

Introduced by Senator Reyes
(Principal coauthor: Assembly Member Ward)
(Coauthor: Senator Grayson)

February 21, 2025

An act to amend Sections 50560, 50561, and 50562 of, and to add Section 50058.8 to, the Health and Safety Code, and to amend Section 5849.2 of the Welfare and Institutions Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 686, as introduced, Reyes. Housing programs: financing.

Existing law, the Zenovich-Moscone-Chacon Housing and Home Finance Act, among other things, establishes the Department of Housing and Community Development and requires it to administer various programs intended to promote the development of housing and to provide housing assistance and home loans. Existing law sets forth various general powers of the department in implementing these programs, including authorizing the department to enter into long-term contracts or agreements of up to 30 years for the purpose of servicing loans or grants or enforcing regulatory agreements or other security documents.

Existing law, unless an extension of a department loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, or an investment of tax credit equity would result in a rent increase for tenants of a development, authorizes the Department of Housing and Community Development to approve an extension, reinstatement, subordination, or investment pursuant to specified rental housing finance programs, as specified, or if the department determines that a project has, or will have after rehabilitation or repairs, a potential remaining useful life equal to or greater than the

term of the restructured loan. Existing law authorizes the department to charge a monitoring fee to cover the aggregate monitoring costs in years the loan is extended and a transaction fee to cover its costs for processing restructuring transactions, and requires developer fee limitations to be consistent with specified laws and regulations, including regulations by the California Tax Credit Allocation Committee.

This bill would revise and recast these provisions, including additionally authorizing the department to approve the payoff of a department loan in whole or part before the end of its term and the extraction of equity from a development for purposes approved by the department. The bill would specify eligible uses of loan and equity sources, if the department determines that a project has, or will have after rehabilitation or repairs, a potential remaining useful life equal to or greater than the term of the department's regulatory agreement for purposes of approving an extension, reinstatement, subordination, payoff, extraction, or investment, as described above. The bill would prohibit the extension, reinstatement, subordination, payoff, extraction, or investment, as described above, if it would result in a rent increase for tenants of a development over and above the annual adjustment to the tenants' rents under the department's regulatory agreement.

This bill would recast certain provisions related to regulatory agreements, including authorizing the department to add another regulatory agreement and authorizing the department to waive specified requirements in the regulatory agreement if the loan is paid off, including requiring occupancy and financial reports. The bill would authorize the department to charge additional fees as necessary to cover its costs for processing restructuring transactions, and would provide that the monitoring fees continue until the end of the term of the department's regulatory agreement, as specified. The bill would limit developer fees to the amount allowed by the California Tax Credit Allocation Committee or to 25% of actual rehabilitation costs, as applicable.

Existing law, known as the No Place Like Home Program, requires the department to award up to \$2,000,000,000 among counties to finance capital costs, including, but not limited to, acquisition, design, construction, rehabilitation, or preservation, and to capitalize operating reserves, of permanent supportive housing for the target population, as specified.

This bill would define "capitalized operating reserves" for purposes of the Zenovich-Moscone-Chacon Housing and Home Finance Act and the No Place Like Home Program.

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 50058.8 is added to the Health and Safety
2 Code, to read:
3 50058.8. “Capitalized operating reserves” means capitalized
4 funds for assisted units for the purpose of covering potential or
5 projected operating deficits over time, including, but not limited
6 to, operations, supportive services, and rent subsidies.
7 SEC. 2. Section 50560 of the Health and Safety Code is
8 amended to read:
9 50560. (a) Subject to the requirements of this chapter, the
10 department may approve an extension of a department loan, the
11 reinstatement of a qualifying unpaid matured loan, the
12 subordination of a department loan to new debt, *the payoff of a*
13 *department loan in whole or part before the end of its term, the*
14 *extraction of equity from a development for purposes approved by*
15 *the department, or an investment of tax credit equity under one or*
16 more of the following rental housing finance programs: the original
17 Rental Housing Construction Program established by Chapter 9
18 (commencing with Section 50735), the Special User Housing
19 Rehabilitation Program established by Section 50670, the ~~Deferred~~
20 ~~Payment~~ *Deferred-Payment* Rehabilitation Loan Program
21 established by Chapter 6.5 (commencing with Section 50660), the
22 rental component of the California Natural Disaster Assistance
23 Program established by Chapter 6.5 (commencing with Section
24 50671), the State Earthquake Rehabilitation Assistance Program
25 established by Chapter 6.5 (commencing with Section 50671), the
26 rental component of the California Housing Rehabilitation Program
27 established by Section 50668.5, the component of the Rental
28 Housing Construction Program funded with bond proceeds
29 governed by Section 50771.1, the Family Housing Demonstration
30 Program established by Chapter 15 (commencing with Section
31 50880), the Families Moving to Work Program established by
32 Chapter 15 (commencing with Section 50880), the Multifamily
33 Housing Program established by Chapter 6.7 (commencing with
34 Section 50675), and any and all other multifamily housing loans
35 funded or monitored by the department.

(b) Once the department has approved a loan extension, reinstatement of a qualifying unpaid matured loan, subordination, *payoff of a department loan in whole or part before the end of its term, extraction of equity from a development for purposes approved by the department, or tax credit investment pursuant to this chapter, the statutes enumerated in subdivision (a), and the regulations or guidelines promulgated pursuant to these statutes, shall no longer apply to developments restructured pursuant to this chapter. These developments shall instead be governed by this chapter and guidelines adopted pursuant to subdivision (h).*

(c) All projects restructured pursuant to this chapter shall comply with the affirmative marketing and language accessibility requirements set forth in Section 50736 of this code and Section 65863 of the Government Code.

(d) The department may approve an extension of a loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, *the payoff of a department loan in whole or part before the end of its term, the extraction of equity from a development for purposes approved by the department, or an investment of tax credit equity if it determines that the project has, or will have after rehabilitation or repairs, a potential remaining useful life equal to or greater than the term of the—restructured loan. department's regulatory agreement. Eligible uses of loan and equity sources under this subdivision include, but are not limited to, the purchase of a limited partner interest of a tax credit investor in the project, payment of any unpaid deferred developer fee for the project, payment for necessary repairs and rehabilitation of the project, and the establishment or replenishment of department-approved project reserves.*

(e) The department may subordinate its loan to refinance existing senior debt ~~only as necessary for project feasibility~~ *eligible activities pursuant to subdivision (d)* and to reimburse borrower advances for predevelopment costs, ~~recent~~ capital improvements, and ~~recent~~ operating ~~deficits~~. *deficits, only if the department's security is not jeopardized, as determined by the department. The department shall not withhold consent unreasonably.*

(f) ~~If~~ *The department shall not approve* the extension of a department loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, *the payoff*

1 of a department loan in whole or part before the end of its term,
 2 the extraction of equity from a development for purposes approved
 3 by the department, or an investment of tax credit equity if it will
 4 result in a rent increase for tenants of a ~~development~~, development
 5 exceeding the annual adjustment to the tenants' rents under the
 6 department's regulatory agreement. The department may only
 7 subordinate a loan to senior debt if necessary to increase the
 8 feasibility of a project and to fund reasonable rehabilitation or
 9 improvements including soft costs. The application to refinance
 10 shall include a third-party analysis that supports the need for
 11 refinancing.

12 (g) The department may approve additional senior debt for
 13 eligible activities pursuant to subdivision (d), and only as necessary
 14 to finance rehabilitation or repairs, including soft costs, that are
 15 ~~modest~~ reasonable in size, scope, and cost, as determined by the
 16 department. In approving additional senior debt, the department
 17 may consider information from third-party capital needs
 18 assessment reports.

19 (h) It is the intent of the Legislature in enacting this chapter to
 20 provide to the department the flexibility necessary to maintain the
 21 quality of the affordable rental housing units for which the state
 22 has already made a significant public investment. The department
 23 may implement this chapter through guidelines that shall not be
 24 subject to Chapter-2.5 3.5 (commencing with Section 11340) of
 25 Part 1 of Division 3 of Title 2 of the Government Code. These
 26 guidelines shall be developed through the following process:

27 (1) The department shall provide a notice of proposed action as
 28 described in Section 11346.5 of the Government Code to the public
 29 at least 21 days before the close of the public comment period.

30 (2) The department shall schedule at least one public hearing
 31 as described in Section 11346.8 of the Government Code before
 32 the close of the public comment period.

33 (3) The department shall maintain a rulemaking file as described
 34 in Section 11347.3 of the Government Code.

35 (4) The final version of the guidelines shall be accompanied by
 36 a final statement of reason as described in subdivision (a) of
 37 Section 11346.9 of the Government Code.

38 (5) The rules and guidelines shall be effective immediately upon
 39 adoption by the department.

1 SEC. 3. Section 50561 of the Health and Safety Code is
2 amended to read:

3 50561. (a) The department may approve an extension of an
4 existing rental housing development ~~loan~~, *loan or regulatory*
5 *agreement, if the extension facilitates the* reinstatement of a
6 qualifying unpaid matured loan, the subordination of a department
7 loan to new debt, *the extraction of equity from a development for*
8 *purposes approved by the department*, or an investment of tax
9 ~~credit equity as long as equity~~, *only if* the rental housing
10 development is being operated in a manner consistent with the
11 regulatory agreement and the development requires an extension
12 in order to continue to operate in a manner consistent with this
13 chapter. Each extension shall be for a period of not less than 10
14 years and each extension shall not exceed 55 years, or 58 years if
15 needed to match the term of tax credit restrictions. The interest
16 rate shall be 3 percent simple interest. All loan payments shall be
17 deferred for the full term of the loan, except for residual receipts
18 payments. These residual receipts payments shall be structured to
19 avoid reducing the amount of payments on local public agency
20 loans resulting solely from changes in the payment terms on the
21 department's loan, and not resulting from fees or other payments
22 to the borrower, and shall otherwise be consistent with the
23 provisions of the department's Uniform Multifamily Regulations
24 or successor regulations. The department may charge a monitoring
25 fee to cover the aggregate monitoring costs it incurs ~~in years that~~
26 ~~the~~ *from the date of the recordation of the loan is extended or*
27 *regulatory documents regarding any of the eligible activities*
28 *pursuant to this subdivision, and may charge a transaction fee or*
29 *other fees* to cover its costs for processing restructuring
30 transactions. *The monitoring fees shall continue until the end of*
31 *the term of the department regulatory agreement, notwithstanding*
32 *any payoff of the department loan, and the monitoring fees shall*
33 *not be diminished in the event of any paydown of the department*
34 *loan. The department may waive or defer some or all fees, if it*
35 *determines that a particular development or class of developments*
36 *does not have the ability to make these payments. In determining*
37 *the fees and payments to be charged, the department shall seek to*
38 *share monitoring activities with other regulatory agencies and to*
39 *minimize the impact on tenants with the lowest incomes and on*

the capacity of the developments to support private debt or secure tax credit investments.

(b) To the minimum extent necessary to support new debt to pay for rehabilitation, *but not for extraction of equity*, rents for assisted units in these developments may be ~~adjusted~~ *adjusted pursuant to the department guidelines and Section 42 of the Internal Revenue Code*. This rehabilitation shall be determined by the department to be demonstrably necessary, based on third-party assessment and on the department’s own ~~inspection~~ *inspection, if the department deems an inspection necessary*. Assisted units in developments with a specific, department-approved plan to undertake the necessary rehabilitation, at a level that equals or exceeds the minimum per-unit rehabilitation cost standards under the low-income housing tax credit program, may be adjusted as follows:

(1) For developments originally financed under the bond-funded component of the Rental Housing Construction Program pursuant to Section 50771.1, and the Family Housing Demonstration Program, rents may be increased up to a maximum of 30 percent of 60 percent of area median income, for units designated in the development’s original regulatory agreement as lower income units, and up to a maximum of 30 percent of 35 percent of area median income, for units designated in the development’s original regulatory agreement as very low income units.

(2) For developments originally financed under other programs, rents for at least 35 percent of the assisted units, or as specified in the original regulatory agreement governing the development, whichever is greater, shall be restricted to the midlevel target used by the Multifamily Housing Program. Rents for the balance of the assisted units may be increased up to a maximum of 30 percent of 60 percent of area median income. For purposes of this paragraph, “midlevel target used by the Multifamily Housing Program” shall mean either of the following:

(A) For counties with an area median income of 110 percent or less of state median income, it shall mean 30 percent of 30 percent of state median income, expressed as a percentage of area median income.

(B) For counties with an area median income that exceeds 110 percent of the state median income, it shall mean 30 percent of 35

1 percent of state median income, expressed as a percentage of area
2 median income.

3 (c) Rent increases for tenants living in assisted units at the time
4 of restructuring pursuant to this chapter shall be limited as follows:

5 (1) For existing tenants with incomes not exceeding 35 percent
6 of area median income, increases shall be limited to 5 percent per
7 year, until the rents reach the levels set under subdivision (b).

8 (2) For existing tenants with incomes exceeding 35 percent of
9 area median income, increases shall be limited to 10 percent per
10 year, until they reach the levels specified in paragraphs (1) and (2)
11 of subdivision (b) of Section 50561.

12 (3) It is the intent of the Legislature that rent increases for
13 existing tenants authorized by this subdivision shall not be greater
14 than necessary to ensure the financial feasibility of the project.
15 The projected maximum rent for tenants in assisted units, as
16 determined by subdivision (b), shall not exceed 50 percent of the
17 household's actual income. This requirement shall be applied using
18 maximum rent levels and household incomes determined at the
19 time of restructuring or at the time of the department's approval
20 of the restructuring.

21 (4) If the refinance of a loan results in a rent increase, the project
22 sponsor shall provide tenants with the following notifications:

23 (A) Notice six months ~~prior to~~ *before* the scheduled rent increase
24 with an estimate of the amount of the increase.

25 (B) Notice 90 days ~~prior to~~ *before* the actual increase with the
26 exact amount of the new rent.

27 (d) If existing tenants move, the rent for these units may be
28 increased immediately up to the level specified in paragraphs (1)
29 and (2) of subdivision (b). The income limit for new tenants shall
30 correspond with the rent limit set pursuant to paragraphs (1) and
31 (2) of subdivision (b).

32 (e) Once rents achieve the levels set forth in paragraphs (1) and
33 (2) of subdivision (b), income levels and rent limits shall be
34 calculated consistent with the calculation methodology used under
35 the Low Income Housing Tax Credit program and the Multifamily
36 Housing Program, and rent increases shall be based on increases
37 in the area median income.

38 (f) Eligible households displaced as a result of rehabilitation
39 pursuant to this section shall be accorded first priority in occupying
40 comparable units in the development from which they were

displaced, subsequent to rehabilitation. Tenants of rental housing developments repaired with assistance provided under this chapter who are temporarily or permanently displaced as a result of rehabilitation or other repair work, shall be entitled to relocation benefits pursuant to, and subject to, the requirements of Section 7260 of the Government Code. Sponsors of assisted rental housing developments shall be responsible for providing the benefits and assistance. The costs of the benefits and the assistance provided to tenants shall be eligible for funding by a loan provided pursuant to this section.

(g) The guidelines adopted by the department pursuant to subdivision (h) of Section 50560 shall be patterned after the regulations governing the Multifamily Housing Program, including the Uniform Multifamily Regulations, except that the department may adopt different standards for the following factors:

(1) Commercial vacancy loss assumptions must reflect project operating history.

(2) Debt service coverage ratios.

(3) Payment terms and principal amount of senior debt, considering financial market conditions, including costs and department risk, as determined by the department.

(4) Developer fee limitations shall be consistent with California Tax Credit Allocation Committee regulations for inclusion in the basis for projects receiving 9 percent tax credits, for projects receiving the special rent increases contemplated by this chapter, and, consistent with the requirements of other funding sources, for projects not receiving special rent—~~increases~~: *increases, but developer fees shall not exceed the amount allowed by the California Tax Credit Allocation Committee regulations for projects receiving 9 or 4 percent tax credits, as applicable, and shall not exceed 25 percent of actual rehabilitation costs where there is no tax credit resyndication. Developer fees shall only be payable in the event of a resyndication involving major rehabilitation, as defined by the California Tax Credit Allocation Committee in regulations.*

(5) Replacement reserve deposit amounts must be based on projected costs over 20 years, adjusted for inflation, and as shown in an independent replacement reserve analysis.

(h) It is the intent of the Legislature in enacting this section that the department shall manage its reserves for the original Rental

1 Housing Construction Program in a manner that will allow for the
2 continuation of benefits to current low-income tenants for the
3 longest period of time possible up to the term of the original
4 regulatory agreement or the depletion of the annuity funds,
5 whichever occurs first. Accordingly, rents for those households in
6 units subsidized by the annuity fund established pursuant to Section
7 50748 may be increased to 30 percent of household income. A
8 household affected by the rent increase permitted by this
9 subdivision shall be given at least 90 days advanced notice of the
10 increase.

11 (i) (1) The department shall, within available resources, post
12 on its ~~Internet Web site~~ *internet website* information regarding
13 household incomes and rents for developments approved for
14 restructuring.

15 (2) The information shall be provided within six months of a
16 restructuring and, thereafter, no less than every three years.

17 (3) The information shall include the following or similar
18 information:

19 (A) The monthly rent of each household at the time of
20 restructuring.

21 (B) The current monthly rent of each household.

22 (C) The annual income of each household as a percentage of
23 area median income at the time of restructuring.

24 (D) The current income of each household as a percentage of
25 area median income.

26 SEC. 4. Section 50562 of the Health and Safety Code is
27 amended to read:

28 50562. (a) If a department loan is ~~extended~~ *extended*,
29 *subordinated*, or ~~subordinated~~, *paid off before the end of its term*,
30 *the department approves the reinstatement of a qualifying unpaid*
31 *matured loan, the department approves the extraction of equity*
32 *from a development*, or a new tax credit investment occurs, then
33 the department shall enter into a new regulatory agreement with
34 the development's owner, or amend the existing ~~agreement~~.
35 *agreement, and may add another regulatory agreement if the*
36 *department determines it necessary*. The agreement shall be
37 binding upon the development's owner and successors in interest
38 upon sale or transfer of the development property, regardless of
39 any prepayment of the loan. The agreement shall be recorded in
40 the office of the county recorder in the county in which the

1 development is located. The new or amended regulatory agreement
2 shall:

3 (1) Set standards for tenant selection to ensure occupancy by
4 the eligible households.

5 (2) Govern the terms of occupancy agreements.

6 (3) Restrict rents for assisted units, consistent with this chapter.

7 (4) Provide for periodic inspections by the department.

8 (5) Require occupancy and financial reports, and financial audits
9 for the ~~development~~. *development, unless waived by the department*
10 *if the department loan is paid off and the waiver may be rescinded*
11 *in the sole determination of the department.*

12 (6) Govern the use of operating income for the ~~development~~.
13 *development, unless waived by the department if the department*
14 *loan is paid off and the waiver may be rescinded in the sole*
15 *determination of the department.*

16 (7) Govern the use of reserves for the ~~development~~.
17 *development, unless waived by the department if the department*
18 *loan is paid off and the waiver may be rescinded in the sole*
19 *determination of the department.*

20 (8) Have a term for not less than the term of the loan, including
21 any extension.

22 (9) Include other provisions necessary to carry out the purposes
23 of this ~~chapter~~. *chapter, including the requirement that any*
24 *extraction of equity from the development is subject to being shared*
25 *with the department in an amount determined solely by the*
26 *department, but not greater than an amount proportionate to the*
27 *amount of the department loan secured by such project to the total*
28 *construction costs of the project.*

29 (b) The development's owner shall agree to replace or amend
30 any other loan document to accomplish the purposes of this chapter.

31 SEC. 5. Section 5849.2 of the Welfare and Institutions Code
32 is amended to read:

33 5849.2. As used in this part, the following definitions shall
34 apply:

35 (a) "At risk of chronic homelessness" includes, but is not limited
36 to, persons who are at high risk of long-term or intermittent
37 homelessness, including persons with mental illness exiting
38 institutionalized settings, including, but not limited to, jail, mental
39 health, and substance use disorder facilities, who were homeless
40 prior to admission, ~~transition-age~~ *transition-age* youth experiencing

1 homelessness or with significant barriers to housing stability, and
2 others, as defined in program guidelines.

3 (b) “Authority” means the California Health Facilities Financing
4 Authority established pursuant to Part 7.2 (commencing with
5 Section 15430) of Division 3 of Title 2 of the Government Code.

6 (c) “*Capitalized operating reserves*” has the same meaning as
7 defined in Section 50058.8 of the Health and Safety Code.

8 ~~(e)~~

9 (d) “Chronically homeless” has the same meaning as defined
10 in Section 578.3 of Title 24 of the Code of Federal Regulations as
11 that section read on May 1, 2016, or as otherwise modified or
12 expanded by the State Department of Health Care Services.

13 ~~(d)~~

14 (e) “Commission” means the Behavioral Health Services
15 Oversight and Accountability Commission established by Section
16 5845.

17 ~~(e)~~

18 (f) “Committee” means the No Place Like Home Program
19 Advisory Committee established pursuant to Section 5849.3.

20 ~~(f)~~

21 (g) “County” includes, but is not limited to, a city and a city
22 and county receiving funds pursuant to Section 5701.5.

23 ~~(g)~~

24 (h) “Department” means the Department of Housing and
25 Community Development.

26 ~~(h)~~

27 (i) “Development sponsor” has the same meaning as “sponsor”
28 as defined in Section 50675.2 of the Health and Safety Code.

29 ~~(i)~~

30 (j) “Fund” means the No Place Like Home Fund established
31 pursuant to Section 5849.4.

32 ~~(j)~~

33 (k) “Homeless” has the same meaning as defined in Section
34 578.3 of Title 24 of the Code of Federal Regulations as that section
35 read on May 1, 2016.

36 ~~(k)~~

37 (l) “Permanent supportive housing” has the same meaning as
38 “supportive housing,” as defined in Section 50675.14 of the Health
39 and Safety Code, except that “permanent supportive housing” shall

1 include associated facilities if used to provide services to housing
2 residents.

3 ~~(t)~~

4 (m) (1) “Program” means the process for awarding funds and
5 distributing moneys to applicants established in Sections 5849.7,
6 5849.8, and 5849.9 and the ongoing monitoring and enforcement
7 of the applicants’ activities pursuant to Sections 5849.8, 5849.9,
8 and 5849.11.

9 (2) “Competitive program” means the portion of the program
10 established by Section 5849.8.

11 (3) “Distribution program” means the portion of the program
12 described in Section 5849.9.

13 ~~(m)~~

14 (n) “Target population” means individuals or households, as
15 provided in Section 5600.3, who are homeless, chronically
16 homeless, or at risk of chronic homelessness.

17 ~~(n)~~

18 (o) This section shall become operative on January 1, 2025, if
19 amendments to the Mental Health Services Act are approved by
20 the voters at the March 5, 2024, statewide primary election.