

Date of Hearing: April 3, 2013

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

AB 532 (Gordon) – As Introduced: February 20, 2013

SUBJECT: Local Housing Trust Fund

SUMMARY: Deletes the requirement that funds in the Local Housing Trust Fund Matching Grant program for newly formed local housing trust funds revert to the Self-Help Housing Fund and continuously appropriates the funds to the Local Housing Trust Fund Matching Grant program for new and existing local housing trust funds. Specifically, this bill:

- 1) Deletes the requirement that any funds not encumbered in the Local Housing Trust Fund Matching Grant program for newly formed local housing trust funds reverts to the Self-Help Housing Fund 30 months after the first Notice of Funding Availability (NOFA).
- 2) Allows local housing trust funds that were previously awarded funding under the Local Housing Trust Fund Matching Grant program to apply for subsequent matching grants.
- 3) Reduces the maximum amount that a new or existing housing trust fund can receive in matching funds from \$2,000,000 to \$1,000,000 per application.
- 4) Requires the Department of Housing and Community Development (HCD) to issue a NOFA for the Local Housing Trust Fund Matching Grant program no later than June 30, 2014.
- 5) Requires local housing trust funds that have received matching grants as of January 1, 2014 to operate for an additional one year beyond the minimum five years.
- 6) Provides that a local housing trust fund is not required to record a separate deed of trust or equity sharing agreement on a project it finances if another public agency or nonprofit organization records one that meets the local housing trust fund's requirements.
- 7) Provides that a local housing trust fund is not required to record a deed of trust or equity-sharing agreement on any home that is, or will be sold at fair market value.
- 8) Requires that a city or county that receives funding under the Local Housing Trust Fund Matching Grant program maintain a current and substantially compliant housing element to remain eligible for funding.
- 9) Deletes the requirement that HCD set aside fifty percent of the funding for the Local Housing Trust Fund Matching Grant program for newly formed local housing trust funds.

EXISTING LAW

- 1) Establishes the Local Housing Trust Fund Matching Grant Program to provide matching grants to cities, counties, and nonprofit organizations for affordable rental housing projects, emergency housing shelters, safe havens, transitional housing, and for-sale housing (Health and Safety Code 50842.2).

- 2) Requires HCD to set aside \$17.5 million of the \$35 million made available under the Local Housing Trust Fund Matching Grant Program for newly formed local housing trust funds, for which the minimum allocation is \$500,000 (Health and Safety Code 50843.5).
- 3) Caps the amount of matching funds a local housing trust fund can receive from the Local Housing Trust Fund Grant Program at \$2,000,000 (Health and Safety Code 50843.5).
- 4) Requires local housing trust funds to restrict the sale of for-sale homes acquired, constructed, or rehabilitated using Local Housing Trust Fund Matching Grant Program funds by either:
 - a) Requiring the owner-occupant to sell the home at an affordable cost if it is sold within 30 years from the date the trust funds were used; or
 - b) Requiring an equity-sharing agreement that allows the owner-occupant to retain the market value of any improvements, the downpayment assistance, and his or her proportionate share of the appreciation and the grantee to recapture the initial subsidy and its proportionate share of the appreciation, which must be used to assist another person or family in the same category of income as the original grant.

(Health and Safety Code 50843.5)

FISCAL EFFECT: Unknown.

COMMENTS:

In 2006, the voters approved Proposition 1C: the Housing and Emergency Shelter Trust Fund Act, which authorized \$2.85 billion for affordable housing programs for very low-, low- and moderate-income individuals and families. The bond included \$100 million for the Affordable Housing Innovation Fund for competitive grants or loans for programs that demonstrate innovative, cost-saving approaches to creating or preserving affordable housing. The bond required the Legislature to design programs to implement this directive, subject to a two-thirds vote. Any funds not encumbered for a program funded through the Affordable Housing Innovation Fund within 30 months of being made available revert to the Self-Help Housing Fund.

In 2007, SB 586 (Dutton), Chapter 652, authorized several programs funded by the Affordable Housing Innovation Fund, including \$35 million for the Local Housing Trust Fund Matching Grant Program. Originally established by Proposition 46 in 2002, the Local Housing Trust Fund Matching Grant Program provides dollar-for-dollar matching grants to cities, counties, or non-profit organizations that form a housing trust fund using local dollars. The program requires that those communities that have existing housing trust funds to provide a minimum match of \$1,000,000 and those that form new local housing trust funds to provide a minimum match of \$500,000. The maximum amount a local housing trust fund can receive in matching funds is \$2,000,000. Half of the funding for the program, \$17.5 million, was set aside for newly formed housing trust funds.

At this point, the funding for existing housing trust funds has been exhausted, however approximately \$9 million remains for newly formed housing trust funds. The NOFA for the

newly formed Local Housing Trust Fund Matching Grant Program was issued in mid-2011, so without any legislative action the remaining \$9 million will be transferred to the Self-Help Housing Program in November of this year.

Purpose of this bill: This bill would remove the requirement that the remaining funding for the Local Housing Trust Fund Matching Grant Program revert to the Self-Help Housing Program at the end of the year. It would make the remaining funding available to both newly formed and existing housing trust funds and reduce the maximum amount a trust fund could receive in matching state dollars to \$1,000,000 from \$2,000,000. HCD would be directed to issue a new NOFA for the program no later than June 30, 2014.

Deed restriction and equity sharing: Local housing trust funds can use the matching grants for predevelopment costs, acquisition, construction, or rehabilitation of emergency shelters, rental housing, and for-sale homes. At least 30% of funds must be used for units affordable to extremely low-income households, no more than 20% for moderate-income households, and the remainder to lower-income households.

If for-sale homes are financed through the local trust fund, the fund must record a deed restriction against the property to ensure that if the property is sold within 30 years it is sold at an affordable rate or it must be sold subject to an equity-sharing agreement to allow the trust fund to split the equity with the owner.

This bill would allow a local housing trust fund to forego recording a deed restriction or equity-sharing agreement on a home it finances if another governmental entity that is providing financing records a deed restriction or agreement that reflects the local housing trust fund's interest. In many cases rental housing projects funded through the local housing trust fund will also receive low-income housing tax credits which require the housing to be restricted to affordable levels for 55-years. This is the same standard as the local housing trust fund. Also, if the local housing trust fund finances a home that is or will be sold at fair market value, it would not need to record a deed restriction or equity-sharing agreement on the home. The motivation for this change is that local Housing Trust Funds have found it difficult to market homes with these restrictions to homebuyers. Despite this change, for-sale homes would still be required to be sold to the initial buyer at an affordable price, but the buyer could sell the home at fair market value and retain any increase in the equity of the home. The committee may wish to consider if this provision should be restricted to for-sale homes where the trust fund dollars are used as down payment assistance. In that case, the local housing trust fund could recover all of its initial investment; but it would not maintain the unit as affordable for 30 years. HCD operates other programs, including the CalHOME program, that are also funded by Proposition 1C and that allows downpayment assistance at a fixed interest rate without an equity-sharing agreement or deed restriction.

Sponsors of the bill have stated that the demise of redevelopment coupled with shrinking federal dollars for housing makes local housing trust funds more valuable. Additionally, existing housing trust funds provided examples of leveraging local funds with state dollars to finance affordable housing. The San Luis Obispo Housing Trust Fund (SLOHTF), received \$1.5 million from the Local Housing Trust Fund Matching Program which allowed them to construct 168 units of affordable housing. According to SLOHTF, in 2010 30% of all housing starts in the county were assisted using Local Housing Trust Fund Matching Program dollars.

Urgency clause: This bill requires an urgency clause so that it will take effect before November of this year when the funds in the Local Housing Trust Fund Matching Grant Program are scheduled to revert to the Self-Help Housing Program. The author has received approval from Rules Committee to add an urgency clause.

Committee amendments:

The Committee may wish to consider the following amendments which would clarify portions of the bill.

- 1) On page 3, delete lines 7-8.
- 2) On page 4, delete lines 14-16.
- 3) On page 6, delete lines 1-2 and insert: *B) For any funds that are used solely for downpayment assistance, record a deed restriction or equity sharing agreement for any home that is sold at fair market value.*
- 4) On page 6, line 26, delete ", at the time of application,"
- 5) On page 7, line 12 after "after receipt." Insert the following "*In addition, any award to a local housing trust that was under contract on January 1, 2013 shall be extended by 12 months.*"
- 6) On page 7, line 14 delete "or its successor"
- 7) Add an urgency clause.

REGISTERED SUPPORT / OPPOSITION:

Support

California Building Industry Association
California Rural Legal Assistance Foundation
Center for Community Change
EAH Housing
Housing Endowment and Regional Trust of San Mateo County
Housing Leadership Council of San Mateo County
Housing Trust Fund of Santa Barbara County
Housing Trust of Santa Clara County
LeadingAge California
Marin Workforce Housing Trust
MidPen Housing Corporation
Non-Profit Housing Association of Northern California
Orange County Housing Trust
Sacramento Housing Alliance
San Luis Obispo County Housing Trust Fund
Santa Clara County Association of REALTORS®
Ventura County Housing Trust Fund
Western Center on Law & Poverty

Opposition

None on file.

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