency took the initial  
23 action determined to be in violation of this section, along with any  
24 standard conditions determined by the court to be generally  
25 imposed by the local agency on similar projects, shall be deemed  
26 approved unless the applicant consents to a different decision or  
27 action by the local agency.

28 (l) If the court finds that the local agency (1) acted in bad faith  
29 when it disapproved or conditionally approved the housing  
30 development or emergency shelter in violation of this section and  
31 (2) failed to carry out the court's order or judgment within 60 days  
32 as described in subdivision (k), the court, in addition to any other  
33 remedies provided by this section, may impose fines upon the local  
34 agency that the local agency shall be required to deposit into a  
35 housing trust fund. Fines shall not be paid from funds that are  
36 already dedicated for affordable housing, including, but not limited  
37 to, redevelopment or low- and moderate-income housing funds  
38 and federal HOME and CDBG funds. The local agency shall  
39 commit the money in the trust fund within five years for the sole  
40 purpose of financing newly constructed housing units affordable

1 to extremely low, very low, or low-income households. For  
2 purposes of this section, “bad faith” shall mean an action that is  
3 frivolous or otherwise entirely without merit.

4 (m) Any action brought to enforce the provisions of this section  
5 shall be brought pursuant to Section 1094.5 of the Code of Civil  
6 Procedure, and the local agency shall prepare and certify the record  
7 of proceedings in accordance with subdivision (c) of Section 1094.6  
8 of the Code of Civil Procedure no later than 30 days after the  
9 petition is served, provided that the cost of preparation of the record  
10 shall be borne by the local agency. Upon entry of the trial court’s  
11 order, a party shall, in order to obtain appellate review of the order,  
12 file a petition within 20 days after service upon it of a written  
13 notice of the entry of the order, or within such further time not  
14 exceeding an additional 20 days as the trial court may for good  
15 cause allow. If the local agency appeals the judgment of the trial  
16 court, the local agency shall post a bond, in an amount to be  
17 determined by the court, to the benefit of the plaintiff if the plaintiff  
18 is the project applicant.

19 (n) In any action, the record of the proceedings before the local  
20 agency shall be filed as expeditiously as possible and,  
21 notwithstanding Section 1094.6 of the Code of Civil Procedure or  
22 subdivision (m) of this section, all or part of the record may be  
23 prepared (1) by the petitioner with the petition or petitioner’s points  
24 and authorities, (2) by the respondent with respondent’s points and  
25 authorities, (3) after payment of costs by the petitioner, or (4) as  
26 otherwise directed by the court. If the expense of preparing the  
27 record has been borne by the petitioner and the petitioner is the  
28 prevailing party, the expense shall be taxable as costs.

29 (o) This section shall be known, and may be cited, as the  
30 Housing Accountability Act.

31 *SEC. 3. Section 51345 of the Health and Safety Code is*  
32 *amended to read:*

33 51345. (a) The agency shall administer a home purchase  
34 assistance program in accordance with this chapter. The purpose  
35 of the home purchase assistance program is to assist first-time  
36 homebuyers to utilize existing mortgage financing available  
37 pursuant to this part or Division 4 (commencing with Section 800)  
38 of the Military and Veterans Code with the additional financial  
39 resources made available pursuant to Part 8 (commencing with  
40 Section 53130).

1 (b) Home purchase assistance under this chapter shall include,  
 2 but not be limited to: (1) an interest rate subsidy to reduce the  
 3 interest rate, (2) a deferred-payment, low-interest, second-mortgage  
 4 loan to reduce the principal and interest payments, and (3)  
 5 downpayment assistance to make financing affordable to first-time  
 6 homebuyers.

7 (c) In no case shall the interest rate subsidy reduce the effective  
 8 interest rate to the borrower below 3 percent per annum, nor shall  
 9 the deferred-payment, low-interest, second mortgage loan exceed  
 10 49 percent of the total debt financing necessary to purchase the  
 11 home.

12 (d) The amount of home purchase assistance shall be a second  
 13 mortgage loan secured by a deed of trust of second priority to the  
 14 primary financing provided by the agency or the Department of  
 15 Veterans Affairs. The term of the home purchase assistance shall  
 16 not exceed the term of the primary loan.

17 ~~(e) (1) Except as provided in paragraph (2), the amount of home~~  
 18 ~~purchase assistance shall be due and payable at the end of the term,~~  
 19 ~~upon the sale of the home, or upon refinancing. The borrower may~~  
 20 ~~refinance the mortgages on the home if the principal of and accrued~~  
 21 ~~interest on the second mortgage loan securing the home purchase~~  
 22 ~~assistance are repaid in full. All repayments shall be deposited in~~  
 23 ~~the fund.~~

24 ~~(2)~~

25 (e) (1) The agency may, in its discretion, permit the  
 26 downpayment assistance loan to be subordinated to refinancing if  
 27 it determines that the borrower has demonstrated hardship,  
 28 subordination is required to avoid foreclosure, and the new loan  
 29 meets the agency’s underwriting requirements. The agency may  
 30 permit subordination on those terms and conditions as it determines  
 31 are reasonable, but subordination is not permitted if the borrower  
 32 has sufficient equity to repay the loan.

33 (2) *The amount of home purchase assistance shall not be due*  
 34 *and payable upon the sale of the home if the first mortgage loan*  
 35 *is insured by the Federal Housing Administration (FHA) or if the*  
 36 *first mortgage loan is, or has been, transferred to the FHA, or if*  
 37 *the requirement is otherwise contrary to the regulations of the*  
 38 *United States Department of Housing and Urban Development*  
 39 *governing FHA insured first mortgage loans.*

- 1 (f) *All repayments shall be deposited in the fund.*

O