


BOARD of SUPERVISORS



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MEMORANDUM

TO: Kate Hartley, Director, Mayor's Office of Housing and Community Development
Tom Hui, Director, Department of Building Inspection
John Rahaim, Director, Planning Department

FROM:  Alisa Somera, Legislative Deputy Director
Rules Committee

DATE: September 18, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee has received the following proposed legislation, introduced by Mayor Breed on September 11, 2018:

File No. 180890

Ordinance amending Chapter 66 and deleting Chapter 66A of the Administrative Code to conform to the recent passage by the voters on November 8, 2016, of Proposition C, a measure entitled "Loans to Finance Acquisition and Rehabilitation of Affordable Housing," and to otherwise conform such sections to current practices and make technical corrections.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: alisa.somera@sfgov.org.

c: Eugene Flannery, Mayor's Office of Housing and Community Development
Amy Chan, Mayor's Office of Housing and Community Development
William Strawn, Department of Building Inspection
Carolyn Jayin, Department of Building Inspection
Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
Devyani Jain, Planning Department
AnMarie Rodgers, Planning Department
Dan Sider, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department

1 [Administrative Code - Seismic Safety Retrofit and Affordable Housing Loan Program]

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3 **Ordinance amending Chapter 66 and deleting Chapter 66A of the Administrative Code**
4 **to conform to the recent passage by the voters on November 8, 2016, of Proposition C,**
5 **a measure entitled “Loans to Finance Acquisition and Rehabilitation of Affordable**
6 **Housing,” and to otherwise conform such sections to current practices and make**
7 **technical corrections.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Chapter 66 of the San Francisco Administrative Code is hereby amended by
17 amending its entirety, to read as follows:

18 SEC. 66.1. HISTORY AND PURPOSE.

19 *The purpose of this Chapter 66 is to authorize and implement a Seismic Safety Retrofit*
20 *and Affordable Housing Loan Program ("Program" as defined below) for the City and County of San*
21 *Francisco ("City" as defined below). On November 3, 1992, the City's voters approved Proposition A,*
22 *a ballot measure authorizing the issuance of up to \$350 million of general obligation bonds to establish*
23 *a Seismic Safety Loan Program ("SSLP") to provide loans for the seismic strengthening of*
24 *unreinforced masonry buildings ("Proposition A"); as of 2016, less than \$100 million of such issuance*
25 *authority had been utilized. On November 8, 2016, voters approved Proposition C, a ballot measure*
expanding the permitted uses for which SSLP funds could be loaned ("Proposition C"). Among other

1 changes, Proposition C authorized loans to “finance the costs to acquire, improve, and rehabilitate and
2 to convert at-risk multi-unit residential buildings to permanent affordable housing.” Consequently, the
3 purpose of this Chapter 66 is to authorize and implement the program created by Proposition A, as
4 amended by Proposition C, by describing the conditions under which the City may lend general
5 obligation bond proceeds to building owners to finance the seismic retrofit of unreinforced masonry
6 buildings, or to finance the acquisition, improvement and/or rehabilitation of “at risk” multi-unit
7 residential buildings, subject to the conditions and provisions herein. The City’s Board of Supervisors
8 (the “Board”) intends that the Program be used to protect buildings that are at-risk due to their
9 physical condition and need for seismic and other life safety improvements, or for which there is a risk
10 of loss of affordability due to vacancy decontrol or market speculation. The Board further intends that
11 Program funds, particularly those funds used to make Below Market Rate Loans (as defined below), be
12 prioritized for use in supporting the conversion of residential buildings to permanent affordable
13 housing. In addition to the requirements of this Chapter 66, the Program shall be subject to all federal,
14 state and local laws applicable to the issuance of bonds related to the Program, the making of loans,
15 specific seismic retrofit standards, fire, health and safety upgrades and any other applicable matters.

16 Sec. 66.2 DEFINITIONS. Unless otherwise indicated by the context, the following
17 definitions shall govern construction of terms in this Chapter:

18 (a) “Act” means collectively the provisions of a measure entitled “Earthquake Safety
19 Loan Bonds,” adopted by the voters as Proposition A on November 3, 1992, as amended by a
20 measure entitled “Loans to Finance Acquisition and Rehabilitation of Affordable Housing,”
21 adopted by the voters as Proposition C on November 8, 2016, as same may be amended.

22 (b) “Applicant” means an applicant for a Loan or any successor in interest.

23 (c) “Application” means an application for a Loan.

24 (d) “Below Market Rate Loan” means a Loan made, the interest of which yields at
25 least one-third of the City Cost of Funds.

1 (e) "Board" means the Board of Supervisors of the City.

2 (f) "Bond Proceeds" means the proceeds of general obligation bonds to be issued
3 by the City to provide funds for the Program, including interest on such proceeds of such
4 general obligation bonds.

5 (g) "Borrower" means a recipient of a Loan.

6 (h) "Building Code" means the San Francisco Building Code, as such code may be
7 amended from time to time.

8 (i) "City" means the City and County of San Francisco, a charter city and county
9 and political subdivision of the State of California.

10 (j) "City Cost of Funds" means the true interest cost applicable to City Bond
11 Proceeds funding Loans made hereunder.

12 (k) "Declaration of Restrictions" means an agreement to be executed by the
13 Borrower and recorded against the Property as a condition to the receipt of a Loan hereunder
14 in order to restrict use of the Property, as further described in this Chapter 66.

15 (l) "Deferred Loan" means a Below Market Rate Loan, which the repayment of
16 principal and interest thereof is deferred until the sooner to occur of (1) 55 years after such
17 Loan is made, or (2) the borrower transfers title to, or the beneficial ownership of, the building
18 whose improvements were financed with such Loan proceeds, unless such transfer is
19 permitted by the rules and regulations established by the Director.

20 (m) "Director" means the Director of the Mayor's Office of Housing and Community
21 Development, or designee thereof.

22 (n) "Fund" means the Seismic Strengthening and Affordable Housing Loan Fund
23 established pursuant to Administrative Code Section 10.117.110.

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1 (o) "Loan" means a loan made pursuant to this Administrative Code Chapter 66,
2 and includes Below Market Rate Loans, Deferred Loans, and Market Rate Loans, each as
3 defined in the Administrative Code Section 66.2.

4 (p) "Loan Committee" means the ~~Unreinforced Masonry Building~~ Citywide Affordable
5 Housing Loan Committee.

6 (q) "Market Rate Loan" means a loan which bears a rate of interest that, when
7 coupled with the annual administrative fee charged by the City, yields a total return to the City
8 that equals the City Cost of Funds for the series of bonds providing funding for such loan, plus
9 100 basis points.

10 (r) "MOHCD" shall mean the Mayor's Office of Housing and Community
11 Development, or any such successor department of the City assuming the responsibilities for
12 administration and management of the Program.

13 (s) "Program" shall mean the seismic safety retrofit and affordable housing loan
14 program funded by the Bond Proceeds authorized by the Act.

15 (t) "Program Regulations" means the rules and regulations regarding the Program
16 to be published by the Director, which will be designed to carry out and implement the
17 purposes set forth in the Act and this Chapter 66.

18 (u) "Property" means any legal parcel(s) of real property eligible for a Loan under
19 the Program, and subject to a Declaration of Restrictions, as provided hereunder.

20 All terms used herein but not otherwise defined shall be as defined under the Act.

21 Sec. 66.3. PROGRAM REGULATIONS.

22 (a) The ~~Board of Supervisors~~ Director shall publish from time to time *by ordinance*
23 Program Regulations for the Program that are necessary and appropriate to effectively and
24 efficiently implement the Program in accordance with the Act and this Chapter 66. The Director shall
25 publish such Program Regulations on the website of MOHCD and in such other public places as the

1 Director shall deem appropriate, and provide the Program Regulations to persons requesting a written
2 copy thereof. Any the Board of Supervisors determines appropriate. The Program Regulations
3 shall address matters including, but not limited to, Program and Fund administration,
4 underwriting criteria, loan processing and documentation and loan enforcement. The Program
5 Regulations shall also cover the use of Loan proceeds for the costs of the acquisition,
6 improvement and/or rehabilitation of “at risk” multi-unit residential buildings, as further
7 provided herein.

8 Sec. 66.4. AMOUNT AND USE OF PROGRAM FUNDS.

9 (a) The Program and the issuance of general obligation bonds by the City to fund such Program in
10 accordance with the Act are hereby authorized. A maximum of \$350,000,000 will be raised for the
11 Program through the issuance and sale of general obligation bonds of the City for deposit into
12 the Fund for use in the Program and for payment of certain bond issuance costs, and such
13 general obligation bonds shall be allocated as provided below. Loans made under the
14 Program for multi-unit properties may be used for costs associated with (i) the acquisition,
15 improvement and/or rehabilitation of “at-risk” multi-unit residential buildings, (ii) the conversion of
16 such buildings to permanent affordable housing, and (iii) financing the cost of needed seismic, fire,
17 health and safety upgrades or other major rehabilitation for habitability of such structures.
18 Notwithstanding the foregoing, proceeds of the Program shall not be used to finance new construction
19 of permanent affordable housing units, or the acquisition of multi-unit residential buildings without
20 improvement and/or rehabilitation of such buildings.

21 (b) A maximum of \$150,000,000 of general obligation bonds shall be issued for the
22 purpose of originating Below Market Rate Loans under the Program in accordance with
23 Program Regulations.

24 (c) Of the \$150,000,000 available for Below Market Rate Loans, a maximum of
25 \$60,000,000 of such amount shall be made available to originate Deferred Loans under the

1 Program. ~~Program for Seismic Strengthening of UMB's in which 60 percent or more of the floor area~~
2 ~~is residential and at least 80 percent of the residential units are and will continue to be affordable to~~
3 ~~and occupied by a household whose income is at or below 40 percent of median income.~~

4 (d) A maximum of \$200,000,000 of general obligation bonds shall be made
5 available to originate Market Rate Loans ~~for Seismic Strengthening of UMB's.~~

6 (e) Fees for Services, Indemnification. To the extent permitted by law, MOHCD may
7 charge reasonable fees, including Loan origination and monitoring fees, and such other
8 necessary fees of consultants and agents retained to administer the Program. MOHCD may
9 use Bond Proceeds to pay such fees or may charge such fees to Applicants and Borrowers.
10 MOHCD may also require Applicants and Borrowers to defend and indemnify the City against
11 future claims, liabilities and losses related to its administration of the Program as a condition
12 precedent to making a Loan.

13 Sec. 66.5. LOAN TERMS. All Loans made under the Program shall be fully repaid over
14 such periods as set forth in the Program Regulations but in no event for a term greater than 55
15 years, on such terms as the Director shall establish and deem appropriate, including, as
16 appropriate, loans the principal and/or interest of which are repaid in a single lump sum at the
17 maturity of such loan. Principal and interest Loan repayments will be deposited into the Fund
18 pursuant to the terms of the Program Regulations.

19 Sec. 66.6. PRESERVATION OF HOUSING.

20 (1) Any Below Market Rate Loan made under the Program ~~that is used to finance~~
21 ~~Seismic Strengthening~~ shall be subject to a Declaration of Restrictions. The term of the
22 Declaration of Restrictions will be sufficient to ensure that units acquired, improved or
23 rehabilitated remain affordable for as long as all or any portion of the buildings financed with
24 the Loan operate as multi-family residential facilities.

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1 (2) Market Rate Loans made under the Program shall be subject to a Declaration of
2 Restrictions only to the extent set forth in the Program Regulations. The repayment liability for
3 funds from any Market Rate Loan used for rehabilitation of a residential building shall not be
4 passed through to tenants as a capital improvements rent increase or otherwise.

5 SEC. 66.7. LENDING CRITERIA.

6 (1) Applicants must satisfy the underwriting criteria set forth in the Program
7 Regulations, including but not limited to, appropriate loan to value and debt service coverage
8 ratios, reserve requirements, credit worthiness, scope of work, experience and such other
9 factors as may be required.

10 SEC. 66.8. CONTRACTING REQUIREMENTS

11 (1) Each Applicant must comply with all City contracting requirements, including but
12 not limited to health insurance requirements, the Local Business Enterprise and Non-
13 Discrimination in Contracting Program in Administrative Code Section 14B and the First
14 Source Hiring Program in Administrative Code Section 83. The Director shall ensure that the
15 Program Regulations include compliance with City contracting requirements as a condition of
16 receiving a Loan under the Program.

17 SEC. 66.9. LOAN APPLICATION PROCESS.

18 Application information and forms shall be made available by the Director and
19 published on MOHCD's website, or such other convenient location as may be determined by
20 the Director. The Application package will indicate procedures for returning a completed
21 Application, and the expected time frame for the processing thereof.

22 SEC. 66.10. LOAN COMMITTEE DECISIONS.

23 Subject to the limited exceptions set forth in the Program Regulations, all completed
24 Applications shall be submitted to the Loan Committee for evaluation. Even if an Applicant
25 meets all of the eligibility criteria in this Chapter 66, the Loan Committee may, in its discretion,

1 choose not to approve any proposed ~~Seismic Safety~~ Loan or to approve any ~~Seismic Safety~~ Loan
2 for less than the amount requested by the Applicant.

3 SEC. 66.11. LOAN DISBURSEMENTS, MONITORING.

4 MOHCD shall be responsible for disbursing Loan proceeds and monitoring construction
5 progress. In addition, MOHCD shall work with those departments or individuals designated by
6 the Director to monitor compliance with all applicable Loan documents, Administrative Code
7 Chapter 66, and all other applicable federal, state and local laws. MOHCD shall periodically
8 inspect the progress of construction and approve disbursements of Loan proceeds.

9 SEC. 66.12. LOAN SERVICING.

10 MOHCD shall receive monthly repayments of ~~Seismic Safety~~ Loans, account for all such
11 repayments, and provide to the Director annual statements of such accounts for each
12 outstanding ~~Seismic Safety~~ Loan. MOHCD is authorized to retain from time to time loan
13 servicing agents as desirable to service Loans originated under the Program, and to charge
14 Applicants and Borrowers for the cost thereof.

15 SEC. 66.13. PREVAILING WAGES.

16 All Loans are subject to the highest general prevailing rate of wages as determined in
17 accordance with Administrative Code Section 6.22E or other applicable City laws regarding
18 the determination of prevailing wages.

19 SEC. 66.14. PROPERTY/LIABILITY INSURANCE.

20 As a condition precedent to receipt of a ~~Seismic Safety~~ Loan, the Borrower shall maintain
21 or cause to be maintained insurance in types, coverages and amounts determined by the
22 City's Risk Manager and the Director. The Program Regulations shall include guidelines for
23 such required insurance coverage, which may include but shall not be limited to general
24 liability insurance, property insurance, and workers compensation coverage.

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1 SEC. 66.15. MONITORING FOR COMPLIANCE WITH DECLARATION OF
2 RESTRICTIONS AND OTHER DOCUMENTS.

3 MOHCD or its successor shall be responsible for monitoring compliance with the
4 Declaration of Restrictions and other Loan-related documents as described in the Program
5 Regulations. MOHCD shall take such actions as are necessary to enforce provisions of such
6 agreements. MOHCD shall also establish, impose and collect a monitoring fee to effectuate
7 the provisions of this section.

8 SEC. 66.16. PROGRAM REGULATIONS.

9 The Director shall develop Program Regulations not inconsistent with Proposition A as
10 amended by Proposition C and this Chapter 66, in consultation with the City Attorney's office,
11 to ensure efficient and transparent administration of the Program. Such Program Regulations
12 and any material amendments thereto shall be subject to review and approval by the Loan
13 Committee, and shall be reported to the General Obligation Bond Oversight Committee at the
14 first meeting of that committee following the effective date of such Program Regulations or
15 amendments.

16 SEC. 66.18. PROGRAM MANAGEMENT.

17 The Director shall be responsible for management of the Program. The Controller's
18 Office, in consultation with the Director, shall be responsible for disbursing from Bond
19 Proceeds amounts needed to originate Loans. Disbursements of bond proceeds shall be
20 made from time to time or upon the close of a ~~Seismic Safety~~ Loan, as determined by the
21 Director. The Director ~~shall~~ may from time to time appoint agents and consultants to assist with
22 administration of the Program.

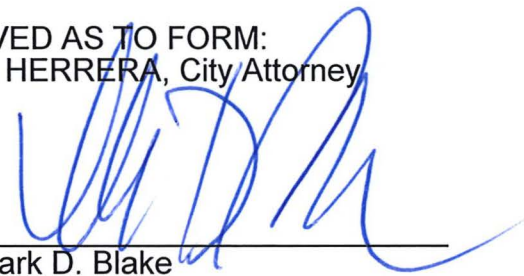
23 Section 2. Chapter 66A of the San Francisco Administrative Code is hereby deleted in
24 its entirety.

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1 Section 3. Notwithstanding any other provision of law, an action may be brought under
2 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the California Code of Civil
3 Procedure, to determine the validity of any bonds issued pursuant to the Act or this Chapter,
4 the validity of any loans made pursuant to the Act or this Chapter, the validity of any contracts
5 entered into pursuant to the Act or this Chapter, and any related documents. If an action is
6 commenced, the action shall be brought in the Superior Court in and for the City and County
7 of San Francisco.

8
9 APPROVED AS TO FORM:
10 DENNIS HERRERA, City Attorney

11
12 By:


13 Mark D. Blake
14 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Seismic Safety Retrofit and Affordable Housing Loan Program]

Ordinance amending Chapter 66 and deleting Chapter 66A of the Administrative Code to conform to the recent passage by the voters on November 8, 2016, of Proposition C, a measure entitled “Loans to Finance Acquisition and Rehabilitation of Affordable Housing,” and to otherwise conform such sections to current practices and make technical corrections.

Existing Law

Chapter 66 and Chapter 66A administers the City’s Seismic Safety Loan Program (“SSLP”). The program was intended to provide loans for the seismic strengthening of unreinforced masonry buildings. The proposed amendment changes the authorized use of these bond funds, for which approximately \$260 million remains authorized but unissued.

Background Information

In November 2016, the voters approved Proposition C to amend the City’s Seismic Safety Loan Program (“SSLP”) (originally adopted by the voters in 1992 to authorize the issuance of \$350 million of general obligation bonds to make seismic safety loans). Proposition C expanded the authorized uses for the SSLP to allow funds to be used for loans to acquire, improve and rehabilitate at-risk multi-unit residential buildings in need of seismic, fire, health or safety upgrades or other major rehabilitation; and convert those buildings to permanent affordable housing.

The proposed amendment to Chapter 66 and Chapter 66A are intended to implement changes arising from the passage of Proposition C. Chapter 66 is revised to make technical changes to certain definitions and to delegate to the Director of Housing the responsibility to develop and publish regulations for the revised SSLP.

The amendments delete Chapter 66A in its entirety.

The Ordinance also authorizes the City to bring an action under Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the California Code of Civil Procedure, to determine the validity of any bonds issued pursuant to fund the SSLP, Chapter 66, the validity of any loans made under the SSLP.

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