

AMENDED IN ASSEMBLY MAY 14, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1335

Introduced by Assembly Member Atkins

(Principal coauthors: Assembly Members Chau, Chiu, and Gordon)

**(Coauthors: Assembly Members Alejo, Bloom, Bonilla, Bonta,
Cooper, Gonzalez, Lopez, Low, McCarty, Mullin, Rendon,
Santiago, Mark Stone, Ting, and Weber)**

(Coauthor: Senator Hill)

February 27, 2015

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, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1335, as amended, Atkins. Building Homes and Jobs Act.

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 Building Homes and Jobs Act. 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, per each single transaction per single parcel of real property, not to exceed \$225. 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, after deduction of any actual and necessary administrative costs incurred by the county recorder, be sent quarterly to the Department of Housing and Community Development for deposit in the Building Homes and Jobs Fund, which the bill would create within the State Treasury. The bill would, upon appropriation by the Legislature, require that 20% of the moneys in the fund be expended for affordable owner-occupied workforce housing and authorize the remainder of the moneys in the fund to be expended to support affordable housing, home ownership opportunities, and other housing-related programs, and administrative costs, as specified. The bill would impose certain auditing and reporting ~~requirements~~. *requirements and would establish the Building Homes and Jobs Trust Fund Governing Board that would, among other things, review and approve recommendations made by the Department of Housing and Community Development for the distribution of moneys from the fund.*

This bill would state the intent of the Legislature to enact legislation that would create the Secretary of Housing within state government to oversee all activities related to housing in the state.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

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 Building Homes
2 and Jobs Act.

3 SEC. 2. (a) The Legislature finds and declares that having a
4 healthy 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.

7 (b) The Legislature further finds and declares all of the
8 following:

9 (1) Funding approved by the state's voters in 2002 and 2006,
10 as of June 2014, has financed the construction, rehabilitation, and
11 preservation of over 14,000 shelter spaces and 149,000 affordable
12 homes. These numbers include thousands of supportive homes for
13 people experiencing homelessness. In addition, these funds have
14 helped tens of thousands of families become or remain
15 homeowners. Nearly all of the voter-approved funding for
16 affordable housing was awarded by the beginning of 2015.

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

22 (3) In 2014, the Legislature committed 10 percent of ongoing
23 cap-and-trade funds for affordable housing that reduces greenhouse
24 gas emissions and dedicated \$100 million in one-time funding for
25 affordable multifamily and permanent supportive housing. In
26 addition, the people of California thoughtfully approved the
27 repurposing of \$600 million in already committed bond funds for
28 the creation of affordable rental and permanent supportive housing
29 for veterans through the passage of Proposition 41.

30 (4) Despite these investments, the need in the state of California
31 greatly exceeds the available resources, considering 36.2 percent
32 of mortgaged homeowners and 47.7 percent of all renters are
33 spending more than 35 percent of their household incomes on
34 housing.

35 (5) California has 12 percent of the United States population,
36 but 20 percent of its homeless population. California has the highest
37 percentage of unsheltered homeless in the nation, with 63 percent
38 of homeless Californians not having shelter. California has 24

1 percent of the nation's homeless veterans population and one-third
2 of the nations' chronically homeless population. California also
3 has the largest populations of unaccompanied homeless children
4 and youth, with 30 percent of the national total.

5 (6) Furthermore, four of the top 10 metropolitan areas in the
6 country with the highest rate of homelessness are in the following
7 metropolitan areas in California: San Jose-Sunnyvale-Santa Clara,
8 Los Angeles-Long Beach-Santa Ana, Fresno, and Stockton.

9 (7) California continues to have the second lowest
10 homeownership rate in the nation, and the Los Angeles
11 metropolitan area is now a majority renter area. In fact, five of the
12 eight lowest homeownership rates are in metropolitan areas in
13 California.

14 (8) Los Angeles and Orange Counties have been identified as
15 the epicenter of overcrowded housing, and numerous studies have
16 shown that children in crowded homes have poorer health, worse
17 scores on mathematics and reading tests, and higher rates of
18 depression and behavioral problems—even when poverty is taken
19 into account.

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

26 (10) Eight of the top 10 hardest hit cities by the foreclosure
27 crisis in the nation were in California. They include the Cities of
28 Stockton, Modesto, Vallejo, Riverside, San Bernardino, Merced,
29 Bakersfield, and Sacramento.

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

36 (12) Many economists agree that the state's higher than average
37 unemployment rate is due in large part to massive shrinkage in the
38 construction industry from 2005 to 2009, including losses of nearly
39 700,000 construction-related jobs, a 60-percent decline in
40 construction spending, and an 83-percent reduction in residential

1 permits. Restoration of a healthy construction sector will
2 significantly reduce the state's unemployment rate.

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

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

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

19 (16) In order to promote housing and homeownership
20 opportunities, the recording fee imposed by this act shall not be
21 applied to any recording made in connection with a sale of real
22 property. Purchasing a home is likely the largest purchase made
23 by Californians, and it is the intent of this act to not increase
24 transaction costs associated with these transfers.

25 SEC. 3. Section 27388.1 is added to the Government Code, to
26 read:

27 27388.1. (a) (1) Commencing January 1, 2016, and except as
28 provided in paragraph (2), in addition to any other recording fees
29 specified in this code, a fee of seventy-five dollars (\$75) shall be
30 paid at the time of recording of every real estate instrument, paper,
31 or notice required or permitted by law to be recorded, except those
32 expressly exempted from payment of recording fees, per each
33 single transaction per parcel of real property. The fee imposed by
34 this section shall not exceed two hundred twenty-five dollars
35 (\$225). "Real estate instrument, paper, or notice" means a
36 document relating to real property, including, but not limited to,
37 the following: deed, grant deed, trustee's deed, deed of trust,
38 reconveyance, quit claim deed, fictitious deed of trust, assignment
39 of deed of trust, request for notice of default, abstract of judgment,
40 subordination agreement, declaration of homestead, abandonment

1 of homestead, notice of default, release or discharge, easement,
2 notice of trustee sale, notice of completion, UCC financing
3 statement, mechanic's lien, maps, and covenants, conditions, and
4 restrictions.

5 (2) The fee described in paragraph (1) shall not be imposed on
6 any real estate instrument, paper, or notice recorded in connection
7 with a transfer subject to the imposition of a documentary transfer
8 tax as defined in Section 11911 of the Revenue and Taxation Code
9 or on any real estate instrument, paper, or notice recorded in
10 connection with a transfer of real property that is a residential
11 dwelling to an owner-occupier.

12 (b) The fees, after deduction of any actual and necessary
13 administrative costs incurred by the county recorder in carrying
14 out this section, shall be remitted quarterly, on or before the last
15 day of the month next succeeding each calendar quarterly period,
16 to the Department of Housing and Community Development for
17 deposit in the California Homes and Jobs Trust Fund established
18 by Section 50470 of the Health and Safety Code, to be expended
19 for the purposes set forth in that section. In addition, the county
20 shall pay to the Department of Housing and Community
21 Development interest, at the legal rate, on any funds not paid to
22 the Controller before the last day of the month next succeeding
23 each quarterly period.

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

26
27 CHAPTER 2.5. BUILDING HOMES AND JOBS ACT

28
29 Article 1. General Provisions

30
31 50470. (a) (1) There is hereby created in the State Treasury
32 the Building Homes and Jobs Trust Fund. All interest or other
33 increments resulting from the investment of moneys in the fund
34 shall be deposited in the fund, notwithstanding Section 16305.7
35 of the Government Code.

36 (2) Moneys in the Building Homes and Jobs Trust Fund shall
37 not be subject to transfer to any other fund pursuant to any
38 provision of Part 2 (commencing with Section 16300) of Division
39 4 of Title 2 of the Government Code, except to the Surplus Money
40 Investment Fund. Upon appropriation by the Legislature:

1 (A) Twenty percent of moneys in the fund shall be expended
2 for affordable owner-occupied workforce housing.

3 (B) The remainder of the moneys in the fund may be expended
4 for the following purposes:

5 (i) The development, acquisition, rehabilitation, and preservation
6 of rental housing that is affordable to extremely low, very low,
7 low-, and moderate-income households, including necessary
8 operating subsidies.

9 (ii) Affordable rental and ownership housing that meets the
10 needs of a growing workforce up to 120 percent of area median
11 income.

12 (iii) Matching portions of funds placed into local or regional
13 housing trust funds.

14 (iv) Matching portions of funds available through the Low and
15 Moderate Income Housing Asset Fund pursuant to subdivision (d)
16 of Section 34176 of the Health and Safety Code.

17 (v) Capitalized reserves for services connected to the creation
18 of new permanent supportive housing, including, but not limited
19 to, developments funded through the Veterans Housing and
20 Homelessness Prevention Program.

21 (vi) Emergency shelters, transitional housing, and rapid
22 rehousing.

23 (vii) Accessibility modifications.

24 (viii) Efforts to acquire and rehabilitate foreclosed or vacant
25 homes.

26 (xi) Homeownership opportunities, including, but not limited
27 to, down payment assistance.

28 (xii) To the department for the administration of housing
29 programs that receive an appropriation from the fund. Moneys
30 expended for this purpose shall not exceed 5 percent of the moneys
31 in the fund.

32 (b) Both of the following shall be paid and deposited in the
33 fund:

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

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

39 50470.5. For purposes of this chapter, ~~“department” means the~~
40 ~~Department of Housing and Community Development.~~ *chapter:*

1 (a) “Department” means the Department of Housing and
2 Community Development.

3 (b) “Governing Board” means the Building Homes and Jobs
4 Trust Fund Governing Board.

5 50470.7. (a) The Building Homes and Jobs Trust Fund
6 Governing Board is hereby established. *The governing board shall*
7 *include one representative from the department, one representative*
8 *from the California Housing Finance Agency, and one*
9 *representative from the Office of the Treasurer. The governing*
10 *board shall consist of not less also include no fewer than two real*
11 *estate licensees, one from northern California and one*
12 *from southern California, each with not less than 10 years of real*
13 *estate experience and membership in a real estate trade organization*
14 *with not less than 20,000 licensees. The governing board shall*
15 *include a local government official from northern and southern*
16 *California, and a representative from the northern and southern*
17 *California home building industry, all of whom shall be appointed*
18 *by the Governor. The governing board shall also include two public*
19 *members each from northern, central, and southern California.*
20 *Three of the public members shall be appointed by the Speaker of*
21 *the Assembly and three shall be appointed by President pro*
22 *Tempore of the Senate.*

23 (b) (1) *The governing board also shall include six public*
24 *members. Two of the public members must be representative of*
25 *nonprofit affordable housing development, one appointed by the*
26 *Speaker of the Assembly and one appointed by the President pro*
27 *Tempore of the Senate. Two of the public members must be*
28 *representative of for-profit affordable housing development, one*
29 *appointed by the Speaker of the Assembly and one appointed by*
30 *the President pro Tempore of the Senate. The Speaker of the*
31 *Assembly and the President pro Tempore of the Senate shall each*
32 *appoint one additional public member who shall be representative*
33 *of, or have experience in, one or more of the following areas:*

34 (A) *Private sector lending.*

35 (B) *For-profit affordable housing development.*

36 (C) *Nonprofit affordable housing development.*

37 (D) *Working with special needs populations, including persons*
38 *experiencing homelessness.*

39 (E) *Architecture.*

40 (F) *Housing development consultation.*

1 (G) *Housing issues related academia.*

2 (2) *Overall public membership shall contribute to a balance*
3 *among geographic areas and between rural and urban interests.*

4 50471. (a) In order to maximize efficiency and address
5 comprehensive needs, the department, in consultation with the
6 California Housing Finance Agency, the California Tax Credit
7 Allocation Committee, and the California Debt Limit Allocation
8 Committee, shall develop and submit to the Legislature, at the time
9 of the Department of Finance's adjustments to the proposed
10 2015–16 fiscal year budget pursuant to subdivision (e) of Section
11 13308 of the Government Code, the Building Homes and Jobs
12 Investment Strategy. Notwithstanding Section 10231.5 of the
13 Government Code, commencing with the 2020–21 fiscal year, and
14 every five years thereafter, concurrent with the release of the
15 Governor's proposed budget, the department shall update the
16 investment strategy and submit it to the Legislature. The governing
17 board established in Section 50470.7 shall review and advise the
18 department regarding the investment strategy prior to its submission
19 to the Legislature. The investment strategy shall do all of the
20 following:

21 (1) Identify the statewide needs, goals, objectives, and outcomes
22 for housing for a five-year time period. Goals should include targets
23 of the total number of affordable homes created and preserved
24 with the funds.

25 (2) Promote a geographically balanced distribution of funds
26 including consideration of a direct allocation of funds to local
27 governments.

28 (3) Emphasize investments that serve households that are at or
29 below 60 percent of area median income.

30 (4) Meet the following minimum objectives:

31 (A) Encourage economic development and job creation by
32 helping to meet the housing needs of a growing workforce up to
33 120 percent of area median income.

34 (B) Identify opportunities for coordination among state
35 departments and agencies to achieve greater efficiencies, increase
36 the amount of federal investment in production, services, and
37 operating costs of housing, and promote energy efficiency in
38 housing produced.

39 (C) Incentivize the use and coordination of nontraditional
40 funding sources including philanthropic funds, local realignment

1 funds, nonhousing tax increment, the federal Patient Protection
2 and Affordable Care Act, and other resources.

3 (D) Incentivize innovative approaches that produce cost savings
4 to local and state services by reducing the instability of housing
5 for frequent, high-cost users of hospitals, jails, detoxification
6 facilities, psychiatric hospitals, and emergency shelters.

7 (b) Before submitting the Building Homes and Jobs Investment
8 Strategy to the Legislature, the department shall hold at least four
9 public workshops in different regions of the state to further inform
10 the development of the investment strategy.

11 ~~(e) The department shall form an advisory body of experts and~~
12 ~~stakeholders to help develop the Building Homes and Jobs~~
13 ~~Investment Strategy, including, but not limited to, representatives~~
14 ~~from the banking and financial sector, real estate sector, real estate~~
15 ~~and housing developers, and homeless service providers.~~

16 ~~(d)~~

17 (c) Expenditure requests contained in the Governor's proposed
18 budget shall be consistent with the Building Homes and Jobs
19 Investment Strategy developed and submitted pursuant to this part.
20 Moneys in the Building Homes and Jobs ~~Act~~ Trust Fund shall be
21 appropriated through the annual Budget Act.

22 ~~(e)~~

23 (d) The Building Homes and Jobs Investment Strategy and
24 updates required by this section shall be submitted pursuant to
25 Section 9795 of the Government Code.

26 (e) *The governing board shall have the authority to review and*
27 *approve department recommendations for all funds distributed*
28 *from the Building Homes and Jobs Trust Fund.*

30 Article 2. Audits and Reporting

31
32 50475. The California State Auditor's Office shall conduct
33 periodic audits to ensure that the annual allocation to individual
34 programs is awarded by the department in a timely fashion
35 consistent with the requirements of this chapter. The first audit
36 shall be conducted no later than 24 months from the effective date
37 of this section.

38 50476. (a) In its annual report to the Legislature pursuant to
39 Section 50408, the department shall report how funds that were
40 made available pursuant to this chapter and allocated in the prior

1 year were expended, including efforts to promote a geographically
2 balanced distribution of funds. The report shall also assess the
3 impact of the investment on job creation and the economy. With
4 respect to any awards made specifically to house or support persons
5 who are homeless or at-risk of homelessness, the report shall
6 include an analysis of the effectiveness of the funding in allowing
7 these households to retain permanent housing. The department
8 shall make the report available to the public on its Internet Web
9 site.

10 (b) (1) In the report, the department shall make a determination
11 of whether any of the moneys derived from fees collected pursuant
12 to Section 27388.1 of the Government Code are being allocated
13 by the state for any purpose not authorized by Section 50470 and
14 shall share the information with the county recorders.

15 (2) If the department determines that any moneys derived from
16 fees collected pursuant to Section 27388.1 of the Government
17 Code are being allocated by the state for a purpose not authorized
18 by Section 50470, the county recorders shall, upon notice of the
19 determination, immediately cease collection of the fees imposed
20 by Section 27388.1 of the Government Code, and shall resume
21 collection of those fees only upon notice that the moneys derived
22 from fees collected pursuant to Section 23788.1 of the Government
23 Code are being allocated by the state only for a purpose authorized
24 by Section 50470.

25 SEC. 5. (a) The Legislature finds and declares that the housing
26 market plays a critical role in the functioning of the California
27 economy.

28 (b) The Legislature further finds and declares all of the
29 following:

30 (1) The need for housing is something every Californian
31 encounters.

32 (2) Adequate and stable housing is a crucial component of all
33 Californians' quality of life.

34 (3) The expenditure for housing is one of the largest expenses
35 all Californians undertake in their day-to-day lives.

36 (4) Housing and housing-related activities are of such significant
37 importance to the state that it warrants a clear and unified voice
38 in state government.

39 (c) It is the intent of the Legislature to enact legislation that
40 would create a Secretary of Housing within state government to

1 oversee all activities related to housing in the state. In creating this
2 position, it is the intent of the Legislature that all professional
3 entities that play a role in the housing market would be authorized
4 to be incorporated in order to have a clearer and more unified
5 approach to housing in California.

6 SEC. 6. 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.

12 SEC. 7. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the Constitution and shall go into
15 immediate effect. The facts constituting the necessity are:

16 In order to provide affordable housing opportunities at the earliest
17 possible time, it is necessary for this act to take effect immediately.