

Introduced by Senators DeSaulnier and Steinberg
(Principal coauthor: Assembly Member Atkins)

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 introduced, DeSaulnier. Housing Opportunity 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 are 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 Trust Fund Act of 2012. The bill would make several 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 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 revenues from this fee be sent

quarterly to the Department of Housing and Community Development for deposit in the Housing Opportunity 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, 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 Trust Fund Act of 2012.

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

8 (a) Funding approved by the state's voters in 2002 and 2006,
9 as of June 2011, has financed the construction, rehabilitation, and
10 preservation of over 11,600 shelter spaces and 57,220 affordable
11 apartments, including 2,500 supportive homes for people
12 experiencing homelessness. In addition, these funds have helped
13 57,290 families become or remain homeowners. Nearly all of the
14 voter-approved funding for affordable housing was awarded by
15 the beginning of 2012.

16 (b) The requirement in the Community Redevelopment Law
17 that redevelopment agencies set aside 20 percent of tax increment
18 for affordable housing generated roughly one billion dollars
19 (\$1,000,000,000) per year. With the elimination of redevelopment
20 agencies, this funding stream has disappeared.

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

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

11 (e) California continues to have the second lowest
12 homeownership rate in the nation, and minimum wage earners
13 have to work 120 hours per week to afford the average
14 two-bedroom apartment.

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

21 (g) While the current credit and foreclosure crisis has resulted
22 in reductions in home prices in some areas, it has increased pressure
23 on the rental housing market and slowed new housing production
24 of all types, exacerbating the mismatch between the ever increasing
25 number of households that need housing they can afford and the
26 supply.

27 (h) California's workforce continues to experience longer
28 commute times as the workforce seeks affordable housing outside
29 the areas in which they work. If California is unable to support the
30 construction of affordable housing in these areas, congestion
31 problems will strain the state's transportation system and
32 exacerbate greenhouse gas emissions.

33 (i) Many economists agree that the state's unemployment rate
34 of over 11 percent is due in large part to massive shrinkage in the
35 construction industry from 2005 to 2009, including losses of nearly
36 700,000 construction-related jobs, a 60 percent decline in
37 construction spending, and an 83 percent reduction in residential
38 permits. Restoration of a healthy construction sector will
39 significantly reduce the state's unemployment rate.

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

4 (k) To keep pace with continuing demand, the state should
5 identify and establish a permanent, ongoing source, or sources of
6 funding dedicated to affordable housing development. Without a
7 reliable source of funding for housing affordable to the state’s
8 workforce and most vulnerable residents, the state and its local
9 and private housing development partners will not be able to
10 continue increasing the supply of housing after existing housing
11 bond resources are depleted.

12 (l) The investment will leverage billions of dollars in private
13 investment, lessen demands on law enforcement and dwindling
14 health care resources as fewer people are forced to live on the
15 streets or in dangerous substandard buildings, and increase
16 businesses’ ability to attract and retain skilled workers.

17 SEC. 3. Section 27388.1 is added to the Government Code, to
18 read:

19 27388.1. (a) In addition to any other recording fees specified
20 in this code, a fee of seventy-five dollars (\$75) shall be paid at the
21 time of recording of every real estate instrument, paper, or notice
22 required or permitted by law to be recorded except those expressly
23 exempted from payment of recording fees. “Real estate instrument”
24 includes, but is not limited to, the following documents: deed,
25 grant deed, trustee’s deed, deed or trust, reconveyance, quit claim
26 deed, fictitious deed of trust, assignment of deed of trust, request
27 for notice of default, abstract of judgment, subordination
28 agreement, declaration of homestead, abandonment of homestead,
29 notice of default, release or discharge, easement, notice of trustee
30 sale, notice of completion, UCC financing statement, mechanic’s
31 lien, maps easements, and covenants, conditions, and restrictions.

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

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

3
4 CHAPTER 2.5 HOUSING OPPORTUNITY TRUST FUND

5
6 Article 1. General Provisions

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8 50470. This chapter shall be known, and may be cited, as the
9 Housing Opportunity Trust Fund Act of 2012.

10 50471. (a) There is hereby created in the State Treasury the
11 Housing Opportunity Trust Fund. All interest or other increments
12 resulting from the investment of moneys in the fund shall be
13 deposited in the fund, notwithstanding Section 16305.7 of the
14 Government Code. Moneys in the Housing Opportunity Trust Fund
15 shall not be subject to transfer to any other fund pursuant to any
16 provision of Part 2 (commencing with Section 16300) of Division
17 4 of Title 2 of the Government Code, except to the Surplus Money
18 Investment Fund. Upon appropriation by the Legislature, moneys
19 in the fund may be expended for the purpose of supporting the
20 development, acquisition, rehabilitation, and preservation of
21 housing affordable to low- and moderate-income households,
22 including, but not limited to, emergency shelters; transitional and
23 permanent rental housing, including necessary service and
24 operating subsidies; foreclosure mitigation; and homeownership
25 opportunities.

26 (b) Both of the following shall be paid and deposited in the
27 fund:

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

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

33
34 Article 2. Audits and Reporting

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36 50475. The Bureau of State Audits shall conduct periodic audits
37 to ensure that the annual allocation to individual programs is
38 awarded by the department in a timely fashion consistent with the
39 requirements of this chapter. The first audit shall be conducted no
40 later than 24 months from the effective date of this section.

1 50476. In its annual report to the Legislature pursuant to
2 Section 50408, the department shall report how funds that were
3 made available pursuant to this chapter and allocated in the prior
4 year were expended. The department shall make the report
5 available to the public on its Internet Web site.

6 SEC. 5. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 a local agency or school district has the authority to levy service
9 charges, fees, or assessments sufficient to pay for the program or
10 level of service mandated by this act, within the meaning of Section
11 17556 of the Government Code.