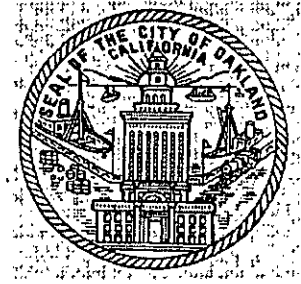


FILED
OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND
BILL ANALYSIS



Date: 2013 MAR -7 PM 1:09 2013

Bill Number: SB 391 CA Homes and Jobs Act of 2013

Bill Author: DeSaulnier

DEPARTMENT INFORMATION

Contact: Jennie Gerard, District 2, 510-238-7023
jgerard@oaklandnet.com

RECOMMENDED POSITION: SUPPORT

Summary of Bill:

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.

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 that 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.

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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.

WHAT THIS BILL WOULD DO

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. Such real estate documents include a deed of trust, an assignment of deed of trust, an amended deed of trust, an abstract of judgment, an affidavit, an assignment of rents, an assignment of a lease, a construction trust deed, covenants, conditions, and restrictions (CC&Rs), a declaration of homestead, an easement, a lease, a lien, a lot line adjustment, a mechanics lien, a modification for deed of trust, a notice of completion, a quitclaim deed, a subordination agreement, a release, a reconveyance, a request for notice, a notice of default, a substitution of trustee, a notice of trustee sale, a trustee's deed upon sale, or a notice of rescission of declaration of default, or any Uniform Commercial Code amendment, assignment, continuation, statement, or termination. These are estimated to represent roughly 75% of all recordings.

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.

POSTIVE FACTORS FOR THE CITY OF OAKLAND

Creation of a Homes and Jobs Trust Fund would provide a source of funding for affordable housing that would go toward replacing the funding formerly available through redevelopment agencies and state housing bond measures.

NEGATIVE FACTORS FOR THE CITY OF OAKLAND

Negligible

SUPPORT

- 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
- City of Pasadena

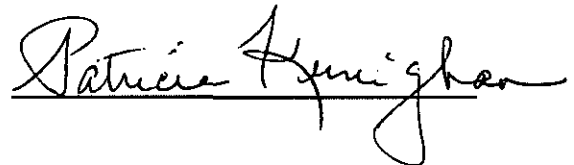
OPPOSITION

County Recorders Association of California

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical (top priority for City lobbyist, city position required ASAP)**
- Very Important (priority for City lobbyist, city position necessary)**
- Somewhat Important (City position desirable if time and resources are available)**
- Minimal or None (do not review with City Council, position not required)**

**Respectfully Submitted,
Council President Kernighan**



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Introduced by Senator DeSaulnier

(Principal coauthors: Assembly Members Atkins and Bocanegra)

(Coauthors: Senators Correa, Hill, Leno, Lieu, and Pavley)

(Coauthors: Assembly Members Ammiano, Bloom, Bonilla, Gordon, Mullin, Quirk-Silva, and Torres)

February 20, 2013

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.

LEGISLATIVE COUNSEL'S DIGEST

SB 391, as introduced, DeSaulnier. California Homes and Jobs Act of 2013.

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 California Homes and Jobs Act of 2013. 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. By imposing new duties on comities 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 be sent quarterly to the Department of Housing and Community Development for deposit in the California Homes and Jobs Trust Fund, which the bill would create within the State Treasury. The bill would provide that moneys in the fund may be expended for supporting affordable housing, administering housing programs, and the cost of periodic audits, as specified. The bill would impose certain auditing and reporting requirements.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedmes for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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 California Homes
2 and Jobs Act of 2013.
3 SEC. 2. The Legislature finds and declares that having a healthy
4 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. The Legislature
7 further finds and declares all of the following:
8 (a) Funding approved by the state's voters in 2002 and 2006,
9 as of June 2011, has financed the construction, rehabilitation, and
10 preservation of over 11,600 shelter spaces and 57,220 affordable
11 apartments, including 2,500 supportive homes for people
12 experiencing homelessness. In addition, these funds have helped
13 57,290 families become or remain homeowners. Nearly all of the
14 voter-approved funding for affordable housing was awarded by
15 the beginning of 2012.

1 (b) The requirement in the Community Redevelopment Law
2 that redevelopment agencies set aside 20 percent of tax increment
3 for affordable housing generated roughly one billion dollars
4 (\$1,000,000,000) per year. With the elimination of redevelopment
5 agencies, this funding stream has disappeared.

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

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

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

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

32 (h) 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 (i) 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 (j) 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 (k) 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 (l) 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 (m) In order to promote housing and homeownership
22 opportunities, the recording fee imposed by this act should not be
23 applied to any recordings made in connection with a sale of real
24 property. Purchasing housing is likely the largest purchase made
25 by Californians, and it is the intent of this act not to 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) Except as provided in paragraph (2), in
30 addition to any other recording fees specified in this code, a fee
31 of seventy-five dollars (\$75) shall be paid at the time of recording
32 of every real estate instrument, paper, or notice required or
33 permitted by law to be recorded except those expressly exempted
34 from payment of recording fees. "Real estate instrument" includes,
35 but is not limited to, the following documents: deed, grant deed,
36 trustee's deed, deed of trust, reconveyance, quit claim deed,
37 fictitious deed of trust, assignment of deed of trust, request for
38 notice of default, abstract of judgment, subordination agreement,
39 declaration of homestead, abandonment of homestead, notice of
40 default, release or discharge, easement, notice of trustee sale, notice

1 of completion, UCC financing statement, mechanic’s lien, maps,
2 and covenants, conditions, and restrictions.

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

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

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

19
20 CHAPTER 2.5. CALIFORNIA HOMES AND JOES TRUST FUND

21
22 Article 1. General Provisions

23
24 50470. This chapter shall be known, and may be cited, as the
25 California Homes and Jobs Act of 2013.

26 50471. (a) There is hereby created in the State Treasury the
27 California Homes and Jobs Trust Fund. All interest or other
28 increments resulting from the investment of moneys in the fund
29 shall be deposited in the fund, notwithstanding Section 16305.7
30 of the Government Code. Moneys in the California Homes and
31 Jobs Trust Fund shall not be subject to transfer to any other fund
32 pursuant to any provision of Part 2 (commencing with Section
33 16300) of Division 4 of Title 2 of the Government Code, except
34 to the Suplus Money Investment Fund. Upon appropriation by
35 the Legislature, moneys in the fund may be expended for the
36 following purposes:

37 (1) Supporting the development, acquisition, rehabilitation, and
38 preservation of housing affordable to low- and moderate-income
39 households, including, but not limited to, emergency shelters;
40 transitional and permanent rental housing, including necessary

1 service and operating subsidies; foreclosure mitigation; and
2 homeownership opportunities.

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

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

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

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

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

14

15

Article 2. Audits and Reporting

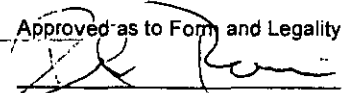
16

17 50475. The Bureau of State Audits shall conduct periodic audits
18 to ensure that the annual allocation to individual programs is
19 awarded by the department in a timely fashion consistent with the
20 requirements of this chapter. The first audit shall be conducted no
21 later than 24 months from the effective date of this section.

22 50476. In its annual report to the Legislature pursuant to
23 Section 50408, the department shall report how funds that were
24 made available pursuant to this chapter and allocated in the prior
25 year were expended. The department shall make the report
26 available to the public on its Internet Web site.

27 SEC. 5. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 a local agency or school district has the authority to levy service
30 charges, fees, or assessments sufficient to pay for the program or
31 level of service mandated by this act, within the meaning of Section
32 17556 of the Government Code.

2013 MAR -7 PM 5:03

Approved as to Form and Legality

City Attorney's Office

OAKLAND CITY COUNCIL
RESOLUTION No. _____ C.M.S.

Introduced by Council President Patricia Kernighan

**RESOLUTION IN SUPPORT OF SB 391 (DESAULNIER), THE
"CALIFORNIA HOMES AND JOBS ACT OF 2013" WHICH
WOULD IMPOSE A \$75 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**

WHEREAS, funding approved by the State of California'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, and these funds have helped 57,290 families become or remain homeowners; and

WHEREAS, nearly all of the voter-approved funding for affordable housing was awarded by the beginning of 2012; and

WHEREAS, the dissolution of redevelopment agencies by the State has eliminated the 20 percent set aside of tax increment for affordable housing; and

WHEREAS, a housing market that provides an adequate supply of homes affordable at all income levels is important to the economic prosperity and quality of life of Oakland residents and businesses; and

WHEREAS, affordable housing developers in Oakland have few funding options remaining to finance construction, rehabilitation and preservation of shelter spaces and affordable homes; and

WHEREAS, SB 391(DeSaulnier) would impose a \$75 fee on the recordation of each real-estate document, excluding documents recorded in connection with a transfer of property subject to a documentary transfer tax, 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; now therefore be it

RESOLVED: That the Oakland City Council supports SB 391 and encourages the California State Legislature to enact the bill; and be it

FURTHER RESOLVED: That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for the above position in the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

AYES-, BROOKS, GIBSON McELHANEY, GALLO, KALB, KAPLAN, REID, SCHAAF, and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST:
LATONDA SIMMONS
City Clerk and Clerk of
the Council of the City
of Oakland, California