

Assembly Bill No. 846

CHAPTER 674

An act to amend Section 50053 of, and to add Section 50199.25 to, the Health and Safety Code, relating to low-income housing.

[Approved by Governor September 27, 2024. Filed with
Secretary of State September 27, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 846, Bonta. Housing programs: rent increases.

Existing law, the Zenovich-Mosccone-Chacon Housing and Home Finance Act, prohibits "affordable rent" for certain rental housing developments that receive assistance on or after January 1, 1991, from exceeding a specified percentage based on the area median income adjusted for family size appropriate for the unit and whether the household is an acutely low income household, extremely low income household, very low income household, lower income household, or moderate-income household. Existing law defines "area median income," "adjustments for family size appropriate to the unit," and "moderate-income household" for these purposes.

This bill would, for an above-described rental housing development that dedicates 80% of units to lower income households, as specified, prohibit affordable rent from exceeding the rent prescribed by deed restrictions or regulatory agreements pursuant to the terms of public financing or public financial assistance for the rental housing development, if the rental housing development receives specified awards on or after January 1, 2025. The bill would also modify the above-described definitions. By altering "affordable rent," and thereby revising the duties of local government officials with respect to administering various programs and requirements that require a determination of "affordable rent," this bill would impose a state-mandated local program.

Existing law establishes a low-income housing tax credit program, through which the California Tax Credit Allocation Committee allocates low-income housing tax credits aimed at providing affordable low-income housing within and throughout the state. Existing law authorizes the committee to undertake specified responsibilities in allocating the tax credit, including entering into regulatory agreements relating to projects that are allocated the tax credit. Existing law requires the committee, when allocating the tax credit, to prefer specified projects, including projects that serve lowest income tenants at rents affordable to those tenants.

This bill would require the committee, on or before June 30, 2025, to adopt regulations limiting annual rent increases for tenants in properties that received an allocation of the low-income housing tax credit, prior to April 3, 2024, as specified. The bill would require the committee, on or

before June 30, 2026, and annually thereafter, to assess the limit, as specified. The bill would also make a related statement of legislative findings and declarations.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) California has a critical lack of supply of housing affordable to lower income households.

(b) The lack of stable and affordable housing for lower income households threatens California's economic, environmental, and social goals and is a primary contributor to homelessness.

(c) The low-income housing tax credit program is the largest ongoing funding source for the construction and preservation of housing affordable to lower income households in the state.

(d) It is the policy of the State of California that low-income housing tax credit funding maximize the provision of stable and affordable housing for lower income households.

(e) Federal low-income housing tax credit regulations give the states authority to apply further regulations, including rent caps.

SEC. 2. Section 50053 of the Health and Safety Code is amended to read:

50053. (a) For any rental housing development that receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent" with respect to lower income households shall not exceed the percentage of the gross income of the occupant person or household established by regulation of the department that shall not be less than 15 percent of gross income nor exceed 25 percent of gross income.

(b) (1) Except as provided in paragraph (2), for any rental housing development that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent," including a reasonable utility allowance, shall not exceed:

(A) (i) For acutely low income households, as defined in Section 50063.5, the product of 30 percent times 15 percent of the area median income adjusted for family size appropriate for the unit.

(ii) This subparagraph shall apply to a lease entered into on or after January 1, 2022.

(B) For extremely low income households, the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.

(C) For very low income households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(D) For lower income households whose gross incomes exceed the maximum income for very low income households, the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those lower income households with gross incomes that exceed 60 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

(E) For moderate-income households, the product of 30 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those moderate-income households whose gross incomes exceed 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

(2) Notwithstanding paragraph (1), for a rental housing development described in paragraph (1) that dedicates 80 percent of units, exclusive of a manager's unit or units, to lower income households, "affordable rent," including a reasonable utility allowance, shall not exceed the rent prescribed by deed restrictions or regulatory agreements pursuant to the terms of the public financing or public financial assistance for the rental housing development, if the rental housing development receives an award on or after January 1, 2025, of any of the following:

(A) Federal or state low-income housing tax credits.

(B) Tax-exempt private activity bonds or general obligation bonds.

(C) Local, state, or federal loans or grants.

(c) The department's regulation shall permit alternative percentages of income for agency-assisted rental and cooperative housing developments pursuant to regulations adopted under subdivision (f) of Section 50462. The department shall, by regulation, adopt criteria defining and providing for determination of gross income, adjustments for family size appropriate to the unit, and rent for purposes of this section. These regulations may provide alternative criteria, where necessary, to be consistent with pertinent federal statutes and regulations governing federally assisted rental and cooperative housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing developments.

(d) For purposes of this section, "area median income" and "moderate-income household" shall have the same meaning as provided in Section 50093.

(e) For purposes of this section, and provided there are no pertinent federal or state statutes or regulations applicable to a project or program that are in conflict with this definition, “adjusted for family size appropriate to the unit” shall mean for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit. If there is a conflict, the applicable state or federal statutes or regulations for the project of program shall apply.

SEC. 3. Section 50199.25 is added to the Health and Safety Code, to read:

50199.25. (a) Under the state’s authority to issue regulations to implement Section 42 of the Internal Revenue Code (26 U.S.C. Sec. 42 et seq.) and effect its purpose, the committee, on or before June 30, 2025, shall adopt regulations pursuant to Section 50199.17 limiting annual rent increases for tenants in properties that received an allocation of housing credits pursuant to this chapter or Section 12206, 17058, or 23610.5 of the Revenue and Taxation Code, prior to April 3, 2024, and that are subject to a regulatory agreement.

(b) On or before June 30, 2026, and annually thereafter, the committee shall assess the limit established pursuant to subdivision (a). The committee may adjust the limit if the committee deems it necessary based on the assessment.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.