

Assembly Bill No. 570

Passed the Assembly August 27, 2009

Chief Clerk of the Assembly

Passed the Senate August 24, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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 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 that in order to be eligible for funding, a city, county, city and county, or nonprofit organization applicant meet a specified requirement.

This bill would additionally require the city, county, or city and county to submit an annual progress report required by existing law within a specified time if the department has adopted certain forms and definitions. The bill would additionally require a nonprofit organization to agree to utilize the funds in a project located in such a municipality that has submitted that report.

(3) 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.

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

SECTION 1. Section 50843.5 of the Health and Safety Code is amended to read:

50843.5. (a) Subject to the availability of funding, the department shall make matching grants available to cities, counties, city and counties, and charitable nonprofit organizations organized under Section 501(c)(3) of the Internal Revenue Code that have created and are operating or will operate housing trust funds. These funds shall be awarded through the issuance of a Notice of Funding Availability (NOFA).

(1) Applicants that provide matching funds from a source or sources other than impact fees on residential development shall receive a priority for funding.

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

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

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

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

(c) The minimum allocation to an applicant that is a newly established trust, and is in a county with a population that conforms with paragraph (2) of subdivision (c) of Section 53545.9, shall be five hundred thousand dollars (\$500,000). The minimum allocation for all other trusts shall be one million dollars (\$1,000,000). No applicant may receive an allocation in excess of two million dollars (\$2,000,000). All funds provided pursuant to this section shall 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. No application for an existing housing trust shall be considered unless the department has received adequate documentation of the deposit in the local housing trust fund of the local match and the identity of the source of matching funds. An application for a new trust shall not be considered unless the department 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. Funds shall not be disbursed by the department to any trust until all matching funds are on deposit and then funds may be disbursed only in amounts necessary to fund projects identified to receive a loan from the trust within a reasonable period of time, as determined by the department. Applicants shall be required to continue funding the local housing trust fund from these identified local sources, and continue the trust in operation, for a period of no less than five years from the date of award. If the funding is not continued for a five-year period, then (1) the amount of the department's grant to the local housing trust fund, to the extent that the trust fund has unencumbered funds available, shall be immediately repaid, and (2) any payments from any projects funded by the local housing trust fund that would have been paid to the local housing trust fund shall be paid instead to the department and used for the program or its successor. The total amount paid to the department pursuant to (1) and (2), combined, shall not exceed the amount of the department's grant.

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

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

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

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

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

(3) If funds are used for the acquisition, construction, or rehabilitation of for sale housing projects or units within for sale housing projects, the grantee shall record a deed restriction against the property that will ensure compliance with one of the following requirements upon resale of the for sale housing units, unless it is in conflict with the requirements of another public funding source 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) (1) In order for a city, county, or city and county to be eligible for funding, the applicant shall, at the time of application, meet both of the following requirements:

(A) Have 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.

(B) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

(2) In order for a nonprofit organization applicant to be eligible for funding, the applicant shall agree to utilize funds provided under this chapter only for projects located in cities, counties, or a city and county that, at the time of application, meet both of the following requirements:

(1) Have an adopted housing element that the department has determined, pursuant to Section 65585 of the Government Code, to be 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.

(2) Have submitted to the department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months, if the department has adopted the forms and definitions pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 65400 of the Government Code.

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

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

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

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

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

53545.9. Of the one hundred million dollars (\$100,000,000) transferred to the Affordable Housing Innovation Fund established in the State Treasury under subparagraph (F) of paragraph (1) of

subdivision (a) of Section 53545, the following amounts shall be allocated as follows:

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

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

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

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

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

(2) When awarding grants from the funds allocated under this subdivision to newly established housing trust funds, the department shall 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, based on the decennial United States Census for the year 2000.

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

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

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

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

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

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

Approved _____, 2009

Governor