

SENATE BILL**No. 2****Introduced by Senator Atkins**

**(Coauthors: Senators Beall, Bradford, Dodd, Hertzberg, Jackson,
Mitchell, Roth, Skinner, Wieckowski, and Wiener)**
(Coauthors: Assembly Members Bonta and Thurmond)

December 5, 2016

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

SB 2, as introduced, Atkins. Building Homes and Jobs Act.

Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, homeownership 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 10% of the moneys for housing purposes related to agricultural workers and their families, and would authorize the remainder of the moneys in the fund to be expended to support affordable housing, homeownership opportunities, and other housing-related programs, as specified. The bill would impose certain auditing and reporting 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.

1 (b) The Legislature further finds and declares all of the
2 following:

3 (1) Funding approved by the state's voters in 2002 and 2006,
4 as of June 2015, has financed the construction, rehabilitation, and
5 preservation of over 14,000 shelter spaces and 245,000 affordable
6 homes. These numbers include thousands of supportive homes for
7 people experiencing homelessness. In addition, these funds have
8 helped tens of thousands of families become or remain
9 homeowners. Nearly all of the voter-approved funding for
10 affordable housing has been awarded.

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

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

24 (4) In 2015, the Legislature approved \$2 billion in revenue
25 bonds for the construction and rehabilitation of permanent
26 supportive housing for homeless individuals with mental illness
27 through the "No Place Like Home" initiative and increased funding
28 for the CalWORKs Housing Support Program to \$47 million per
29 year. Another \$45 million was directed to Emergency Solutions
30 Grants to fund rapid rehousing, outreach, shelters, and homeless
31 prevention and \$10 million was provided to reduce homelessness
32 among families who are part of the child welfare system.

33 (5) Despite these investments, the need for affordable housing
34 in the state of California greatly exceeds the available resources,
35 demonstrated by the Public Policy Institute of California finding
36 that, as of January 2016, 31.5 percent of mortgaged homeowners
37 and 47 percent of all renters are spending more than 35 percent of
38 their household incomes on housing.

39 (6) California has 12 percent of the United States population,
40 but 20 percent of its homeless population. California has the highest

1 percentage of unsheltered homeless in the nation, with 64 percent
2 of homeless Californians not having shelter. California has 24
3 percent of the nation's homeless veterans population and one-third
4 of the nation's chronically homeless population. California also
5 has the largest populations of unaccompanied homeless children
6 and youth, with 28 percent of the national total.

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

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

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

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

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

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

38 (13) Many economists agree that the state's higher than average
39 unemployment rate is due in large part to massive shrinkage in the
40 construction industry from 2005 to 2009, including losses of nearly

1 700,000 construction-related jobs, a 60-percent decline in
2 construction spending, and an 83-percent reduction in residential
3 permits. Restoration of a healthy construction sector will
4 significantly reduce the state's unemployment rate.

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

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

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

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

27 SEC. 3. Section 27388.1 is added to the Government Code, to
28 read:

29 27388.1. (a) (1) Commencing January 1, 2018, and except as
30 provided in paragraph (2), in addition to any other recording fees
31 specified in this code, a fee of seventy-five dollars (\$75) shall be
32 paid at the time of recording of every real estate instrument, paper,
33 or notice required or permitted by law to be recorded, except those
34 expressly exempted from payment of recording fees, per each
35 single transaction per parcel of real property. The fee imposed by
36 this section shall not exceed two hundred twenty-five dollars
37 (\$225). "Real estate instrument, paper, or notice" means a
38 document relating to real property, including, but not limited to,
39 the following: deed, grant deed, trustee's deed, deed of trust,
40 reconveyance, quit claim deed, fictitious deed of trust, assignment

1 of deed of trust, request for notice of default, abstract of judgment,
2 subordination agreement, declaration of homestead, abandonment
3 of homestead, notice of default, release or discharge, easement,
4 notice of trustee sale, notice of completion, UCC financing
5 statement, mechanic's lien, maps, and covenants, conditions, and
6 restrictions.

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

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

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

28
29 CHAPTER 2.5. BUILDING HOMES AND JOBS ACT

30
31 Article 1. General Provisions

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

38 (2) Moneys in the Building Homes and Jobs Trust Fund shall
39 not be subject to transfer to any other fund pursuant to any
40 provision of Part 2 (commencing with Section 16300) of Division

1 4 of Title 2 of the Government Code, except to the Surplus Money
2 Investment Fund. Upon appropriation by the Legislature:

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

5 (B) Ten percent of the moneys in the fund shall be expended to
6 address affordable homeownership and rental housing opportunities
7 for agricultural workers and their families.

8 (C) The remainder of the moneys in the fund may be expended
9 for the following purposes:

10 (i) The development, acquisition, rehabilitation, and preservation
11 of rental housing that is affordable to extremely low, very low,
12 low-, and moderate-income households, including necessary
13 operating subsidies.

14 (ii) Affordable rental and ownership housing that meets the
15 needs of a growing workforce earning up to 120 percent of area
16 median income.

17 (iii) Matching portions of funds placed into local or regional
18 housing trust funds.

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

22 (v) Capitalized reserves for services connected to the creation
23 of new permanent supportive housing, including, but not limited
24 to, developments funded through the Veterans Housing and
25 Homelessness Prevention Program.

26 (vi) Emergency shelters, transitional housing, and rapid
27 rehousing.

28 (vii) Accessibility modifications.

29 (viii) Efforts to acquire and rehabilitate foreclosed or vacant
30 homes.

31 (ix) Homeownership opportunities, including, but not limited
32 to, down payment assistance.

33 (x) Grants to local and regional agencies to assist in the
34 development and updating of planning documents and zoning
35 ordinances in order to accelerate housing production, including,
36 but not limited to, General Plans, community plans, specific plans,
37 sustainable communities strategies, and local coastal programs.

38 (xi) Fiscal incentives or matching funds to local agencies that
39 approve new housing for extremely low, very low, low-, and
40 moderate-income households.

(3) A state or local entity that receives an appropriation or allocation pursuant to this chapter shall use no more than 5 percent of that appropriation or allocation for costs related to the administration of the housing program for which the appropriation or allocation was made.

(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.

(c) If a local government does not expend the moneys allocated to it, pursuant to this chapter, within five years of that allocation, those moneys shall revert to, and be paid and deposited in, the fund.

50470.5. For purposes of this chapter:

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

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

50470.7. (a) The Building Homes and Jobs Trust Fund Governing Board is hereby established. The governing board shall include one representative from the department, one representative from the California Housing Finance Agency, and one representative from the Office of the Treasurer. The governing board shall consist also include no fewer than two real estate licensees, one from northern California and one from southern California, each with not less than 10 years of real estate experience and membership in a real estate trade organization with not less than 20,000 licensees. The governing board shall include a local government official from northern and southern California, and a representative from the northern and southern California home building industry, all of whom shall be appointed by the Governor.

(b) (1) The governing board also shall include six public members. Two of the public members must be representative of nonprofit affordable housing development, one appointed by the Speaker of the Assembly and one appointed by the Senate Rules Committee. Two of the public members must be representative of for-profit affordable housing development, one appointed by the

1 Speaker of the Assembly and one appointed by the Senate Rules
2 Committee. The Speaker of the Assembly and the Senate Rules
3 Committee shall each appoint one additional public member who
4 shall be representative of, or have experience in, one or more of
5 the following areas:

- 6 (A) Private sector lending.
- 7 (B) For-profit affordable housing development.
- 8 (C) Nonprofit affordable housing development.
- 9 (D) Working with special needs populations, including persons
10 experiencing homelessness.
- 11 (E) Architecture.
- 12 (F) Housing development consultation.
- 13 (G) Academia related to housing issues.

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

16 50471. (a) In order to maximize efficiency and address
17 comprehensive needs, the department, in consultation with the
18 California Housing Finance Agency, the California Tax Credit
19 Allocation Committee, and the California Debt Limit Allocation
20 Committee, shall develop and submit to the Legislature, at the time
21 of the Department of Finance's adjustments to the proposed
22 2018–19 fiscal year budget pursuant to subdivision (e) of Section
23 13308 of the Government Code, the Building Homes and Jobs
24 Investment Strategy. Notwithstanding Section 10231.5 of the
25 Government Code, commencing with the 2023–24 fiscal year, and
26 every five years thereafter, concurrent with the release of the
27 Governor's proposed budget, the department shall update the
28 investment strategy and submit it to the Legislature. The governing
29 board shall review and advise the department regarding the
30 investment strategy prior to its submission to the Legislature. The
31 investment strategy shall do all of the following:

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

36 (2) Meet the following minimum objectives:

37 (A) Encourage economic development and job creation by
38 helping to meet the housing needs of a growing workforce earning
39 up to 120 percent of area median income.

1 (B) Identify opportunities for coordination among state
2 departments and agencies to achieve greater efficiencies, increase
3 the amount of federal investment in production, services, and
4 operating costs of housing, and promote energy efficiency in
5 housing produced.

6 (C) Incentivize the use and coordination of nontraditional
7 funding sources including philanthropic funds, local realignment
8 funds, nonhousing tax increment, the federal Patient Protection
9 and Affordable Care Act, and other resources.

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

14 (3) Provide for a geographically balanced distribution of funds,
15 including a 50 percent direct allocation of funds to local
16 governments.

17 (4) In order to receive an allocation a local government shall:

18 (A) Submit a plan to the department detailing how allocated
19 funds will be used by the local government in manner consistent
20 with paragraph (2) of subdivision (a) of Section 50470.

21 (B) Have a compliant housing element with the state, submit
22 annual reports pursuant to Section 65400 of the Government Code,
23 and submit an annual report to the department that provides
24 ongoing tracking of the uses and expenditures of any allocated
25 funds.

26 (C) Emphasize investments that serve households that are at or
27 below 60 percent of area median income.

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

32 (c) Expenditure requests contained in the Governor's proposed
33 budget shall be consistent with the Building Homes and Jobs
34 Investment Strategy developed and submitted pursuant to this part.
35 Moneys in the Building Homes and Jobs Trust Fund shall be
36 appropriated through the annual Budget Act.

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

1 (e) The governing board shall have the authority to review and
2 approve department recommendations for all funds distributed
3 from the Building Homes and Jobs Trust Fund.

4
5 Article 2. Audits and Reporting
6

7 50475. The California State Auditor's Office shall conduct
8 periodic audits to ensure that the annual allocation to individual
9 programs is awarded by the department in a timely fashion
10 consistent with the requirements of this chapter. The first audit
11 shall be conducted no later than 24 months from the effective date
12 of this section.

13 50476. (a) In its annual report to the Legislature pursuant to
14 Section 50408, the department shall report how funds that were
15 made available pursuant to this chapter and allocated in the prior
16 year were expended, including efforts to promote a geographically
17 balanced distribution of funds. The report shall also assess the
18 impact of the investment on job creation and the economy. With
19 respect to any awards made specifically to house or support persons
20 who are homeless or at risk of homelessness, the report shall
21 include an analysis of the effectiveness of the funding in allowing
22 these households to retain permanent housing. The department
23 shall make the report available to the public on its Internet Web
24 site.

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

30 (2) If the department determines that any moneys derived from
31 fees collected pursuant to Section 27388.1 of the Government
32 Code are being allocated by the state for a purpose not authorized
33 by Section 50470, the county recorders shall, upon notice of the
34 determination, immediately cease collection of the fees imposed
35 by Section 27388.1 of the Government Code, and shall resume
36 collection of those fees only upon notice that the moneys derived
37 from fees collected pursuant to Section 23788.1 of the Government
38 Code are being allocated by the state only for a purpose authorized
39 by Section 50470.

1 SEC. 5. (a) The Legislature finds and declares that the housing
2 market plays a critical role in the functioning of the California
3 economy.

4 (b) The Legislature further finds and declares all of the
5 following:

6 (1) The need for housing is something every Californian
7 encounters.

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

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

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

15 (c) It is the intent of the Legislature to enact legislation that
16 would create a Secretary of Housing within state government to
17 oversee all activities related to housing in the state. In creating this
18 position, it is the intent of the Legislature that all professional
19 entities that play a role in the housing market would be authorized
20 to be incorporated in order to have a clearer and more unified
21 approach to housing in California.

22 SEC. 6. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 a local agency or school district has the authority to levy service
25 charges, fees, or assessments sufficient to pay for the program or
26 level of service mandated by this act, within the meaning of Section
27 17556 of the Government Code.

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

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