

AMENDED IN ASSEMBLY APRIL 13, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1969

Introduced by Assembly Member Steinorth

February 16, 2016

An act to amend Section ~~51451.5~~ 51504 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1969, as amended, Steinorth. Affordable housing: home purchase assistance.

Existing law establishes the ~~Homebuyer Down Payment California Homebuyer's Downpayment Assistance Program of 2002~~ to provide assistance in the amount of the applicable school facility fee on affordable housing developments. Existing law requires the program to provide purchasers of newly constructed residential structures in development projects with assistance if the development project is located in an economically distressed area and other specified requirements are met, or if the purchaser is a qualified first-time home buyer and other specified requirements are met. Under existing law, the program is funded by bonds sold pursuant to the Housing and Emergency Shelter Trust Fund Act of 2002, which was approved by the voters at the November 5, 2002, statewide general election. *Program, which requires the California Housing Finance Agency to, among other things, administer a program that provides downpayment assistance, including deferred-payment, low-interest, junior mortgage loans to*

reduce principal and interest payments, that makes financing affordable to first-time low- and moderate-income home buyers, pursuant to specified terms.

This bill would appropriate an unspecified amount from the General Fund to the California Homebuyer’s Downpayment Assistance Program ~~of 2002~~. *Program for the purposes of the downpayment assistance program described above.* The bill would condition the application of these funds ~~to the assistance to purchasers of residential structures in development projects located in economically distressed areas, as described above,~~ on an additional requirement that the *home for which assistance is provided be in a development project* be located in a city, county, or city and county that reduces developer or impact fees or reduces or removes regulatory barriers to housing construction for the development project, as specified. As part of this additional requirement, the bill would require a local agency to provide verification of the local agency’s schedule of local fees, charges, and other exactions to the California Housing Finance Agency, and would thereby impose a state-mandated local program. The bill would make these moneys available for the general use of the California Housing Finance Agency for the purposes of the California Homebuyer’s Downpayment Assistance Program, if specified requirements are met.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. ~~Section 51451.5 of the Health and Safety Code,~~
- 2 ~~as amended by Section 1 of Chapter 553 of the Statutes of 2003,~~
- 3 ~~is amended to read:~~
- 4 51451.5. ~~The Homebuyer Down Payment Assistance Program~~
- 5 ~~of 2002 is hereby established, to provide assistance in the amount~~
- 6 ~~of the applicable school facility fee on affordable housing~~
- 7 ~~developments. The Homebuyer Down Payment Assistance Program~~

1 of 2002 shall, with funds provided by the Housing and Emergency
2 Shelter Trust Fund Act of 2002 (Part 11 (commencing with Section
3 53500)), provide the following assistance:

4 ~~(a) Downpayment assistance to the purchaser of any newly
5 constructed residential structure in a development project in an
6 economically distressed area in the amount of school facility fees
7 paid pursuant to Section 65995.5 or 65995.7 of the Government
8 Code, less the amount that would be required pursuant to
9 subdivision (b) of Section 65995 of the Government Code,
10 notwithstanding Sections 65995.5 and 65995.7 of the Government
11 Code, if all of the following conditions are met:~~

12 ~~(1) The development project is located in a county with an
13 unemployment rate that equals or exceeds 125 percent of the state
14 unemployment rate.~~

15 ~~(2) Five hundred or more residential structures have been
16 constructed in the county during 2001.~~

17 ~~(3) A building permit for an eligible residential structure in the
18 development project is issued by the local agency on or after
19 January 1, 2002.~~

20 ~~(4) The eligible residential structure is to be owner occupied
21 for at least five years. If a structure is owner occupied for fewer
22 than five years, the recipient of the assistance shall repay the School
23 Facilities Fee Assistance Fund the amount of the assistance, on a
24 prorated basis.~~

25 ~~(5) The sales price of the eligible residential structure does not
26 exceed 175 percent of the median sales price of residential
27 structures in the county during the average of the previous five
28 years. However, if the five-year average exceeds the
29 Governmental-Sponsored Enterprises conforming loan limit, the
30 sales price in that county shall not exceed 100 percent of the
31 median sales price of residential structures in the county during
32 the average of the previous five years.~~

33 ~~(b) Downpayment assistance to the purchaser of any newly
34 constructed residential structure in a development project in the
35 aggregate amount of school facility fees paid pursuant to one, all,
36 or any combination of subdivision (b) of Section 65995, Section
37 65995.5, or Section 65995.7 of the Government Code for the
38 eligible residential structure if all of the following conditions are
39 met:~~

1 ~~(1) The assistance is provided to a qualified first-time~~
2 ~~homebuyer pursuant to Section 50068.5.~~

3 ~~(2) The qualified first-time homebuyer does not exceed the~~
4 ~~lower or moderate-income requirements in Section 50093.~~

5 ~~(3) A building permit for an eligible residential structure in the~~
6 ~~development project is issued by the local agency on or after~~
7 ~~January 1, 2002.~~

8 ~~(4) The eligible residential structure is to be owner occupied~~
9 ~~for at least five years. If a structure is owner occupied for fewer~~
10 ~~than five years, the recipient of the assistance shall repay the School~~
11 ~~Facilities Fee Assistance Fund the amount of the assistance, on a~~
12 ~~prorated basis.~~

13 ~~(e) Downpayment assistance from funds appropriated by the~~
14 ~~act adding this subdivision to provide assistance in the amount of~~
15 ~~the applicable school facility fee on affordable housing shall be~~
16 ~~available to the purchaser of any newly constructed residential~~
17 ~~structure in a development project in an economically distressed~~
18 ~~area if the following requirements are met:~~

19 ~~(1) The downpayment assistance is in the amount of school~~
20 ~~facility fees paid pursuant to Section 65995.5 or 65995.7 of the~~
21 ~~Government Code, less the amount that would be required pursuant~~
22 ~~to subdivision (b) of Section 65995 of the Government Code,~~
23 ~~notwithstanding Sections 65995.5 and 65995.7 of the Government~~
24 ~~Code.~~

25 ~~(2) The downpayment assistance is for a residential structure~~
26 ~~that satisfies the conditions described in paragraphs (1) to (5);~~
27 ~~inclusive, of subdivision (a).~~

28 ~~(3) The development project is located in a city, county, or city~~
29 ~~and county that reduces developer or impact fees or reduces or~~
30 ~~removes regulatory barriers to housing construction for the~~
31 ~~development project. The agency shall identify and shall~~
32 ~~objectively measure the types of local agency actions or incentives~~
33 ~~that the agency determines appropriately reduce developer or~~
34 ~~impact fees or reduce or remove regulatory barriers to housing~~
35 ~~construction. These actions or incentives may include, but are not~~
36 ~~limited to, modifications to any or all of the following:~~

37 ~~(A) Local design review requirements.~~

38 ~~(B) Land use controls.~~

39 ~~(C) Building codes and enforcement.~~

40 ~~(D) Onsite or offsite improvement requirements.~~

1 ~~(E) Project design.~~
 2 ~~(F) Permit processing.~~
 3 ~~(G) (i) A 30 percent reduction in the schedule of local fees,~~
 4 ~~charges, and other exactions on local developers within the local~~
 5 ~~agency’s jurisdiction within 12 months or more prior to the~~
 6 ~~submission of the application for assistance pursuant to this~~
 7 ~~subdivision. The local agency shall provide verification of the~~
 8 ~~reduction with supporting documents showing successive annual~~
 9 ~~fee schedules to the agency.~~

10 ~~(ii) For the purposes of this subparagraph, “local fees, charges,~~
 11 ~~and other exactions” includes, but is not limited to, all of the~~
 12 ~~following:~~

- 13 ~~(I) Planning and zoning fees.~~
- 14 ~~(II) Environmental documentation fees.~~
- 15 ~~(III) Building permit fees.~~
- 16 ~~(IV) Plan check fees.~~
- 17 ~~(V) School fees.~~
- 18 ~~(VI) School mitigation fees.~~
- 19 ~~(VII) Highway, road, traffic, and transit fees.~~
- 20 ~~(VIII) Water, wastewater, sewer, and drainage fees.~~
- 21 ~~(IX) Utility or water connection fees.~~
- 22 ~~(X) Public safety fees.~~
- 23 ~~(XI) Capital facilities fees.~~
- 24 ~~(XII) Affordable housing fees and assessments.~~
- 25 ~~(XIII) Parks and recreation fees.~~
- 26 ~~(XIV) Any other fee that may substitute for the requirements~~
 27 ~~described in subparagraph (D).~~

28 ~~SEC. 2. Section 51451.5 of the Health and Safety Code, as~~
 29 ~~amended by Section 2 of Chapter 553 of the Statutes of 2003, is~~
 30 ~~amended to read:~~

31 ~~51451.5. The Homebuyer Down Payment Assistance Program~~
 32 ~~of 2002 is hereby established, to provide assistance in the amount~~
 33 ~~of the applicable school facility fee on affordable housing. The~~
 34 ~~Homebuyer Down Payment Assistance Program of 2002 shall,~~
 35 ~~with funds provided by the Kindergarten-University Public~~
 36 ~~Education Facilities Bond Acts of 2002 and 2004 (Part 68.1~~
 37 ~~(commencing with Section 100600) of the Education Code, and~~
 38 ~~Part 68.2 (commencing with Section 100800) of the Education~~
 39 ~~Code), provide the following assistance:~~

1 ~~(a) Downpayment assistance to the purchaser of any newly~~
 2 ~~constructed residential structure in a development project in an~~
 3 ~~economically distressed area in the amount of school facility fees~~
 4 ~~paid pursuant to Section 65995.5 or 65995.7 of the Government~~
 5 ~~Code, less the amount that would be required pursuant to~~
 6 ~~subdivision (b) of Section 65995 of the Government Code,~~
 7 ~~notwithstanding Sections 65995.5 and 65995.7 of the Government~~
 8 ~~Code, if all of the following conditions are met:~~

9 ~~(1) The development project is located in a county with an~~
 10 ~~unemployment rate that equals or exceeds 125 percent of the state~~
 11 ~~unemployment rate.~~

12 ~~(2) Five hundred or more residential structures have been~~
 13 ~~constructed in the county during 2001.~~

14 ~~(3) A building permit for an eligible residential structure in the~~
 15 ~~project is issued by the local agency on or after January 1, 2002.~~

16 ~~(4) The eligible residential structure is to be owner occupied~~
 17 ~~for at least five years. If a structure is owner occupied for fewer~~
 18 ~~than five years, the recipient of the assistance shall repay the School~~
 19 ~~Facilities Fee Assistance Fund the amount of the assistance, on a~~
 20 ~~prorated basis.~~

21 ~~(5) The sales price of the eligible residential structure does not~~
 22 ~~exceed 175 percent of the median sales price of residential~~
 23 ~~structures in the county during the average of the previous five~~
 24 ~~years. However, if the five-year average exceeds the~~
 25 ~~Governmental-Sponsored Enterprises conforming loan limit, the~~
 26 ~~sales price in that county shall not exceed 100 percent of the~~
 27 ~~median sales price of residential structures in the county during~~
 28 ~~the average of the previous five years.~~

29 ~~(b) Downpayment assistance to the purchaser of any newly~~
 30 ~~constructed residential structure in a development project in the~~
 31 ~~aggregate amount of school facility fees paid pursuant to one, all,~~
 32 ~~or any combination of subdivision (b) of Section 65995, Section~~
 33 ~~65995.5, or Section 65995.7 of the Government Code for the~~
 34 ~~eligible residential structure if all of the following conditions are~~
 35 ~~met:~~

36 ~~(1) The assistance is provided to a qualified first-time home~~
 37 ~~buyer pursuant to Section 50068.5.~~

38 ~~(2) The qualified first-time home buyer does not exceed the~~
 39 ~~lower or moderate income requirements in Section 50093.~~

1 ~~(3) A building permit for an eligible residential structure in the~~
2 ~~project is issued by the local agency on or after January 1, 2002.~~

3 ~~(4) The eligible residential structure is to be owner occupied~~
4 ~~for at least five years. If a structure is owner occupied for fewer~~
5 ~~than five years, the recipient of the assistance shall repay the School~~
6 ~~Facilities Fee Assistance Fund the amount of the assistance, on a~~
7 ~~prorated basis.~~

8 ~~(e) Downpayment assistance from funds appropriated by the~~
9 ~~act adding this subdivision to provide assistance in the amount of~~
10 ~~the applicable school facility fee on affordable housing shall be~~
11 ~~available to the purchaser of any newly constructed residential~~
12 ~~structure in a development project in an economically distressed~~
13 ~~area if the following requirements are met:~~

14 ~~(1) The downpayment assistance is in the amount of school~~
15 ~~facility fees paid pursuant to Section 65995.5 or 65995.7 of the~~
16 ~~Government Code, less the amount that would be required pursuant~~
17 ~~to subdivision (b) of Section 65995 of the Government Code,~~
18 ~~notwithstanding Sections 65995.5 and 65995.7 of the Government~~
19 ~~Code.~~

20 ~~(2) The downpayment assistance is for a residential structure~~
21 ~~that satisfies the conditions described in paragraphs (1) to (5),~~
22 ~~inclusive, of subdivision (a):~~

23 ~~(3) The development project is located in a city, county, or city~~
24 ~~and county that reduces developer or impact fees or reduces or~~
25 ~~removes regulatory barriers to housing construction for the~~
26 ~~development project. The agency shall identify and shall~~
27 ~~objectively measure the types of local agency actions or incentives~~
28 ~~that the agency determines appropriately reduce developer or~~
29 ~~impact fees or reduce or remove regulatory barriers to housing~~
30 ~~construction. These actions or incentives may include, but are not~~
31 ~~limited to, modifications to any or all of the following:~~

32 ~~(A) Local design review requirements.~~

33 ~~(B) Land use controls.~~

34 ~~(C) Building codes and enforcement.~~

35 ~~(D) Onsite or offsite improvement requirements.~~

36 ~~(E) Project design.~~

37 ~~(F) Permit processing.~~

38 ~~(G) (i) A 30 percent reduction in the schedule of local fees,~~
39 ~~charges, and other exactions on local developers within the local~~
40 ~~agency's jurisdiction within 12 months or more prior to the~~

1 ~~submission of the application for assistance pursuant to this~~
2 ~~subdivision. The local agency shall provide verification of the~~
3 ~~reduction with supporting documents showing successive annual~~
4 ~~fee schedules to the agency.~~

5 (ii) ~~For the purposes of this subparagraph, “local fees, charges,~~
6 ~~and other exactions” includes, but is not limited to, all of the~~
7 ~~following:~~

- 8 ~~(I) Planning and zoning fees.~~
- 9 ~~(II) Environmental documentation fees.~~
- 10 ~~(III) Building permit fees.~~
- 11 ~~(IV) Plan check fees.~~
- 12 ~~(V) School fees.~~
- 13 ~~(VI) School mitigation fees.~~
- 14 ~~(VII) Highway, road, traffic, and transit fees.~~
- 15 ~~(VIII) Water, wastewater, sewer, and drainage fees.~~
- 16 ~~(IX) Utility or water connection fees.~~
- 17 ~~(X) Public safety fees.~~
- 18 ~~(XI) Capital facilities fees.~~
- 19 ~~(XII) Affordable housing fees and assessments.~~
- 20 ~~(XIII) Parks and recreation fees.~~
- 21 ~~(XIV) Any other fee that may substitute for the requirements~~
22 ~~described in subparagraph (D):~~

23 *SECTION 1. Section 51504 of the Health and Safety Code is*
24 *amended to read:*

25 51504. (a) The agency shall administer a downpayment
26 assistance program that includes, but is not limited to, all of the
27 following:

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

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

35 (B) The amount of downpayment assistance for a new home
36 within an infill opportunity zone, as defined in Section 65088.1
37 of the Government Code, a transit village development district, as
38 defined in Section 65460.4 of the Government Code, or a
39 transit-oriented development specific plan area, as defined in
40 paragraph (6), shall not exceed 5 percent of the purchase price or

1 the appraised value, whichever amount is less, of the new home.
2 The borrower of the downpayment assistance shall provide the
3 lender originating the loan with a certification from the local
4 government agency administering the infill opportunity zone, the
5 transit village development district, or the transit-oriented
6 development specific plan area that states that the property involved
7 in the loan transaction is within the boundaries of either the infill
8 opportunity zone, the transit village development district, or the
9 transit-oriented development specific plan area.

10 (C) Notwithstanding paragraph (1), the agency may, but is not
11 required to, provide downpayment assistance that does not exceed
12 6 percent of the home sale price to first-time low-income home
13 buyers who, as documented to the agency by a nonprofit
14 organization that is certified and funded to provide home ownership
15 counseling by a federally funded national nonprofit corporation,
16 are purchasing a residence in a community revitalization area
17 targeted by the nonprofit organization as a neighborhood in need
18 of economic stimulation, renovation, and rehabilitation through
19 efforts that include increased home ownership opportunities for
20 low-income families. The agency shall not use more than six
21 million dollars (\$6,000,000) in funds made available pursuant to
22 Section 53533 for the purposes of this paragraph.

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

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

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

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

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

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

17 (b) In addition to the downpayment assistance program
18 authorized by subdivision (a), the agency may, at its discretion,
19 use not more than seventy-five million dollars (\$75,000,000) of
20 the funds available pursuant to this chapter to finance the
21 acquisition of land and the construction and development of
22 housing developments, as defined in Section 50073.5, and for-sale
23 residential structures through short-term loans pursuant to its
24 authority pursuant to Section 51100. However, the agency shall
25 make downpayment assistance provided pursuant to paragraph
26 (1), subparagraphs (A) and (B) of paragraph (2), and paragraphs
27 (3) to (5), inclusive, of subdivision (a) the priority use for these
28 funds. A loan made pursuant to this section is not subject to Article
29 4 (commencing with Section 51175) of Chapter 5.

30 (c) (1) *In addition to the downpayment assistance program*
31 *authorized by subdivision (a), the agency shall provide*
32 *downpayment assistance from the funds appropriated by the act*
33 *adding this subdivision to first-time home buyers pursuant to*
34 *paragraphs (1), (2), (3), (4), and (6) of subdivision (a) for homes*
35 *in development projects that are located in cities, counties, or*
36 *cities and counties that reduce developer or impact fees or reduce*
37 *or remove regulatory barriers to housing construction for the*
38 *development projects. The agency shall identify and shall*
39 *objectively measure the types of local agency actions or incentives*
40 *that the agency determines appropriately reduce developer or*

1 *impact fees or reduce or remove regulatory barriers to housing*
2 *construction. These actions or incentives may include, but are not*
3 *limited to, modifications to any or all of the following:*

- 4 (A) *Local design review requirements.*
- 5 (B) *Land use controls.*
- 6 (C) *Building codes and enforcement.*
- 7 (D) *Onsite or offsite improvement requirements.*
- 8 (E) *Project design.*
- 9 (F) *Permit processing.*

10 (G) (i) *A 30-percent reduction in the schedule of local fees,*
11 *charges, and other exactions on local developers within the local*
12 *agency’s jurisdiction within 12 months or more prior to the*
13 *submission of the application for assistance pursuant to this*
14 *subdivision. The local agency shall provide verification of the*
15 *reduction with supporting documents showing successive annual*
16 *fee schedules to the agency.*

17 (ii) *For the purposes of this subparagraph, “local fees, charges,*
18 *and other exactions” includes, but is not limited to, all of the*
19 *following:*

- 20 (I) *Planning and zoning fees.*
- 21 (II) *Environmental documentation fees.*
- 22 (III) *Building permit fees.*
- 23 (IV) *Plan check fees.*
- 24 (V) *School fees.*
- 25 (VI) *School mitigation fees.*
- 26 (VII) *Highway, road, traffic, and transit fees.*
- 27 (VIII) *Water, wastewater, sewer, and drainage fees.*
- 28 (IX) *Utility or water connection fees.*
- 29 (X) *Public safety fees.*
- 30 (XI) *Capital facilities fees.*
- 31 (XII) *Affordable housing fees and assessments.*
- 32 (XIII) *Parks and recreation fees.*
- 33 (XIV) *Any other fee that may substitute for the requirements*
34 *described in subparagraph (D).*

35 (2) *Paragraph (1) applies only to the use of funds appropriated*
36 *by the act adding this subdivision and shall not be construed to*
37 *apply to the use of any other funds.*

38 ~~SEC. 3.~~

39 SEC. 2. *If the Commission on State Mandates determines that*
40 *this act contains costs mandated by the state, reimbursement to*

1 local agencies and school districts for those costs shall be made
2 pursuant to Part 7 (commencing with Section 17500) of Division
3 4 of Title 2 of the Government Code.

4 ~~SEC. 4.~~

5 *SEC. 3.* The sum of ____ dollars (\$____) is hereby appropriated
6 from the General Fund to the California Homebuyer's
7 Downpayment Assistance Program for the purposes set forth in
8 Section ~~51451.5~~ 51504 of the Health and Safety Code that satisfy
9 the requirements of subdivision (c) of that section. After 48 months
10 of availability, if the California Housing Finance Agency
11 determines that these moneys will not be utilized for the purposes
12 set forth in Section ~~51451.5~~ 51504 of the Health and Safety Code
13 that satisfy the requirements of subdivision (c) of that section, the
14 moneys shall be available for the general use of the California
15 Housing Finance Agency for the purposes of the California
16 Homebuyer's Downpayment Assistance Program, but may also
17 continue to be available for the purposes set forth in Section ~~51505~~
18 51504 of the Health and Safety Code.

O