

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: April 16, 2013

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Gerry F. Miller *GFM*
Chief Legislative Analyst
Council File No: 13-0002-S40
Assignment No: 13-03-0225

SUBJECT: Resolution (Reyes-Alarcón) to SUPPORT SB 391 (DeSaulnier) IF AMENDED.

CLA RECOMMENDATION: Adopt Resolution (Reyes-Alarcón) to include in the City's 2013-2014 State Legislative Program SUPPORT for SB 391 (DeSaulnier), which would establish a permanent source of funding for affordable housing by imposing a \$75 recordation fee on real-estate documents, excluding documents related to the sale of property IF AMENDED to include cities in the development of the funding allocation.

SUMMARY

Resolution (Reyes-Alarcón), introduced on March 22, 2013, brings attention to the fact that 2.2 million (60 percent) of Los Angeles residents are living in rental units, with the majority of renters (59 percent) classified as rent burdened as they are paying more than 30 percent of their income on rent. Noting that the economic crisis has decimated federal and state financing used by the City for affordable housing, the Resolution introduces SB 391 as legislation that would create a permanent source of funding for affordable housing. The Resolution states that funds could be used for the purpose of 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. As the bill would help the City supply much needed affordable housing, the Resolution calls for support of SB 391 if amended to include cities in the development of the funding allocation formula to ensure equitable distribution of funds.

BACKGROUND

The State of California has a variety of affordable housing programs:

- Multifamily Housing Program: funds construction, rehabilitation, and preservation of rental homes for lower income households.
- Emergency Housing Assistance Program: funds emergency shelters and transitional homes for homeless individuals and families.
- CalHome Program: funds down payment assistance, home rehabilitation, counseling, self-help mortgage assistance programs, and technical assistance for self-help and shared housing.
- California Homebuyer Down Payment Assistance: aids first-time homebuyers with down payment and/or closing costs.

The main funding source for these programs has been general obligation bonds, notably Proposition 46 (\$2.1 billion) and Proposition 1C (\$2.85 billion). These funds have financed the construction, rehabilitation, and preservation of affordable apartments, supportive housing, and shelters. The California Department of Housing and Community Development (HCD) has awarded almost all of the funds made available under these funding sources, leaving limited state resources available for affordable housing. Until 2011, the Community Redevelopment Law required redevelopment agencies to set aside 20 percent of all tax increment revenue for low- and moderate-income affordable housing. Due to the elimination of redevelopment agencies, this source of funding is no longer available, further limiting state resources for affordable housing.

SB 391, the California Homes and Jobs Act of 2013, would impose a per document fee of \$75 to be paid at the time of the recording of every real estate-related document, excluding documents related to the sale of property. The fee would apply to the following types of recording documents (not exhaustive):

- Deeds and grant deeds
- Trustees' deeds and deeds of trust
- Amendments of deeds of trust
- Quit claim deeds
- Fictitious deeds of trust
- Assignments of deeds of trust
- Construction trust deeds
- Reconveyances
- Easements
- Maps
- Lot line adjustments
- Covenants, conditions, and restrictions
- Affidavits
- Abstracts of judgment
- Subordination agreements
- Declarations and abandonments of homestead
- Requests for notice of default
- Notices of default
- Notices of trustee sale
- Substitution of trustee
- Trustee's deed upon sale
- Notices of completion
- Notice of rescission of declaration of default
- Liens
- Releases or discharges
- Leases and assignments of leases
- Assignments of rents
- Uniform Commercial Code amendment, assignment, continuation, statement, or termination

Our office notes that the process of refinancing includes the recording of a variety of documents that would be subject to the proposed fee. Notably, a family with a primary loan and a line of credit refinancing in order to lower their payments would need to record at a minimum four documents, adding \$300 to the cost of the refinance.

The City of Los Angeles and other jurisdictions would be exempt from paying this fee under the Government Code. The funds raised through this new fee would be deposited in the California Homes and Jobs Trust Fund and be appropriated by the Legislature for 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. Moneys expended for administration of programs cannot exceed

five percent of the moneys in the fund. The bill additionally requires HCD to report annually on the expenditure of funds and the California State Auditor's Office to conduct periodic audits.

Proponents of SB 391 project that the new \$75 fee will raise \$500M annually for state investment in affordable home production and leverage an additional \$2.78 billion in federal, local, and bank investment. With the elimination of redevelopment agencies, the City of Los Angeles is losing approximately \$50M per year in affordable housing funding. Adding to the need for more resources, in 2012 the City's CDBG funding was cut by \$12M (18 percent) and the City's HOME allocation was reduced by \$17M (44 percent). SB 391 could potentially provide the City with a source of affordable housing funding that could help alleviate the need for scarce affordable housing resources. Our office notes that SB 391 does not allocate funds to particular programs, uses, or jurisdictions, rather, the Legislature is charged with determining the allocation. By not including a formula or other language that would ensure that affordable housing investment was made in Los Angeles, there is a chance that revenue raised through documentary filings at the County of Los Angeles could be spent elsewhere in the State. The bill was recently amended (April 2013) to add a requirement that in its annual report on the trust fund, HCD must further report on efforts to promote a geographically balanced distribution of funds. Because this language still does not ensure equitable distribution of funds, we continue to recommend that the City support SB 391 if amended to include cities in the development of the funding allocation formula to ensure equitable distribution of funds. Because SB 391 would result in a change in State taxes, it requires a two-thirds vote for passage.

SB 391 is similar to SB 1220 (DeSaulnier), which last year failed passage out of the Senate. The City of Los Angeles supported SB 1220, with "if amended" language identical to that found in the proposed SB 391 resolution.

DEPARTMENTS NOTIFIED

N/A

BILL STATUS

02/21/13	Introduced
03/11/13	Referred to Committees on Transportation and Housing; Government and Finance
04/02/13	Amended
04/09/13	Passed Transportation and Housing Committee, to Committee on Government and Finance


Clay McCarter
Analyst

MAR 22 2013

13-0002-540

RESOLUTION *WELFARE, FINANCIAL & INTERGOVERNMENTAL RELATIONS*

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, of the 3.7 million people living in Los Angeles' housing units, 2.2 million (or 60 percent) are living in rental units, with the majority of the renters (59 percent) classified as rent burdened as they are paying more than 30 percent of their income on rent; and

WHEREAS, the City needs an adequate supply of affordable housing that does not burden families and erode their capability to pay for medical costs, transportation, groceries and other necessities; and

WHEREAS, the economic crisis has decimated federal and state financing used by the City for affordable housing, with the City's share of the federal Community Development Block Grant cut by \$12 million (18%), the HOME program by \$17 million (44%), and the state's elimination of redevelopment agencies, which resulted in a loss of approximately \$50 million annually; and

WHEREAS, currently pending in the State Legislature is SB 391 (DeSaulnier), the California Homes and Jobs Act of 2013, which would establish a permanent source of funding for affordable housing by imposing a \$75 recordation fee on all real-estate documents, excluding documents related to the sale of property, to yield an average of \$500 million per year that is estimated to leverage \$2.78 billion in federal, local and private dollars; and

WHEREAS, funds could be used for the purpose of 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; and

WHEREAS, SB 391 would help the City of Los Angeles supply much needed affordable housing to better fulfill its Regional Housing Needs Allocation (RHNA); and

WHEREAS, revenue generated in Los Angeles from the California Homes and Jobs Act of 2013 should be reinvested in Los Angeles affordable housing projects to fill the critical deficiency in housing that is affordable to Los Angeles residents;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-2014 State Legislative Program SUPPORT of SB 391 (DeSaulnier), the California Homes and Jobs Act of 2013, which would establish a permanent source of funding for affordable housing by imposing a \$75 recordation fee on real-estate documents, excluding documents related to the sale of property, IF AMENDED to include cities in the development of the funding allocation formula to ensure equitable distribution of funds.

EPR
MAR 22 2013

PRESENTED BY *Ed P. Reyes*
ED P. REYES
Councilmember, 1st District

SECONDED BY *Richard Alvarado*

Vertical stamp: COMMUNITY DEVELOPMENT