

Integrated Text, California 2021 AB 258 (Villapudua) 29 January, 2021

CA AB 258 would add a section to existing law providing for emergency housing to allow a homeless person to keep one dog or cat in the emergency shelter or transitional housing being provided under the Emergency Housing and Assistance Program authorized by Health and Safety Code Sections 50800 - 50806.5. The proposed new Section 50801.6 is shown below as it would appear in context of existing law:

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HEALTH AND SAFETY CODE - HSC

DIVISION 31. HOUSING AND HOME FINANCE [50000 - 54034]

(Division 31 repealed and added by Stats. 1977, Ch. 610.)

PART 2. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT [50400 - 50899.7]

(Heading of Part 2 amended by Stats. 1981, Ch. 996.)

CHAPTER 11.5. Emergency Housing and Assistance Program [50800 - 50806.5]

(Chapter 11.5 repealed and added by Stats. 1993, Ch. 1022, Sec. 2.)

50800.

(a) It is the intent of the Legislature to encourage the provision of shelter, with effective personal rehabilitation and self-sufficiency development services, to homeless persons at as low a cost and as quickly as possible, without compromising the health and safety of shelter occupants. It is also the intent of the Legislature to encourage the move of homeless persons from shelters to a self-supporting environment as soon as possible, to encourage provision of services for as many persons at risk of homelessness as possible, to encourage compatible and effective funding of homeless services, and to encourage coordination among public agencies that fund or provide services to homeless individuals, as well as agencies that discharge people from their institutions, including, but not limited to, child welfare agencies, health care programs, and jails and prisons. Because many communities currently provide shelter and limited services to individuals who are unable or unwilling to comply with traditional housing programs only during cold and wet weather and because year-round shelter will encourage these individuals to accept services and move toward permanent housing, it is also the intent of the Legislature to increase the availability of year-round shelter to meet the special needs of those individuals, including a Safe Haven that provides supportive housing for seriously mentally ill homeless persons.

(b) There is hereby created the Emergency Housing and Assistance Program.

(c) To the extent possible, the Emergency Housing and Assistance Program shall not conflict with the federal Stewart B. McKinney Homeless Assistance Act, as approved on July 22, 1987, cited as Public Law 100-77, as it is, from time to time,

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amended, and regulations promulgated thereunder by the United States Department of Housing and Urban Development, or its successor.

(Amended by Stats. 2000, Ch. 667, Sec. 2. Effective January 1, 2001.)

50800.5.

(a) There is hereby created in the State Treasury the Emergency Housing and Assistance Fund. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department to carry out the purposes of this chapter. Any repayments, interest, or new appropriations shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Money in the 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.

(b) All moneys in the Emergency Housing and Assistance Fund, created pursuant to Section 50800.5 as it existed prior to the effective date of the act that adds this chapter, shall be transferred, on the effective date of the act that adds this chapter, to the Emergency Housing and Assistance Fund created by subdivision (a).

(c) The department may require the transfer of moneys in the Emergency Housing and Assistance Fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest, dividends, and pecuniary gains from these investments shall accrue to the Emergency Housing and Assistance Fund, notwithstanding Section 16305.7 of the Government Code.

(d) To the extent funds are made available by the Legislature, moneys in the fund may be used for the purposes of Chapter 19 (commencing with Section 50899.1) of Part 2 of Division 31 of the Health and Safety Code.

(e) The Department of Housing and Community Development may transfer any unobligated Proposition 46 and Proposition 1C bond funds to the Housing Rehabilitation Loan Fund, less any funds needed for state operations to support outstanding awards as determined by the Department of Housing and Community Development, to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675), to be used for supportive housing for the target population identified in Section 50675.14.

(Amended by Stats. 2016, Ch. 714, Sec. 26. (SB 944) Effective January 1, 2017.)

50801.

As used in this chapter:

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

(b) "Designated local board" means a group, including social service providers and a representative of local government, that has met department requirements for distribution of grants allocated by the department pursuant to this chapter.

(c) "Director" means the Director of Housing and Community Development.

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(d) "Eligible organization" means an agency of local government or a nonprofit corporation that provides, or contracts with community organizations to provide, emergency shelter or transitional housing, or both.

(e) "Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

(f) "Nonurban county" means any county with a population of less than 200,000, as published in the most recent edition of Population Estimates of California Cities and Counties, E-1, prepared by the Department of Finance, Demographic Research Unit.

(g) "Region" means a county or a consortium of counties voluntarily banding together by action of a designated local board.

(h) "Safe Haven" means supportive housing for seriously mentally ill homeless persons, many of whom have cooccurring substance abuse problems, that have been unable or unwilling to participate in high demand housing programs.

(i) "Transitional housing" means housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons. Transitional housing includes self-sufficiency development services, with the ultimate goal of moving recently homeless persons to permanent housing as quickly as possible, and limits rents and service fees to an ability-to-pay formula reasonably consistent with the United States Department of Housing and Urban Development's requirements for subsidized housing for low-income persons. Rents and service fees paid for transitional housing may be reserved, in whole or in part, to assist residents in moving to permanent housing.

(j) "Urban county" means any county that is not a nonurban county.

(Amended by Stats. 2019, Ch. 29, Sec. 120. (SB 82) Effective June 27, 2019.)

50801.5.

(a) The department shall adopt regulations for the administration of the Emergency Housing and Assistance Program. The regulations shall govern the equitable distribution of funds in accordance with the intent and provisions of this chapter, and shall ensure that the program is administered in an effective and efficient manner. The regulations shall provide for reasonable delegation of authority to designated local boards, ensure that local priorities and criteria are reasonably designed to address the needs of homeless people, and ensure that designated local boards meet reasonable standards of inclusiveness, accountability, nondiscrimination, and integrity.

(b) The regulations adopted pursuant to this section shall ensure that emergency shelter and services will be provided on a first-come-first-served basis for whatever time periods are established by the shelter. No individual or household may be denied shelter or services because of an inability to pay. Nothing in this provision shall be construed to preclude a shelter from accepting payment vouchers provided through any other public or private program so long as no shelter beds are reserved beyond sundown for that purpose. Notwithstanding Section 11135 of the Government Code or any other provision of law, nothing in this section shall be

construed to preclude a provider of emergency shelter or transitional housing from restricting occupancy on the basis of any of the following:

(1) Sex.

(2) In the case of an emergency shelter or transitional housing offered exclusively to persons 24 years of age or younger pursuant to Section 11139.3 of the Government Code, on the basis of age.

(3) Military veteran status, if the veterans served possess significant barriers to social reintegration and employment due to a physical or mental disability, substance abuse, or the effects of long-term homelessness that require specialized treatment and services and the provider of emergency shelter or transitional housing also provides the specialized treatment and services.

However, in the case of families, providers of emergency shelter or transitional housing shall provide, to the greatest extent feasible, adequate facilities within their range of services so that all members of a family may be housed together, regardless of age and gender.

(Amended by Stats. 2003, Ch. 776, Sec. 2. Effective January 1, 2004.)

2021 AB 258, as introduced

SECTION 1.

Section 50801.6 is added to the Health and Safety Code, to read:

50801.6.

(a) In addition to any eligibility requirements established pursuant to Section 50801.5 or by regulation, an applicant or grantee that provides **emergency shelter or transitional housing** to homeless persons **shall not prohibit the keeping of not more than one pet by a homeless person.**

(b) Nothing in this section shall prevent an applicant or grantee from requiring the **removal from any emergency shelter or transitional housing of any pet whose conduct or condition is duly determined to constitute a threat or nuisance to the other occupants** of the emergency shelter or transitional housing. No pet may be kept in violation of humane or health laws. **Nothing in this section authorizes an applicant or grantee to impose any requirement which makes the keeping of a pet by a homeless person financially prohibitive.**

(c) An applicant or grantee **shall not be liable for personal or property damages caused by any pet** in the emergency shelter or transitional housing accommodation, **except upon proof of prior actual knowledge on behalf of its agents or employees of a dangerous propensity of the pet or hazardous condition created by the pet.**

(d) **Nothing in this section shall prevent** an applicant or grantee from **adopting reasonable regulations** relating to any such pets; **prevent the adoption of differing terms for the tenancy which are reasonably related to the presence of such pet**; or **relieve a homeless person from any liability otherwise imposed by law for damages caused by such pet when proof of same exists.**

(e) Where available, **applicants and grantees are encouraged to partner with organizations within the community to provide food and veterinary care for the pet if necessary.**

(f) For purposes of this section, **“pet” means a domesticated dog or cat.**

50802.

(a) The department shall ensure that not less than 20 percent of the moneys in the Emergency Housing and Assistance Fund shall be allocated to nonurban counties during any given fiscal year. If the funds designated for facilities operation that are allocated to nonurban counties are not awarded by the end of that fiscal year, then those unencumbered funds shall be allocated in the next fiscal year to urban counties. Funds for capital development that are not awarded by the end of the second fiscal year shall be awarded in the subsequent fiscal year to urban counties.

(b) The amount of funds that the department allocates from the Emergency Housing and Assistance Fund to each region, excluding funds allocated pursuant to subdivision (a), shall be based upon a formula that accords at least 20 percent weight to each of the following factors:

(1) The relative number of persons in the region below the poverty line according to the most recent federal census, updated, if possible, with an estimate by the Department of Finance, compared to the total of the urban counties.

(2) The relative number of persons unemployed within each region, based on the most recent one-year period for which data is available, compared to the total of the urban counties.

(c) Grant funds shall be disbursed as expeditiously as possible by the department.

(d) The department shall use not more than 5 percent of the amount available for funds pursuant to this chapter to defray the department's administrative costs pursuant to this chapter.

(e) Notwithstanding any other provision of this chapter, the department shall distribute funds appropriated for purposes of the activities specified in paragraphs (2) and (7) of subdivision (a) of Section 50803 as grants in the form of forgivable deferred loans, subject to all of the following:

(1) (A) Funding shall be made available to each project as a loan with a term of five years for rehabilitation, seven years for substantial rehabilitation, 10 years for acquisition and rehabilitation or new construction, or 20 years for conversion to permanent supportive housing for homeless families and individuals. Each deferred loan shall be secured by a deed of trust and promissory note. Repayment of the loan shall be deferred as long as the project is used as an emergency shelter, permanent supportive housing, or transitional housing. At the completion of the specified year term, the loan shall be forgiven. If a transfer or conveyance of the project property, however, occurs prior to that time that results in the property no longer being used as an emergency shelter, permanent supportive housing, or transitional housing, the department shall terminate the grant and require the repayment of the deferred loan in full.

(B) If the property is transitioned from an emergency shelter or transitional housing to permanent supportive housing, and serves people who are homeless or at risk of homelessness, the loan may also be deferred and forgiven according to subparagraph (A), as if it had remained an emergency shelter or transitional housing. Prior to a transition, a project shall obtain department approval to transition to permanent supportive housing to ensure that the proposed transition is consistent with this subdivision. In considering whether to approve a transition, the department shall evaluate the following factors: the suitability of the building for use as permanent supportive housing and project financial feasibility. A project

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transitioned to permanent supportive housing pursuant to this subdivision shall have a loan term of 20 years from the beginning of its approved use as permanent supportive housing for people who are homeless or at risk of homelessness. If a transitioned project property is no longer being used as permanent supportive housing for people who are homeless or at risk of homelessness, the department shall terminate the loan and require repayment of the deferred loan in full.

(i) For purposes of this subparagraph, "permanent supportive housing" has the same meaning as the term "supportive housing," as defined in paragraph (2) of subdivision (b) of Section 50675.14.

(ii) For purposes of this subparagraph, "people who are homeless" means individuals described in Section 11302 of Title 42 of the United States Code, and paragraph (2) of subdivision (e) of Section 11139.3 of the Government Code.

(2) Applications for funding shall be made pursuant to department-issued statewide "Notices of Funding Availability" without the need for additional regulations.

(3) The department shall set forth the criteria for evaluating applications in the "Notices of Funding Availability" and shall make deferred loans based on those applications that best meet the criteria.

(4) The department shall specify in the "Notice of Funding Availability" both maximum and minimum grant amounts that may be varied for urban and nonurban counties.

(5) Contracts for projects that have not begun construction within the initial 12-month period shall be terminated and funds reallocated. The department, however, may extend this period by a period not to exceed 12 months.

(Amended by Stats. 2013, Ch. 495, Sec. 1.5. (AB 1109) Effective January 1, 2014.)

50802.5.

(a) The department shall issue a notice or notices of funding availability to potential applicants and designated local boards, as applicable, as soon as possible after funding becomes available for the Emergency Housing and Assistance Program. Each notice of funding availability shall indicate the amounts and types of funds available under this program.

(b) A designated local board, or the department in the absence of a designated local board, shall solicit, receive, and select among applications for grants pursuant to this chapter from eligible organizations through an open, fair, and competitive process. These applications shall be ranked and selected by a designated local board, or by the department in the absence of a designated local board.

(c) Notwithstanding subdivision (b), the department may restrict a designated local board from selecting any application requesting a grant for capital developments if the amount requested by the application exceeds the limits determined by the department, and the department determines that the designated local board is not qualified to evaluate the application. The department shall establish criteria for distinguishing between a designated local board that may be so restricted and a designated local board that would not be so restricted. A designated local board may appeal to the director, or to the director's designee, any decision made by the department pursuant to this subdivision. The department, by June 30, 2001, shall consider increasing the maximum grant limits to three hundred thousand dollars

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(\$300,000) for operating grants and five hundred thousand dollars (\$500,000) for capital grants.

(d) The department, or the designated local board, as applicable, shall not grant more than one million dollars (\$1,000,000) to any eligible organization within a region in a funding round even if the eligible organization has filed multiple applications.

(e) The department shall determine requirements of the grant contract and shall contract directly with the grant recipient. The department shall not delegate this function to the designated local boards. Eligible designated local boards may use a percentage of the regional award funds to defray administrative costs. The department shall establish this percentage, which shall not exceed 2 percent.

(f) The designated local board shall regulate the performance of any grant contract within their region, subject to department oversight and requirements established by the department.

(g) The department shall not perform a secondary rating or ranking review on those grant applications that have been solicited, received, and selected by a designated local board according to a local ranking criterion that has been approved by the department.

(h) Notwithstanding any other provision of this chapter, if the Housing and Emergency Shelter Trust Fund Act of 2002 is approved by the voters, funds allocated pursuant to paragraph (2) of subdivision (a) of Section 53533 shall be administered by the department in a manner consistent with the restrictions and authorizations contained in provision 3 of Item 2240-105-0001 of the Budget Act of 2000, except that any appropriations in that item shall not apply. The competitive system used by the department shall incorporate priorities set by the designated local boards and their input as to the relative merits of submitted applications from within the designated local board's county in relation to those priorities.

In addition, the funding limitations contained in this section shall not apply to the appropriation in that budget item.

(Amended by Stats. 2002, Ch. 26, Sec. 1.7. Effective April 22, 2002. Operative after November 5, 2002 (Prop. 46 was adopted) by Sec. 9 of Ch. 26.)

50803.

(a) Grants awarded by the department pursuant to this chapter shall be used by a grant recipient to defray costs of eligible activities defined in department regulations or guidelines, including, but not limited to, any of the following activities:

- (1) Operating facilities, including, but not limited to, operations staff salaries, maintenance, repair, utilities, equipment, and debt reduction.
- (2) Providing for capital development programs, such as acquisition, leasing, construction, and rehabilitation of sites for emergency shelter and transitional housing for homeless persons.
- (3) Administrative costs.
- (4) Operating expenses relating to supervising and counseling clients.
- (5) Providing residential rental assistance.
- (6) Leasing or renting rooms for provision of temporary shelter.

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(7) Capital development loans for the conversion of emergency shelter or transitional housing to permanent supportive housing for homeless families or individuals. The department shall establish the maximum loan limits for the loans in the notice of funding availability.

(8) Providing effective approaches to rapidly rehouse homeless clients. Eligible activities include, but are not limited to, homeless system assessments, street outreach and housing and services engagement efforts, coordinated care services, housing location and stabilization services, and rental assistance costs, including deposits and costs necessary for occupancy.

(b) Funds allocated to a nonurban county pursuant to subdivision (a) of Section 50802 may be used to pay the cost of leasing or renting individual units, hotel rooms, or motel rooms for use as emergency shelters. No more than 15 percent of the funds allocated to a region other than a nonurban county shall be expended for this purpose.

(c) By regulation, the department shall establish a level, not to exceed 5 percent of a grant award, which any eligible recipient may use to defray administrative costs. *(Amended by Stats. 2013, Ch. 488, Sec. 2. (AB 873) Effective January 1, 2014.)*

50803.5.

Each designated local board shall provide a process for appeal of its decisions and comply with the requirements of this chapter and the regulations promulgated hereunder.

(Repealed and added by Stats. 1993, Ch. 1022, Sec. 2. Effective October 11, 1993.)

50804.

(a) Each designated local board shall submit to the department for approval, a local emergency shelter strategy for its region, describing the procedures for complying with requirements pursuant to this chapter and the regulations promulgated thereunder. The department shall establish, by regulation, the types of information that each designated local board shall include in the strategy, including, but not limited to, each of the following:

(1) A statement of goals and how goals will be achieved.

(2) A statement of priorities and how the priorities complement the local continuum of care planning process.

(3) A description of the application process and ranking criteria for the Emergency Housing and Assistance Program.

(4) Copies of application forms for the Emergency Housing and Assistance Program that the designated local board will use to evaluate requests for grants.

(5) A statement of how grant recipients shall be encouraged to develop year-round emergency shelters and transitional housing to meet the diverse needs of the homeless populations that include families, youth, and persons with physical and mental disabilities, people who are addicted to alcohol and drugs, people living with HIV/AIDS, veterans, the elderly, and pregnant women. Also, a description of how the local plan serves the needs of individuals and families at risk of homelessness as a result of eviction.

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(b) The department shall establish a deadline, by which date the designated local board shall be required to submit a strategy for the department's review.

(c) Upon the department's approval of a strategy, the designated local board shall make the strategy broadly available to shelter and service providers and to other interested persons in its region.

(Amended by Stats. 2000, Ch. 667, Sec. 7. Effective January 1, 2001.)

50804.5.

(a) Project budgets may be changed, within limits established by the department.

(b) Funds allocated to a region shall remain available for funding applications within the region for a time period or dollar limit to be specified by department regulations. The department may designate a time period or dollar limit for the distribution of capital development funds that is different from the time period or dollar limit for the distribution of noncapital development funds. When the designated local board is unable to distribute funds during the time period designated by the department, the funds shall revert to the fund for distribution.

(Added by Stats. 1993, Ch. 1022, Sec. 2. Effective October 11, 1993.)

50805.

(a) The director shall establish a statewide advisory body on emergency and transitional housing. The department shall consult with the advisory body in the development of regulations and guidelines for certification of designated local boards, requirements for the local emergency shelter strategies, assessment of statewide needs of homeless persons and providers of services to homeless persons, coordination of services and funds of state agencies, and general guidance and direction related to this chapter. The director shall establish, and the department shall begin consulting with, the advisory body within 30 days of the operative date of the act that adds this chapter.

(b) The advisory body established pursuant to this section shall be appointed by, and serve at the pleasure of, the director and shall represent a broad range of representatives of designated local boards, emergency shelter providers, and transitional housing providers from throughout the state. There shall be at least one member who is homeless or formerly homeless; at least one member who represents a statewide nonprofit advocacy organization concerned with homelessness and low-cost affordable housing; one member who represents a designated local board; one member who represents a federal interagency council concerned with homeless issues; one member representing state services for homeless persons; one member who is a residential building owner or manager; one member who is a commercial building owner or manager; and one member of the public. The department shall not use funds made available pursuant to this chapter to fund the activities of the advisory body.

(Repealed and added by Stats. 1993, Ch. 1022, Sec. 2. Effective October 11, 1993.)

50806.5.

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The department may adopt emergency regulations to implement this chapter, with respect to award of funds and the administration of the program, to the extent necessary before the department issues the first notice of funding availability pursuant to Section 50802.5. The adoption of emergency regulations shall be conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning, or purposes, of Section 11346.1 of the Government Code. Any changes in regulations made by the department pursuant to this section shall be identified in the notice of funding availability published by the department pursuant to Section 50802.5.

(Added by Stats. 1993, Ch. 1022, Sec. 2. Effective October 11, 1993.)