CENTER for COMMUNITY CHANGE

Housing Trust Fund Project
1113 Cougar Court
Frazier Park, CA 93225
661-245-0318
mbrooks@communitychange.org
www.housingtrustfundproject.org

State Legislation to Promote Local Housing Trust Funds

A Toolkit for Advocates

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The Housing Trust Fund Project provides technical assistance to organizations and agencies working to create and implement housing trust funds and maintains a clearinghouse of information on housing trust funds throughout the country. The mission of the Center for Community Change is to build the power and capacity of low-income people, especially low-income people of color, to have a significant impact in improving their communities and the policies and institutions that affect their lives.

For more information or to request technical assistance, please contact:

Mary E. Brooks
Director, Housing Trust Fund Project
Center for Community Change
1113 Cougar Court
Frazier Park, CA 93225
661-245-0318
(fax: 661-245-2518)
mbrooks@communitychange.org

Michael Anderson
Affordable Housing Organizer
Center for Community Change
3909 SE 51st Ave
Portland, OR 97206
503-308-0067
manderson@communitychange.org

Visit our website at:

www.housingtrustfundproject.org

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INTRODUCTION

The passage of state legislation to enable and promote local housing trust funds has increased the number of local housing trust funds more than any other single development in the housing trust fund movement. This toolkit is designed to give you basic information on what alternatives have been developed and an understanding of why this might be an advantageous strategy.

There are basically four kinds of state legislation that have been enacted thus far to advance local housing trust funds:

(1) Enabling a Revenue Source Option for Local Housing Trust Funds: Legislation that identifies a revenue source option that cities and/or counties can vote to increase and dedicate to their own local housing trust funds. This can be expanded by adding the incentive of matching funds from a state housing trust fund.

(2) Increasing a Revenue Source for Local Housing Trust Funds: Legislation that increases a revenue source collected by cities and/or counties across the state and enables local jurisdictions to retain those funds for their own housing trust funds or the revenues will be referred to a state housing trust fund.

(3) State Funds for Local Housing Trust Funds: Legislation incorporating in a state housing trust fund a requirement or option for matching funds committed by local housing trust funds with state dedicated revenue.

(4) State Legislation Enabling Local Housing Trust Funds: Legislation expressly permitting local jurisdictions to establish housing trust funds. This basically expands the capacity of cities and/or counties to take such action and enables them to use moneys available to them for the purposes identified.

This toolkit outlines the characteristics of each of these models, identifying advantages and disadvantages. Each state program is described with local examples highlighted to add clarity to how these legislative initiatives impact the movement to create housing trust funds.

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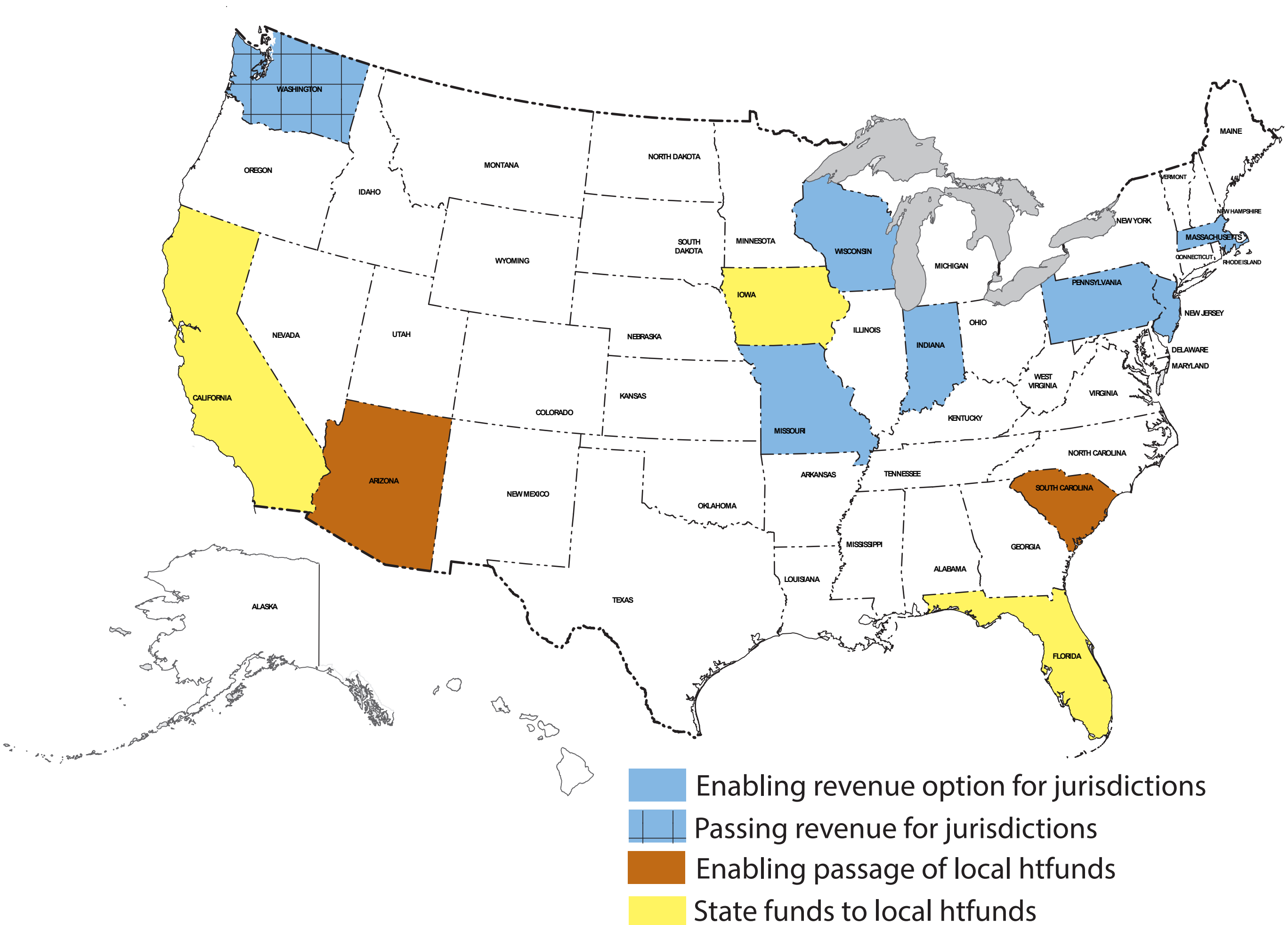
STATES WITH LEGISLATION ENABLING LOCAL HOUSING TRUST FUNDS



1. Enabling a Revenue Source Option for Local Housing Trust Funds

This option for advancing local housing trust funds occurs when state legislation is passed enabling designated jurisdictions to access a revenue source for affordable housing that they are othewise unable to do. The legislation may have any of these components included:

- Identify a revenue source that can be accessed for the purposes specified or increased and the increased revenue dedicated.
- May impose a time limit afterwhich the option will have to be renewed.
- Will typically identify the purposes and/or uses for which the revenues can be utilized.
- May identify conditions which have to be met before the option can be implemented, such as specific plans, administrative components, etc.
- May allocate a portion of the available funds for administration or other purposes.

Advantages

- Generally has good track record in creating local funds.
- Can regulate/encourage trust fund activities through state legislation, including identification of priorities.
- Enables participating jurisdictions to design their own trust funds to address local needs and opportunities.
- Could contribute toward a state housing trust fund, coordinate with other state funds to advance selected policies or work across issues.
- Could form the basis for state-wide advocacy, with interested jurisdictions participating.
- Good potential for reaching all areas of a state, including rural jurisdictions.
- Legislators often do not consider action a tax increase and consider this an acceptable action to advance affordable housing.

Disadvantages

- State regulations can be weak or poorly defined.
- Funds collected in some jurisdictions may not be significant and require consolidating with other funds to be effectively used.
- May require additional advocacy at the local level to implement.

State Snapshot

New Jersey

Fair Housing Act
Passed in 1985
Encourages developer fees for affordable housing

Missouri

Missouri Homeless Families Act
Passed in 1990
Enables first class counties to impose a user fee on all recordations
Requires a vote of the public and an ordinance

Pennsylvania

Pennsyslvania Act 137/Act 49
Passed in 1992
Enables counties to increase document recording fee
Requires vote of County Commissioners

Washington

RCW 84.52.105 Affordable Housing Levies
Passed in 1995
Allows property tax levy increase
Requires a vote of the public

Massachusetts

Community Preservation Act
Passed in 2000
Enables municipalities to pass a surcharge on real property
Requires a vote of the public

Indiana

County document recording fees
Passed in 2007
Enables counties to increase doc recording fees
Requires vote of County Commissioners

New Jersey

County Homelessness Trust Fund Act
Passed in 2009
Enables counties to increase document recording fees to support homeless trust funds
Requires vote of County Commissioners

Wisconsin

Wisconsin Act 28
Passed in 2009
Enables extension of expired Tax Increment Financing Districts for affordable housing
Municipalities must pass a resolution

New Jersey Fair Housing Act

New Jersey Supreme Court decisions, referred to as the Mount Laurel rulings, resulted in the passage of 1985 Fair Housing Act legislation. Municipal land use regulations that prevent affordable housing opportunities for the poor were ruled as unconstitutional and the Court ordered all New Jersey municipalities to plan, zone for, and take affirmative actions to provide realistic opportunities for their fair share of the region's need for affordable housing for low and moderate income people. Local jurisdictions are permitted to levy fees on developers to raise funds for affordable housing.

This Act has resulted in more than 260 municipalities (more than half of the jurisdictions in New Jersey) collecting fees for local housing trust funds. Residential development fees are permitted up to one percent of the equalized assessed value for the development. Earlier, fees were also permitted on non-residential developments, but there is currently a moratorium on collecting these fees. Municipalities are also permitted to collect payments in lieu of constructing affordable units from developers whose sites are zoned to produce affordable housing. The payment in lieu of construction must be used by the municipality to provide the affordable units elsewhere. Since 1985, approximately 40,000 affordable housing units have been built in New Jersey's municipalities with these fees collecting more than $489 million as of July 2008.

The Fair Housing Act also created the Council on Affordable Housing (COAH) to assess the statewide need for affordable housing, allocate that need on a municipal fair share basis, and review and approve municipal housing plans aimed at implementing the local fair share obligation.

In 2008, Governor Jon S. Corzine signed A-500 which guarantees housing opportunities to very low-income families. The law requires that at least 13% of a municipality's housing obligation be affordable to very low-income people.

Governor Chris Christie has since abolished the Council on Affordable Housing and has attempted to take "unspent" municipal housing trust funds, from 2008. A lower court ruled that the Governor overstepped his authority, but the opinion was appealed and is now before the Supreme Court. The Supreme Court is also considering a separate case on whether COAH's rules are constitutional. According to COAH, some $161 million has not yet been "spent" of the fees collected.

A Closer Look

Bayonne

Bayonne in Hudson County, New Jersey included in its efforts to address affordable housing needs the development of Tagliareni Plaza—a transit-oriented, mixed-income development in a 46-apartment complex providing both workforce and special needs housing along with market-rate housing and ground floor commercial space.

Tagliareni Plaza occupies one of a dozen sites developed since the Bayonne began this program in 2005. The Bayonne Affordable Housing Trust Fund, financed by developer fees levied in the city, provided approximately $2.8 million in financing for Tagliareni Plaza. Twelve units are designated for disabled veterans or people with physical disabilities who earn up to 30 percent of the area median income, and 28 units will be rented to workforce households earning between 50 and 60 percent of the area median income. The building meets federal Energy Star requirements. Development of Tagliareni Plaza relied on federal, state, county, and city funding.

The city's vision for transforming underutilized properties into something useful as outlined in the Bayonne Scattered Site Redevelopment Plan is exactly what was accomplished by the Housing Trust Fund with the Tagliareni Plaza project, which removed an urban blight while meeting a critical need for affordable housing in a mixed-income development with excellent access to transit. Tagliareni Plaza now stands as a model for a community's vision becoming a reality.

Missouri Homeless Families Act

Enabling legislation in Missouri allows three counties, categorized as first class, to use document recording fee for homeless programs. The three counties that qualify are: St. Louis County, St. Charles County; and Jackson County. All three have approved these funds.

The County governing body may impose a user fee of $3.00 on all recordations with the recorder of deeds. A majority of the voters must approve the action.

Funds may be used by any agency providing assistance to homeless families. Eligible activities include: emergency shelter and transitional housing; prevention of foreclosures and evictions; prevention of homelessness, projects to encourage self-sufficiency; and coordination of community services.

The County is to designate an appropriate board, commission or agency as the authority to administer the funds. An annual report is required.

The Housing Trust Fund Project had trouble finding current information on these funds, but we did receive some confirmation that this program is in place in St. Louis County, administered by the Housing Resources Commission. Historically, the St. Louis County funds have supported an award-winning city/county homeless hotline with capacity to direct homeless individuals to appropriate resources. The system centralizes a shelter and services referral system, supporting homeless service agencies.

A Closer Look

Jackson County

Jackson County collects a few thousand dollars in revenue from this program each year and commits this revenue to its homeless programs.

One creative program initiated by Jackson County is its Constructing Futures program. The program is directed to changing lives by addressing three key issues: rehabbing vacant homes; giving on-the-job training for individuals who have previously been incarcerated; and providing housing for families who have recently struggled with homelessness.

The Jackson County Constructing Futures program represents a successful public-private partnership, with Jackson County joining with several nonprofit agencies and businesses to make the program work. More than a dozen Jackson County businesses made donations to advance this work.

One family hugs after entering their new home, presented to them through the Jackson County Constructing Futures program. The program also provides unskilled and unemployed individuals on-the-job training they can use to find permanent employment. Connections to Success, a key partner in the Constructing Futures program, brought volunteer work crews to provide finishing touches on a home.

Pennsylvania Optional County Affordable Housing Act

Counties in Pennsylvania can establish a local housing trust fund since the Optional Affordable Housing Trust Fund Act, commonly known as Act 137, was passed in 1992. Act 137 allows counties to double document recording fees for deeds and mortgages by a vote of the county commissioners.

The City/County of Philadelphia was originally excluded from the legislation, but Act 49 amended the Optional Affordable Housing Trust Fund Act in 2005 permitting Philadelphia to participate.

The state enabling legislation grants counties considerable flexibility regarding specific allowable activities, stating that funds can be used for *"any program or project approved by the county commissioners which increases the availability of quality housing, either sales or rental, to any county resident whose annual incomes is less than the median income of the county."* Fifteen percent of the funds may be used for administrative costs.

The last available survey of Act 137 counties was completed by the Pennsylvania Housing Finance Agency in 2005. Reports have indicated that 51 of the 67 counties in the state have taken advantage of Act 137. PHFA shared its current survey underway to which 31 counties have responded thus far, indicating their participation in this program.

The passage of PHARE in 2010 (Act 105) established a state housing trust fund through which allocated funds and other resources can be used to assist in creating, rehabilitating and supporting affordable housing throughout Pennsylvania. The Marcellus Shale Impact Fee legislation (Act 13 of 2012) targets funding into the trust fund to address housing needs in counties impacted by unconventional gas wells. The Pennsylvania Housing Finance Agency set forth principles for distributing these funds, which includes maximizing leverage and giving a preference to applications that also include Optional Affordable Housing funds, among others. This has, apparently, given some impetus for additional counties to consider implementing the Optional Affordable Housing Trust Fund Act in their counties. Reports indicate that at least one county has already elected to do so.

Through the Optional Affordable Housing Trust Fund Act, counties have the option to raise the document recording fee more than once as long as it does not exceed statutory limits--approximately half have done so.

Counties have reported using funds for the rehabilitation of owner-occupied homes; first-time home buyer programs; homeless prevention programs; emergency repairs and closing cost assistance; disability and special needs housing programs; heating assistance; rental housing construction and rehabilitation; and rental assistance.

A Closer Look

Lehigh County

Lehigh County reports revenues of $300,000-400,000 in 2012 and that these funds support counseling services for home buyers. In its 2012 Action Plan, the County also states:

Active and productive non-profit housing developers need ready access to capital in order to finance the front-end soft coasts associated with new development. Utilizing a lesser-restrictive source of financing for this (such as Act 137 Affordable Housing Trust Fund resources) would enable non-profits to seek out additional development opportunities and fully investigate the financial feasibility of potential projects early on.

Montgomery County

Montgomery County reports revenues of at least $1.5 million in 2012 from Act 137 fees. These funds supports the County's Homebuyers Program, established and administered by the Commissioners and the Department of Housing & Community Development. Funds support assistance to low to median income households interested in purchasing a home in Montgomery County. Eligible participants may receive assistance with closing costs and must participate in a counseling program.

Washington Affordable Housing Levy

With the passage of RCW 84.52.105 in Washington, a town, city or county can impose additional regular property tax levies of up to fifty cents per thousand dollars of assessed value of property in each year for up to ten consecutive years to finance affordable housing for very low-income households. The levy must be approved by a majority of the voters of the taxing district voting on a ballot proposition authorizing the levies.

The governing body must declare the existence of an emergency with respect to the availability of housing that is affordable to very low-income households in the taxing district. The town, city or county must also adopt an affordable housing financing plan to serve as the plan for expenditures raised by the levy . The plan must be consistent with a comprehensive housing affordability strategy, required under the Cranston-Gonzalez national affordable housing act, as amended.

If a town or city and a county impose the affordable housing levy, the last to approve the levy will reduce the amount of the levy so that the combined rates of the levies does not exceed fifty cents per thousand dollars of assessed valuation in any area within the county.

To date, Seattle and Bellingham are the only two jurisdictions to successfully pass an affordable housing levy. The City of Seattle voters have continued to support the housing levy. In November 2009, 65.8% of Seattle voters approved the most recent Seattle Housing Levy, which will generate $145 million for housing over a seven year period.

Fifty-six percent of voters in Bellingham, Washington approved a property tax levy increase in November 2012 to create a local housing trust fund that will collect $21 million over the next seven years. The Bellingham levy imposes a tax of thirty-six cents per thousand dollars of assessed property value, generating $21 million over seven years for the Bellingham Home Fund.

A Closer Look

Seattle

The Seattle Housing Levy Program has now funded more than 10,000 affordable apartments for seniors, low- and moderate-wage workers, and formerly homeless individuals and families, plus provided down-payment loans to more than 600 first-time homebuyers and rental assistance to more than 4,000 households.

The 2009 Housing Levy has five programs:

- Rental Production & Preservation
- Operating & Maintenance Fund
- Rental Assistance
- Homebuyer Assistance
- Acquisition & Opportunity Loan Fund

Among the rental housing awards made in 2011, Artspace Projects, Inc. will provide new housing located near the Mt. Baker light rail station, designed to meet the needs of artists, including large families and people with disabilities.

Bellingham

Bellingham voters approved their housing levy in November 2012. The plan for the fund includes:

- Production and Preservation of 429 homes
- Rental Assistance and Support Services for 800 households with a priority for homeless and vulnerable families in units produced by the levy
- Low-income Homebuyer Assistance for 50 homebuyers
- Acquisition and Opportunity Loans to permit strategic acquisition of sites for low-income housing development

Massachusetts Community Preservation Act

The Community Preservation Act was passed in 2000 and has now been amended through the passage of An Act to Sustain Community Preservation and received an additional $25 million in the state's FY2013 budget.

The Community Preservation Act has enabled 155 communities to adopt the Community Preservation Act by locally passing a surcharge of up to three percent on real property taxes in order to create a local dedicated fund for the four community Preservation Act purposes: affordable housing, open space preservation, historic preservation, and outdoor recreation. Adoption of CPA also triggers annual distributions from the statewide Community Preservation Act Trust Fund, which derives its revenues from fee collected at the state registries of deeds. Funds from the CPA Trust fund are distributed each year to participating communities; however, distribution amounts vary according to funds generated and by the number of local municipalities participating.

The Act allows communities that pass CPA with a minimum one percent real property surcharge to dedicate other sources of municipal revenue (such as hotel/motel excise taxes) up to the full 3% of the real estate levy against real property. In addition communities that have already accepted the CPA at a surcharge level above 1% , have the option of reducing their CPA surcharge to 1% and committing additional municipal revenues to their Community Preservation Fund.

Since the CPA was passed, participating communities, using a combination of local and trust fund dollars, have:

- raised more than $1 billion for community preservation funding statewide;
- approved more than 5,500 projects;
- created or supported 5,767 affordable housing units;
- preserved more than17,000 acres of open space;
- 2,900 appropriations have been made for historic preservation projects; and
- initiated more than 800 outdoor recreation projects.

Success Stories

Years from now, Easton residents enjoying a vibrant downtown may not know that they have the historic Ames Shovel Shop CPA project to thank for their beautiful town center.

Twelve units of affordable housing were built specifically for Nantucket's teachers.

In a great example of beating swords into plowshares, land that once housed lethal missiles is now the location of an impressive green affordable housing development, funded in part by Wayland's CPA program.

Eleven new housing units in an area of high demand for affordable housing.

West Tisbury, a small community on Martha's Vineyard, has used its CPA funds to develop a number of affordable housing options for residents over the years, but its recent Eliakim's Way project challenges the conventional wisdom on community housing.

In a fantastic example of CPA's leveraging power, the town of Chatham used $375,000 in CPA funds to leverage a total of $9 million for the creation of 50 affordable housing units in this seaside community.

Previously a vacant mill complex, Cable Mills is undergoing renovation to create a residential complex that will include 12 units of affordable housing.

Stow used $350,000 in CPA funds to provide funding to preserve the affordability restrictions on 37 apartments that were at risk due to expiring restrictions.

Indiana Document Recording Fees

Indiana law enables a county containing a consolidated city that has established a housing trust fund to adopt an ordinance authorizing the county recorder to charge a fee of:

(A) two dollars and fifty cents ($2.50) for the first page; and

(B) one dollar ($1) for each additional page;

of each document the recorder records.

Revenues from this additional recording fee are split: 60% of the revenues can be retained by the local housing trust fund and the remaining 40% goes to the state housing trust fund. The housing trust fund must be established by County resolution and be administered by the housing division of the consolidated city or the department, division, or agency that has been designated by the resolution.

The trust fund may support:

- serving households with incomes at or below 80% of the area median income;
- administrative expenses of the fund;
- grants and loans for the development, rehabilitation or financing of affordable housing--half of which must serve households earning no more than 50% of the area median income; and
- technical assistance to nonprofit developers of affordable housing.

An appointed eleven-member advisory committee is to be established with broad representation from the housing industry and the community to advise on policies and procedures and long term capital.

A Closer Look

Indianapolis/Marion County

The Indianapolis/Marion County Low Income Housing Trust Fund was established in 2000 to make affordable housing available to persons of low and moderate incomes.

The Trust Fund receives revenues from the document recording fee, electronic filing fees for property sales disclosure forms, redevelopment tax revenues, along with a commitment of funds from the Health and Hospital Corporation of Marion County. It was estimated that the recording fees would generate approximately $1 million in revenues for the local housing trust fund.

The Trust Fund has contributed to the Blueprint to End Homelessness by providing gap funding to local projects, including Pathway to Recoveries and Partners in Housing. Partners in Housing have improved many older buildings and created community rooms where residents can host holiday parties, meetings, and other activities.

The Indianapolis/Marion County Housing Trust Fund has paid attention to innovative proposals and has given a preference to projects that demonstrate a strong partnership between the neighborhood development entity and other local neighborhood groups and service providers..Also programs that seek to reuse or improve existing, especially vacant, properties have been given preference.

New Jersey County Homeless Trust Funds

New Jersey passed legislation in 2009 creating the county-based Homeless Trust Fund opportunity. Public Law 2009 Chapter 123 permits a county to add a surcharge of $3 on each document recorded within a county for deposit into a county homelessness trust fund. To date, eight counties have selected to create County Homeless Trust Funds: Bergen, Camden, Hudson, Mercer, Middlesex, Passaic, Somerset, and Union.

Five per cent of available funds may be used annually for administrative costs of the fund. The remainder of the funds are to be used for the operation of a homelessness housing grant program. Program funds can support:

- the acquisition, construction, or rehabilitation of housing projects, or units within housing projects, that supply permanent affordable housing for homeless persons or families, including those at risk of homelessness;
- rental assistance vouchers, including tenant and project based subsidies, for affordable housing projects or units within housing projects that provide permanent affordable housing for homeless persons or families, including those at risk of homelessness;
- supportive services as may be required by homeless individuals or families in order to obtain or maintain, or both, permanent affordable housing; and
- prevention services for at risk homeless individuals or families so that they can obtain and maintain permanent affordable housing.

It is the intent that projects receiving funding measurably reduce homelessness, demonstrate government cost savings over time, employ evidence-based models, show they can be replicated in other counties, include an outcome measurement component, and be consistent with the local homeless housing plan.

To establish the fund, a county must have or be in the process of developing a ten year plan and they need to pass an ordinance to establish the Homeless Trust Fund and begin collecting the surcharge.

In addition, the county is to establish a County Homelessness Trust Fund Task Force to advise local government on the creation of homeless housing plans and programs, assess priorities for funding, review applications, and prepare an annual report and measure utilization.

A Closer Look

Participating counties have reported that in 2011 they collected an average of a little more than $155,000 in fee revenues, with a low of $59,000 and a high of $287,000.

Funds appear to be largely incorporated into Ten Year Plans to End Homelessness and contribute to other programs addressing homelessness, as Hudson County has reported.

Middlesex County has designated the Coming Home of Middlesex County Inc. as the administrator of their Homelessness Trust Fund. They have announced that a call for proposals will be forthcoming.

Wisconsin Tax Increment Legislation

In 2009 the Wisconsin legislature passed Act 28 which amended Tax Increment Financing legislation to allow tax increment financing to be used to fund affordable housing in cities throughout the state. The Act enables municipalities to extend the life of expired tax increment districts for one additional year and use the funds to support affordable housing.

The Act requires a city to adopt a resolution extending the life of the tax increment district and specify how the city intends to improve its housing stock. This resolution is forwarded to the state Department of Revenue so that the allocation of tax increments to the district will be continued. At least 75% of the increments received are to benefit affordable housing in the city and the remaining 25% is to be used to improve the city's housing stock.

According to the Department of Revenue, only two communities have asked for a TIF extension: Monona and Oshkosh.

A Closer Look

One potential implementation of Wisconsin's Tax Increment Financing legislation is contained as part of a very innovative housing plan proposed by the Southwestern Wisconsin Regional Planning Commission. Preliminary plan recommendations were developed by a 29-member Regional Housing Plan Advisory Committee and is available at: www.sewrpc.org/SEWRPC/Housing/CurrentRegionalHousingPlanUpdate.htm

Carrying out the plan would help provide decent housing for all residents of the region, including housing affordable to low-income residents and persons with disabilities. Housing near job centers would become more affordable to the people holding those jobs, and help broaden lower-cost housing options in cities and villages throughout the region.

Among many recommendations for advancing affordable housing, the plan suggests:
Cities and villages should consider extending the life of Tax Increment Financing districts for one year after paying the district's projected costs to improve the municipality's affordable housing stock, as permitted under a recent change to State law.

Mixed use (retail, office, and residential) development in the City of Port Washington : SEWRPC

New single-family home on an in-fill lot in the Village of Mt. Plesant: SEWRPC

2. Increasing a Revenue Source for Local Housing Trust Funds

Washington Homeless Document Recording Fees

This option for advancing local housing trust funds occurs when state legislation is passed increasing a designated revenue source for jurisdictions. Washington is the only state to have taken this approach. Such legislation might have any of these components included (depending on state constitutional limitations on state and local taxing powers):

- Increase a revenue source collected at the local level which occurs statewide.
- Designate the specific purposes for which those funds must be used.
- Funds could be divided between local trust funds and a state trust fund.
- Requirements can be established which must be met in order for funds to remain at the local level. If requirements are not met, funds will probably revert to the state.
- May allocate a portion of the available funds for administration or other purposes.
- Increase in funds may have a sunset clause and face renewal options.
- Reporting requirements may be included.

Advantages

- Increases revenues through the state legislature.
- Enables local jurisdictions to administer and program their own funds in compliance with the legislation.
- Can build a state housing trust fund as well as local housing trust funds.
- Creates a statewide initiative and unified goal.
- Can regulate/encourage trust fund activities through state legislation, including identification of priorities.
- Guarantees all areas of the state are participating.

Disadvantages

- Requires clear delineation of goals and requirements that will work statewide.
- Funds collected in some jurisdictions may not be significant and require additional steps to be effectively used.

The History

The Housing for All Surcharge

In Washington, document recording fees, collected at the county level, were increased across the state, initially in 2002 (SHB2060). Codified in RCW 36.22.178, a surcharge of $10.00 was added to the document recording fee. Counties were permitted to retain up to five percent for administrative costs and, of the remaining funds, 40% are deposited into the Affordable Housing for All Account (created in RCW 43.185C.190) and 60% are distributed to counties for use by the county (and its cities and towns) for affordable housing activities that serve very low-income households. The Affordable Housing for All Account funds the state's Operating and Maintenance Program (which provides funds to sustain housing serving extremely low income households) and other homeless emergency and transitional housing programs. Then in 2007, the surcharge was re-named Affordable Housing for All Surcharge (HB1359).

Homelessness Housing and Assistance

In 2005, the Homelessness Housing and Assistance Act (HB2163 codified in RCW 43.185C) added a $10 document recording fee (RCW 36.22.179) with a goal of reducing homelessness by 50% by 2015. Two percent stayed with auditors, 58.8% to counties and 39.2% to state Home Security Fund (Commerce Account 10B). The act required homelessness plans by the counties and the state.

In 2007, an additional $8.00 was added (HB1359 codified in RCW 36.22.1791) giving 90% of the revenues to counties and 10% to the state fund.

In 2009, the original fee was boosted to $30, with an expiration date of June 2013 (HB2331 codified RCW 36.22.179).

In early 2012 the fee was extended (HB 2048) through June 2015. All fees total $38 per document with 1.58% going to auditors; 65.37% to counties; and 33.1% to the state's Home Security Fund account (10B).

A Closer Look

Yakima County

The Homeless Network of Yakima County is a consortium of 37 providers and consumers focused on reducing homelessness in Yakima County by 2014. The Network created the Ten Year Plan to End Homelessness and identified four key components:

- Outreach, intake, and assessment to identify an individual's or family's service and housing needs, and link them to appropriate housing and/or service resource
- Emergency shelter and safe, decent alternatives to the streets
- Transitional housing with supportive services to help people develop the skills necessary for permanent housing
- Permanent housing and permanent supportive housing.

Cowlitz County

Cowlitz County has funded more than $1 million in document recording fee revenues through its program. Funds can be used for:

- the cost of developing affordable housing for homeless persons and services for formerly homeless individuals and families residing in transitional housing or permanent housing and still at risk of homelessness; or
- operating subsidies for trnsitional housing or permanent housing serving formerly homeless families or individuals; or
- services to prevent homelessness; or
- outreach services for homeless individuals and families.

Funds have been awarded to: CWCOG Homeless Housing, Common Good Works, Community House, Community Network, Emergency Support Shelter, Kelso Housing Authority, Lower Columbia Community Action Council, Longview Housing Authority, among others

King County

The King County Homeless Housing and Services Fund has collected approximately $5 million annually in document recording fee dollars. In compliance with state law, these funds are available to help further the goals of the Ten-Year Plan to End Homelessness. This is a flexible source of funding and broad fund priorities are set by the Committee to End Homelessness in King County and further refined through the King County Combined NOFA planning process. Housing and Community Development partners with the United Way of King County's Initiative to End Chronic Homelessness, which contributes homeless services funding to the annual request for proposals for the Homeless Housing and Services Fund. The document recording fees are used for services, operating support and rental assistance linked to non-time-limited housing. King County aims to fund projects serving a variety of homeless populations and projects throughout the county.

Eighty-one homeless people will soon move into a brand-new building called the Pat Williams Apartments. The non-profit group Plymouth Housing managed to buy a small lot east of Fairview and build this new apartment complex. It will house homeless people recovering from drug and alcohol addiction. Half the units will go to homeless military veterans.

3. State Funds for Local Housing Trust Funds

Several state housing trust funds have established programs that commit funds to local programs and/or local housing trust funds. These programs can be mandated within the legislation creating the state housing trust fund or they can be designed administratively in implementing the state housing trust fund. The legislation or program may have any of these components included:

- A portion of the revenues in the state housing trust fund may be designated specifically for distribution to local housing trust funds.
- Requirements may be established which local housing trust funds must meet before being eligible for state housing trust fund dollars.
- Funds from the state housing trust fund may match or be distributed based on a formula relative to the local housing trust fund or its jurisdictional characteristics, e.g., population.

Advantages

- Has an impressive track record in creating local housing trust funds.
- Can regulate/encourage trust fund activities through state legislation and/or program guidelines.
- Enables participating jurisdictions to design their own trust funds to address local needs and opportunities.
- Could form the basis for state-wide advocacy, with interested jurisdictions participating.
- Good potential for reaching all areas of a state, including rural jurisdictions.
- May allow for multi-jurisdictional or regional collaboration in qualifying for state funds.

Disadvantages

- State requirements may not mandate creation of local housing trust funds with dedicated public revenue sources and, alternatively, require matching funds from any source.
- Without specific enabling legislation to open up a possible local revenue source to support local housing trust funds creates some hardship for jurisdictions to sustain eligibility.

State Snapshot

Florida

William E. Sadowski Act
Passed in 1992
69% of revenues support SHIP Program (State Housing Initiatives Partnership Program)
Funded through documentary stamp tax (transfer tax on deeds)

Massachusetts **[see page 9 of this report]**

Community Preservation Act
Passed in 2000
Enables municipalities to pass a surcharge on real property
Adoption of local CPA triggers annual distributions from the statewide Community Preservation Act Trust Fund
State CPA Trust Fund funded from fee collected at the state registries of deeds.

California

Proposition 46
Passed in 2002
$2.1 billion bond bill passed by the voters
$25 million reserved for a Local Housing Trust Fund Program
Proposition 1C
Passed in 2006
$2.85 billion bond bill passed by the voters
$35 million set aside by HCD for the Local Housing Trust Fund Program

Iowa

Housing Trust Fund: Iowa Code section 16.181
Passed in 2003
Established state housing trust fund program and local housing trust fund program
Funded through real estate transfer tax revenues

Florida William E. Sadowski Act

The Florida Legislature enacted the William E. Sadowski Affordable Housing Act in 1992, creating a dedicated revenue source by increasing the documentary stamp tax. The funds are split between the Florida Housing Finance Corporation and the SHIP Program (State Housing Initiatives Partnership Program) which provides funds to all counties and entitlement municipalities in the state.

The Sadowski Act created the State Housing Initiatives Partnership Program (Section 420.9067, Florida Statutes). Of the funds collected through the Sadowski Act, 69% are dedicated to the SHIP Program. Local governments receive annual allocations, by formula, based on population. All 67 counties and basis to all 67 counties and 53 Community Development Block Grant entitlement cities in the state have qualified for SHIP funds. The SHIP Program is administered by the Florida Housing Finance Corporation.

SHIP funds are to be used to implement the housing element of the local comprehensive plan consistent with the SHIP plan adopted by the local government. SHIP funds must be spent according to these parameters:

- 65% for home ownership activities;
- 75% for construction activities;
- 30% for very low income households and 30% for low income households;
- 5% for administration; and
- no funds for ongoing tenant subsidies;

Local governments are also required to implement regulatory reform in the form of expedited permitting for affordable housing and an ongoing process of review of all land development regulations, comprehensive plan amendments, and ordinances that increase the cost of housing, prior to adoption.

Funds have not been allocated by the Florida legislature to the SHIP Program since the 2008-2009 legislative session, but advocates are hopeful that this pattern will shift in FY2013-2014. Governor Rick Scott has recommended $50 million in his budget. Advocates have campaigned for $193.8 million based upon documentary stamp projection of $147.3 million (August 2012 revenue estimate) plus balance in housing trust funds as of July 1, 2012.

A Closer Look

Hillsborough County

The Florida Home Partnership has received SHIP funds through Hillsborough County's Affordable Housing Office to support a down payment program.

Bayou Pass Village in Ruskin features 207 homes for low income households. Once approved for a residential mortgage throught he Department of Agriculture below market rate program, groups of ten to twelve families work on all the homes doing semi-skilled and unskilled labor tasks. When all the homes for a group are completed, USDA conducts a final inspection and authorizes all families to move in on the same day.

Jacksonville

Opertion New Hope has provided five new homes which are are LEED certified. The features include fiberglass insulation to cut down on utility costs, drought-tolerant landscaping, conservation of water use including toilet flushing options, Energy Star appliances and construction elements.

California Local Housing Trust Fund Matching Grant Program

The California Local Housing Trust Fund Matching Grant Program helps finance local housing trust funds dedicated to the creation of preservation of affordable housing. Matching dollar-for-dollar grants are made to local housing trust funds that are funded on an ongoing basis from private contributions or public sources that are not otherwise restricted in use for housing programs.

The maximum allocation is $2 million and the minimum allocation is $1 million for any given local housing trust fund. Applicants providing matching funds from sources other than impact fees on residential development receive a priority. Listed eligible activities include loans for construction of rental housing with units restricted for at least 55 years to households earning less than 60% of the area median income and for downpayment assistance to qualified first-time homebuyers. At least 30% of the funds are restricted to housing for extremely low income households. Eligible applicants are cities, counties and cities and counties with adopted housing elements that the Department of Housing and Community Development has determined comply with California housing element law, and charitable nonprofit organizations.

Funds were made available in two categories: new and existing housing trust funds, but the program later restricted funds to new housing trust funds--created on or after September 30, 2006. (25 California Code of Regulations 7150, et seq or http://www.hcd.ca.gov/fa/ahif/lhtf.html.)

The California Proposition 46 Housing Bond, passed in 2002, provided $2.1 billion for 21 affordable housing programs. Among these was $25 million for a Local Housing Trust Fund Matching Grant Program (Section 50843.5 of the Health and Safety Code). Funds provided under Proposition 46 were mostly exhausted by the end of 2006.

California Proposition 1C was passed in 2006 and provided a $2.85 billion affordable housing bond component to the Strategic Growth Plan. Of this, $35 million was committed to the Local Housing Trust Fund matching grant program from an allocation to the Affordable Housing Innovation Fund (Health and Safety Code Section 53545.9(c)).

A Closer Look

San Luis Obispo County

The San Luis Obispo County Housing Trust Fund is a private nonprofit corporation created in 2003. The Trust Fund's mission is to increase the supply of affordable housing throughout San Luis Obispo County, including those with special needs. The Trust Fund supports financing for affordable housing through short-term loans and technical assistance to support affordable housing projects.

Since closing its first loan in 2005, the Housing Trust Fund has provided more than $8 million in financing to assist 225 units of affordable housing.

Moylan Terrace is a new planned development of townhomes. The initial phase contains twelve townhomes in San Luis Obispo.

California has at least 35 local housing trust funds. These funds have rasied public and private funding and leveraged more than five times over for the creation of affordable homes throughout the state.

"Housing Trusts are essential to California because of their successful track record leveraging and managing private and public funding to provide affordable housing, promoting and supporting responsible homeownership, and stabilizing communities that have suffered from foreclosures and abandonment." --Senator Barbara Boxer

Iowa Housing Trust Fund

The Iowa State Housing Trust Fund consists of two programs (Iowa Code Section 16.181):

- the Local Housing Trust Fund Program receives at least 60 percent of the State Housing Trust Fund allocation to provide grants for communities, counties and organizations that wish to create a local housing trust fund.
- the remaining funds go to the Project-Based Housing Program that aids the development of affordable single-family and multifamily housing.

The Iowa Finance Authority administers both programs and provides technical assistance to housing-related organizations. The trust fund receives revenues from the state real estate transfer tax.

To be eligible to apply for funding from the Local Housing Trust Fund Program, a local housing trust fund must be approved by the authority and have:

- A local governing board recognized by the city, county, council of governments, or regional officials as the board responsible for coordinating local housing programs.
- A housing assistance plan approved by the authority.
- Sufficient administrative capacity in regard to housing programs.
- A local match requirement approved by the authority.

The award from the Local Housing Trust Fund Program is not exceed ten percent of the balance in the program at the beginning of the fiscal year plus ten percent of any deposits made during the fiscal year. Each local housing trust fund must submit a report annually to the authority itemizing expenditures. Funds are targeted to serve households at or below 80% of the state median household income. At least 30% of the trust fund money must be directed to households earning no more than 30% of the state median income.

Available funds for the 2013 State Housing Trust Fund include $6 million for the Local Housing Trust Fund Program and $350,000 for the Project-Based Housing Program. To date, 24 local housing trust funds have been created throughout the state of Iowa.

A Closer Look

Polk County

The Polk County Housing Trust Fund is the comprehensive planning, advocacy and funding organization for Affordable Housing in Polk County Iowa. Founded sixteen years ago, the Trust Fund is responsible for allocating state and local funds aimed at increasing and preserving the inventory of affordable units in the County.

Since its inception, the Trust Fund has funded more than 9,600 housing units. Of these, 1,314 were new consruction and 8,286 were rehabilitated homes and apartments.

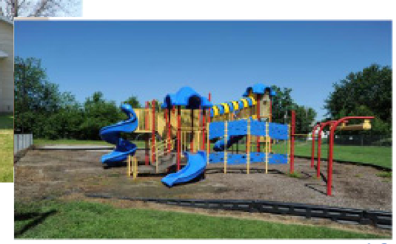
CommonBond acquired 100 housing units in a distressed neighborhood to rehabilitate and provide much needed affordable homes.

Oskaloosa

The Oskaloosa Housing Trust Fund begtan a partnership with the Oskaloosa Community School District to help them get a construction trades program started:

- students learned the construction trades and
- the community received affordable housing that helped improve existing neighborhoods.

The Partnership with school district grew with redevelopment of neighborhood elementary schools, providing redevelopment opportunities, housing and a community center for seniors, and a neighborhood park.



4. State Legislation Enabling Local Housing Trust Funds

States can enact legislation that expressly gives authority to designated jurisdictions to create housing trust funds. In most states, selected cities and counties may be designated as first-class or charter or other such designations that may enable, as well as limit, admistrative, taxing and other powers. The legislation discussed here gives clear authority to identified jurisdictions to establish and administer a local housing trust fund.

Such legislation may include:

- clear definition of what is considered a housing trust fund,
- identify procedures for establishing a housing trust fund,
- express permission to transfer funds into the trust fund,
- identify other requirements, such as preparing annual reports, conducting audits, etc.
- set guidelines for administration of the fund, and
- outline permitted uses of the trust fund.

Advantages

- Removes ambiguity regarding power of a local jurisdiction to create a housing trust fund and designate funds to it.
- Makes a clear statement from the state of support in creating local housing trust funds and its importance in helping address critical housing needs.
- May expressly permit cross-jurisdictional collaboration in creating local housing trust funds.
- Increases understanding of housing trust funds within the legislature.

Disadvantages

- Does not open potential revenue options for local housing trust funds and thereby ignores a key factor in creating effective local trust funds.
- Advocacy must still take place at the local level to create a housing trust fund.

State Snapshot

Arizona

County Housing Trust Funds (A.R.S. 11-381)
Passed in 2007
General law (and charter) counties may establish county-level housing trust funds

South Carolina

William C. Mescher Local Housing Trust Fund Enabling Act
Passed in 2007
Authorizes a local government to individually or jointly create and operate a local or regional housing trust fund

Arizona County Housing Trust Fund Act

Arizona law establishes general-law as well as charter counties and cities. General-law counties (and, by extension, charter counties) can establish county-level housing trust funds, pursuant to A.R.S. 11-381.

The law permits a county board of supervisors, by resolution, to establish a county housing trust fund administered by a housing trust fund board comprised of five members appointed by the board of supervisors, or the board of supervisors acting as the housing trust fund board. The board is to report twice each year to the board of supervisors on the status of the housing trust fund, including a summary of how funds were expended.

The fund may consist of appropriated monies; any private, federal, state or local government grants, gifts, appropriations and monies; and investment earnings of the fund.

On recommendation of the housing trust fund board and approval of the board of supervisors, fund monies are to be used for projects and programs that provide affordable housing opportunities for low income households, including development of affordable rental housing, property developed for sale to low income buyers and rent-to-own programs. Priority is to be given to funding projects that provide for operating, constructing or renovating facilities for housing for low income families and that provide housing and shelter to families that have children.

To date, Pima County is the only reported county housing trust fund in Arizona. However, the creation of this fund pre-dated the passage of the enabling legislation. Arizona does not provide such legislation for city level housing trust funds. To enact such a housing trust fund, charter cities could create a housing trust fund if the city charter allows. Tucson, Flagstaff, and Tempe have each reported establishing local housing trust funds.

A Closer Look

Pima County

In 1997, the Board of Supervisors unanimously approved Ordinance 1997-35 establishing the Pima County Housing Trust Fund to address the affordable housing needs in Pima County. In November of 2004, the County Board of Supervisors created an eleven member Pima County Housing Commission to provide oversight for the trust fund.

In 2005, a roof-top fee was created and dedicated to the Housing Trust Fund; however, this revenue source has not produced anticipated revenues. The Affordable Housing Agreement and Lien is the document that is designed as the mechanism to exact this fee. Land owners and/or developers enter into an Affordable Housing Agreement and Lien with the Pima County Community Development and Neighborhood Conservation Department as a condition to any rezoning or specific plan amendment that involves a residential component. The Rooftop Fee is designed to be calculated and collected on the conveyance of improved lots at the close of escrow. The Affordable Housing Agreement establishes a lien on the property to ensure that the title company handling the escrow includes payment of the fee as part of the closing. The amount of the fee is equal to the applicable "contribution factor" multiplied by the actual sales price of the new home, including the land. There is a $5,000 cap on the rooftop fee.

The Housing Trust Fund balance is approximately $16,000 and once it reaches a balance of $50,000, funds will be allocated according to policies and procedures formulated by the Pima County Housing Commission. Eligible uses include down payment assistance, housing counseling and education, and other uses.

In 1997, voters approved $10 million for Neighborhood Reinvestment that included housing and $5 million was allocated for affordable housing programs. In 2004, due to the success of the original bond program, Pima County voters approved an additional $10 million for affordable housing programs utilizing general obligation bond funds.

South Carolina William C. Mescher Local Housing Trust Fund Enabling Act

In 2007, South Carolina created enabling legislation (the Mescher Act of 2007 (H3509)) for a municipality, county, or regional program to create a housing trust fund by ordinance (Title 31, Chapter 22, Section 31-22-10). The law expressly permits creation a local or regional housing trust fund or joining an existing trust fund to implement either a local or regional program for affordable housing. A regional housing trust fund created under the law is subject to the same requirement and has the same power as a local housing trust fund created by an individual local government.

No new tax or revenue authority is granted, but the trust fund may be financed with money available to the local government through its budgeting authority, donations, bond proceeds, state or federal loans, or private funds may be placed into the trust fund.

The housing trust funds are to promote new construction or rehabilitation of affordable housing with a preference to households earning no more than 50% of the area median income, special needs housing, or homeless housing.

A local government is to administer the housing trust fund through an existing or new nonprofit organization to encourage private donations. Annual reports are to be submitted to the local government and available to the public.

In addition to the state housing trust fund created in 1992, three local/regional housing trust funds have been reported. One pre-dates the passage of the William C. Mescher Local Housing Trust Fund Enabling Act:

- the Lowcountry Housing Trust (2004),
- the Greenville Housing Fund (2008) now known as CommunityWorks (CWC), is non-profit organization and certified Community Development Financial Institution to promote affordable housing and community development as a critical vehicle for creating stable families and healthy communities in the Upstate of South Carolina., and
- Midlands Housing Trust Fund (2010) is hosted by the United Way of the Midlands as a regional program to increase access to affordable housing throughout the region.

A Closer Look

Lowcountry Housing Trust Fund

The Lowcountry Housing Trust Fund is a regional advocate for affordable housing. LHT is a 501(c)(3) nonprofit organization established to provide a dedicated ongoing source of funding for the production and preservation of affordable housing in Berkeley, Charleston, Dorchester, and Georgetown counties.

The Trust Fund raises and pools funds from public and private sources and awards them to developers who are addressing recognized community needs and have the capacity to construct or rehabilitate affordable housing. LHT encourages and implements incentive programs that reduce barriers to affordable housing production.

In 2012, LHT made fifteen loans for a total of $3.9 million in financing for community development projects throughout the Lowcountry; funding has created or retained 567 jobs, 173 housing units, 2 community facilities, and provided a safe, decent and affordable place to call home for 432 individuals and families.