

AMENDED IN SENATE MAY 18, 2023

AMENDED IN SENATE MAY 1, 2023

AMENDED IN SENATE MARCH 21, 2023

SENATE BILL

No. 584

**Introduced by Senator Limón
(Coauthor: Senator Caballero)**

February 15, 2023

An act to add Chapter 3.6 (commencing with Section 50535) to Part 2 of Division 31 of the Health and Safety Code, and to add Part 16 (commencing with Section 35500) to Division 2 of the Revenue and Taxation Code, relating to housing, ~~making an appropriation therefor,~~ and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 584, as amended, Limón. Laborforce housing: Short-Term Rental Tax Law.

Existing law establishes the Department of Housing and Community Development and sets forth its powers and duties. Existing law establishes various 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.

This bill would enact the Laborforce Housing Financing Act of 2023, and define "laborforce housing" as housing that, among other things, is owned and managed by specified entities solely for the benefit of residents and households unable to afford market rent, and whose residents enjoy certain protections. The bill would ~~establish, in the State Treasury, the Laborforce Housing Fund, to be continuously appropriated~~

~~to the department, establish the Laborforce Housing Fund in the State Treasury, and would make moneys in the fund available to the department, upon appropriation by the Legislature, for the creation of laborforce housing and other specified housing projects by public entities, local housing authorities, and mission-driven nonprofit housing providers, as provided. By creating a new continuously appropriated fund, the bill would make an appropriation.~~

The bill would limit the use of fund moneys to construction or rehabilitation projects that require either that all construction workers on the project are paid at least the applicable prevailing wage rate, or that all contractors and subcontractors at every tier will use a skilled and trained workforce to complete the project, in accordance with specified provisions. These certifications would expand the crime of perjury, thereby imposing a state-mandated local program.

Existing law imposes taxes upon income and real property, and taxes upon certain transactions and excise taxes. The Fee Collection Procedures Law provides procedures for the collection of certain fees and surcharges and is administered by the California Department of Tax and Fee Administration (CDTFA). Under existing law, a violation of the Fee Collection Procedures Law is a crime.

This bill would, beginning January 1, 2025, impose a tax on the occupancy of a short-term rental in this state at the rate of 15% of the rental price of the short-term rental. The bill would define “short-term rental” for this purpose to mean the occupancy of a home, house, a room in a home or house, or other lodging that is not a hotel, inn, motel, or bed and breakfast, in this state for a period of 30 days or less. The bill would require a short-term rental facilitator, as defined, to collect the tax in the case where the facilitator processes the payment for the rental. The bill would require the operator, as defined, to collect the tax where no facilitator processes payment for the rental. The bill would require all revenues, less refunds and reimbursement to the CDTFA of administration and collection costs, be deposited in the Laborforce Housing Fund.

This bill would require the CDTFA to administer and collect the tax pursuant to the Fee Collection Procedures Law. By expanding the application of the crimes associated with the Fee Collection Procedures Law, the bill would impose a state-mandated local program.

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: ~~yes~~-no. Fiscal committee: yes.
State-mandated local program: yes.

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

SECTION 1. This act shall be known as the Laborforce Housing Financing Act of 2023.

SEC. 2. Chapter 3.6 (commencing with Section 50535) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 3.6. LABORFORCE HOUSING

Article 1. General Provisions

50535. The Legislature finds and declares all of the following:

(a) The affordable housing crisis in the State of California is a statewide problem that continues to worsen and that is causing individual suffering and weighing down the California economy. No locality has the ability to address this crisis on its own.

(1) California's statewide housing crisis is exacerbated by the commercial use of residential homes and apartments for transient occupancies. Such commercial use of residential homes and apartments reduces the supply of residential units available for permanent residency and raises rents for permanent occupants.

(2) Current efforts to address the affordable housing crisis by incentivizing private production of affordable housing by for-profit and nonprofit developers are laudable, but they are not sufficient on their own to alleviate the crisis. Nor are rent subsidies for low-income tenants, while laudable, sufficient on their own to create an adequate supply of affordable housing.

(3) The experience in other countries demonstrates that California's affordable housing crisis will not be resolved unless the government plays a greater role in building and rehabilitating affordable housing projects. The government must learn to play this role without creating the problems that plagued public housing projects in the past.

(b) It is the intent of the Legislature to create a state program to finance publicly owned housing that is built sustainably with union labor and that avoids the problems that plagued public housing projects in the past. If successful, this program can be expanded in the future.

(c) It is also the intent of the Legislature to impose a statewide assessment on the commercial use of residential homes and apartments for transient occupancy and to use the money collected to pay for the development and rehabilitation of affordable housing to partly replace the residential units that are not available for permanent occupancy.

50535.1. For purposes of this chapter, the following definitions apply:

(a) “Afford” and “affordable” mean that a household pays no more than 30 percent of its household income on rent.

~~(b) “Community land trust” has the same meaning as that term is defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.~~

~~(c)~~

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

~~(d)~~

(c) “Extremely low income” has the same meaning as the term “extremely low income households” is defined in Section 50106 of the Health and Safety Code.

~~(e)~~

(d) (1) “Laborforce housing” means housing that meets all of the following requirements:

(A) The housing units are owned and managed by a public entity, a local housing authority, ~~a community land trust~~, or a mission-driven not-for-profit private entity solely for the benefit of residents and households unable to afford market rent.

(B) Each housing development contains housing units that accommodate a mix of household income ranges, including extremely low income, very low income, and low income, as well as moderate income households unable to afford market rent, and all housing units are permanently deed-restricted affordable to households at each of those income levels to ensure that every household pays an affordable rent.

1 (C) Residents of the housing units enjoy the protections set forth
2 in Section 50539, and shall be afforded due process prior to being
3 subject to eviction procedures.

4 (D) The housing units are protected for the duration of their
5 useful life, and the land associated with the housing units is
6 protected permanently from being sold or transferred to any private
7 person or for-profit entity or a public-private partnership.

8 (E) Residents have the right to participate directly and
9 meaningfully in decisionmaking affecting the operation and
10 management of the housing units in which they reside.

11 (2) “Laborforce housing” includes both new construction of
12 units of laborforce housing and the acquisition and rehabilitation
13 of existing housing units preserved as laborforce housing.

14 ~~(f)~~

15 (e) “Laborforce Housing Fund” means the fund established by
16 Section 50537.

17 ~~(g)~~

18 (f) “Low income” has the same meaning as the term “lower
19 income household” is defined in Section 50079.5 of the Health
20 and Safety Code.

21 ~~(h)~~

22 (g) “Mission-driven not-for-profit entity” means an eligible
23 nonprofit corporation with all of the attributes described in
24 subparagraph (D) of paragraph (3) of subdivision (a) of Section
25 2924m of the Civil Code.

26 ~~(i)~~

27 (h) “Moderate income” has the same meaning as the term
28 “persons and families of moderate income” is defined in Section
29 50093 of the Health and Safety Code.

30 ~~(j)~~

31 (i) “Operator” means a person who is proprietor of a residential
32 property rented for transient occupancy, whether in the capacity
33 of owner, lessee, sublessee, mortgagee in possession, licensee, or
34 any other capacity. Where the operator performs their functions
35 through a managing agent of any type or character other than an
36 employee, the managing agent shall also be deemed an operator
37 for the purposes of this chapter, and shall have the same duties
38 and liabilities as their principal.

39 ~~(k)~~

(j) “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

~~(i)~~

(k) “Prevailing wage rates” means the wage rates determined by the Director of Industrial Relations pursuant to Part 7 (commencing with Section 1720) of Division 2 of the Labor Code.

~~(m)~~

(l) “Project labor agreement” means an agreement that meets the requirements of Section 2500 of the Public Contract Code.

~~(n)~~

(m) “Rent” means the consideration charged by the operator, valued in money, for the occupancy of the residential property rented for transient occupancy, including any fee, including, but not limited to, a cleaning fee or charge, without any deduction therefrom whatsoever.

~~(o)~~

(n) “Residential property rented for transient occupancy” means any structure in the state, or any portion of that structure, which is zoned for residential use as a home or apartment, and is rented for transient occupancy for dwelling, lodging, or sleeping purposes. “Residential property rented for transient occupancy” does not include a hotel, inn, motel, bed and breakfast, or similar business.

~~(p)~~

(o) “Skilled and trained workforce” has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

~~(q)~~

(p) “Transient occupancy” means the use or possession, or the right to the use or possession, of any buildings, structures, or portion thereof for dwelling, lodging, or sleeping purposes, by reason of concession, permit, right of access, license, or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

~~(r)~~

(q) “Transient occupancy business” means any person in the business of arranging for the rental of residential property for transient occupancy. “Transient occupancy business” includes corporations that advertise residential property for transient

1 occupancy, accept or facilitate the acceptance of rental payments,
2 and then pass a portion of those payments on to the operators of
3 property.

4 (s)

5 (r) “Very low income” has the same meaning as the term “very
6 low income households” is defined in Section 50105 of the Health
7 and Safety Code.

8 50535.2. The department shall adopt rules, policies, guidelines,
9 or standards to implement this chapter. No rule, policy, guideline,
10 or standard issued by the department in implementing this chapter
11 shall be subject to the requirements of the Administrative Procedure
12 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
13 Division 3 of Title 2 of the Government Code).

14
15 Article 2. Administration of the Laborforce Housing Fund
16

17 50537. (a) There is hereby established, in the State Treasury,
18 the Laborforce Housing Fund. ~~Notwithstanding Section 13340 of~~
19 ~~the Government Code, the fund is continuously appropriated to~~
20 ~~the department without regard to fiscal years for purposes of this~~
21 ~~chapter. Moneys in the fund shall be available, upon appropriation~~
22 ~~by the Legislature, to the department for purposes of this chapter.~~

23 (b) Revenues deposited in the Laborforce Housing Fund shall
24 only consist of laborforce housing assessments received by the
25 department pursuant to Section 50536.5.

26 50537.1. (a) Public entities, local housing authorities, and
27 mission-driven nonprofit housing providers shall be eligible to
28 receive funding from the Laborforce Housing Fund for the creation
29 of laborforce housing.

30 (b) Notwithstanding ineligibility under subdivision (a), all
31 housing projects deemed eligible for funding under the “Alternative
32 Models for Permanent Affordable Housing” program, as set forth
33 in section 22.618.3(d)(1)(ii)b of Measure ULA (2022), the Los
34 Angeles Program to Prevent Homelessness and Fund Affordable
35 Housing (“House LA”), or any substantially identical local
36 program, shall be eligible for funding under this chapter.

37 ~~(c) The department may use revenues deposited in the~~
38 ~~Laborforce Housing Fund to pay for the administration and~~
39 ~~collection of the laborforce housing assessments.~~

1 (c) *The department may use up to 5 percent of program funds*
2 *to administer and oversee the program.*

3 50537.2. (a) No less than 65 percent of funds allocated in a
4 given year from the Laborforce Housing Fund shall be allocated
5 to the creation of laborforce housing through new construction.

6 (b) A maximum of 30 percent of the funding allocated from the
7 Laborforce Housing Fund in a given year may be used for the
8 creation of laborforce housing through acquisition and
9 rehabilitation of existing housing.

10 (c) A maximum of 5 percent of the funding allocated in a given
11 year from the Laborforce Housing Fund may be used to meet the
12 operating needs of laborforce housing projects and for planning
13 and implementation of local laborforce housing or renter protection
14 programs.

15 50537.3. (a) The department shall establish a process for
16 soliciting applications and shall have discretion to award funding
17 from the Laborforce Housing Fund in the manner that the
18 department determines will best effectuate the purposes of this
19 chapter.

20 (b) The department shall endeavor, to the extent feasible, to
21 award funds collected from the laborforce housing assessments to
22 laborforce housing projects in the counties in which the funds were
23 collected.

24
25 Article 3. Labor Standards for Laborforce Housing Projects
26

27 50538. Revenues from the Laborforce Housing Fund may be
28 used to pay for construction or rehabilitation work on a project
29 only if either of the following is true:

30 (a) All construction and rehabilitation work is subject to a project
31 labor agreement that requires payment of at least the applicable
32 prevailing wage rate to all construction workers on the project.

33 (b) The department or a local public agency has obtained an
34 enforceable commitment from the prime contractor or other entity
35 undertaking the work that all contractors and subcontractors at
36 every tier will use a skilled and trained workforce to complete the
37 project.

Article 4. Tenant Protections for Laborforce Housing Projects

50539. (a) All of the following protections shall apply to tenants in a property funded under this chapter:

(1) Tenants shall be protected from termination or eviction except for just cause, as defined in Section 1946.2 of the Civil Code, or a more protective local policy, which protections shall be in place from the time the tenancy is created, with no waiting period.

(2) A tenant who qualifies at the time of the creation of the tenancy as income eligible shall not be terminated solely on the basis of a subsequent change in income.

(3) No household or member of a household that resides in the property at the time of its acquisition shall be evicted, nor shall their tenancy be terminated, on the ground of their income or other eligibility requirements for deed-restricted units in the property.

(4) The maximum allowable annual rent increase for any unit shall not exceed the lesser of 3 percent of the rent, or 6 percent of the California Consumer Price Index.

(5) No tenant in a property acquired with funding under this chapter shall be deprived of any rights or protections under state or local law that they enjoyed prior to the time of its acquisition. Tenants shall enjoy full rights of association and free speech, including the right to organize tenant unions, and shall be protected from any act of discrimination, harassment, or retaliation.

(b) Notwithstanding any other state or local law, the department shall require, in the rules, policies, guidelines, or standards adopted pursuant to Section 50535.2, the inclusion of language in tenant leases that incorporates the protections of this section, and in the provisions of Section 1946.2 of the Civil Code or a local policy that provides greater tenant rights against termination.

SEC. 3. Part 16 (commencing with Section 35500) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 16. SHORT-TERM RENTAL TAX LAW

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

35500. This part shall be known, and may be cited, as the “Short-Term Rental Tax Law.”

1 35501. For purposes of this part, the following definitions shall
2 apply:

3 (a) “Department” means the California Department of Tax and
4 Fee Administration.

5 (b) “Marketplace” means a physical or electronic place,
6 including, but not limited to, an internet website or a dedicated
7 software application, where a short-term rental facilitator facilitates
8 the occupancy of a short-term rental in this state, regardless of
9 whether the facilitator has a physical presence in this state.

10 (c) “Operator” means a person who is the proprietor of a
11 short-term rental, whether in the capacity of owner, lessee,
12 sublessee, mortgagee in possession, licensee, or any other capacity.
13 Where the operator performs their functions through a managing
14 agent of any type or character other than an employee, the
15 managing agent shall also be deemed an operator for the purposes
16 of this part.

17 (d) “Renter” means a person who uses a short-term rental
18 facilitator to facilitate the occupation of a short-term rental in this
19 state.

20 (e) “Rental price” means the total amount for which a renter
21 retains the right to occupy a short-term rental, valued in money,
22 whether paid in money or otherwise.

23 (f) “Short-term rental” means the occupancy of a home, house,
24 a room in a home or house, or other lodging that is not a hotel,
25 inn, motel, or bed and breakfast, in this state for a period of 30
26 days or less.

27 (g) (1) “Short-term rental facilitator” means a person that
28 facilitates for consideration, regardless of whether it is deducted
29 as fees from the transaction, the use of a short-term rental that is
30 not owned by the person facilitating the rental, through a
31 marketplace operated by the person or a related person, and that
32 does both of the following:

33 (A) Directly, or indirectly through one or more related persons,
34 engages in any of the following:

35 (i) Transmits or otherwise communicates the offer or acceptance
36 between the renter and the operator.

37 (ii) Owns or operates the electronic or physical infrastructure
38 or technology that brings renters and operators together.

39 (iii) Provides a virtual currency that renters are allowed or
40 required to use to facilitate occupancy of a short-term rental.

(iv) Software development or research and development activities related to any of the activities described in paragraph (2), if such activities are directly related to facilitating short-term rentals.

(B) Directly, or indirectly through one or more related persons, engages in any of the following activities with respect to facilitating short-term rentals:

(i) Payment processing services.

(ii) Listing short-term rentals that are not owned by that person or a related person.

(iii) Setting prices.

(iv) Branding short-term rentals as those of the short-term rental facilitator.

(v) Taking orders or reservations.

(2) Notwithstanding paragraph (1), newspapers, periodicals, and internet websites are not facilitating a short-term rental under this part if they meet all the following requirements:

(A) They advertise short-term rentals.

(B) They refer renters to the operator by telephone, internet link, or other means to complete the sale, and do not participate further in the sale by, either directly or indirectly through agreements or arrangements with third parties, collecting payment from the renter.

(C) Acceptance of the offer to occupy a short-term rental displayed in the advertisement does not take place upon their owned and operated electronic or physical infrastructure that brings renters and operators together.

35502. For purposes of this part, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of the Internal Revenue Code, as that section was amended by Section 345 of Division Q of the Consolidated Appropriations Act, 2016 (Public Law 114-113), and the regulations thereunder.

CHAPTER 2. IMPOSITION OF TAX

35504. (a) Beginning January 1, 2025, a renter shall pay a tax on the occupancy of a short-term rental in this state at the rate of 15 percent of the rental price of the short-term rental.

(b) (1) Where a short-term rental facilitator processes the payment for the short-term rental, the short-term rental facilitator

1 shall collect the tax imposed by this section at the time the renter
2 enters an agreement to occupy the short-term rental.

3 (2) Where a short-term rental facilitator does not process
4 payment for the short-term rental, the operator of a short-term
5 rental for consideration shall collect the tax imposed by this section.

6 (c) (1) A short-term rental facilitator with de minimis
7 facilitations of short-term rentals, or a short-term rental operator
8 with de minimis short-term rental operations, is not required to
9 collect the tax imposed pursuant to subdivision (a).

10 (2) (A) For purposes of this subdivision, a short-term rental
11 facilitator is considered to have de minimis facilitations of
12 short-term rentals if the facilitator derived less than one hundred
13 thousand dollars (\$100,000) from facilitating short-term rentals
14 during the previous calendar year. The de minimis facilitation
15 threshold shall be based on the aggregate of all short-term rentals
16 in the state facilitated by a person or related person.

17 (B) For purposes of this subdivision, an operator is considered
18 to have de minimis short-term rental operations if the operator
19 derived less than one hundred thousand dollars (\$100,000) from
20 short-term rental operations during the previous calendar year,
21 including those short-term rental operations facilitated by a
22 short-term rental facilitator.

23 24 CHAPTER 3. ADMINISTRATION 25

26 35506. The department shall administer and collect the taxes
27 imposed by this part pursuant to the Fee Collection Procedures
28 Law (Part 30 (commencing with Section 55001)). For purposes
29 of this part, the references in the Fee Collection Procedures Law
30 to “fee” shall include the taxes imposed by this part, and references
31 to “feepayer” shall include a person required to pay the taxes
32 imposed by this part.

33 35507. (a) The taxes imposed by this part shall be due and
34 payable quarterly on or before the last day of the month following
35 each calendar quarter.

36 (b) The payments shall be accompanied by a return filed by the
37 short-term rental facilitator or operator using electronic media on
38 or before the last day of the month following each quarterly period
39 for the preceding quarterly period. Returns shall be authenticated

1 in a form or pursuant to methods as may be prescribed by the
2 department.

3 (c) The tax that is required to be collected by the short-term
4 rental facilitator or operator and any amount unreturned to the
5 renter which is not tax but was collected from the renter under the
6 representation by the short-term rental facilitator or operator that
7 it was tax constitutes debts owed by the short-term rental facilitator
8 or operator to the state.

9 35508. A short-term rental facilitator or operator that is required
10 to collect the tax imposed by this part shall register for a permit
11 with the department using electronic media and shall set forth the
12 name under which it transacts or intends to transact business and
13 any other information as the department may require.

14 35509. (a) The department may prescribe, adopt, and enforce
15 regulations relating to the administration and enforcement of this
16 part, including, but not limited to, collections, reporting, refunds,
17 and appeals.

18 (b) (1) The department may prescribe, adopt, and enforce
19 emergency regulations as necessary to implement this part.

20 (2) An emergency regulation prescribed, adopted, or enforced
21 pursuant to this paragraph shall be adopted in accordance with
22 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
23 3 of Title 2 of the Government Code, and, for purposes of that
24 chapter, including Section 11349.6 of the Government Code, the
25 adoption of the regulation is an emergency and shall be considered
26 by the Office of Administrative Law as necessary for the immediate
27 preservation of the public peace, health and safety, and general
28 welfare.

29 35510. All revenues, interest, and penalties derived from the
30 tax imposed by this part, less refunds and reimbursement to the
31 department for expenses incurred in administration and collection
32 of the tax, shall be deposited into the Laborforce Housing Fund
33 established pursuant to Section 50537 of the Health and Safety
34 Code.

35 SEC. 4. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

4 SEC. 5. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the California Constitution and shall
7 go into immediate effect. The facts constituting the necessity are:

8 In order to address the statewide affordable housing crisis in
9 California and to prepare for the collection of a laborforce housing
10 assessment and the process for disbursing funds for laborforce
11 housing, it is necessary that this act take effect immediately.