

BOARD of SUPERVISORS



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MEMORANDUM

TO: Sheryl Evan Davis, Director, Human Rights Commission
Eric Shaw, Director, MOHCD

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: August 3, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

File No. 230864

Ordinance amending the Administrative Code to establish the Forgivable Loan for First-Time Homebuyers Program and the Forgivable Loan for First-Time Homebuyers Fund to assist low, moderate, and middle-income first-time homebuyers who would otherwise not be able to purchase a primary residence in San Francisco; and to require the Human Rights Commission to establish policies and procedures to issue and possibly forgive loans from the Fund, and to provide oversight, monitoring, and forgiveness of such loans.

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: victor.young@sfgov.org.

cc: Lydia Ely, MOHCD
Brian Cheu, MOHCD
Maria Benjamin, MOHCD
Sheila Nickolopoulos, MOHCD

[Administrative Code - Forgivable Loan for First-Time Homebuyers Fund and Program]

Ordinance amending the Administrative Code to establish the Forgivable Loan for First-Time Homebuyers Program and the Forgivable Loan for First-Time Homebuyers Fund to assist low, moderate, and middle-income first-time homebuyers who would otherwise not be able to purchase a primary residence in San Francisco; and to require the Human Rights Commission to establish policies and procedures to issue and possibly forgive loans from the Fund, and to provide oversight, monitoring, and forgiveness of such loans.

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

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

Section 1. The Administrative Code is hereby amended by adding Chapter 110, consisting of Sections 110.1 through 110.8, to read as follows:

CHAPTER 110: FORGIVABLE LOAN FOR FIRST-TIME HOMEBUYERS

SEC. 110.1. FINDINGS.

(a) The economic and social disparities associated with homeownership access and housing instability in San Francisco are well-established and well-documented, as reflected in the Planning Department's General Plan demographic data on persons experiencing homelessness, rent burdens, evictions, and exposure to environmental pollutants, and low homeownership rates.

1 **(b) The history of disparate access to homeownership in San Francisco generally mirrors**
2 **that of the United States. Discriminatory practices of limiting access to wealth accumulation through**
3 **home purchasing have greatly contributed to wealth gaps. These practices were sustained primarily**
4 **through residential redlining and restrictive covenants.**

5 **(c) Residential redlining refers to the discriminatory real estate practices of public and**
6 **private institutions that identified non-white communities as financially high-risk areas of investment,**
7 **leading to the withholding of financial services necessary to acquire real estate in communities of**
8 **color. Racially restrictive covenants were included in property deeds to restrict the racial composition**
9 **of potential homebuyers. These practices were pervasive and longstanding in San Francisco as well as**
10 **other areas of the country.**

11 **(d) The Planning Department’s 2023 General Plan, in Objective 2.B, identifies access to**
12 **homeownership for communities that have been harmed through targeted economic disruption,**
13 **displacement, and manufactured barriers to accumulating intergenerational wealth.**

14 **(e) This ordinance intends to provide down payment assistance to communities that have**
15 **been harmed through targeted economic disruption, displacement, and manufactured barriers to**
16 **accumulating intergenerational wealth so that San Francisco can address multigenerational inequities**
17 **in access to homeownership and to narrow and ultimately close homeownership wealth gaps.**

18 **SEC. 110.2. DEFINITIONS.**

19 **For purposes of this Chapter 110, the following terms shall have the following meanings:**

20 **“Borrower” means a recipient of a Loan.**

21 **“Eligible Person” means a person who HRC has determined in accordance with Administrative**
22 **Code Section 110.4 to be a low-, moderate-, or middle-income first-time homebuyer who would not be**
23 **able to purchase a primary residence in San Francisco without loan assistance from the City.**

24 **“Fund” means the Forgivable Loan for First-Time Homebuyers Fund administered by HRC**
25 **under Administrative Code Chapter 10, Article XIII, Section 10.100-13.**

1 "Household" means all persons occupying a housing unit. The occupants may be a family
2 living together; two or more families living together; or any other group of related or unrelated
3 persons living together.

4 "HRC" means the Human Rights Commission.

5 "HRC Director" means the Director of the Human Rights Commission, or the HRC Director's
6 designee.

7 "Loan" means a loan of funds made under the Program, including the modification,
8 refinancing, or restructuring of such loan.

9 "MOHCD" means the Mayor's Office of Housing and Community Development, or any
10 successor agency.

11 "Primary Residence" means a residential dwelling where Household members on the Loan and
12 title live at least 10 out of 12 months of each calendar year for the entire term of the loan.

13 "Program" means the Forgivable Loan for First-Time Homebuyers Program established in
14 Administrative Code Section 110.3.

15 "Program Regulations" means policies, procedures, rules, guidelines, manuals, or forms
16 published by HRC to implement the Program as described in Administrative Code Section 110.5(b).

17 "Property" means an owner-occupied, single-family residential property in San Francisco
18 financed by a Loan made under the Program and used to secure a Loan and obligations under the
19 Program.

20 "SFHA" means the Housing Authority of the City and County of San Francisco.

21 **SEC. 110.3. ESTABLISHMENT OF THE PROGRAM.**

22 There is hereby created the Forgivable Loan for First-Time Homebuyers Program. The
23 purpose of the Program is to widen the path to homeownership for communities that have been harmed
24 through targeted economic disruption, displacement, and manufactured barriers to accumulating
25 intergenerational wealth. The Program shall provide down payment assistance, in the form of a

1 forgivable loan, to qualified first-time homebuyers, to purchase a market-rate Primary Residence in
2 San Francisco.

3 **SEC. 110.4. ELIGIBILITY.**

4 **(a) Income Eligibility.** A Borrower's maximum household income may not exceed 200% of
5 the area median income for the San Francisco metropolitan area as published annually by the U.S.
6 Department of Housing and Urban Development (HUD), adjusted for Household size.

7 **(b) Selection Priorities.**
8 Eligible Persons who meet one of the following criteria shall have priority for a Loan under the
9 Program.

10 **(1) Eligible Persons holding a Certificate of Preference (COP):** To qualify for this
11 priority, the Eligible Person: (A) must hold a 'Residential Certificate of Preference' as defined in the
12 Certificate of Preference (COP) Program rules and was displaced in Western Addition, South of
13 Market (SOMA), or Bayview Hunters Point by the former San Francisco Redevelopment Agency, or (B)
14 must be a descendant of a Household that held a 'Residential Certificate of Preference' as defined in
15 the Certificate of Preference (COP) Program rules and was displaced in Western Addition, South of
16 Market (SOMA), or Bayview Hunters Point by the former San Francisco Redevelopment Agency.

17 **(2) Tenants enrolled in the SFHA's Section 8 Voucher Program:** To qualify for
18 this priority, the Eligible Person must be a current or former recipient of the Section 8 Housing Choice
19 Voucher Program of the SFHA.

20 **(3) Families with a Right to Return (regular and expanded):** To qualify for this
21 priority, the Eligible Person must be a current or former public housing resident relocated by the
22 SFHA due to the Rental Assistance Demonstration (RAD) program or a current or former member of
23 HOPE SF sites, as defined in Chapter 39, Section 39.4(b) of the Administrative Code.

1 (A) Acceptable documentation to verify residence in public housing under
2 this priority includes, but is not limited to, any one of the following:

3 (i) Letter from SFHA verifying residency;
4 (ii) SFHA Lease;
5 (iii) San Francisco City identification under Section 95.2 of the
6 Administrative Code, or other government-issued identification, including but not limited to a driver's
7 license;

8 (iv) Telephone bill (landline only);
9 (v) Cable or internet bill;
10 (vi) Paystub (if containing home address);
11 (vii) Public benefits records, including but not limited to Social
12 Security Income/State Supplementary Payment (SSI/SSP), General Assistance (GA), Unemployment
13 Insurance, CalFresh);

14 (viii) School records;

15 (B) All documents must list the Eligible Person's name and a home address
16 within Alice Griffith, Hunters View, Potrero Terrace and Annex, or Sunnydale-Velasco public housing
17 sites.

18 (4) **Rent burdened households:** To qualify for this priority, the Eligible Person must
19 be a member of a household paying more than 50% of the household's income in rent.

20 (5) **Seniors:** To qualify for this priority, the Eligible Person must be a person 55
21 years old or older and a current or former resident of Western Addition, South of Market (SOMA) or
22 Bayview Hunters Point. Acceptable documentation to verify current or former residence in Western
23 Addition, SOMA or Bayview Hunters Point shall include any one of the documents listed in subsection
24 (b)(3)(A). All documents must list the Eligible Person's name and a home address within Western
25 Addition, SOMA, or Bayview Hunters Point.

1 (c) In determining eligibility under subsections (a) and (b), HRC may require applicants to
2 provide information and/or documentation that it deems relevant to the determination.

3 (d) All five selection priorities listed in subsection (b) shall be treated as equal in relation to
4 each other. HRC shall create a system that establishes relative priorities that either treats each
5 priority as equal and/or gives relative priority to Borrowers who meet more than one priority criteria
6 listed in subsection (b). HRC shall publish such system in the Program Regulations.

7 **SEC. 110.5. PROGRAM IMPLEMENTATION AND MANAGEMENT; REGULATIONS.**

8 (a) **Program Management.** The HRC Director shall be responsible for implementation of
9 this Chapter 110 and for the operation and management of the Program.

10 (b) **Program Regulations.** In implementing this Program, the HRC Director shall establish
11 from time to time Program Regulations for the administration of the Program, consistent with
12 applicable law and this Chapter 110. The HRC Director shall publish all Program Regulations on
13 HRC's website and in such additional places, if any, as the HRC Director deems appropriate, and shall
14 provide copies or electronic links on request. By way of illustration but not limitation, the Program
15 Regulations may address Program and Fund administration, eligibility requirements, application
16 processes, approval of lenders, compliance with applicable laws and regulations, requirements for loan
17 forgiveness, appraisal of Properties, affordability restrictions, eligible uses of Funds, underwriting
18 criteria, security of loans, transaction processing, documentation and record keeping of loans and
19 repayment thereof, enforcement, procedures for loan agreement violations, and termination of loans.

20 **SEC. 110.6. LOAN TERMS.**

21 (a) **Loan Terms and Repayment; Loan Forgiveness.** The HRC Director shall prepare
22 Loan documents consistent with the Program Regulations. So long as the applicable Property
23 continues to be used as a Borrower's Primary Residence and no default arises under the Loan
24 documents, the Loan documents may allow the following loan terms:

25 (1) Loan repayment term of up to 10 years;

1 (2) Deferment of some or all payments during the term without financial penalty;
2 (3) Loans are not required to accrue interest;
3 (4) Shared appreciation loans are prohibited;
4 (5) Loans shall be due upon sale, rental, or title transfer of the Property;
5 (6) If the Property is sold before the end of the term of the Loan, the Borrower will
6 be liable only for the remaining amount on the Loan based on years in, without interest; and
7 (7) The Borrower may be eligible for forgiveness of a Loan after 10 years if all
8 requirements set forth in the Program Regulations are met, provided that the amount of loan
9 forgiveness does not exceed the principal amount of the Loan made to the Borrower under the
10 Program.

11 (b) **Security for Loans.** The HRC Director shall require Loans made under this Chapter
12 110 to be secured by a deed of trust and other security instruments for the benefit of the City consistent
13 with Program Regulations. The HRC Director may record and subordinate deeds of trust and other
14 security instruments as needed or appropriate.

15 (c) **Compliance with Transaction Documents and Applicable Laws.** HRC shall work with
16 MOHCD, the Controller, Assessor-Recorder, and other City agencies as appropriate to monitor
17 compliance with all Loan agreements, Program Regulations, and applicable laws.

18 **SEC. 110.7. ADMINISTRATION OF LOANS.**

19 (a) **Agreements.** HRC shall prepare standard form Loan agreements and any related
20 security instruments, which will be subject to negotiation as deemed appropriate by the HRC Director.

21 (b) **Funding Disbursement.** HRC shall be responsible for approving the disbursement of
22 Loans and monitoring the performance of Borrowers under this Chapter 110 and enforcing the
23 applicable agreements. HRC shall establish commercially reasonable protocols to oversee the use and
24 expenditure of Loans.

1 (c) **Loan Servicing.** HRC shall collect revenues due and owing under Loans, maintain
2 records of all such revenues, and maintain annual statements of such accounts. Loan repayments shall
3 be deposited into the Forgivable Loan for First-Time Homebuyers Fund established in the
4 Administrative Code Chapter 10, Article XIII, Section 10.100-13, in accordance with Program
5 Regulations.

6 (d) **Fees for Services.** HRC may charge reasonable fees, including Loan origination and
7 monitoring fees, and such other necessary fees to administer the Program. HRC shall include a
8 statement of the fees in the Program Regulations.

9 (e) **Refinance and Loan Workouts.** The HRC Director is authorized to refinance,
10 restructure, modify, or extend the term of any Loan and any related agreements, only to the extent
11 consistent with Section 110.6.

12 (f) **Monitoring and Enforcement.**

13 (1) HRC may take such actions as may be reasonably necessary to enforce Loan
14 requirements and collect on any security, including the foreclosure of any deeds of trust, possession of
15 rents and other revenues, or the demand and collection under any guaranty or other security
16 instrument.

17 (2) HRC may also take action to protect its security or its interest in a Property,
18 including curing a default under a senior loan or acquiring Property at a tax sale, foreclosure, through
19 a deed in lieu of foreclosure, or through a judicial process. The HRC Director may, following
20 consultation with the MOHCD Director and the City Attorney, accept a deed or other security or
21 interest in Property as part of any remedy related to a default under the Loan.

22
23 **SEC. 110.8. SEVERABILITY.**

24 If any section, subsection, sentence, clause, phrase, or word of this Chapter 110, or any
25 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a

decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the chapter. The Board of Supervisors hereby declares that it would have passed this chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this chapter or application thereof would be subsequently declared invalid or unconstitutional.

Section 2. Article XIII of Chapter 10 of the Administrative Code is hereby amended by adding Section 10.100-13 to read as follows:

SEC. 10.100-13. FORGIVABLE LOAN FOR FIRST-TIME HOMEBUYERS FUND.

(a) Establishment of Fund. The Forgivable Loan for First-Time Homebuyers Fund (the “Fund”) is established as a category 8 fund to receive any monies appropriated or donated for the purpose of providing financial assistance to eligible low-, moderate-, and middle-income first-time homebuyers in the purchase of owner-occupied homes in San Francisco.

(b) Use of Fund. The Fund shall be used exclusively for the purpose of funding the forgivable loan program established and described in Chapter 110 of the Administrative Code (the “Program”).

(c) Administration of Fund. The Human Rights Commission (“HRC”) shall administer the Fund.

(d) Annual Reporting Requirement. By July 31, 2024, and by July 1 every year thereafter, the HRC Director shall submit to the Board of Supervisors an annual written report providing details of program implementation, including, but not limited to, the current status of the Fund, the amounts approved for disbursement and loan forgiveness, the number of loans made and forgiven, and the demographics of Borrowers.

Section 3. Effective and Operative Dates.

(a) This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

(b) This ordinance shall become operative 30 days after its effective date, which is stated in subsection (a).

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ SARAH L. FABIAN
Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Forgivable Loan for First-Time Homebuyers Fund and Program]

Ordinance amending the Administrative Code to establish the Forgivable Loan for First-Time Homebuyers Program and the Forgivable Loan for First-Time Homebuyers Fund to assist low, moderate, and middle-income first-time homebuyers who would otherwise not be able to purchase a primary residence in San Francisco; and to require the Human Rights Commission to establish policies and procedures to issue and possibly forgive loans from the Fund, and to provide oversight, monitoring, and forgiveness of such loans.

Existing Law

While the City and County of San Francisco (the “City”) provides a first time home buyer, down payment assistance loan program through the Mayor’s Office of Housing and Community Development, there is currently no fund or down payment loan program administered by the Human Rights Commission to assist low-, moderate-, and middle-income first-time homebuyers who have been harmed through targeted economic disruption, displacement, and manufactured barriers to accumulating intergenerational wealth.

Amendments to Current Law

The proposed ordinance would establish a Forgivable Loan for First-Time Homebuyers Program to assist low-, moderate-, and middle-income first-time homebuyers, or persons who would otherwise not be able to purchase a primary residence in San Francisco (the “Program”).

Under the Program, a borrower’s maximum household income may not exceed 200% of the area median income for San Francisco as set annually by the U.S. Department of Housing and Urban Development (“HUD”), adjusted for household size. A borrower who meets one of the following five criteria would have priority for a loan under the Program:

1. A person who holds a ‘Residential Certificate of Preference,’ or is a descendant of a household that held a ‘Residential Certificate of Preference,’ as defined in the Certificate of Preference (“COP”) Program rules and was displaced in Western Addition, South of Market (“SOMA”), or Bayview Hunters Point by the former San Francisco Redevelopment Agency.
2. A current or former recipient of the Section 8 Housing Choice Voucher Program of the San Francisco Housing Authority (“SFHA”).
3. A current or former public housing resident relocated by the SFHA due to the Rental Assistance Demonstration (RAD) program or a current or former member of HOPE SF sites, as defined in Chapter 39, Section 39.4(b) of the Administrative Code.
4. A member of a household paying more than 50% of the household’s income in rent;

5. A person 55 years old or older and a current or former resident of Western Addition, South of Market (SOMA) or Bayview Hunters Point.

The ordinance would also require the Human Rights Commission (“HRC”) to administer and manage the Program. The Director of HRC would establish regulations setting forth the policies and procedures of the Program (“Program Regulations”) to issue loans from the Fund and to provide oversight, monitoring, and forgiveness of such loans. The Director of HRC would prepare all loan documents, require that loans be secured by a deed of trust and other security instruments for the benefit of the City, and monitor compliance with all loan agreements, Program Regulations, and applicable laws.

In addition, this ordinance would establish the Forgivable Loan for First-Time Homebuyers Fund (the “Fund”) that would provide funding for the loans provided under the Program. The Fund would be a category eight fund, and the Director of HRC would approve expenditures of the Fund.

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Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- ☒ 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- ☐ 2. Request for next printed agenda Without Reference to Committee.
- ☐ 3. Request for hearing on a subject matter at Committee.
- ☐ 4. Request for letter beginning : "Supervisor inquiries"
- ☐ 5. City Attorney Request.
- ☐ 6. Call File No. from Committee.
- ☐ 7. Budget Analyst request (attached written motion).
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Reactivate File No.
- ☐ 10. Topic submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
- ☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Subject:

The text is listed:

Ordinance amending the Administrative Code to establish the Forgivable Loan for First-Time Homebuyers Program and the Forgivable Loan for First-Time Homebuyers Fund to assist low-, moderate-, and middle-income first-time homebuyers, or persons who have parents or legal guardians who have defaulted on a home loan, who would otherwise not be able to purchase a primary residence in San Francisco; and to require the Human Rights Commission to establish policies and procedures to issue and possibly forgive loans from the Fund, and to provide oversight, monitoring, and forgiveness of such loans.

Signature of Sponsoring Supervisor: