

AMENDED IN SENATE JUNE 23, 1999

AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1396**

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**Introduced by Assembly Members Lowenthal, Cedillo,  
Kuehl, Migden, Romero, and Shelley**

February 26, 1999

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An act to add Section 50670.5 to the Health and Safety Code, relating to housing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1396, as amended, Lowenthal. Multifamily assisted housing.

Existing law establishes the Housing Rehabilitation Loan Fund, which is continuously appropriated to the Department of Housing and Community Development for the making of deferred-payment housing rehabilitation loans.

This bill would prescribe criteria for the department to make loans from that fund pursuant to the California Housing Preservation Program, which the bill would create, to finance development projects involving federally assisted multifamily affordable housing units that are eligible to terminate their use as low-income housing and certain units that were previously federally assisted. The bill would require the department to report annually commencing on or before January 1, 2001, to the Legislature and the Governor on the progress of the program. The bill would continuously

appropriate any money in the Housing Rehabilitation Loan Fund for this purpose.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 50670.5 is added to the Health  
2 and Safety Code, to read:  
3 50670.5. Funds appropriated pursuant to this chapter,  
4 and funds appropriated through the Budget Act of 1999,  
5 for the purpose of financing multifamily affordable  
6 housing units that receive assistance under the following  
7 federal programs: Section 221(d)(3) of the National  
8 Housing Act (12 U.S.C. Sec. 1715l(d)(3) and (5)); Section  
9 236 of the National Housing Act (12 U.S.C. Sec. 1715z-1);  
10 Section 202 of the Housing Act of 1959 (12 U.S.C. Sec.  
11 1701q); for rent supplement assistance under Section 101  
12 of the Housing and Urban Development Act of 1965, as  
13 amended (12 U.S.C. Sec. 1701s); under Section 515 of the  
14 Housing Act of 1949, as amended (43 U.S.C. Sec. 1485);  
15 and any new construction, substantial rehabilitation,  
16 moderate rehabilitation, property disposition, and loan  
17 management set-aside programs, or any other program  
18 providing project-based assistance, under Section 8 of the  
19 United States Housing Act of 1937, as amended (42 U.S.C.  
20 Sec. 1437f); and that are eligible to terminate their use as  
21 low-income housing, or for the purpose of financing  
22 multifamily affordable housing units that had previously  
23 received assistance under any of the federal programs  
24 listed above, if assistance has been terminated within two  
25 calendar years at the time of application for funds made  
26 available pursuant to this section, and if at least 80 percent  
27 of the housing units in the property are occupied by  
28 low-income households receiving tenant-based assistance  
29 under Section 8 of the United State Housing Act of 1937,  
30 as amended, shall be subject to Section 50668.5 and the  
31 following provisions, which shall prevail over all  
32 conflicting provisions of this chapter:



1 (a) The program under which loans are made  
2 pursuant to this section shall be known as the California  
3 Housing Preservation Program, which is hereby created  
4 as a component of the California Housing Rehabilitation  
5 Program.

6 (b) Any moneys appropriated and made available by  
7 the Legislature pursuant to this section, or made available  
8 from any other sources for the purposes of this section,  
9 shall be deposited in the Housing Rehabilitation Loan  
10 Fund. Notwithstanding Section 13340 of the Government  
11 Code, all money in the fund, including any interest on  
12 loans made from the fund, is hereby continuously  
13 appropriated to the department for the purposes of this  
14 section.

15 (c) The department may make loans pursuant to this  
16 section in conjunction with other federal, state, local, or  
17 private institutional lenders that will be providing loans  
18 to be secured in a position senior to loans pursuant to this  
19 section. The department may prequalify other state or  
20 local public agencies, which shall agree to obtain the  
21 information from borrowers needed to facilitate the  
22 department's underwriting decisions and to share with  
23 the department any analysis related to the underwriting  
24 decisions that the department may require.

25 (d) The department shall establish, in program  
26 guidelines, project eligibility requirements, project  
27 selection criteria, application procedures, fee limitations,  
28 loan closing and funding procedures, and requirements  
29 governing construction and project operation. Projects  
30 need not be in substandard physical condition to be  
31 eligible, but all significant physical repair needs must be  
32 addressed as a condition of funding. Project selection  
33 criteria shall include the extent of the need for the  
34 proposed development, as measured by, among other  
35 factors, the vacancy rate of market rate housing and the  
36 vacancy rate of similar affordable housing projects  
37 located in the vicinity of the proposed project, and the  
38 degree to which the development is demonstrably at risk  
39 of conversion to market-rate use. Those guidelines, and  
40 any application and reporting forms necessary to



1 implement this program, shall not be considered a  
2 regulation as defined in Section 11342 of the Government  
3 Code nor subject to the adoption procedures contained  
4 in Chapter 3.5 (commencing with Section 11340) of  
5 Division 3 of Title 2 of the Government Code.

6 (e) Twenty percent of the funds made available for  
7 loans shall be reserved for projects located in rural areas  
8 for one year following the date funds are first made  
9 available. After this period, all uncommitted funds may  
10 be awarded without regard to location.

11 (f) Program funds may be used for acquisition,  
12 professional services, and other nonconstruction related  
13 costs. If the department finds that there is a compelling  
14 need to provide funds for rehabilitation, it may also  
15 provide funds for this purpose, and condition any  
16 rehabilitation funding on procurement of third-party  
17 construction loan administration services. Per-unit loan  
18 limits shall be set forth in program guidelines, and shall  
19 not exceed fifteen thousand dollars (\$15,000) per unit.

20 (g) For projects located in jurisdictions with an active  
21 redevelopment agency or jurisdictions that are  
22 entitlement jurisdictions under the federal Community  
23 Development Block Grant Program (except the state),  
24 members of a Community Development Block Grant  
25 urban county agreement, participating jurisdictions  
26 under the Home Investment Partnership Program, or  
27 members of a HOME consortium, a local public agency  
28 funding match shall be required. The minimum required  
29 amount of the match shall be established in program  
30 guidelines.

31 (h) Loans shall have a 30-year initial term, bear 3  
32 percent simple annual interest, and be extendable in  
33 10-year increments. Regulatory agreements recorded  
34 against the development property shall have a term of  
35 not less than ~~50~~ 30 years, and shall be extended to match  
36 the term of the loan if the loan is extended. Loan  
37 payments may be partially deferred. In all cases,  
38 minimum payments shall be required in an annual  
39 amount equal to 1 percent of the outstanding principal  
40 balance.



1 (i) Assisted rents shall be limited in accordance with  
2 the requirements of the federal program providing  
3 assistance to the project. If and when federal  
4 project-based housing assistance or the mortgage interest  
5 rate subsidy ceases to be available and when direct  
6 financial assistance is provided pursuant to this section,  
7 rents for 20 percent of the assisted units shall initially be  
8 set by the department at a level not to exceed 30 percent  
9 of 50 percent of the area median income, adjusted by  
10 household size, with occupancy for these units limited to  
11 households with incomes not exceeding 50 percent of the  
12 area median income, adjusted for household size. Rents  
13 for the balance of the assisted units shall be set at a level  
14 not to exceed 30 percent of 60 percent of the area median  
15 income, adjusted by household size, with occupancy for  
16 these units limited to households with incomes not  
17 exceeding 60 percent of the area median income,  
18 adjusted by household size. In subsequent years following  
19 termination of the federal assistance, rent increases shall  
20 be limited in accordance with a formula established by  
21 the department in program guidelines. To the maximum  
22 extent feasible, the department shall coordinate its  
23 long-term monitoring with the first lender and the  
24 federal contract administrator.

25 (j) The department may adopt emergency  
26 regulations, in addition to the guidelines established by  
27 the department, to implement this section with respect  
28 to awards of funds and administration of the program.  
29 The adoption of emergency regulations shall be  
30 conclusively presumed to be necessary for the immediate  
31 preservation of the public peace, health, safety, or  
32 general welfare within the meaning or purposes of  
33 Section 11346.1 of the Government Code.

34 (k) To procure services necessary for the  
35 implementation of this section, the department may  
36 enter into contracts with licensed appraisers, entities  
37 providing construction loan administration services,  
38 entities providing environmental or physical needs  
39 assessments, and any other entity commonly retained  
40 under contract by conventional lenders. The department



1 may charge loan applicants fees to cover the costs of the  
2 services procured through those contracts. If the costs of  
3 the services are within the normal range experienced in  
4 the private marketplace, those contracts shall be exempt  
5 from Chapter 2 (commencing with Section 10290) of Part  
6 2 of Division 2 of the Public Contract Code.

7 (l) Notwithstanding Section 7550.5 of the  
8 Government Code, the department shall submit a report  
9 on or before January 1, 2001, and on or before each  
10 January 1 thereafter, to the Legislature and the Governor  
11 on the progress of the program. The report shall include,  
12 but not be limited to, information on the number of  
13 approved loans, the number of assisted units, the cost of  
14 preserving assisted units, the amount of matching funds,  
15 the location of assisted units, and the administrative costs.

