

**Streamlining Affordable Housing Approvals – Proposed Trailer Bill
Technical Modifications**

SECTION 1. Section 65400.1 is added to the Government Code, to read:

65400.1. (a) A development applicant or development proponent pursuant to Section 65913.3 of the Government Code may submit information describing the development, including, but not limited to, land use and zoning designations and requested permit(s) for the development to the Department of Housing and Community Development in a reporting format to be made available. The information submitted shall be compiled along with information pursuant to subparagraph (B) of subsection (2) of subdivision (a) of Section 65400 and Section 65588 of the Government Code as follows:

- (i) Upon receipt of a local government determination regarding the development submittal, or
 - (ii) Issuance of a building permit for the development.
- (b) The Department of Housing and Community Development shall annually review and report on its website the information that has been submitted pursuant to this section.

SEC. 2. Section 65913 of the Government Code is amended to read:

65913. (a) The Legislature finds and declares that there exists a severe shortage of affordable housing, especially for persons and families of low and moderate income, and that there is an immediate need to encourage the development of new housing, not only through the provision of financial assistance, but also through changes in law designed to do all of the following:

- (1) Expedite the local and State-supported residential development process.
- (2) Assure that local governments zone sufficient land at densities high enough for production of affordable housing.

(3) Assure that local governments make a diligent effort through the administration of land use and development controls and the provision of regulatory concessions and incentives to significantly reduce housing development costs and thereby facilitate the development of affordable housing, including housing for elderly persons and families, as defined by Section 50067 of the Health and Safety Code.

These changes in the law are consistent with the responsibility of local government to adopt the program required by subdivision (c) of Section 65583.

(b) The Legislature further finds and declares that the costs of new housing developments have been increased, in part, by the existing permit processes and by existing land use regulations and that vitally needed housing developments have been halted or rendered infeasible despite the benefits to the public health, safety, and welfare of those developments and despite the absence of adverse environmental impacts. It is therefore necessary to enact this chapter and to amend existing statutes which govern housing development so as to provide greater encouragement for local and state governments to approve needed and sound housing developments.

(c) It is the intent of the Legislature that the provisions of Section 65913.3 of the Government Code advance all of the following:

(A) the provisions of Government Code Section 65008;

(B) implementation of the State planning priorities pursuant to Government Code Section 65041.1;

(C) attainment of Section 65580 of the Government Code;

(D) significant actions designed to affirmatively increase fair housing choice, furthering the objectives of the Federal Fair Housing Act, 42 U.S.C. 3601, and

implementing regulations; and

(E) the objectives of the California Global Warming Solutions Act of 2006, commencing with Section 38500 of the Health and Safety Code.

(F) compliance with non-discretionary inclusionary zoning ordinances adopted by localities.

SEC. 3. Section 65913.3 is added to the Government Code, to read:

65913.3. (a) For the purposes of this section, the following terms shall have the following meanings:

(1) “Approved remediation measures” shall mean measures included in a certified environmental impact report to mitigate the impact of residential development in the subject location; or uniformly applied development policies or standards that have been adopted by the city or county to mitigate the impact of residential development in that location.

(2) “Affordable rent,” or “Affordable housing cost” shall be as defined by Health and Safety Code subdivision (b) of Section 50053, or subdivision (b) of 50052.5 respectively.

~~(4)~~ “Attached housing development” or “development” means a newly constructed structure containing two or more dwelling units that is a housing development project, as defined by subdivision (2) of subsection (h) of Section 65589.5 of the Government Code, but does not include a second unit, as defined by subdivision (4) of subsection (i) of Section 65852.2 of the Government Code, or the conversion of an existing structure to condominiums.

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

~~(2) “Designated housing sites” means sites designated to allow housing development by the general plan, a zoning ordinance, or for which a certified environmental review document includes provisions to mitigate potential harm.~~

~~(3)~~ “Land-use authority” means any entity with state-authorized power to

regulate land-use permits and entitlements conferred by local governments.

(46) “Land-use restriction” means covenants restricting the use of land, recorded regulatory agreements, or any other form of an equitable servitude.

(57) “Major transit stop” means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a service interval frequency of 15 minutes or less during the morning and afternoon peak weekday commute periods, and offering weekend service.

(68) “Public agency” means a federal, state, or local government agency, or a local or regional housing trust fund which has been funded or chartered by a federal, state, or local government agency.

(79) “Required by law to record” means, but is not limited to, a development applicant or development proponent is required to record a land-use restriction based on any of the following:

- (i) As a condition of award of funds or financing from a public agency.
- (ii) As a condition of the award of tax credits.
- (iii) As may be required by a contract entered into with a public agency.

(810) “Transit priority area” means an area within one-half mile of a major transit stop that is existing or planned, provided the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations within the adopted general plan or specific plan of a local government.

(911) “Urban uses” means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(b) A development that satisfies all of the following criteria shall be a permitted use by right as that term is defined in subdivision (i) of Section 65583.2 of the Government Code:

- (1) The development applicant or development proponent has submitted to the

local government its intent to utilize this authority, and certifying under penalty of perjury that, to the best of its knowledge and belief, it conforms with all other provisions identified herein.

(2) The development is consistent with the following objective planning standards: land use and building intensity designation applicable to the site under the general plan and zoning code, land use and density or other objective zoning standards, and any setback or objective design review standards, all as in effect at the time that the subject development is submitted to the local government pursuant to this section.

(3) The development is located on a site that is either immediately adjacent to parcels that are developed with urban uses or for which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses or is bounded by a natural body of water.

(4) The development must be an attached housing development, for which the development applicant or development proponent already has recorded, or is required by law to record, a land-use restriction, which shall require all the following:

(A) A duration of at least 30 years or more.

(B) ~~Enforceability by~~ That any public agency and or by any member or members of the public, including non-profit corporations, may bring and maintain an enforcement action.

(C) For developments within a transit priority area, a restriction of the development's real property to a level of affordability equal to or greater than either of the following:

(i) At least ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(ii) At least five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(D) For developments not within a transit priority area, a restriction of the development's real property to a level of affordability equal to or greater than at

least twenty (20) percent or more of the residential units restricted to and occupied by individuals whose income is eighty (80) percent or less of area median gross income.

(5) ~~Except for developments that are located on designated housing sites,~~ Unless the development incorporates approved remediation measures in the following locations as applicable to the development, the development is not located on a site that is any of the following:

(A) Either “prime farmland” or “farmland of statewide importance,” as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation.

(B) Wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations.

(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code; however, this limitation shall not apply to sites excluded from the specified hazard zones by a local agency pursuant to subdivision (b) of Section 51179 of the Government Code or sites that have adopted sufficient fire hazard mitigation measures as may be determined by their local agency with land-use authority.

(D) Hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed-uses.

(E) Within a delineated earthquake fault zone as determined by the State Geologist in the official maps published thereby.

(F) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a

floodplain development permit pursuant to Sections 59 and 60 of Title 44 of the Code of Federal Regulations.

(G) Within a flood way as determined by maps promulgated by the Federal Emergency Management Agency, unless the development receives a no rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

(H) Within an area determined by the Department of Housing and Community Development to be inappropriate for affordable housing development by additional objective criteria, including areas severely lacking in access to public transit, accessibility to employment or educational opportunities, and residentially supportive retail and service amenities, all as to be determined through regulations adopted by the Department at its discretion; until the Department adopts such regulations this subparagraph (H) shall not be interpreted to prohibit any such site. operative nor apply. The Department is authorized, but not mandated, to adopt regulations to implement the terms of this subparagraph (H); and such regulations shall be adopted pursuant to the Administrative Procedures Act set forth in Government Code section 11340 et seq. Division 13 of the Public Resources Code shall not apply to either: the Department's adoption of the regulations authorized by this section, or any financial assistance awarded by any public agency to any development that satisfies subdivision (b) of this section. This section shall be operative regardless as to whether the Department adopts the regulations authorized by this section.

~~Division 13 of the Public Resources Code shall not apply to the Department's adoption of the regulations authorized by this section.~~

(6) Unless the proposed housing development replaces units at a level of affordability equal to or greater than the level of a previous affordability restriction, the development must not be on any property that is any of the following:

(A) A parcel or parcels on which rental dwelling units are, or if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income.

(B) Subject to any other form of rent or price control through a public entity's

valid exercise of its police power; or occupied by lower or very low income households.

(c) If the applicable city, county, or city and county determines that the development is inconsistent with at least one of the objective planning standards delineated in paragraph (2) of subdivision (b), then it must provide the development proponent written documentation of which standard or standards the development is not consistent with, as well as explain why the development is not consistent with that standard or standards, all within thirty (30) calendar days of submittal of the development to the local government pursuant to this section. If the documentation described in this subsection fails to identify the objective standard or standards that the development is not consistent with, if it fails to provide an explanation of why it is inconsistent therewith, or if it is not provided to the development proponent within thirty (30) calendar days of submittal, then for the purposes of this section, the development shall be deemed to satisfy paragraph (2) of subdivision (b) of this section.

(d) Any design review of the development shall not exceed ninety (90) days from the submittal of the development to the local government pursuant to this section, and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section and the effect thereof.

(e) A development that satisfies subdivision (b) of this section shall not be subject to the requirements of Section 65589.5 of the Government Code in order to be accorded by right status under this section.

(f) This section does not relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66410)).

~~(g f) The review of a permit, license, certificate, or any other entitlement, including, but not limited to: the enactment and amendment of zoning or design review ordinances or guidelines, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps, by any public agency with land-use authority over any development that satisfies subdivision (b) of this section shall be ministerial.~~

(h g) This section shall be enforceable pursuant to a writ of mandate issued pursuant to Section 1085 of the Code of Civil Procedure.

(i h) The development applicant or development proponent may submit information describing the development pursuant to Government Code Section 65400.1(a).

(i i) The Legislature finds and declares that this section shall be applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is a matter of vital statewide importance.

(k j) Any and all individuals displaced by a development that is approved through the ministerial process authorized by this section shall be accorded relocation assistance as provided in the California Relocation Assistance Act set forth in Section 7267.8 et seq. California Real Property Acquisition and Relocation Assistance Act, set forth in Chapter 16, commencing with Government Code Section 7260. The development proponent shall be responsible for paying for relocation assistance expenses incurred by any local agency as a result of this section.

(l k) This section shall apply, notwithstanding anything to the contrary contained in this code or in any other law.