

Assembly Bill No. 1383

Passed the Assembly September 8, 2005

Chief Clerk of the Assembly

Passed the Senate September 8, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Chapter 5.6 (commencing with Section 25460) of Division 15 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1383, Pavley. Electricity: Solar energy: Low-Income Housing Development Revolving Loan Program.

Existing law establishes various revolving loan programs to provide loans for specified purposes, including recycling market development and renewable energy resources. Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to expand and accelerate the development of alternative sources of energy, including solar energy. Existing law requires the Energy Commission, until January 1, 2006, and to the extent that funds are appropriated for that purpose in the annual Budget Act, to implement a grant program to accomplish specified goals, including making solar energy systems cost competitive with alternative forms of energy.

Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. Existing law requires the PUC to require Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison to identify a separate electrical rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy sources. Existing law requires that 17.5% of the moneys collected under the renewable energy public goods charge be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation application.

Existing law required the PUC, in consultation with the Independent System Operator and the Energy Commission, to

adopt initiatives, on or before March 7, 2001, to reduce demand for electricity and reduce load during peak demand periods, including differential incentives for renewable or superclean distributed generation resources. Pursuant to this requirement, the PUC established a program incentive for demand-responsiveness and self-generation. Existing law requires the PUC, in consultation with the Energy Commission, to administer, until January 1, 2008, a self-generation incentive program for distributed generation resources in the same form that existed on January 1, 2004.

This bill would establish, until January 1, 2016, the Low-Income Housing Development Revolving Loan Program (program) to help finance solar energy systems, as defined, in eligible low-income housing located in the service areas of an electrical corporation. The bill would create the Low-Income Housing Development Revolving Loan Program Fund (fund), and would require the moneys in the fund to be annually appropriated by the Legislature, and used for the purpose of providing loans for program purposes.

The bill would require the Energy Commission to consider and evaluate the level of funding necessary to adequately fund the program to achieve the goal of placing solar energy systems on low-income or affordable housing units for each fiscal year of the program. The bill would provide that a certain amount of moneys from the Emerging Renewable Resources Account and the self-generation incentive program for distributed generation resources would be transferred to the fund.

The bill would require the Energy Commission to establish and collect a fee for each application for an allocation. The bill would require the commission to deposit the fees in the Low-Income Housing Development Application Fee Account, which the bill would create in the fund, and would authorize the Energy Commission to expend the revenues in the account, upon appropriation by the Legislature, to process applications.

The bill would prescribe requirements for repayment of allocations made pursuant to the program and would authorize the Department of Finance to audit the expenditure of an allocation or the computation of specified payments.

The bill would require the Energy Commission, by October 31, 2007, and by October 31 annually thereafter, to submit a report to

the chairs of the legislative fiscal committees on the portfolio of loans issued pursuant to the program during the previous fiscal year, including the condition of the fund, and on the anticipated demand for the load funds for the following fiscal year. The bill would also require the Energy Commission, by January 1, 2006, and annually thereafter, to submit a report to the chairs of the legislative fiscal committees on the estimated amounts needed to be transferred to the fund from various specified sources, upon appropriation by the Legislature.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) California has a pressing need to procure a steady supply of affordable and reliable peak electricity for affordable housing units.

(b) Solar generated electricity is uniquely suited to California's needs because it produces electricity when California needs it most, during the peak demand hours in summer afternoons when the sun is brightest and air-conditioners are running at capacity.

(c) Procuring solar electric generation capacity to meet peak electricity demand increases system reliability and decreases California's dependence on unstable fossil fuel supplies.

(d) Solar generated electricity diversifies California's energy portfolio. California currently relies on natural gas for the bulk of its electricity generation needs. Increasing energy demands place increasing pressure on limited natural gas supplies and threaten to raise costs.

(e) Roughly 20,000 affordable housing units will be built annually in California in the coming years, challenging energy reliability and affordability for those residents who can least afford inflated energy bills.

(f) Investing in low-income housing solar electricity generation installations today will lower the costs of solar generated electricity for all Californians in the future.

(g) Increasing California's solar electricity generation market will also bring additional manufacturing, installation, and sales

jobs to the state at a higher rate than most conventional energy production sources.

(h) Establishing a Low-Income Housing Development Revolving Loan Program would be a cost-effective investment by ratepayers in peak electricity generation capacity, because as a result of the program ratepayers will recoup the cost of their investment through lower rates by avoiding purchases of electricity at peak rates, with additional system reliability and pollution reduction benefits.

(i) A loan program would further establish, increase, and modify incentives and provide financing mechanisms for energy efficiency and photovoltaic capabilities for subsidized and affordable housing, and establish “zero energy homes” as a goal for low-income and affordable housing residents.

(j) Solar energy systems provide substantial energy reliability and pollution reduction benefits. Solar energy systems also diversify our energy supply and thereby reduce our dependence on imported fossil fuels.

SEC. 2. Chapter 5.6 (commencing with Section 25460) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 5.6. LOW-INCOME HOUSING DEVELOPMENT
REVOLVING LOAN PROGRAM

25460. As used in this chapter, the following terms have the following meanings:

(a) “Allocation” means a loan of funds by the commission pursuant to this chapter.

(b) “Building” means any existing or planned structure for residential uses that includes a heating or cooling system, or both. Additions to an original building shall be considered part of that building rather than a separate building.

(c) “Electrical corporation” has the meaning set forth in Section 218 of the Public Utilities Code.

(d) “Fund” means the Low-Income Housing Development Revolving Loan Program Fund created by Section 25461.

(e) “Low-income residential housing” means affordable residential housing units that are defined in Section 50052.5 or 50053 of, or are undertaken, constructed, or operated pursuant to

Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of, the Health and Safety Code.

(f) “Program” means the Low-Income Housing Development Revolving Loan Program created by Section 25460.5.

(g) “Solar energy system” means a solar energy device that has the primary purpose of providing for the collection and distribution of solar energy for the generation of electricity that is qualified by the commission for participation in the program.

25460.5. The Low-Income Housing Development Revolving Loan Program is hereby established. The purposes of the program are as follows:

(a) To provide low cost financing for up to 50,000 solar energy systems, not to exceed 75 percent of the total costs of the solar energy systems, in low-income residential housing units located in the service areas of an electrical corporation contributing funds to support the Low-Income Housing Development Revolving Loan Program.

(b) To be a cost-effective investment by ratepayers in peak electricity generation capacity that enables ratepayers to recoup the cost of their investment through lower rates as a result of avoiding purchases of electricity at peak rates generated by traditional powerplants and peaker generation units, with additional system reliability and pollution reduction benefits.

25461. (a) The Low-Income Housing Development Revolving Loan Program Fund is hereby created in the State Treasury and, upon annual appropriation by the Legislature, shall be used for allocation by the commission. The fund shall be capitalized by transfers from the Emerging Renewable Resources Account established pursuant to paragraph (3) of subdivision (b) of Section 25751 and from the self-generation incentive program for distributed generation resources originally established pursuant to Chapter 329 of the Statutes of 2000, or from the Million Solar Roofs Initiative Trust Fund established pursuant to Senate Bill 1 of the 2005-06 Regular Session, if Senate Bill 1 is enacted. The amounts for the transfer shall be identified in the report required by subdivision (b) of Section 25461.5.

(b) On or before October 31, 2007, and on or before October 31 annually thereafter, the commission shall submit a report to the chairs of the legislative fiscal committees on the portfolio of loans issued pursuant to this chapter during the previous fiscal

year. The report shall include, but not be limited to, all of the following:

- (1) The total amount of outstanding loans.
- (2) The total amount of outstanding principal and interest.
- (3) The total amount of late payments and defaults.
- (4) The interest rates charged on the loans.

(c) On or before October 31, 2007, and on or before October 31 annually thereafter, the commission shall submit a report to the chairs of the legislative fiscal committees on the condition of the revolving fund, including an estimate of anticipated demand for loan funds for the next fiscal year. The commission's report shall measure the program's effectiveness by including, but not be limited to, all of the following information:

- (1) The total annual kilowatts generated by solar energy system.
- (2) The annual financial savings to low-income households generated by solar energy system.
- (3) An analysis of how systems funded by the program are being financed, including any other grants, loans, rebates, incentives, tax incentives, or tax subsidies being used by the developer or applicant.

(d) On or before October 31, 2007, the commission shall submit a report to the chairs of the legislative fiscal committees on how it intends to implement the sunset provision in subdivision (a) of Section 25466.5.

(c) The moneys in the fund shall consist of both of the following:

- (1) Moneys from sources set forth in Section 25461.5 or 25461.7, as appropriate.
- (2) Moneys authorized by or required to be deposited in the fund by the Legislature and moneys received by the commission pursuant to subdivision (e) of Section 25462.5, or Section 25463.5 or 25464.

(d) The commission shall administer the fund.

(e) The commission shall consult with the California Tax Credit Allocation Committee (TCAC), the California Housing Finance Agency, and the Department of Housing and Community Development to develop guidelines for the fund.

(f) The commission may expend the moneys in the fund to make loans to nonprofit development corporations to provide funding for solar energy systems in low-income housing units.

(g) The commission may make loans for innovative projects and programs. The amount expended for these loans may not exceed 5 percent of the annual appropriation from the fund.

25461.5. (a) During each fiscal year, the commission shall consider and evaluate the level of funding that is necessary to adequately fund the program to achieve the goal of placing solar energy systems on low-income or affordable housing units for the following fiscal year.

(b) On or before January 10, 2006, and annually thereafter, the commission shall submit a report to the chairs of the legislative fiscal committees including an estimate of the following amounts:

(1) For the fiscal year starting on the following July 1, an amount equal to the lower of the following:

(A) Twenty-five percent of the amount identified pursuant to subdivision (a) from the Emerging Renewable Resources Account established pursuant to paragraph (3) of subdivision (b) of Section 25751.

(B) Five percent of the total amount of the funds in the account.

(2) For the fiscal year starting on the following July 1, an amount equal to the lower of the following:

(A) Twenty-five percent of the amount identified pursuant to subdivision (a) from the self-generation incentive program for distributed generation resources originally established pursuant to Chapter 329 of the Statutes of 2000.

(B) Five percent of the total funds in the self-generation incentive program for distributed generation resources.

(3) For the fiscal year starting on the following July 1, an amount equal to 5 percent of the total for the Million Solar Roofs Initiative Trust Fund established pursuant to Senate Bill 1 of the 2005-06 Regular Session.

(c) Paragraphs (1) and (2) of subdivision (b) shall be inoperative if Senate Bill 1 of the 2005-06 Regular Session is enacted and becomes effective on or before January 1, 2006. Paragraph (3) of subdivision (b) shall become operative if Senate

Bill 1 of the 2005-06 Regular Session is enacted and becomes effective on or before January 1, 2006.

25462. (a) To be eligible for participation in the program, a building or housing unit shall satisfy all of the following:

- (1) Be low-income residential housing.
- (2) Be within the service area of an electrical corporation.
- (3) Be at least 10 percent more energy efficient than required by the current standards specified in the California Building Standards Code contained in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations, or have implemented measures to reduce the energy use of the building or housing unit by 10 percent, as calculated pursuant to compliance models set forth in Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations.

(b) An eligible building or housing unit that exceeds energy efficiency standards required by Part 6 (commencing with Section 100) of Title 24 of the California Code of Regulations by more than 10 percent shall receive financing at a rate of 0.25 percent lower than the lowest applicable interest rate available to the commission for every 5 percent additional improvement in energy efficiency.

25462.5. (a) An applicant may submit an application to the commission for an allocation for the purpose of financing up to 75 percent of the costs incurred in implementing a solar energy system. The application shall be in the form and contain the information that the commission shall prescribe.

(b) An application may be for the purpose of financing the applicant's share of the costs for implementing a solar energy system that are to be jointly funded through a state, local, or federal-local program.

(c) An applicant shall not receive loans from the revolving fund in excess of 75 percent of the total cost of the solar energy system. The commission shall ensure that the amount of the loan from the revolving fund, when combined with all other grants, loans, rebates, tax subsidies, tax incentives or any other source of funding or incentive provided the applicant, does not exceed 75 percent of the total actual cost of the solar energy system.

(d) The commission may approve an application if the applicant has furnished information satisfactory to the commission showing both of the following:

(1) That the building or housing is eligible pursuant to Section 25462.

(2) That the costs of the solar energy system, plus interest on state funds loaned, calculated in accordance with Sections 25463 and 25463.5, will be covered by the savings in the cost of energy during the repayment period of the allocation. The savings shall be calculated in a manner prescribed by the commission.

(e) (1) The commission shall establish and collect a fee for each application for an allocation authorized by this chapter. The fee shall be set at a level that is sufficient to reimburse the commission for the cost of the entire application process.

(2) The commission shall deposit the fees received pursuant to this subdivision in the Low-Income Housing Development Application Fee Account, which is hereby created in the fund. The commission may expend the revenues in the Low-Income Housing Development Application Fee Account, upon appropriation by the Legislature, to process applications pursuant to this chapter.

(f) For purposes of this Section, the commission shall define the term “applicant” by regulation.

25463. Annually at the conclusion of each fiscal year, but not later than October 31, each applicant that has received an allocation pursuant to this chapter shall compute and report to the commission the cost of the energy saved as a result of implementing the solar energy system funded by the allocation. The cost shall be calculated in a manner prescribed by the commission.

25463.5. (a) An applicant receiving an allocation pursuant to this chapter shall repay the principal amount of the allocation, plus interest, in not more than 30 equal semiannual payments, as determined by the commission. The first semiannual payment shall be made on or before December 22 of the fiscal year following the year in which the solar energy system is completed. The repayment period may not exceed the life of the equipment, as determined by the commission, or the time period in which the building or housing unit where the solar energy system will be installed maintain its low-income housing status.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative

interest rate schedule, periodically set interest rates on the loans based on the lowest applicable interest rate available to the commission and at rates not less than 3 percent per annum.

(c) The applicant receiving an allocation pursuant to this chapter shall annually budget an amount at least sufficient to make the semiannual payments required in this section. The amount shall not be raised by the levy of additional taxes but shall instead be obtained by a savings in energy costs or other sources.

25465.5. The commission may expend from the fund an amount to pay for the actual administrative costs incurred by the commission pursuant to this chapter. That amount shall not exceed 5 percent of the total appropriation, to be held in reserve and used to defray costs incurred by the commission for allocations made by the commission pursuant to this chapter.

25466. The Department of Finance, at its discretion, may audit the expenditure of any allocation made pursuant to this chapter or the computation of any payment made pursuant to Section 25463.5.

25466.5. (a) Except as provided in subdivision (b), this chapter shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2016, deletes or extends that date.

(b) All loans outstanding as of January 1, 2016, shall continue to be repaid to the commission on a semiannual basis, as specified in Section 25463.5, until paid in full. All unexpended moneys in the fund on January 1, 2016, and thereafter, except to the extent those funds are encumbered pursuant to this chapter, shall revert to the General Fund.

Approved _____, 2005

Governor