



Housing Advisory Commission

CONSENT CALENDAR  
May 7, 2013

To: Honorable Mayor and Members of the City Council  
From: Housing Advisory Commission  
Submitted by: Stephen Murphy, Chairperson, Housing Advisory Commission  
Subject: Support Senate Bill 391, the California Homes and Jobs Act

RECOMMENDATION

Adopt a Resolution supporting Senate Bill 391, the California Homes and Jobs Act and send a copy of the resolution to State Senator Mark DeSaulnier.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Previous sources of state funding for affordable housing projects have disappeared. Although voters approved \$5 billion in housing bonds in 2000 and 2006, these funds have been expended. Additionally, 20% of the tax increment revenues received by redevelopment agencies that had previously been set aside for affordable housing (and which generated \$1 billion per year) are no longer available. This is because redevelopment agencies were eliminated in 2012.

In Calendar Year 2012, the Berkeley City Council went on record supporting SB 1220, the HOMeS Act, which serves as the predecessor of SB 391. However in May 2012, SB 1220 failed by two votes to reach the 2/3 majority needed to pass on the floor of the California State Senate. SB 391 is intended to fill the same need as the unsuccessful SB 1220.

At the March 7, 2013 meeting, the Housing Advisory Commission voted to ask City Council to support the passage of Senate Bill 391. (M/S/C. Tregub/Soto-Vigil. Ayes: Casalaina, Kingeter, Murphy, Sawicki, Skjerpig, Soto-Vigil, Tregub and Wolfe. Noes: None. Abstentions: Feller (expressed concerns regarding the exemption of the fees and who will be affected by it)).

BACKGROUND

Senate Bill 391, also known as the California Homes and Jobs Act of 2013, would create a \$75 fee for every real estate instrument that is recorded.<sup>1</sup> The one exception

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<sup>1</sup> From the text of the bill, "Real estate instrument" includes, but is not limited to, the following documents: deed, grant deed, trustee's deed, deed of trust, reconveyance, quit claim deed, fictitious deed of trust, assignment of deed of trust, request for notice of default, abstract of judgment, subordination agreement,

is for documents related to property sales.<sup>2</sup> According to the Senate Transportation and Housing Committee, sales documents constitute roughly 25% of recordings related to real estate. This fee would be sent to the California Homes and Jobs Trust Fund to fund affordable housing projects.<sup>3</sup>

As of March 2013, supporters of SB 391 included the California Housing Consortium (sponsor), Housing California (sponsor), Domus Development, Habitat for Humanity California, Los Angeles Business Council, Los Angeles Area Chamber of Commerce, Non-Profit Housing Association of Northern, California, Orange County Business Council, Palm Communities, Service Employees International Union (SEIU), California State Council, and the Silicon Valley Leadership Group. As of March 7, 2013, no entity has registered opposition to SB 391.

#### RATIONALE FOR RECOMMENDATION

It is estimated that the fee will generate an average of \$525 million per year for the California Jobs Trust Fund. It is believed that the bill will leverage an additional \$2.78 billion in federal and local funding and bank loans for funding and create 29,000 jobs per year, especially in the construction sector. The bill is expected to reduce homelessness and increase California's business competitiveness by providing affordable housing for working families.

#### ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered.

#### CITY MANAGER

The City Manager takes no position the content and recommendations of the Commission's Report.

#### CONTACT PERSON

Kristen Lee, Community Services Specialist III, HHCSO, 981-5427  
Igor Tregub, Commissioner, Housing Advisory Commission, 295-8798

#### Attachments:

- 1: Resolution
- 2: SB391 Factsheet
- 3: SB391 Bill Text

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declaration of homestead, abandonment of homestead, notice of default, release or discharge, easement, notice of trustee sale, notice of completion, UCC financing statement, mechanic's lien, maps, and covenants, conditions, and restrictions."

<sup>2</sup> All sales, including single-family homes, condos, apartments, and commercial properties, are exempt.

<sup>3</sup> From the Office of Senator Mark DeSaulnier, "This fund will support the development, acquisition, rehabilitation, and preservation of homes affordable to low- and moderate-income households, including emergency shelters, permanent supportive housing, transitional and permanent rental housing, foreclosure mitigation, and homeownership opportunities."

RESOLUTION NO. ##,###-N.S.

SUPPORT OF SENATE BILL 391, THE CALIFORNIA HOMES AND JOBS ACT OF 2013

WHEREAS, previous sources of state funding for affordable housing projects have disappeared; and

WHEREAS, in CY 2012, the Berkeley City Council went on record supporting SB 1220, the HOMeS Act, which serves as the predecessor of SB 391; and

WHEREAS, SB 391 would create a \$75 fee for every real estate instrument that is recorded, except for documents related to the property sale; and

WHEREAS, it is estimated that the fee will generate an average of \$525 million per year for the California Jobs Trust Fund; and

WHEREAS, the bill is expected to leverage an additional \$2.78 billion in federal and local funding and bank loans for funding and create 29,000 jobs per year, especially in the construction sector; and

WHEREAS, the bill is expected to reduce homelessness and increase California's business competitiveness by providing affordable housing for working families.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council expresses its support for SB 391, the California Homes and jobs Act of 2013.

BE IT FURTHER RESOLVED that upon adoption, this resolution shall be transmitted to the Office of State Senator Mark DeSaulnier.

**SB 391 (DeSaulnier)**  
**As Introduced – February 20, 2013**

**THE CALIFORNIA HOMES AND JOBS ACT OF 2013**  
**Fact Sheet**

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**SUMMARY**

SB 391 imposes a fee on the recordation of each real-estate document, excluding documents related to the sale of a property, in order to permanently fund the California Homes and Jobs Trust Fund that will support the development of homes affordable to low- and moderate-income households.

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**BACKGROUND**

Everyone in California needs a safe and affordable place to call home. Rents and mortgages within the reach of working families are critical to maintaining California's business competitiveness.

For U.S. military veterans, former foster youth, families with children, people with disabilities, seniors on fixed incomes, and other vulnerable Californians, the housing crisis isn't over. In fact, millions of Californians are caught in the "perfect storm" — mortgages remain out of reach, credit standards have tightened, and the foreclosure crisis has pushed more people into a rental market already suffering from decades of short supply — leading to record-setting rent increases. The most vulnerable, who struggled to make rent before the foreclosure crisis, face even more uncertainty in today's rental market. They risk joining the 130,000+ Californians who are homeless on any given night.

Moreover, business groups including the Orange County Business Council and the Silicon Valley Leadership Group say California needs to increase the supply of housing options affordable to workers, so companies can compete for the talent that drives California's economy.

At the same time, California's investment in affordable homes is declining dramatically. In 2000 and 2006, voters approved roughly \$5 billion in

housing bonds. These funds financed the construction, rehabilitation and preservation of 57,220 affordable apartments, including 2,500 supportive homes for people experiencing homelessness, and over 11,600 shelter spaces. In addition, these funds have helped 57,290 families become or remain homeowners. Nearly all of the voter-approved funding for affordable housing has now been awarded, and no more bond funds are available.

In addition, California's redevelopment agencies used to generate \$1 billion per year for affordable homes as a result of the requirement that they set aside 20% of tax increment for affordable housing. With the elimination of redevelopment agencies, this funding stream has disappeared completely.

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**THIS BILL**

The California Homes and Jobs Act of 2013 imposes a \$75 fee on the recordation of each real-estate document, excluding documents related to the sale of a property, to permanently fund the California Homes and Jobs Trust Fund. This fund will support the development, acquisition, rehabilitation, and preservation of homes affordable to low- and moderate-income households, including emergency shelters, permanent supportive housing, transitional and permanent rental housing, foreclosure mitigation, and homeownership opportunities.

This bill will create a "pay as you go" approach to restore California's critical investment in affordable homes. It is estimated that this fee will generate an average of \$525 million per year for the Homes and Jobs Trust Fund.

In addition, the California Homes and Jobs Act of 2013 will:

- Create 29,000 jobs annually, primarily in the beleaguered construction sector.
- Help businesses attract and retain the talent that fuels California's economy.
- Leverage an additional \$2.78 billion in federal and local funding and bank loans to build affordable homes and create jobs.
- Deploy these dollars in California communities through a successful private/public partnership model.
- Get California building again to create affordable home options for all Californians.

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**FOR MORE INFORMATION**

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**STATUS**

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Introduced – February 20, 2013

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**PRIOR LEGISLATION**

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SB 1220 (DeSaulnier) of 2012

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**SUPPORT**

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- California Housing Consortium (sponsor)
- Housing California (sponsor)
- Domus Development
- Habitat for Humanity California
- Los Angeles Business Council
- Los Angeles Area Chamber of Commerce
- Non-Profit Housing Association of Northern California
- Orange County Business Council
- Palm Communities
- Service Employees International Union (SEIU) California State Council
- Silicon Valley Leadership Group

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**OPPOSITION**

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None received.

# **THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

## **SECTION 1.**

This act shall be known as the California Homes and Jobs Act of 2013.

## **SEC. 2.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) In order to promote housing and homeownership opportunities, the recording fee imposed by this act should not be applied to any recordings made in connection with a sale of real property. Purchasing housing is likely the largest purchase made by Californians, and it is the intent of this act not to increase transaction costs associated with these transfers.

### **SEC. 3.**

Section 27388.1 is added to the Government Code, to read:

27388.1.

(a) (1) Except as provided in paragraph (2), in addition to any other recording fees specified in this code, a fee of seventy-five dollars (\$75) shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded except those expressly exempted from payment of recording fees. "Real estate instrument" includes, but is not limited to, the following documents: deed, grant deed, trustee's deed, deed of trust, reconveyance, quit claim deed, fictitious deed of trust, assignment of deed of trust, request for

notice of default, abstract of judgment, subordination agreement, declaration of homestead, abandonment of homestead, notice of default, release or discharge, easement, notice of trustee sale, notice of completion, UCC financing statement, mechanic's lien, maps, and covenants, conditions, and restrictions.

(2) The fee described in paragraph (1) shall not be imposed on any real estate instrument, paper, or notice recorded in connection with a transfer subject to the imposition of a documentary transfer tax as defined in Section 11911 of the Revenue and Taxation Code.

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

#### **SEC. 4.**

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

#### **CHAPTER 2.5. California Homes and Jobs Trust Fund**

##### **Article 1. General Provisions**

50470.

This chapter shall be known, and may be cited, as the California Homes and Jobs Act of 2013.

50471.

(a) There is hereby created in the State Treasury the California Homes and Jobs Trust Fund. All interest or other increments resulting from the investment of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the California Homes and Jobs Trust Fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund. Upon appropriation by the Legislature, moneys in the fund may be expended for the following purposes:

(1) Supporting the development, acquisition, rehabilitation, and preservation of housing affordable to low- and moderate-income households, including, but not limited to, emergency shelters; transitional and permanent rental housing, including necessary service and operating subsidies; foreclosure mitigation; and homeownership opportunities.

(2) Administering housing programs that receive an appropriation from the fund. Moneys expended for this purpose shall not exceed 5 percent of the moneys in the fund.

(3) The cost of periodic audits required by Section 50475.

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

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

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

**Article 2. Audits and Reporting**

50475.

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

50476.

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

**SEC. 5.**

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

