

AMENDED IN ASSEMBLY MARCH 27, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 570

Introduced by Assembly Member Arambula

February 25, 2009

An act to amend Sections 50843.5 and 53545.9 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 570, as amended, Arambula. Local Housing Trust Fund Matching Grant Program.

(1) Existing law establishes the Local Housing Trust Fund Matching Grant Program for the purpose of supporting local housing trust funds dedicated to the creation or preservation of affordable housing. Under the grant program, the Department of Housing and Community Development is authorized to make matching grants available to cities and counties, or a city and county, and existing charitable nonprofit organizations that have created, funded, and operated housing trust funds. The minimum allocation to a program applicant is \$1,000,000, and the maximum allocation is \$2,000,000, with all funds provided under the grant program to be matched on a dollar-for-dollar basis with money that is not required by any state or federal law to be spent on housing.

This bill would establish the minimum allocation at \$500,000 for a newly established trust, as defined, that is in a county with a population of less than 425,000 persons, based on the decennial United States Census for the year 2000, and at \$1,000,000 for all other trusts.

~~The bill would require a newly established trust to provide the Department of Housing and Community Development with~~

~~documentation that an ordinance imposing or dedicating a tax or fee has been enacted or that the applicant has adopted a legally binding commitment that the matching funds will be deposited upon the approval of the application.~~

The bill would prohibit an application for a new trust to be considered unless the Department of Housing and Community Development has received adequate documentation, as determined by the department, that an ordinance imposing or dedicating a tax or fee to be deposited into the new trust has been enacted or the applicant has adopted a legally binding commitment to deposit matching funds into the new trust. The bill would prohibit funds to be disbursed by the department to any trust until all matching funds are on deposit.

(2) Existing law requires the Department of Housing and Community Development to make available the amount of \$35,000,000 for the Local Housing Trust Fund Matching Grant Program, and requires the department, when awarding grants using those funds to newly established housing trust funds, to set aside funding, for a period of 36 months from the date funds are first made available, for newly established housing trust funds that are in a county with a population of less than 425,000 persons.

This bill would require that this maximum population figure be based on the decennial United States Census for the year 2000.

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

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

- 1 SECTION 1. Section 50843.5 of the Health and Safety Code
- 2 is amended to read:
- 3 50843.5. (a) Subject to the availability of funding, the
- 4 department shall make matching grants available to any city,
- 5 county, city and county, and charitable nonprofit organization
- 6 organized under Section 501(c)(3) of the Internal Revenue Code
- 7 that has created and is operating or will operate housing trust funds.
- 8 These funds shall be awarded through the issuance of a Notice of
- 9 Funding Availability (NOFA).
- 10 (1) Applicants that provide matching funds from a source or
- 11 sources other than impact fees on residential development shall
- 12 receive a priority for funding.

1 (2) The department shall set aside funding for new trusts, as
2 defined by the department in the NOFA.

3 (b) Housing trusts eligible for funding under this section shall
4 have the following characteristics:

5 (1) Utilization of a public or joint public and private fund
6 established by legislation, ordinance, resolution, or a public-private
7 partnership to receive specific revenue to address local housing
8 needs.

9 (2) Receipt of ongoing revenues from dedicated sources of
10 funding such as taxes, fees, loan repayments, or private
11 contributions.

12 (c) The minimum allocation to an applicant that is a newly
13 established trust, and is in a county with a population that conforms
14 with paragraph (2) of subdivision (c) of Section 53545.9, shall be
15 five hundred thousand dollars (\$500,000). The minimum allocation
16 for all other trusts shall be one million dollars (\$1,000,000). No
17 applicant may receive an allocation in excess of two million dollars
18 (\$2,000,000). All funds provided pursuant to this section shall be
19 matched on a dollar-for-dollar basis with money that is not required
20 by any state or federal law to be spent on housing. No application
21 for an existing housing trust shall be considered unless the
22 department has received adequate documentation of the deposit
23 in the local housing trust fund of the local match and the identity
24 of the source of matching funds. ~~Newly established trusts shall~~
25 ~~provide adequate documentation, as determined by the department,~~
26 ~~that an ordinance imposing or dedicating a tax or fee has been~~
27 ~~enacted or that the applicant has adopted a legally binding~~
28 ~~commitment that the matching funds will be deposited upon the~~
29 ~~approval of the application. Applicants~~ *An application for a new*
30 *trust shall not be considered unless the department has received*
31 *adequate documentation, as determined by the department, that*
32 *an ordinance imposing or dedicating a tax or fee to be deposited*
33 *into the new trust has been enacted or the applicant has adopted*
34 *a legally binding commitment to deposit matching funds into the*
35 *new trust. Funds shall not be disbursed by the department to any*
36 *trust until all matching funds are on deposit and then funds may*
37 *be disbursed only in amounts necessary to fund projects identified*
38 *to receive a loan from the trust within a reasonable period of time,*
39 *as determined by the department. Applicants* shall be required to
40 continue funding the local housing trust fund from these identified

1 local sources, and continue the trust in operation, for a period of
2 no less than five years from the date of award. If the funding is
3 not continued for a five-year period, then (1) the amount of the
4 department's grant to the local housing trust fund, to the extent
5 that the trust fund has unencumbered funds available, shall be
6 immediately repaid, and (2) any payments from any projects funded
7 by the local housing trust fund that would have been paid to the
8 local housing trust fund shall be paid instead to the department
9 and used for the program or its successor. The total amount paid
10 to the department pursuant to (1) and (2), combined, shall not
11 exceed the amount of the department's grant.

12 (d) (1) Funds shall be used for the predevelopment costs,
13 acquisition, construction, or rehabilitation of the following types
14 of housing or projects:

15 (A) Rental housing projects or units within rental housing
16 projects. The affordability of all assisted units shall be restricted
17 for not less than 55 years.

18 (B) Emergency shelters, safe havens, and transitional housing,
19 as these terms are defined in Section 50801.

20 (C) For sale housing projects or units within for sale housing
21 projects.

22 (2) At least 30 percent of the total amount of the grant and the
23 match shall be expended on projects, units, or shelters that are
24 affordable to, and restricted for, extremely low income persons
25 and families, as defined in Section 50106. No more than 20 percent
26 of the total amount of the grant and the match shall be expended
27 on projects or units affordable to, and restricted for,
28 moderate-income persons and families whose income does not
29 exceed 120 percent of the area median income. The remaining
30 funds shall be used for projects, units, or shelters that are affordable
31 to, and restricted for, lower income persons and families, as defined
32 in Section 50079.5.

33 (3) If funds are used for the acquisition, construction, or
34 rehabilitation of for sale housing projects or units within for sale
35 housing projects, the grantee shall record a deed restriction against
36 the property that will ensure compliance with one of the following
37 requirements upon resale of the for sale housing units, unless it is
38 in conflict with the requirements of another public funding source
39 or law:

(A) If the property is sold within 30 years from the date that trust funds are used to acquire, construct, or rehabilitate the property, the owner or subsequent owner shall sell the home at an affordable housing cost, as defined in Section 50025.5, to a household that meets the relevant income qualifications.

(B) The owner and grantee shall share the equity in the unit pursuant to an equity sharing agreement. The grantee shall reuse the proceeds of the equity sharing agreement consistent with this section. To the extent not in conflict with another public funding source or law, all of the following shall apply to the equity-sharing agreement provided for by the deed restriction:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The grantee shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used to make housing available to persons and families of the same income category as the original grant and for any type of housing or shelter specified in paragraph (1).

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the owner-occupant minus the initial sale price to the owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the grantee's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of the initial sale.

(e) Loan repayments shall accrue to the grantee housing trust for use pursuant to this section. If the trust no longer exists, loan repayments shall accrue to the department for use in the program or its successor.

(f) In order for a city, county, or city and county to be eligible for funding, the applicant shall have, at the time of application, an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, is in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. In order for a nonprofit

1 organization applicant to be eligible for funding, the applicant shall
2 agree to utilize funds provided under this chapter only for projects
3 located in cities, counties, or a city and county that have, at the
4 time of application, an adopted housing element that the department
5 has determined, pursuant to Section 65585 of the Government
6 Code, to be in substantial compliance with the requirements of
7 Article 10.6 (commencing with Section 65580) of Chapter 3 of
8 Division 1 of Title 7 of the Government Code.

9 (g) Recipients shall have held, or shall agree to hold, a public
10 hearing or hearings to discuss and describe the project or projects
11 that will be financed with funds provided pursuant to this section.
12 As a condition of receiving a grant pursuant to this section, any
13 nonprofit organization shall agree that it will hold one public
14 meeting a year to discuss the criteria that will be used to select
15 projects to be funded. That meeting shall be open to the public,
16 and public notice of this meeting shall be provided, except to the
17 extent that any similar meeting of a city or county would be
18 permitted to be held in closed session.

19 (h) No more than 5 percent of the funds appropriated to the
20 department for the purposes of this program shall be used to pay
21 the costs of administration of this section.

22 (i) A local housing trust fund shall encumber funds provided
23 pursuant to this section no later than 36 months after receipt. Any
24 funds not encumbered within that period shall revert to the
25 department for use in the program or its successor.

26 (j) Recipients shall be required to file periodic reports with the
27 department regarding the use of funds provided pursuant to this
28 section. No later than December 31 of each year in which funds
29 are awarded by the program, the department shall provide a report
30 to the Legislature regarding the number of trust funds created, a
31 description of the projects supported, the number of units assisted,
32 and the amount of matching funds received.

33 SEC. 2. Section 53545.9 of the Health and Safety Code is
34 amended to read:

35 53545.9. Of the one hundred million dollars (\$100,000,000)
36 transferred to the Affordable Housing Innovation Fund established
37 in the State Treasury under subparagraph (F) of paragraph (1) of
38 subdivision (a) of Section 53545, the following amounts shall be
39 allocated as follows:

1 (a) (1) The department shall make available the amount of fifty
2 million dollars (\$50,000,000) for the Affordable Housing
3 Revolving Development and Acquisition Program.

4 (2) Of the amount made available for the program, twenty-five
5 million dollars (\$25,000,000) shall be made available for the Loan
6 Fund and twenty-five million dollars (\$25,000,000) shall be made
7 available for the Practitioner Fund.

8 (b) The department shall make available the amount of five
9 million dollars (\$5,000,000) for the Construction Liability
10 Insurance Reform Pilot Program, which is hereby established in
11 the Department of Housing and Community Development. The
12 purpose of the program is to promote best practices for residential
13 construction quality control in housing programs sponsored by the
14 department or the California Housing Finance Agency, as a means
15 of reducing insurance rates for condominium developers in this
16 state. Funds shall be made available in the form of grants for
17 predevelopment costs of condominium projects funded by the
18 department or the California Housing Finance Agency that utilize
19 enhanced construction oversight and monitoring programs and
20 processes, including, but not limited to, video recording of the
21 construction process, use of quality control manuals, and increased
22 quality control inspections.

23 (c) The department shall make available the amount of
24 thirty-five million dollars (\$35,000,000) for the local housing trust
25 fund matching grant program established under Section 50843.5.
26 The department shall make available 50 percent of this amount
27 exclusively for newly established housing trust funds.

28 (1) When awarding grants from the funds allocated under this
29 subdivision to existing trust funds, the department shall grant
30 preference to a housing trust fund that agrees to expend more than
31 65 percent of state funds for the purpose of downpayment
32 assistance to first-time homebuyers.

33 (2) When awarding grants from the funds allocated under this
34 subdivision to newly established housing trust funds, the
35 department shall set aside funding, for a period of 36 months from
36 the date funds are first made available, for newly established
37 housing trust funds that are in a county with a population of less
38 than 425,000 persons, based on the decennial United States Census
39 for the year 2000.

1 (d) The department shall make available the amount of ten
2 million dollars (\$10,000,000) for the Innovative Homeownership
3 Program, which the department shall develop and implement as
4 follows:

5 (1) The program shall be designed to increase or maintain
6 affordable homeownership opportunities for Californians with
7 lower incomes.

8 (2) The department shall adopt guidelines for the program that,
9 among other things, shall maximize the number of units assisted,
10 limit the expenditure of funds for administrative costs, and
11 maximize the leverage of public and private financing sources.

12 (3) The guidelines adopted by the department shall provide for
13 the issuance of a notice of funding availability soliciting
14 competitive proposals for the use of funds consistent with those
15 guidelines and with subparagraph (F) of paragraph (1) of
16 subdivision (a) of Section 53545.

17 (4) The guidelines adopted by the department shall not be subject
18 to the requirements of Chapter 6.5 (commencing with Section
19 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

20 (5) The department shall include within the annual report
21 required under Section 50408 a detailed summary and description
22 of the manner in which funds made available under this subdivision
23 were expended during the previous year and a statement regarding
24 the manner in which those expenditures meet the intent of the
25 Legislature and the voters that funds from the Innovative Housing
26 Fund be expended in support of innovative, cost-saving approaches
27 to creating or preserving affordable housing.