

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2362

Introduced by Assembly Members Skinner and Blakeslee

February 19, 2010

~~An act to amend Section 769.55 of the Insurance Code, relating to insurance.~~ *An act to amend Section 53545 of, and to add Chapter 4 (commencing with Section 50560) to Part 2 of Division 31 of, the Health and Safety Code, and to amend Section 70 of the Revenue and Taxation Code, relating to housing.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2362, as amended, Skinner. ~~Insurance: agents and brokers.~~ *Soft-Story Housing Seismic Retrofit Program.*

(1) *The Housing and Emergency Shelter Trust Fund Act of 2006, adopted and approved by the voters at the November 7, 2006, statewide general election, authorized the issuance of bonds in the amount of \$2,850,000,000 pursuant to the State General Obligation Bond Law. Existing law requires the transfer of \$200,000,000 to the Housing Urban-Suburban-and-Rural Parks Account for purposes relating to housing-related parks grants in urban, suburban, and rural areas.*

This bill would reduce the amount of funds transferred to the Housing Urban-Suburban-and-Rural Parks Account to \$150,000,000. The bill would transfer the remaining \$50,000,000 to the Soft-Story Housing Seismic Retrofit Fund for purposes of the Soft-Story Housing Seismic Retrofit Program, which the bill would establish. Pursuant to the program, the Department of Housing and Community Development would be required to make available, upon appropriation, grants to qualifying cities, counties, or cities and counties for the provision of

loans to building owners for the seismic retrofit of soft-story residential buildings, as defined, identified as being potentially hazardous to life in the event of an earthquake.

(2) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change of ownership has occurred.

The California Constitution authorizes the Legislature to exclude from classification as “newly constructed” the construction or installation in existing buildings of certain seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technologies.

This bill would, for a specified period, exclude from the classification “newly constructed” the portion of reconstruction or improvement to a soft-story residential building under the Soft-Story Housing Seismic Retrofit Program.

By changing the manner in which local assessors assess property for property taxation purposes, this bill would impose a state-mandated local program.

(3) 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.

(4) Existing law provides that the Legislature reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding that provision, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

(5) This bill would provide that certain provisions become inoperative if Senate Constitutional Amendment 4 of the 2008–09 Regular Session is approved by the voters at the June 8, 2010, statewide general election.

Existing law provides that the obligation of an insurer to furnish any notice to its insured, as required by law, may be carried out by the insurer's general agent; however, the delegation of this obligation does not limit or negate the insurer's responsibility or liability if the general agent fails to provide the required notice.

~~This bill would make technical, nonsubstantive changes to that provision.~~

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

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

1 SECTION 1. Chapter 4 (commencing with Section 50560) is
2 added to Part 2 of Division 31 of the Health and Safety Code, to
3 read:

4
5 CHAPTER 4. *SOFT-STORY HOUSING SEISMIC RETROFIT PROGRAM*
6

7 50560. (a) There is hereby created the Soft-Story Housing
8 Seismic Retrofit Program, to be administered by the Department
9 of Housing and Community Development.

10 (b) There is hereby created in the State Treasury the Soft-Story
11 Housing Seismic Retrofit Fund. Notwithstanding Section 16305.7
12 of the Government Code, any repayments, interest, or new
13 appropriations shall be deposited in the fund.

14 (c) Upon appropriation by the Legislature, the department shall
15 make moneys in the Soft-Story Housing Seismic Retrofit Fund
16 available in the form of grants to qualifying cities, counties, or
17 cities and counties for the provision of loans to building owners
18 for the seismic retrofit of soft-story residential buildings that have
19 been identified by the city, county, or city and county as being
20 potentially hazardous to life in the event of an earthquake.

21 (d) For the purpose of this section, the following terms have the
22 following meanings:

23 (1) "Qualifying city, county, or city and county" is a city,
24 county, or city and county that meets all of the following criteria:

25 (A) Has adopted an ordinance pursuant to Section 19162 to
26 establish building seismic retrofit standards applicable to the
27 seismic retrofit of buildings identified as being potentially
28 hazardous to life in the event of an earthquake.

1 (B) Has identified buildings pursuant to Section 19161 within
2 its jurisdiction that are potentially hazardous to life in the event
3 of an earthquake.

4 (C) Has an adopted housing element that the department has
5 found pursuant to Section 65585 of the Government Code to be in
6 substantial compliance with the requirements of Article 10.6
7 (commencing with Section 65580) of Chapter 3 of Division 1 of
8 Title 7 of the Government Code and has submitted to the
9 department the annual progress report required by Section 65400
10 of the Government Code within the preceding 12 months.

11 (D) Any other requirements established by the department.

12 (2) “Soft-story residential building” means a wood frame,
13 multiunit residential building constructed before January 1, 1978,
14 where the ground floor portion of the structure contains parking
15 or other similar open floor space that causes soft, weak, or
16 open-front wall lines.

17 (e) Loans made to the owners of soft-story residential buildings
18 pursuant to this section shall be for a term to be determined by
19 the department, but not more than 10 years. The loans shall bear
20 simple interest at the rate of 3 percent per annum on the unpaid
21 principal balance.

22 (f) (1) Except as provided in paragraph (2), any loan
23 repayments shall be retained by the qualifying city, county, or city
24 and county and reused for the purposes of this section.

25 (2) In the event that all of the soft-story residential buildings
26 identified by the city, county, or city and county pursuant to Section
27 19161 have been retrofit, or in the event that the city, county, or
28 city and county has not made a loan pursuant to this section within
29 the previous three years, the city, county, or city and county shall
30 repay any unused portion of the grant and any future loan
31 repayments to the department. The department shall deposit any
32 repayments into the Soft-Story Housing Seismic Retrofit Fund for
33 the purposes of this section.

34 SEC. 2. Section 53545 of the Health and Safety Code is
35 amended to read:

36 53545. The Housing and Emergency Shelter Trust Fund of
37 2006 is hereby created in the State Treasury. The Legislature
38 intends that the proceeds of bonds deposited in the fund shall be
39 used to fund the housing-related programs described in this chapter
40 over the course of the next decade. The proceeds of bonds issued

and sold pursuant to this part for the purposes specified in this chapter shall be allocated in the following manner:

(a) (1) One billion five hundred million dollars (\$1,500,000,000) to be deposited in the Affordable Housing Account, which is hereby created in the fund. Notwithstanding Section 13340 of the Government Code, the money in the account shall be continuously appropriated in accordance with the following schedule:

(A) (i) Three hundred forty-five million dollars (\$345,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2. The priorities specified in Section 50675.13 shall apply to the expenditure of funds pursuant to this clause.

(ii) Fifty million dollars (\$50,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended under the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2 for housing meeting the definitions in paragraphs (2) and (3) of subdivision (e) of Section 11139.3 of the Government Code. The department may provide higher per-unit loan limits as necessary to achieve affordable housing costs to the target population. Any funds not encumbered for the purposes of this clause by July 31, 2011, shall revert for general use in the Multifamily Housing Program unless the department determines that funds should revert sooner due to diminished demand.

(B) One hundred ninety-five million dollars (\$195,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to be used for supportive housing for individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness. The Department of Housing and Community Development shall provide for higher per-unit loan limits as reasonably necessary to achieve housing costs affordable to those individuals and households. For purposes of this subparagraph, “supportive housing” means housing with no limit on length of stay, that is occupied by the target population, as defined in subdivision (d) of Section 53260, and that is linked to onsite or offsite services that assist the tenant to retain the housing, improve his or her health status, maximize his or her ability to live, and,

1 when possible, work in the community. The criteria for selecting
2 projects shall give priority to:

3 (i) Supportive housing for people with disabilities who would
4 otherwise be at high risk of homelessness where the applications
5 represent collaboration with programs that meet the needs of the
6 person's disabilities.

7 (ii) Projects that demonstrate funding commitments from local
8 governments for operating subsidies or services funding, or both,
9 for five years or longer.

10 (C) One hundred thirty-five million dollars (\$135,000,000) shall
11 be transferred to the fund created by subdivision (b) of Section
12 50517.5 to be expended for the programs authorized by Chapter
13 3.2 (commencing with Section 50517.5) of Part 2.

14 (D) Three hundred million dollars (\$300,000,000) shall be
15 transferred to the Self-Help Housing Fund created by Section
16 50697.1. These funds shall be available to the Department of
17 Housing and Community Development, to be expended for the
18 purposes of enabling households to become or remain homeowners
19 pursuant to the CalHome Program authorized by Chapter 6
20 (commencing with Section 50650) of Part 2, except ten million
21 dollars (\$10,000,000) shall be expended for construction
22 management under the California Self-Help Housing Program
23 pursuant to subdivision (b) of Section 50696.

24 (E) Two hundred million dollars (\$200,000,000) shall be
25 transferred to the Self-Help Housing Fund created by Section
26 50697.1. These funds shall be available to the California Housing
27 Finance Agency, to be expended for the purposes of the California
28 Homebuyer's Downpayment Assistance Program authorized by
29 Chapter 11 (commencing with Section 51500) of Part 3. Up to one
30 hundred million dollars (\$100,000,000) of these funds may be
31 expended pursuant to subdivision (b) of Section 51504.

32 (F) One hundred million dollars (\$100,000,000) shall be
33 transferred to the Affordable Housing Innovation Fund, which is
34 hereby created in the State Treasury, to be administered by the
35 Department of Housing and Community Development. Funds shall
36 be expended for competitive grants or loans to sponsoring entities
37 that develop, own, lend, or invest in affordable housing and used
38 to create pilot programs to demonstrate innovative, cost-saving
39 approaches to creating or preserving affordable housing. Specific
40 criteria establishing eligibility for and use of the funds shall be

1 established in statute as approved by a $\frac{2}{3}$ vote of each house of
2 the Legislature. Any funds not encumbered for the purposes set
3 forth in this subparagraph within 30 months of availability shall
4 revert to the Self-Help Housing Fund created by Section 50697.1
5 and shall be available for the purposes described in subparagraph
6 (D).

7 (G) One hundred twenty-five million dollars (\$125,000,000)
8 shall be transferred to the Building Equity and Growth in
9 Neighborhoods Fund to be used for the Building Equity and
10 Growth in Neighborhoods (BEGIN) Program pursuant to Chapter
11 14.5 (commencing with Section 50860) of Part 1. Any funds not
12 encumbered for the purposes set forth in this subparagraph by
13 November 17, 2011, shall revert for general use in the CalHome
14 Program unless the department determines that funds should revert
15 sooner due to diminished demand.

16 (H) Fifty million dollars (\$50,000,000) shall be transferred to
17 the Emergency Housing and Assistance Fund to be distributed in
18 the form of capital development grants under the Emergency
19 Housing and Assistance Program authorized by Chapter 11.5
20 (commencing with Section 50800) of Part 2 of Division 31. The
21 funds shall be administered by the Department of Housing and
22 Community Development in a manner consistent with the
23 restrictions and authorizations contained in Provision 3 of Item
24 2240-105-0001 of the Budget Act of 2000, except that any
25 appropriations in that item shall not apply. The competitive system
26 used by the department shall incorporate priorities set by the
27 designated local boards and their input as to the relative merits of
28 submitted applications from within the designated local board's
29 county in relation to those priorities. In addition, the funding
30 limitations contained in this section shall not apply to the
31 appropriation in that budget item.

32 (2) The Legislature may, from time to time, amend the
33 provisions of law related to programs to which funds are, or have
34 been, allocated pursuant to this subdivision for the purpose of
35 improving the efficiency and effectiveness of the program, or for
36 the purpose of furthering the goals of the program.

37 (3) The Bureau of State Audits shall conduct periodic audits to
38 ensure that bond proceeds are awarded in a timely fashion and in
39 a manner consistent with the requirements of this subdivision, and
40 that awardees of bond proceeds are using funds in compliance with

1 applicable provisions of this subdivision. The first audit shall be
2 conducted no later than one year from voter approval of this part.

3 (4) In its annual report to the Legislature, the Department of
4 Housing and Community Development shall report how funds that
5 were made available pursuant to this subdivision and allocated in
6 the prior year were expended. The department shall make the report
7 available to the public on its Internet Web site.

8 (b) Eight hundred fifty million dollars (\$850,000,000) shall be
9 deposited in the Regional Planning, Housing, and Infill Incentive
10 Account, which is hereby created in the fund. Funds in the account
11 shall be available, upon appropriation by the Legislature, and
12 subject to such other conditions and criteria as the Legislature may
13 provide in statute, for the following purposes:

14 (1) For infill incentive grants for capital outlay related to infill
15 housing development and other related infill development,
16 including, but not limited to, all of the following:

17 (A) No more than two hundred million dollars (\$200,000,000)
18 for park creation, development, or rehabilitation to encourage infill
19 development.

20 (B) Water, sewer, or other public infrastructure costs associated
21 with infill development.

22 (C) Transportation improvements related to infill development
23 projects.

24 (D) Traffic mitigation.

25 (2) For brownfield cleanup that promotes infill housing
26 development and other related infill development consistent with
27 regional and local plans.

28 (c) Three hundred million dollars (\$300,000,000) to be deposited
29 in the Transit-Oriented Development Account, which is hereby
30 created in the fund, for transfer to the Transit-Oriented
31 Development Implementation Fund, for expenditure, upon
32 appropriation by the Legislature, pursuant to the Transit-Oriented
33 Development Implementation Program authorized by Part 13
34 (commencing with Section 53560).

35 (d) Two hundred million dollars (\$200,000,000) shall be
36 deposited ~~in~~ as follows:

37 (1) *One hundred fifty million dollars (\$150,000,000) in the*
38 *Housing Urban-Suburban-and-Rural Parks Account, which is*
39 *hereby created in the fund. Funds in the account shall be available*
40 *upon appropriation by the Legislature for housing-related parks*

1 grants in urban, suburban, and rural areas, subject to the conditions
2 and criteria that the Legislature may provide in statute.

3 (2) *Fifty million dollars (\$50,000,000) in the Soft-Story Housing*
4 *Seismic Retrofit Fund created by Section 50560 for purposes of*
5 *that section.*

6 SEC. 3. *Section 70 of the Revenue and Taxation Code is*
7 *amended to read:*

8 70. (a) “Newly constructed” and “new construction” means:

9 (1) Any addition to real property, whether land or improvements
10 (including fixtures), since the last lien date; and

11 (2) Any alteration of land or of any improvement (including
12 fixtures) since the last lien date that constitutes a major
13 rehabilitation thereof or that converts the property to a different
14 use.

15 (b) Any rehabilitation, renovation, or modernization that
16 converts an improvement or fixture to the substantial equivalent
17 of a new improvement or fixture is a major rehabilitation of that
18 improvement or fixture.

19 (c) Notwithstanding the provisions of subdivisions (a) and (b),
20 where real property has been damaged or destroyed by misfortune
21 or calamity, “newly constructed” and “new construction” ~~does do~~
22 not mean any timely reconstruction of the real property, or portion
23 thereof, where the property after reconstruction is substantially
24 equivalent to the property prior to damage or destruction. Any
25 reconstruction of real property, or portion thereof, that is not
26 substantially equivalent to the damaged or destroyed property,
27 shall be deemed to be new construction and only that portion that
28 exceeds substantially equivalent reconstruction shall have a new
29 base year value determined pursuant to Section 110.1.

30 (d) (1) Notwithstanding the provisions of subdivisions (a) and
31 (b), where a structure must be improved to comply with local
32 ordinances on seismic safety, “newly constructed” and “new
33 construction” ~~does do~~ not mean the portion of reconstruction or
34 improvement to a structure, constructed of unreinforced masonry
35 bearing wall construction, necessary to comply with the local
36 ordinance. This exclusion shall remain in effect during the first 15
37 years following that reconstruction or improvement (unless the
38 property is purchased or changes ownership during that period, in
39 which case the provisions of Chapter 2 (commencing with Section
40 60) of this division shall apply).

(2) In the sixteenth year following the reconstruction or improvement referred to in paragraph (1), the assessor shall place on the roll the current full cash value of the portion of reconstruction or improvement to the structure that was excluded pursuant to this subdivision.

(3) The governing body that enacted the local ordinance shall issue a certificate of compliance upon the request of the owner who, pursuant to a notice or permit issued by the governing body that specified that the reconstruction or improvement is necessary to comply with a seismic safety ordinance, so reconstructs or improves his or her structure in accordance with the ordinance. The certificate of compliance shall be filed by the property owner with the county assessor not later than six months after the completion of the project. The failure to file a certificate of completion within the prescribed filing period shall be deemed a waiver of the exclusion for that year.

(e) (1) Notwithstanding the provisions of subdivisions (a) and (b), where a tank must be improved, upgraded, or replaced to comply with federal, state, and local regulations on underground storage tanks, “newly constructed” and “new construction” ~~does~~ do not mean the improvement, upgrade, or replacement of a tank to meet compliance standards, and the improvement, upgrade, or replacement shall be considered to have been performed for the purpose of normal maintenance and repair.

(2) Notwithstanding the provisions of subdivisions (a) and (b), where a structure, or any portion thereof, was reconstructed, as a consequence of completing work on an underground storage tank to comply with federal, state, and local regulations on these tanks, timely reconstruction of the structure shall be considered to have been performed for the purpose of normal maintenance and repair where the structure, or portion thereof, after reconstruction is substantially equivalent to the prior structure in size, utility, and function.

(f) (1) *Notwithstanding the provisions of subdivisions (a) and (b), where a structure is improved pursuant to Section 50560 of the Health and Safety Code, “newly constructed” and “new construction” do not mean the portion of reconstruction or improvement to a soft-story building as defined by subdivision (c) of Section 50560 of the Health and Safety Code. This exclusion shall remain in effect during the first 10 years following the*

1 reconstruction or improvement, unless the property is purchased
2 or changes ownership during that period, in which case the
3 provisions of Chapter 2 (commencing with Section 60) shall apply.

4 (2) In the 11th year following the reconstruction or improvement
5 referred to in paragraph (1), the assessor shall place on the roll
6 the current full cash value of the portion of reconstruction or
7 improvement to the structure that was excluded pursuant to this
8 subdivision.

9 SEC. 4. If the Commission on State Mandates determines that
10 this act contains costs mandated by the state, reimbursement to
11 local agencies and school districts for those costs shall be made
12 pursuant to Part 7 (commencing with Section 17500) of Division
13 4 of Title 2 of the Government Code.

14 SEC. 5. Notwithstanding Section 2229 of the Revenue and
15 Taxation Code, no appropriation is made by this act and the state
16 shall not reimburse any local agency for any property tax revenues
17 lost by it pursuant to this act.

18 SEC. 6. The provisions of Section 3 of this act shall become
19 inoperative if Senate Constitutional Amendment 4 of the 2008–09
20 Regular Session is approved by the voters at the June 8, 2010,
21 statewide general election.

22 SECTION 1. ~~Section 769.55 of the Insurance Code is amended~~
23 ~~to read:~~

24 ~~769.55. Notwithstanding any other provision of this code, for~~
25 ~~the purposes of Chapter 6 (commencing with Section 520) through~~
26 ~~Chapter 11 (commencing with Section 675), inclusive, of Part 1~~
27 ~~of Division 1, the obligation of an insurer to furnish any notice to~~
28 ~~its insured required by law may be carried out by an insurer's~~
29 ~~general agent, provided, however, that an insurer's delegation of~~
30 ~~a notice obligation to a general agent shall not limit or negate the~~
31 ~~insurer's responsibility or liability if the general agent fails to~~
32 ~~provide the required notice.~~

33 ~~As used in this section, "general agent" means a licensed fire~~
34 ~~and casualty broker-agent who, pursuant to a written contract with~~
35 ~~an admitted insurer manages the transaction of one or more classes~~
36 ~~of insurance written by the insurer and has the power to (1) appoint,~~
37 ~~supervise, and terminate local agents, (2) accept or decline risks,~~
38 ~~and (3) collect premium moneys from producing broker-agents.~~

- 1 ~~Nothing in this section shall provide an exemption from Article~~
- 2 ~~5.4 (commencing with Section 769.80) to a fire and casualty~~
- 3 ~~broker-agent who is otherwise subject to that article.~~