

AMENDED IN SENATE MAY 25, 2012

AMENDED IN SENATE APRIL 16, 2012

AMENDED IN SENATE APRIL 12, 2012

SENATE BILL

No. 1220

Introduced by Senators DeSaulnier and Steinberg
(Principal coauthor: Assembly Member Atkins)
(Coauthors: Senators Leno, *Lieu*, *Liu*, *Price*, and Rubio)

February 23, 2012

An act to add Section 27388.1 to the Government Code, and to add Chapter 2.5 (commencing with Section 50470) to Part 2 of Division 31 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1220, as amended, DeSaulnier. Housing Opportunity and Market Stabilization (HOMeS) Trust Fund Act of 2012.

Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time homebuyers. Existing law also authorizes the issuance of bonds in specified amounts pursuant to the State General Obligation Bond Law. Existing law requires that proceeds from the sale of these bonds be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks.

This bill would enact the Housing Opportunity and Market Stabilization (HOMeS) Trust Fund Act of 2012. The bill would make legislative findings and declarations relating to the need for establishing

permanent, ongoing sources of funding dedicated to affordable housing development. The bill would impose a fee, except as provided, of \$75 to be paid at the time of the recording of every real estate instrument, paper, or notice required or permitted by law to be recorded. By imposing new duties on counties with respect to the imposition of the recording fee, the bill would create a state-mandated local program. The bill would require that revenues from this fee be sent quarterly to the Department of Housing and Community Development for deposit in the Housing Opportunity and Market Stabilization (HOMeS) Trust Fund, which the bill would create within the State Treasury. The bill would provide that moneys in the fund may be expended for ~~the purpose of supporting affordable housing, administering housing programs, and the cost of periodic audits~~, as specified. The bill would impose certain auditing and reporting requirements.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

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 no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. This act shall be known as the Housing
2 Opportunity and Market Stabilization (HOMeS) Trust Fund Act
3 of 2012.

4 SEC. 2. The Legislature finds and declares that having a healthy
5 housing market that provides an adequate supply of homes
6 affordable to Californians at all income levels is critical to the
7 economic prosperity and quality of life in the state. The Legislature
8 further finds and declares all of the following:

9 (a) Funding approved by the state's voters in 2002 and 2006,
10 as of June 2011, has financed the construction, rehabilitation, and
11 preservation of over 11,600 shelter spaces and 57,220 affordable
12 apartments, including 2,500 supportive homes for people

1 experiencing homelessness. In addition, these funds have helped
2 57,290 families become or remain homeowners. Nearly all of the
3 voter-approved funding for affordable housing was awarded by
4 the beginning of 2012.

5 (b) The requirement in the Community Redevelopment Law
6 that redevelopment agencies set aside 20 percent of tax increment
7 for affordable housing generated roughly one billion dollars
8 (\$1,000,000,000) per year. With the elimination of redevelopment
9 agencies, this funding stream has disappeared.

10 (c) California has 12 percent of the United States population
11 but 21.4 percent of its homeless population. Seventy-three percent
12 of people experiencing homelessness in California fell into it
13 because they could not afford a place to live. Sixty-two percent of
14 homeless Californians are unsheltered, 14 percent are veterans,
15 and 20 percent are families.

16 (d) Furthermore, 4 of the top 10 metropolitan areas in the
17 country for homeless are in the following metropolitan areas in
18 California: San Jose-Sunnyvale-Santa Clara, Los Angeles-Long
19 Beach-Santa Ana, Fresno, and Stockton.

20 (e) California continues to have the second lowest
21 homeownership rate in the nation, and minimum wage earners
22 have to work 120 hours per week to afford the average
23 two-bedroom apartment.

24 (f) Millions of Californians are affected by the state's chronic
25 housing shortage, including seniors, veterans, people experiencing
26 chronic homelessness, working families, people with mental,
27 physical, or developmental disabilities, agricultural workers, people
28 exiting jails, prisons, and other state institutions, survivors of
29 domestic violence, and former foster and transition-aged youth.

30 (g) While the current credit and foreclosure crisis has resulted
31 in reductions in home prices in some areas, it has increased pressure
32 on the rental housing market and slowed new housing production
33 of all types, exacerbating the mismatch between the ever increasing
34 number of households that need housing they can afford and the
35 supply.

36 (h) California's workforce continues to experience longer
37 commute times as persons in the workforce seek affordable housing
38 outside the areas in which they work. If California is unable to
39 support the construction of affordable housing in these areas,

1 congestion problems will strain the state's transportation system
2 and exacerbate greenhouse gas emissions.

3 (i) Many economists agree that the state's unemployment rate
4 of over 11 percent is due in large part to massive shrinkage in the
5 construction industry from 2005 to 2009, including losses of nearly
6 700,000 construction-related jobs, a 60-percent decline in
7 construction spending, and an 83-percent reduction in residential
8 permits. Restoration of a healthy construction sector will
9 significantly reduce the state's unemployment rate.

10 (j) The lack of sufficient housing impedes economic growth
11 and development by making it difficult for California employers
12 to attract and retain employees.

13 (k) To keep pace with continuing demand, the state should
14 identify and establish a permanent, ongoing source or sources of
15 funding dedicated to affordable housing development. Without a
16 reliable source of funding for housing affordable to the state's
17 workforce and most vulnerable residents, the state and its local
18 and private housing development partners will not be able to
19 continue increasing the supply of housing after existing housing
20 bond resources are depleted.

21 (l) The investment will leverage billions of dollars in private
22 investment, lessen demands on law enforcement and dwindling
23 health care resources as fewer people are forced to live on the
24 streets or in dangerous substandard buildings, and increase
25 businesses' ability to attract and retain skilled workers.

26 (m) In order to promote housing and homeownership
27 opportunities, the recording fee imposed by this act should not be
28 applied to any recordings made in connection with a sale of real
29 property. Purchasing housing is likely the largest purchase made
30 by Californians, and it is the intent of this act not to increase
31 transaction costs associated with these transfers.

32 SEC. 3. Section 27388.1 is added to the Government Code, to
33 read:

34 27388.1. (a) (1) Except as provided in paragraph (2), in
35 addition to any other recording fees specified in this code, a fee
36 of seventy-five dollars (\$75) shall be paid at the time of recording
37 of every real estate instrument, paper, or notice required or
38 permitted by law to be recorded except those expressly exempted
39 from payment of recording fees. "Real estate instrument" includes,
40 but is not limited to, the following documents: deed, grant deed,

trustee's deed, deed of trust, reconveyance, quit claim deed, fictitious deed of trust, assignment of deed of trust, request for notice of default, abstract of judgment, subordination agreement, declaration of homestead, abandonment of homestead, notice of default, release or discharge, easement, notice of trustee sale, notice of completion, UCC financing statement, mechanic's lien, maps, and covenants, conditions, and restrictions.

(2) The fee described in paragraph (1) shall not be imposed on any real estate instrument, paper, or notice recorded in connection with a transfer subject to the imposition of a documentary transfer tax as defined in Section 11911 of the Revenue and Taxation Code.

(b) The fees, after deduction of any actual and necessary administrative costs incurred by the county *recorder* in carrying out this section, shall be sent quarterly to the Department of Housing and Community Development for deposit in the Housing Opportunity and Market Stabilization (HOMeS) Trust Fund established by Section 50471 of the Health and Safety Code to be expended for the purposes set forth in that section. In addition, the county shall pay to the Department of Housing and Community Development interest, at the legal rate, on any funds not paid to the Controller within 30 days of the end of a quarter.

SEC. 4. Chapter 2.5 (commencing with Section 50470) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 2.5. HOUSING OPPORTUNITY AND MARKET
STABILIZATION (HOMeS) TRUST FUND

Article 1. General Provisions

50470. This chapter shall be known, and may be cited, as the Housing Opportunity and Market Stabilization (HOMeS) Trust Fund Act of 2012.

50471. (a) There is hereby created in the State Treasury the Housing Opportunity and Market Stabilization (HOMeS) Trust Fund. All interest or other increments resulting from the investment of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the Housing Opportunity and Market Stabilization (HOMeS) Trust Fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section

1 16300) of Division 4 of Title 2 of the Government Code, except
2 to the Surplus Money Investment Fund. Upon appropriation by
3 the Legislature, moneys in the fund may be expended for the
4 ~~purpose of supporting~~ *following purposes*:

5 (1) *Supporting* the development, acquisition, rehabilitation, and
6 preservation of housing affordable to low- and moderate-income
7 households, including, but not limited to, emergency shelters;
8 transitional and permanent rental housing, including necessary
9 service and operating subsidies; foreclosure mitigation; and
10 homeownership opportunities.

11 (2) *Administering housing programs that receive an*
12 *appropriation from the fund. Moneys expended for this purpose*
13 *shall not exceed 5 percent of the moneys in the fund.*

14 (3) *The cost of periodic audits required by Section 50475.*

15 (b) Both of the following shall be paid and deposited in the
16 fund:

17 (1) Any moneys appropriated and made available by the
18 Legislature for purposes of the fund.

19 (2) Any other moneys that may be made available to the
20 department for the purposes of the fund from any other source or
21 sources.

22 23 Article 2. Audits and Reporting 24

25 50475. The Bureau of State Audits shall conduct periodic audits
26 to ensure that the annual allocation to individual programs is
27 awarded by the department in a timely fashion consistent with the
28 requirements of this chapter. The first audit shall be conducted no
29 later than 24 months from the effective date of this section.

30 50476. In its annual report to the Legislature pursuant to
31 Section 50408, the department shall report how funds that were
32 made available pursuant to this chapter and allocated in the prior
33 year were expended. The department shall make the report
34 available to the public on its Internet Web site.

35 SEC. 5. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 a local agency or school district has the authority to levy service
38 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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