



**CITY OF PALO ALTO
CITY COUNCIL
Special Meeting
Monday, April 07, 2025
Council Chambers & Hybrid
5:30 PM**

Agenda Item

17. Potential Support or Sponsorship of a Senate Bill 457 (Becker) Regarding Housing Accountability Act Reforms (Item Continued from March 24, 2025 City Council Meeting)
Supplemental Report added, Public Comment



City Council Staff Report

Report Type: ACTION ITEMS
Lead Department: City Manager

Meeting Date: April 7, 2025
Report #:2503-4448

TITLE

Potential Support or Sponsorship of a Senate Bill 457 (Becker) Regarding Housing Accountability Act Reforms (Item Continued from March 24, 2025 City Council Meeting)

This item is a continuation of Agenda Item # AA1 on the City Council March 24, 2025 agenda. The original report and materials may be found here and are also attached to this report:

<https://cityofpaloalto.primegov.com/Portal/Meeting?meetingTemplateId=16855>

RECOMMENDATION

Staff recommends the City Council discuss and provide direction to:

- A. Approve a Support or Sponsorship position on SB 457; and
- B. Designate a City Council representative to provide testimony in support of the Bill or authorize the City Manager or their designee to serve this role.

FURTHER INFORMATION

The bill has been officially released online and can be found here:

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202520260SB457

This is an update to Attachment D.

ATTACHMENTS

Attachment A: March 24 Item AA1 Staff Report

Attachment B: March 24 Memo from Townsend Public Affairs Regarding SB 457

Attachment C: March 24 Item AA1 Supplemental Report

Attachment D: March 24 Supplemental Attachment A - SB 457 Amendments

APPROVED BY:

Ed Shikada, City Manager



CITY OF
**PALO
ALTO**

City Council Staff Report

Report Type: ACTION ITEMS
Lead Department: City Manager

Meeting Date: March 24, 2025
Report #:2503-4404

TITLE

Potential Support or Sponsorship of a Senate Bill 457 (Becker) Regarding Housing Accountability Act Reforms

RECOMMENDATION

Staff recommends the City Council discuss and provide direction to:

- A. Approve a Support or Sponsorship position on SB 457; and
- B. Designate a City Council representative to provide testimony in support of the Bill or authorize the City Manager or their designee to serve this role.

ANALYSIS

Background and analysis on the proposed legislation are provided on the attached memorandum (**Attachment A**) from the City's legislative advocate, Townsend Public Affairs.

FISCAL/RESOURCE IMPACT

The recommended action has no direct fiscal impact.

STAKEHOLDER ENGAGEMENT

Staff has consulted with State Senator Becker's office on this matter.

ENVIRONMENTAL REVIEW

Not a project.

ATTACHMENTS

Attachment A: Memo from Townsend Public Affairs Regarding SB 457

APPROVED BY:

Ed Shikada, City Manager

MEMORANDUM

To: **City of Palo Alto**
Honorable Mayor Lauing, Vice Mayor Veenker, Members of the City Council
Ed Shikada, City Manager
Molly Stump, City Attorney

From: **Townsend Public Affairs**
Niccolo De Luca, Vice President
Carlin Shelby, Senior Associate

Date: **March 19, 2025**

Subject: **SB 457 (Becker) – Housing Accountability Act Reforms**

The purpose of this memo is to provide an overview of recent changes to state law governing the timing, approval, and processing of ‘Builder’s Remedy’ applications provided within the Housing Accountability Act (HAA), and a legislative proposal from Senator Becker designed to close certain loopholes.

BACKGROUND

During the 2024 Legislative Session, the Legislature passed several bills modifying the Housing Accountability Act (HAA), particularly regarding the Builder’s Remedy provision. The HAA, first enacted in 1982, aims to prevent local jurisdictions from arbitrarily denying or unduly restricting housing development projects that contribute to meeting their housing needs. The law limits a city’s ability to disapprove or reduce density in residential projects while still allowing the enforcement of objective standards and developer fees.

A key focus of recent legislative reforms has been the Builder’s Remedy, which prohibits local governments from denying housing developments that include at least 20% lower-income housing, even if they do not conform to local zoning—provided the jurisdiction lacks a compliant Housing Element. Recent legal interpretations and implementation have highlighted loopholes and inconsistencies, prompting legislative action.

Key Legislative Action in 2024:

- AB 1886 (Alvarez, 2024) clarified that a Housing Element is only compliant after both:
 1. The local jurisdiction adopts it; and
 2. The California Department of Housing and Community Development (HCD) certifies it as compliant.
- This measure was intended to address “self-certification,” preventing cities from arguing that a Housing Element could be compliant without first receiving HCD approval.
- However, this change could create discrepancies among cities based on the timeline for HCD review. It also extended the window for Builder’s Remedy applications to be

submitted until HCD review was complete, even if a Housing Element was substantively unchanged from the date of agency adoption.

In Palo Alto, the City Council adopted its revised Housing Element on April 15, 2024 and the final staff changes to the Housing Element were submitted to HCD on July 26, 2024. HCD completed its review and certified the Housing Element on August 20, 2024. In the time between Council adoption and HCD certification, the City received two SB-330 Preliminary Applications for Builder's Remedy projects (680 University Avenue and 2300 Geng Road). In addition, the City received a number of formal applications for Builder's Remedy projects (762 San Antonio Road, 3606 El Camino Real, 3781 El Camino Real, 3400 El Camino Real) and deemed two formal applications complete (762 San Antonio Road and 156 California Avenue).

As these projects exceed the density of development anticipated in the City's Comprehensive Plan, some projects may not be adequately served by critical infrastructure such as the water utility supply needed for firefighting as well as domestic needs, sewer capacity to prevent backups or the necessity of major upgrades to mainline and treatment capacity, and storm drain capacity.

Financing these infrastructure improvements can be particularly complex when existing systems are already strained, as not all costs can be attributed to a single developer. Local jurisdictions rely on long-term capital improvement plans and bond measures to fund upgrades in a strategic and fiscally responsible manner. However, Builder's Remedy projects, which exceed growth projections, can necessitate immediate and costly infrastructure investments, disrupting this careful planning. Assigning a fair share cost to developers is challenging when upgrades – such as increased water supply, sewer capacity, or storm drainage – require large-scale improvements ahead of schedule.

In Palo Alto, several Builder's Remedy projects will require both on-site and off-site improvements to increase fire flow capacity. One project alone demands a 3,000-gallon-per-minute increase, far exceeding current fire flow capacity. These unexpected infrastructure demands – whether for water supply, fire safety, sewer, or stormwater management – undermine well-planned municipal land use and financing strategies, placing an undue burden on local governments and taxpayers.

BILL PROPOSAL

In discussions with the office of Senator Becker, the City has worked to craft bill language to refine the Builder's Remedy framework and restore a more balanced approach that aligns compliance timelines with the procedural realities of local government adoption and state certification.

SB 457 (Becker) proposes that a jurisdiction's Housing Element be considered compliant upon local adoption, provided that HCD ultimately certifies the adopted element as compliant. By making this distinction, SB 457 aims to eliminate the current window of uncertainty wherein developers can exploit the delay between adoption and HCD approval by submitting applications under the Builder's Remedy provision.

The bill further clarifies that Builder's Remedy protections apply only to projects with a completed formal application submitted before the jurisdiction adopts a Housing Element that is later deemed compliant by HCD or a court. This measure seeks to prevent instances where developers file preliminary applications with minimal substantive detail solely to establish eligibility for the Builder's Remedy, even after the jurisdiction has completed the necessary analyses, policies, and programs required by state law. By ensuring that Builder's Remedy protections are only available

when a jurisdiction is genuinely out of compliance, the legislation reinforces the original intent of the remedy while preventing misuse that circumvents legitimate land use planning processes.

The measure also ensures equitable treatment of local agencies by preventing jurisdictions from being subject to Builder's Remedy protections due to delays in HCD's administrative review process. Under current law, jurisdictions remain exposed to Builder's Remedy applications even after adopting a Housing Element that is later deemed compliant, simply because HCD has not yet completed its review. This bill eliminates this potential for inequity by recognizing a jurisdiction's good-faith adoption of a Housing Element as the operative date for compliance, contingent upon subsequent HCD approval.

Additionally, SB 457 proposes to limit the extraordinary benefits of the Builder's Remedy to developers who have demonstrated a serious intent to construct much-needed housing. Currently, a developer may establish eligibility for the Builder's Remedy simply filing a preliminary application with minimal detail. A preliminary application secures development rights even if the project changes, so long as density or floor area do not change by more than 20%. While this flexibility is not normally problematic, in combination with the Builder's Remedy, which allows a developer to bypass all zoning and general plan regulations, it means the project described in a preliminary application has very little meaning. . The bill instead requires that a developer must submit a complete formal application to utilize the Builder's Remedy. This ensures that only serious developers with real housing plans can proceed with a project that disregards local policies. It also means that other developers will be required to comply with local policies and programs that are ultimately found to satisfy the state's high standards for promoting both fair housing and housing production goals.

The proposed legislation will significantly improve clarity on the applicability of the Builder's Remedy in future RHNA cycles. The applicability of its provisions to applications already filed with the City of Palo Alto and other local jurisdictions will need to be reviewed on a case-by-case basis, including any phase-in provisions provided through the legislation.

LOOKING FORWARD

SB 457 will be amended to reflect the updated language during the week of March 24 and is scheduled for its first policy hearing in the Senate Housing Committee on April 1, 2025, at 3:00 PM. The measure has been double-referred and will also be considered by the Senate Local Government Committee. Stakeholder engagement efforts are ongoing, with continued discussions involving local jurisdictions, housing advocates, and the development community to refine the bill's provisions and ensure clarity in its implementation.

The City of Palo Alto and its advocates remain engaged in monitoring the legislative process and advocating for refinements that ensure a fair and balanced application of the Builder's Remedy. The intent of this measure is not to weaken existing housing laws but to provide a rational and predictable framework that aligns compliance determinations with actual adoption dates, thus eliminating opportunities for speculative development while maintaining strong incentives for timely Housing Element adoption.

As the bill progresses through the legislative process, Townsend Public Affairs will continue to provide updates on any amendments and strategic opportunities for the City to participate in shaping the final language of SB 457.

ACTION

Given the City's active engagement with Senator Becker's office in developing the legislative language for SB 457, it is recommended that the City take a formal and sponsorship position (which, in turn, indicates a "support" position). By doing so, the City would serve as the lead stakeholder in advancing the measure and advocating for its passage. If the City Council agrees to this course of action, the City will co-champion the bill alongside Senator Becker. This effort would necessitate a representative from the City providing testimony on the technical merits of the legislation, as well as its potential impacts on local land use planning and housing policy.

Given that this proposal originated from the City, it is common practice that Palo Alto serve as the bill "sponsor" which indicates to other members and stakeholders who the primary driver(s) of the measure are. Should the city only elect to "support" the bill, the measure would lack a sponsor, which would run contrary to the origination of the measure, which, in this case, is not a member sponsored bill.

The requested City Council actions therefore include:

- A. Approve a Sponsorship position on SB 457; and
- B. Designate a City Council representative to provide testimony in support of the Bill or authorize the City Manager or their designee to serve this role.



City Council Supplemental Report

CITY OF
**PALO
ALTO**

From: Ed Shikada, City Manager

Meeting Date: March 24, 2025

Item Number: AA1

Report #:

TITLE

Potential Support or Sponsorship of a Senate Bill 457 (Becker) Regarding Housing Accountability Act Reforms

ANALYSIS

Our office has received the attached working markup of Senate Bill 457 (Becker), indicating amendments planned to the bill.

ATTACHMENTS

Supplemental Attachment A: SB 457 Amendments

APPROVED BY:

Ed Shikada, City Manager

AMENDMENTS TO SENATE BILL NO. 457

Amendment 1

In the title, in line 1, strike out "Section 65400" and insert:

Sections 65585.03 and 65589.5

Amendment 2

On page 2, before line 1, insert:

SECTION 1. Section 65585.03 of the Government Code is amended to read:
65585.03. A housing element or amendment shall be considered to be in substantial compliance with this article on the date when the governing body of a local agency adopts the housing element or amendment for the current planning period in accordance with Section ~~65585~~ and 65585, provided that either of the following apply: occurs after the date the housing element or amendment is adopted and without further action by the governing body:

(a) The department finds that the adopted housing element or amendment is in substantial compliance with this article and the department's compliance findings have not been superseded by subsequent contrary findings by the department or by a decision of a court of competent jurisdiction.

(b) A court of competent jurisdiction determines that the adopted housing element or amendment substantially complies with this article and the court's decision has not been overturned or superseded by a subsequent court decision or by statute.

SEC. 2. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call



California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall home ownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in home ownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(4) It is the intent of the Legislature that the amendments removing provisions from subparagraphs (D) and (E) of paragraph (6) of subdivision (h) and adding those provisions to Sections 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar as they are substantially the same as existing law, shall be considered restatements and continuations of existing law, and not new enactments.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state.

Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) For a housing development project for very low, low-, or moderate-income households, or an emergency shelter, a local agency shall not disapprove the housing development project or emergency shelter, or condition approval in a manner that renders the housing development project or emergency shelter infeasible, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed

complete. The following shall not constitute a specific, adverse impact upon the public health or safety:

(A) Inconsistency with the zoning ordinance or general plan land use designation.

(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction had adopted a revised housing element that was in substantial compliance with this article, and the housing development project or emergency shelter was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan.

(A) This paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed on a site, including a candidate site for rezoning, that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element if the housing development project is consistent with the density specified in the housing element, even though the housing development project was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation on the date the application was deemed complete.

(B) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(C) (i) Notwithstanding subdivision (h), for purposes of this paragraph, "deemed complete" means the applicant has submitted a complete application pursuant to Section 65943.

(ii) This subparagraph applies to an application that, as of January 1, 2026, has not met both of the following criteria:

(I) Received a local agency approval.

(II) Incurred substantial liability in good faith reliance upon the local agency approval.

(6) On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction did not have an adopted revised housing element that was in substantial compliance with this article and the housing development project is not a builder's remedy project.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Except as provided in paragraphs (6) and (8) of this subdivision, and subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development. Nothing in this section shall limit a project's eligibility for a density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915.

(2) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(5) For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall

not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(6) Notwithstanding paragraphs (1) to (5), inclusive, all of the following apply to a housing development project that is a builder's remedy project:

(A) A local agency may only require the project to comply with the objective, quantifiable, written development standards, conditions, and policies that would have applied to the project had it been proposed on a site with a general plan designation and zoning classification that allow the density and unit type proposed by the applicant. If the local agency has no general plan designation or zoning classification that would have allowed the density and unit type proposed by the applicant, the development proponent may identify any objective, quantifiable, written development standards, conditions, and policies associated with a different general plan designation or zoning classification within that jurisdiction, that facilitate the project's density and unit type, and those shall apply.

(B) (i) Except as authorized by paragraphs (1) to (4), inclusive, of subdivision (d), a local agency shall not apply any individual or combination of objective, quantifiable, written development standards, conditions, and policies to the project that do any of the following:

(I) Render the project infeasible.

(II) Preclude a project that meets the requirements allowed to be imposed by subparagraph (A), as modified by any density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915, from being constructed as proposed by the applicant.

(ii) The local agency shall bear the burden of proof of complying with clause (i).

(C) (i) A project applicant that qualifies for a density bonus pursuant to Section 65915 shall receive two incentives or concessions in addition to those granted pursuant to paragraph (2) of subdivision (d) of Section 65915.

(ii) For a project seeking density bonuses, incentives, concessions, or any other benefits pursuant to Section 65915, and notwithstanding paragraph (6) of subdivision (o) of Section 65915, for purposes of this paragraph, maximum allowable residential density or base density means the density permitted for a builder's remedy project pursuant to subparagraph (C) of paragraph (11) of subdivision (h).

(iii) A local agency shall grant any density bonus pursuant to Section 65915 based on the number of units proposed and allowable pursuant to subparagraph (C) of paragraph (11) of subdivision (h).

(iv) A project that dedicates units to extremely low-income households pursuant to subclause (I) of clause (i) of subparagraph (C) of paragraph (3) of subdivision (h) shall be eligible for the same density bonus, incentives or concessions, and waivers or reductions of development standards as provided to a housing development project that dedicates three percentage points more units to very low income households pursuant to paragraph (2) of subdivision (f) of Section 65915.

(v) All units dedicated to extremely low-income, very low income, low-income, and moderate-income households pursuant to paragraph (11) of subdivision (h) shall be counted as affordable units in determining whether the applicant qualifies for a density bonus pursuant to Section 65915.

(D) (i) The project shall not be required to apply for, or receive approval of, a general plan amendment, specific plan amendment, rezoning, or other legislative approval.

(ii) The project shall not be required to apply for, or receive, any approval or permit not generally required of a project of the same type and density proposed by the applicant.

(iii) Any project that complies with this paragraph shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, redevelopment plan and implementing instruments, or other similar provision for all purposes, and shall not be considered or treated as a nonconforming lot, use, or structure for any purpose.

(E) A local agency shall not adopt or impose any requirement, process, practice, or procedure or undertake any course of conduct, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is a builder's remedy project.

(F) (i) A builder's remedy project shall be deemed to be in compliance with the residential density standards for the purposes of complying with subdivision (b) of Section 65912.123.

(ii) A builder's remedy project shall be deemed to be in compliance with the objective zoning standards, objective subdivision standards, and objective design review standards for the purposes of complying with paragraph (5) of subdivision (a) of Section 65913.4.

(G) (i) (I) If the local agency had a local affordable housing requirement, as defined in Section 65912.101, that on January 1, 2024, required a greater percentage of affordable units than required under subparagraph (A) of paragraph (11) of subdivision (h), or required an affordability level deeper than what is required under subparagraph (A) of paragraph (11) of subdivision (h), then, except as provided in subclauses (II) and (III), the local agency may require a housing development for mixed-income households to comply with an otherwise lawfully applicable local affordability percentage or affordability level. The local agency shall not require housing for mixed-income households to comply with any other aspect of the local affordable housing requirement.

(II) Notwithstanding subclause (I), the local affordable housing requirements shall not be applied to require housing for mixed-income households to dedicate more than 20 percent of the units to affordable units of any kind.

(III) Housing for mixed-income households that is required to dedicate 20 percent of the units to affordable units shall not be required to dedicate any of the affordable units at an income level deeper than lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(IV) A local agency may only require housing for mixed-income households to comply with the local percentage requirement or affordability level described in subclause (I) if it first makes written findings, supported by a preponderance of evidence, that compliance with the local percentage requirement or the affordability level, or both, would not render the housing development project infeasible. If a reasonable person could find compliance with either requirement, either alone or in combination, would render the project infeasible, the project shall not be required to comply with that requirement.

(ii) Affordable units in the development project shall have a comparable bedroom and bathroom count as the market rate units.

(iii) Each affordable unit dedicated pursuant to this subparagraph shall count toward satisfying a local affordable housing requirement. Each affordable unit dedicated pursuant to a local affordable housing requirement that meets the criteria established in this subparagraph shall count towards satisfying the requirements of this subparagraph. This is declaratory of existing law.

(7) (A) For a housing development project application that is deemed complete before January 1, 2025, the development proponent for the project may choose to be subject to the provisions of this section that were in place on the date the preliminary application was submitted, or, if the project meets the definition of a builder's remedy project, it may choose to be subject to any or all of the provisions of this section applicable as of January 1, 2025.

(B) Notwithstanding subdivision (c) of Section 65941.1, for a housing development project deemed complete before January 1, 2025, the development proponent may choose to revise their application so that the project is a builder's remedy project, without being required to resubmit a preliminary application, even if the revision results in the number of residential units or square footage of construction changing by 20 percent or more.

(8) A housing development project proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, that is consistent with the density specified in the most recently updated and adopted housing element, and that is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation on the date the application was deemed complete, shall be subject to the provisions of subparagraphs (A), (B), and (D) of paragraph (6) and paragraph (9).

(9) For purposes of this subdivision, "objective, quantifiable, written development standards, conditions, and policies" means criteria that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal, including, but not limited to, any standard, ordinance, or policy described in paragraph (4) of subdivision (o). Nothing herein shall affect the obligation of the housing development project to comply with the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. In the event that applicable objective, quantifiable, written development standards, conditions, and policies are mutually inconsistent, a development shall be deemed consistent with the criteria that permits the density and unit type closest to that of the proposed project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses that meet any of the following conditions:

(i) At least two-thirds of the new or converted square footage is designated for residential use.

(ii) At least 50 percent of the new or converted square footage is designated for residential use and the project meets both of the following:

(I) The project includes at least 500 net new residential units.

(II) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(iii) At least 50 percent of the net new or converted square footage is designated for residential use and the project meets all of the following:

(I) The project includes at least 500 net new residential units.

(II) The project involves the demolition or conversion of at least 100,000 square feet of nonresidential use.

(III) The project demolishes at least 50 percent of the existing nonresidential uses on the site.

(IV) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(C) Transitional housing or supportive housing.

(D) Farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(3) (A) "Housing for very low, low-, or moderate-income households" means housing for lower income households, mixed-income households, or moderate-income households.

(B) "Housing for lower income households" means a housing development project in which 100 percent of the units, excluding managers' units, are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

(C) (i) "Housing for mixed-income households" means any of the following:

(I) A housing development project in which at least 7 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to extremely low income households, as defined in Section 50106 of the Health and Safety Code.

(II) A housing development project in which at least 10 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to very low income households, as defined in Section 50105 of the Health and Safety Code.

(III) A housing development project in which at least 13 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(IV) A housing development project in which there are 10 or fewer total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, that is on a site that is smaller than one acre, and that is proposed for development at a minimum density of 10 units per acre.

(ii) All units dedicated to extremely low income, very low income, and low-income households pursuant to clause (i) shall meet both of the following:

(I) The units shall have an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The development proponent shall agree to, and the local agency shall ensure, the continued affordability of all affordable rental units included pursuant to this section for 55 years and all affordable ownership units included pursuant to this section for a period of 45 years.

(D) "Housing for moderate-income households" means a housing development project in which 100 percent of the units are sold or rented to moderate-income households, as defined in Section 50093 of the Health and Safety Code, at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code.

(5) Notwithstanding any other law, until January 1, 2030, "deemed complete" means that the applicant has submitted a preliminary application pursuant to Section 65941.1 or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943. The local agency shall bear the burden of proof in establishing that the application is not complete.

(6) "Disapprove the housing development project" includes any instance in which a local agency does any of the following:

(A) Votes or takes final administrative action on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(C) Fails to meet the time limits specified in Section 65913.3.

(D) Fails to cease a course of conduct undertaken for an improper purpose, such as to harass or to cause unnecessary delay or needless increases in the cost of the proposed housing development project, that effectively disapproves the proposed housing development without taking final administrative action if all of the following conditions are met:

(i) The project applicant provides written notice detailing the challenged conduct and why it constitutes disapproval to the local agency established under Section 65100.

(ii) Within five working days of receiving the applicant's written notice described in clause (i), the local agency shall post the notice on the local agency's internet website, provide a copy of the notice to any person who has made a written request for notices pursuant to subdivision (f) of Section 21167 of the Public Resources Code, and file the notice with the county clerk of each county in which the project will be located. The county clerk shall post the notice and make it available for public inspection in the manner set forth in subdivision (c) of Section 21152 of the Public Resources Code.

(iii) The local agency shall consider all objections, comments, evidence, and concerns about the project or the applicant's written notice and shall not make a determination until at least 60 days after the applicant has given written notice to the local agency pursuant to clause (i).

(iv) Within 90 days of receipt of the applicant's written notice described in clause (i), the local agency shall issue a written statement that it will immediately cease the challenged conduct or issue written findings that comply with both of the following requirements:

(I) The findings articulate an objective basis for why the challenged course of conduct is necessary.

(II) The findings provide clear instructions on what the applicant must submit or supplement so that the local agency can make a final determination regarding the next necessary approval or set the date and time of the next hearing.

(v) (I) If a local agency continues the challenged course of conduct described in the applicant's written notice and fails to issue the written findings described in clause (iv), the local agency shall bear the burden of establishing that its course of conduct does not constitute a disapproval of the housing development project under this subparagraph in an action taken by the applicant.

(II) If an applicant challenges a local agency's course of conduct as a disapproval under this subparagraph, the local agency's written findings described in clause (iv) shall be incorporated into the administrative record and be deemed to be the final administrative action for purposes of adjudicating whether the local agency's course of conduct constitutes a disapproval of the housing development project under this subparagraph.

(vi) A local agency's action in furtherance of complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), including, but not limited to, imposing mitigating measures, shall not constitute project disapproval under this subparagraph.

(E) Fails to comply with Section 65905.5. For purposes of this subparagraph, a builder's remedy project shall be deemed to comply with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete.

(F) (i) Determines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943 and includes in the determination an item that is not required on the local agency's submittal requirement checklist. The local agency shall bear the burden of proof that the required item is listed on the submittal requirement checklist.

(ii) In a subsequent review of an application pursuant to Section 65943, requests the applicant provide new information that was not identified in the initial determination and upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943. The local agency shall bear the burden of proof that the required item was identified in the initial determination.

(iii) Determines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943, a reasonable person would conclude that the applicant has submitted all of the items required on the local agency's submittal requirement checklist, and the local agency upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943.

(iv) If a local agency determines that an application is incomplete under Section 65943 after two resubmittals of the application by the applicant, the local agency shall bear the burden of establishing that the determination is not an effective disapproval of a housing development project under this section.

(G) Violates subparagraph (D) or (E) of paragraph (6) of subdivision (f).

(H) Makes a written determination that a preliminary application described in subdivision (a) of Section 65941.1 has expired or that the applicant has otherwise lost its vested rights under the preliminary application for any reason other than those described in subdivisions (c) and (d) of Section 65941.1.

(I) (i) Fails to make a determination of whether the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or commits an abuse of discretion, as defined in subdivision (b) of Section 65589.5.1 if all of the conditions in Section 65589.5.1 are satisfied.

(ii) This subparagraph shall become inoperative on January 1, 2031.

(J) (i) Fails to adopt a negative declaration or addendum for the project, to certify an environmental impact report for the project, or to approve another comparable environmental document, such as a sustainable communities environmental assessment pursuant to Section 21155.2 of the Public Resources Code, as required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if all of the conditions in Section 65589.5.2 are satisfied.

(ii) This subparagraph shall become inoperative on January 1, 2031.

(7) (A) For purposes of this section and Sections 65589.5.1 and 65589.5.2, "lawful determination" means any final decision about whether to approve or disapprove a statutory or categorical exemption or a negative declaration, addendum, environmental impact report, or comparable environmental review document under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that is not an abuse of discretion, as defined in subdivision (b) of Section 65589.5.1 or subdivision (b) of Section 65589.5.2.

(B) This paragraph shall become inoperative on January 1, 2031.

(8) "Lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(9) Until January 1, 2030, "objective" means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

(10) Notwithstanding any other law, until January 1, 2030, “determined to be complete” means that the applicant has submitted a complete application pursuant to Section 65943.

(11) “Builder’s remedy project” means a project that meets all of the following criteria:

(A) The project is a housing development project that provides housing for very low, low-, or moderate-income households.

(B) On or after the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction did not have a housing element that was in substantial compliance with this article.

(C) The project has a density such that the number of units, as calculated before the application of a density bonus pursuant to Section 65915, complies with all of the following conditions:

(i) The density does not exceed the greatest of the following densities:

(I) Fifty percent greater than the minimum density deemed appropriate to accommodate housing for that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(II) Three times the density allowed by the general plan, zoning ordinance, or state law, whichever is greater.

(III) The density that is consistent with the density specified in the housing element.

(ii) Notwithstanding clause (i), the greatest allowable density shall be 35 units per acre more than the amount allowable pursuant to clause (i), if any portion of the site is located within any of the following:

(I) One-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(II) A very low vehicle travel area, as defined in subdivision (h).

(III) A high or highest resource census tract, as identified by the latest edition of the “CTCAC/HCD Opportunity Map” published by the California Tax Credit Allocation Committee and the Department of Housing and Community Development.

(D) (i) On sites that have a minimum density requirement and are located within one-half mile of a commuter rail station or a heavy rail station, the density of the project shall not be less than the minimum density required on the site.

(I) For purposes of this subparagraph, “commuter rail” means a railway that is not a light rail, streetcar, trolley, or tramway and that is for urban passenger train service consisting of local short distance travel operating between a central city and adjacent suburb with service operated on a regular basis by or under contract with a transit operator for the purpose of transporting passengers within urbanized areas, or between urbanized areas and outlying areas, using either locomotive-hauled or self-propelled railroad passenger cars, with multitrip tickets and specific station-to-station fares.

(II) For purposes of this subparagraph, “heavy rail” means an electric railway with the capacity for a heavy volume of traffic using high speed and rapid acceleration passenger rail cars operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other vehicular and foot traffic are excluded, and high platform loading.

(ii) On all other sites with a minimum density requirement, the density of the project shall not be less than the local agency’s minimum density or one-half of the

minimum density deemed appropriate to accommodate housing for that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, whichever is lower.

(E) The project site does not abut a site where more than one-third of the square footage on the site has been used, within the past three years, by a heavy industrial use, or a Title V industrial use, as those terms are defined in Section 65913.16.

(12) "Condition approval" includes imposing on the housing development project, or attempting to subject it to, development standards, conditions, or policies.

(13) "Unit type" means the form of ownership and the kind of residential unit, including, but not limited to, single-family detached, single-family attached, for-sale, rental, multifamily, townhouse, condominium, apartment, manufactured homes and mobilehomes, factory-built housing, and residential hotel.

(14) "Proposed by the applicant" means the plans and designs as submitted by the applicant, including, but not limited to, density, unit size, unit type, site plan, building massing, floor area ratio, amenity areas, open space, parking, and ancillary commercial uses.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the housing development project's application is complete, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d), and that the findings are supported by a preponderance of the evidence in the record, and with the requirements of subdivision (o).

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan,

program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus, incentive, concession, waiver, or reduction of development standards pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section.

(III) (ia) Subject to sub-subclause (ib), the local agency, in violation of subdivision (o), required or attempted to require a housing development project to

comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

(ib) This subclause shall become inoperative on January 1, 2030.

(IV) The local agency violated a provision of this section applicable to a builder's remedy project.

(ii) If the court finds that one of the conditions in clause (i) is met, the court shall issue an order or judgment compelling compliance with this section within a time period not to exceed 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, provided, however, that the court shall not award attorney's fees in either of the following instances:

(I) The court finds, under extraordinary circumstances, that awarding fees would not further the purposes of this section.

(II) (ia) In a case concerning a disapproval within the meaning of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the court finds that the local agency acted in good faith and had reasonable cause to disapprove the housing development project due to the existence of a controlling question of law about the application of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or implementing guidelines as to which there was a substantial ground for difference of opinion at the time of the disapproval.

(ib) This subclause shall become inoperative on January 1, 2031.

(B) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within the time period prescribed by the court, the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Trust Fund. The fine shall be in a minimum amount of ten thousand dollars (\$10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of the fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Trust Fund for the sole purpose of financing newly

constructed housing units affordable to extremely low, very low, or low-income households.

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed to be approved unless the applicant consents to a different decision or action by the local agency.

(D) Nothing in this section shall limit the court's inherent authority to make any other orders to compel the immediate enforcement of any writ brought under this section, including the imposition of fees and other sanctions set forth under Section 1097 of the Code of Civil Procedure.

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section.

(I) If the court finds that the local agency (1) acted in bad faith when it violated this section and (2) failed to carry out the court's order or judgment within the time period prescribed by the court, the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. If a court has previously found that the local agency violated this section within the same planning period, the court shall multiply the fines by an additional factor for each previous violation. For purposes of this section, "bad faith" includes, but is not limited to, an action or inaction that is frivolous, pretextual, intended to cause unnecessary delay, or entirely without merit.

(m) (1) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such

further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(2) (A) A disapproval within the meaning of subparagraph (I) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within the time period set forth in paragraph (5) of subdivision (a) of Section 65589.5.1 after the applicant's timely written notice.

(B) This paragraph shall become inoperative on January 1, 2031.

(3) (A) A disapproval within the meaning of subparagraph (J) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within 90 days of the applicant's timely written notice.

(B) This paragraph shall become inoperative on January 1, 2031.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) (1) Subject to paragraphs (2), (6), and (7), and subdivision (d) of Section 65941.1, a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted.

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.

(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Subjecting the housing development project to an ordinance, policy, standard, or any other measure, beyond those in effect when a preliminary application was submitted is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(D) The housing development project has not commenced construction within two and one-half years, or three and one-half years for an affordable housing project,

following the date that the project received final approval. For purposes of this subparagraph:

(i) “Affordable housing project” means a housing development that satisfies both of the following requirements:

(I) Units within the development are subject to a recorded affordability restriction for at least 55 years for rental housing and 45 years for owner-occupied housing, or the first purchaser of each unit participates in an equity sharing agreement as described in subparagraph (C) of paragraph (2) of subdivision (c) of Section 65915.

(II) All of the units within the development, excluding managers’ units, are dedicated to lower income households, as defined by Section 50079.5 of the Health and Safety Code.

(ii) “Final approval” means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:

(I) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.

(II) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, including any other locally authorized program that offers additional density or other development bonuses when affordable housing is provided. For purposes of this subdivision, “square footage of construction” means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) This subdivision does not prevent a local agency from subjecting the additional units or square footage of construction that result from project revisions occurring after a preliminary application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the preliminary application was submitted.

(4) For purposes of this subdivision, “ordinances, policies, and standards” includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

(5) This subdivision shall not be construed in a manner that would lessen the restrictions imposed on a local agency, or lessen the protections afforded to a housing development project, that are established by any other law, including any other part of this section.

(6) This subdivision shall not restrict the authority of a public agency or local agency to require mitigation measures to lessen the impacts of a housing development

project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) With respect to completed residential units for which the project approval process is complete and a certificate of occupancy has been issued, nothing in this subdivision shall limit the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

(8) (A) This subdivision shall apply to a housing development project that submits a preliminary application pursuant to Section 65941.1 before January 1, 2030.

(B) This subdivision shall become inoperative on January 1, 2034.

(p) (1) Upon any motion for an award of attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure, in a case challenging a local agency's approval of a housing development project, a court, in weighing whether a significant benefit has been conferred on the general public or a large class of persons and whether the necessity of private enforcement makes the award appropriate, shall give due weight to the degree to which the local agency's approval furthers policies of this section, including, but not limited to, subdivisions (a), (b), and (c), the suitability of the site for a housing development, and the reasonableness of the decision of the local agency. It is the intent of the Legislature that attorney's fees and costs shall rarely, if ever, be awarded if a local agency, acting in good faith, approved a housing development project that satisfies conditions established in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1 or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.

(2) This subdivision shall become inoperative on January 1, 2031.

(q) This section shall be known, and may be cited, as the Housing Accountability Act.

(r) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Amendment 3

On page 2, strike out lines 1 to 30, inclusive, and strike out pages 3 to 8, inclusive

PROPOSED AMENDMENTS TO SENATE BILL NO. 457

SENATE BILL

No. 457

Introduced by Senator Becker

February 19, 2025



RN2512553

An act to amend ~~Section 65400~~ Sections 65585.03 and 65589.5 of the Government Code, relating to land use.

Amendment 1

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as introduced, Becker. ~~General plan: annual report: suite-style student housing quarters. Housing element compliance: Housing Accountability Act: housing disapprovals.~~

The Planning and Zoning Law requires each county and each city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that includes, among other specified mandatory elements, a housing element. Existing law, commonly referred to as the housing element law, prescribes requirements for a city's or county's preparation of, and compliance with, its housing element, and requires the Department of Housing and Community Development to review and determine whether the housing element substantially complies with the housing element law, as specified.

Existing law within the Planning and Zoning Law, the Housing Accountability Act, among other things, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes written findings, based on a preponderance of the evidence, that one of 6 specified conditions exist. Among these conditions, the act allows a local agency to disapprove a housing

development project that is inconsistent with the jurisdiction’s zoning ordinances and general plan land use designation as it existed on the date the application was deemed complete, if the jurisdiction has adopted a revised housing element that is in substantial compliance with the housing element law, as specified. The act defines “deemed complete” for purposes of its provisions, until January 1, 2030, to mean that the applicant has submitted a preliminary application, as specified, or if the applicant has not submitted a preliminary application, the submission of a completed application, as specified.

This bill, for the purpose of allowing a local agency to disapprove a housing development project that is inconsistent with the jurisdiction’s zoning ordinances and general plan land use designation, as described above, would revise the definition of “deemed complete” to mean that the applicant submitted a complete application, as specified. The bill would provide that this definition would apply to an application that as of January 1, 2026 has not (1) received approval from a local agency or (2) incurred substantial liability in good faith reliance upon the local agency approval.

Existing law provides that a housing element or amendment is considered substantially compliant with the housing element law when the local agency adopts a housing element or amendment, the department or a court of competent jurisdiction determines the adopted housing element or amendment to be in substantial compliance with the housing element law, and the department’s compliance findings have not been superseded by subsequent contrary findings by the department or by a decision of a court of competent jurisdiction or the court’s decision has not been overturned or superseded by a subsequent court decision or by statute, as applicable.

This bill would, instead, provide that a housing element or amendment is considered substantially compliant with the housing element law on the date when the governing body of a local agency adopts the housing element or amendment, provided that after the date the housing element or amendment is adopted and without further action by the governing body, the department or a court of competent jurisdiction determines the adopted housing element or amendment to be in substantial compliance with the housing element law, and the department’s compliance findings are not superseded by subsequent contrary findings by the department or by a decision of a court of competent jurisdiction or the court’s decision is not overturned or superseded by a subsequent court decision or by statute.

~~The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the housing element to include, among other things, an identification and analysis of existing and projected housing needs. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development that includes, among other specified information, the number of units of housing demolished and new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy.~~

~~This bill would, for the 7th and subsequent revisions of the housing element, require the city or county to additionally include in the annual report the number of suite-style student housing quarters, subject to specified requirements, within the number of housing units demolished and new units. By requiring a city or county to include additional information in the annual report, the bill would impose a state-mandated local program.~~

~~The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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

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

- + *SECTION 1. Section 65585.03 of the Government Code is*
- + *amended to read:*
- + *65585.03. A housing element or amendment shall be considered*
- + *to be in substantial compliance with this article on the date when*
- + *the governing body of a local agency adopts the housing element*
- + *or amendment for the current planning period in accordance with*
- + *Section 65585 and 65585, provided that either of the following*
- + *apply: occurs after the date the housing element or amendment is*
- + *adopted and without further action by the governing body:*

Amendment 2

+ (a) The department finds that the adopted housing element or
+ amendment is in substantial compliance with this article and the
+ department's compliance findings have not been superseded by
+ subsequent contrary findings by the department or by a decision
+ of a court of competent jurisdiction.

+ (b) A court of competent jurisdiction determines that the adopted
+ housing element or amendment substantially complies with this
+ article and the court's decision has not been overturned or
+ superseded by a subsequent court decision or by statute.

+ *SEC. 2. Section 65589.5 of the Government Code is amended*
+ *to read:*

+ 65589.5. (a) (1) The Legislature finds and declares all of the
+ following:

+ (A) The lack of housing, including emergency shelters, is a
+ critical problem that threatens the economic, environmental, and
+ social quality of life in California.

+ (B) California housing has become the most expensive in the
+ nation. The excessive cost of the state's housing supply is partially
+ caused by activities and policies of many local governments that
+ limit the approval of housing, increase the cost of land for housing,
+ and require that high fees and exactions be paid by producers of
+ housing.

+ (C) Among the consequences of those actions are discrimination
+ against low-income and minority households, lack of housing to
+ support employment growth, imbalance in jobs and housing,
+ reduced mobility, urban sprawl, excessive commuting, and air
+ quality deterioration.

+ (D) Many local governments do not give adequate attention to
+ the economic, environmental, and social costs of decisions that
+ result in disapproval of housing development projects, reduction
+ in density of housing projects, and excessive standards for housing
+ development projects.

+ (2) In enacting the amendments made to this section by the act
+ adding this paragraph, the Legislature further finds and declares
+ the following:

+ (A) California has a housing supply and affordability crisis of
+ historic proportions. The consequences of failing to effectively
+ and aggressively confront this crisis are hurting millions of
+ Californians, robbing future generations of the chance to call
+ California home, stifling economic opportunities for workers and

- + businesses, worsening poverty and homelessness, and undermining
- + the state’s environmental and climate objectives.
- + (B) While the causes of this crisis are multiple and complex,
- + the absence of meaningful and effective policy reforms to
- + significantly enhance the approval and supply of housing affordable
- + to Californians of all income levels is a key factor.
- + (C) The crisis has grown so acute in California that supply,
- + demand, and affordability fundamentals are characterized in the
- + negative: underserved demands, constrained supply, and protracted
- + unaffordability.
- + (D) According to reports and data, California has accumulated
- + an unmet housing backlog of nearly 2,000,000 units and must
- + provide for at least 180,000 new units annually to keep pace with
- + growth through 2025.
- + (E) California’s overall home ownership rate is at its lowest
- + level since the 1940s. The state ranks 49th out of the 50 states in
- + home ownership rates as well as in the supply of housing per capita.
- + Only one-half of California’s households are able to afford the
- + cost of housing in their local regions.
- + (F) Lack of supply and rising costs are compounding inequality
- + and limiting advancement opportunities for many Californians.
- + (G) The majority of California renters, more than 3,000,000
- + households, pay more than 30 percent of their income toward rent
- + and nearly one-third, more than 1,500,000 households, pay more
- + than 50 percent of their income toward rent.
- + (H) When Californians have access to safe and affordable
- + housing, they have more money for food and health care; they are
- + less likely to become homeless and in need of
- + government-subsidized services; their children do better in school;
- + and businesses have an easier time recruiting and retaining
- + employees.
- + (I) An additional consequence of the state’s cumulative housing
- + shortage is a significant increase in greenhouse gas emissions
- + caused by the displacement and redirection of populations to states
- + with greater housing opportunities, particularly working- and
- + middle-class households. California’s cumulative housing shortfall
- + therefore has not only national but international environmental
- + consequences.
- + (J) California’s housing picture has reached a crisis of historic
- + proportions despite the fact that, for decades, the Legislature has

- + enacted numerous statutes intended to significantly increase the
- + approval, development, and affordability of housing for all income
- + levels, including this section.
- + (K) The Legislature's intent in enacting this section in 1982 and
- + in expanding its provisions since then was to significantly increase
- + the approval and construction of new housing for all economic
- + segments of California's communities by meaningfully and
- + effectively curbing the capability of local governments to deny,
- + reduce the density for, or render infeasible housing development
- + projects and emergency shelters. That intent has not been fulfilled.
- + (L) It is the policy of the state that this section be interpreted
- + and implemented in a manner to afford the fullest possible weight
- + to the interest of, and the approval and provision of, housing.
- + (3) It is the intent of the Legislature that the conditions that
- + would have a specific, adverse impact upon the public health and
- + safety, as described in paragraph (2) of subdivision (d) and
- + paragraph (1) of subdivision (j), arise infrequently.
- + (4) It is the intent of the Legislature that the amendments
- + removing provisions from subparagraphs (D) and (E) of paragraph
- + (6) of subdivision (h) and adding those provisions to Sections
- + 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar
- + as they are substantially the same as existing law, shall be
- + considered restatements and continuations of existing law, and not
- + new enactments.
- + (b) It is the policy of the state that a local government not reject
- + or make infeasible housing development projects, including
- + emergency shelters, that contribute to meeting the need determined
- + pursuant to this article without a thorough analysis of the economic,
- + social, and environmental effects of the action and without
- + complying with subdivision (d).
- + (c) The Legislature also recognizes that premature and
- + unnecessary development of agricultural lands for urban uses
- + continues to have adverse effects on the availability of those lands
- + for food and fiber production and on the economy of the state.
- + Furthermore, it is the policy of the state that development should
- + be guided away from prime agricultural lands; therefore, in
- + implementing this section, local jurisdictions should encourage,
- + to the maximum extent practicable, in filling existing urban areas.
- + (d) For a housing development project for very low, low-, or
- + moderate-income households, or an emergency shelter, a local

+ agency shall not disapprove the housing development project or
+ emergency shelter, or condition approval in a manner that renders
+ the housing development project or emergency shelter infeasible,
+ including through the use of design review standards, unless it
+ makes written findings, based upon a preponderance of the
+ evidence in the record, as to one of the following:

+ (1) The jurisdiction has adopted a housing element pursuant to
+ this article that has been revised in accordance with Section 65588,
+ is in substantial compliance with this article, and the jurisdiction
+ has met or exceeded its share of the regional housing need
+ allocation pursuant to Section 65584 for the planning period for
+ the income category proposed for the housing development project,
+ provided that any disapproval or conditional approval shall not be
+ based on any of the reasons prohibited by Section 65008. If the
+ housing development project includes a mix of income categories,
+ and the jurisdiction has not met or exceeded its share of the regional
+ housing need for one or more of those categories, then this
+ paragraph shall not be used to disapprove or conditionally approve
+ the housing development project. The share of the regional housing
+ need met by the jurisdiction shall be calculated consistently with
+ the forms and definitions that may be adopted by the Department
+ of Housing and Community Development pursuant to Section
+ 65400. In the case of an emergency shelter, the jurisdiction shall
+ have met or exceeded the need for emergency shelter, as identified
+ pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
+ disapproval or conditional approval pursuant to this paragraph
+ shall be in accordance with applicable law, rule, or standards.

+ (2) The housing development project or emergency shelter as
+ proposed would have a specific, adverse impact upon the public
+ health or safety, and there is no feasible method to satisfactorily
+ mitigate or avoid the specific, adverse impact without rendering
+ the development unaffordable to low- and moderate-income
+ households or rendering the development of the emergency shelter
+ financially infeasible. As used in this paragraph, a “specific,
+ adverse impact” means a significant, quantifiable, direct, and
+ unavoidable impact, based on objective, identified written public
+ health or safety standards, policies, or conditions as they existed
+ on the date the application was deemed complete. The following
+ shall not constitute a specific, adverse impact upon the public
+ health or safety:

- + (A) Inconsistency with the zoning ordinance or general plan
- + land use designation.
- + (B) The eligibility to claim a welfare exemption under
- + subdivision (g) of Section 214 of the Revenue and Taxation Code.
- + (3) The denial of the housing development project or imposition
- + of conditions is required in order to comply with specific state or
- + federal law, and there is no feasible method to comply without
- + rendering the development unaffordable to low- and
- + moderate-income households or rendering the development of the
- + emergency shelter financially infeasible.
- + (4) The housing development project or emergency shelter is
- + proposed on land zoned for agriculture or resource preservation
- + that is surrounded on at least two sides by land being used for
- + agricultural or resource preservation purposes, or which does not
- + have adequate water or wastewater facilities to serve the project.
- + (5) On the date an application for the housing development
- + project or emergency shelter was deemed complete, the jurisdiction
- + had adopted a revised housing element that was in substantial
- + compliance with this article, and the housing development project
- + or emergency shelter was inconsistent with both the jurisdiction's
- + zoning ordinance and general plan land use designation as specified
- + in any element of the general plan.
- + (A) This paragraph shall not be utilized to disapprove or
- + conditionally approve a housing development project proposed on
- + a site, including a candidate site for rezoning, that is identified as
- + suitable or available for very low, low-, or moderate-income
- + households in the jurisdiction's housing element if the housing
- + development project is consistent with the density specified in the
- + housing element, even though the housing development project
- + was inconsistent with both the jurisdiction's zoning ordinance and
- + general plan land use designation on the date the application was
- + deemed complete.
- + (B) If the local agency has failed to identify a zone or zones
- + where emergency shelters are allowed as a permitted use without
- + a conditional use or other discretionary permit, has failed to
- + demonstrate that the identified zone or zones include sufficient
- + capacity to accommodate the need for emergency shelter identified
- + in paragraph (7) of subdivision (a) of Section 65583, or has failed
- + to demonstrate that the identified zone or zones can accommodate
- + at least one emergency shelter, as required by paragraph (4) of

- + subdivision (a) of Section 65583, then this paragraph shall not be
+ utilized to disapprove or conditionally approve an emergency
+ shelter proposed for a site designated in any element of the general
+ plan for industrial, commercial, or multifamily residential uses. In
+ any action in court, the burden of proof shall be on the local agency
+ to show that its housing element does satisfy the requirements of
+ paragraph (4) of subdivision (a) of Section 65583.
- + (C) (i) *Notwithstanding subdivision (h), for purposes of this*
+ *paragraph, “deemed complete” means the applicant has submitted*
+ *a complete application pursuant to Section 65943.*
- + (ii) *This subparagraph applies to an application that, as of*
+ *January 1, 2026, has not met both of the following criteria:*
- + (I) *Received a local agency approval.*
- + (II) *Incurred substantial liability in good faith reliance upon*
+ *the local agency approval.*
- + (6) On the date an application for the housing development
+ project or emergency shelter was deemed complete, the jurisdiction
+ did not have an adopted revised housing element that was in
+ substantial compliance with this article and the housing
+ development project is not a builder’s remedy project.
- + (e) Nothing in this section shall be construed to relieve the local
+ agency from complying with the congestion management program
+ required by Chapter 2.6 (commencing with Section 65088) of
+ Division 1 of Title 7 or the California Coastal Act of 1976
+ (Division 20 (commencing with Section 30000) of the Public
+ Resources Code). Neither shall anything in this section be
+ construed to relieve the local agency from making one or more of
+ the findings required pursuant to Section 21081 of the Public
+ Resources Code or otherwise complying with the California
+ Environmental Quality Act (Division 13 (commencing with Section
+ 21000) of the Public Resources Code).
- + (f) (1) Except as provided in paragraphs (6) and (8) of this
+ subdivision, and subdivision (o), nothing in this section shall be
+ construed to prohibit a local agency from requiring the housing
+ development project to comply with objective, quantifiable, written
+ development standards, conditions, and policies appropriate to,
+ and consistent with, meeting the jurisdiction’s share of the regional
+ housing need pursuant to Section 65584. However, the
+ development standards, conditions, and policies shall be applied
+ to facilitate and accommodate development at the density permitted

+ on the site and proposed by the development. Nothing in this
+ section shall limit a project's eligibility for a density bonus,
+ incentive, or concession, or waiver or reduction of development
+ standards and parking ratios, pursuant to Section 65915.

+ (2) Except as provided in subdivision (o), nothing in this section
+ shall be construed to prohibit a local agency from requiring an
+ emergency shelter project to comply with objective, quantifiable,
+ written development standards, conditions, and policies that are
+ consistent with paragraph (4) of subdivision (a) of Section 65583
+ and appropriate to, and consistent with, meeting the jurisdiction's
+ need for emergency shelter, as identified pursuant to paragraph
+ (7) of subdivision (a) of Section 65583. However, the development
+ standards, conditions, and policies shall be applied by the local
+ agency to facilitate and accommodate the development of the
+ emergency shelter project.

+ (3) Except as provided in subdivision (o), nothing in this section
+ shall be construed to prohibit a local agency from imposing fees
+ and other exactions otherwise authorized by law that are essential
+ to provide necessary public services and facilities to the housing
+ development project or emergency shelter.

+ (4) For purposes of this section, a housing development project
+ or emergency shelter shall be deemed consistent, compliant, and
+ in conformity with an applicable plan, program, policy, ordinance,
+ standard, requirement, or other similar provision if there is
+ substantial evidence that would allow a reasonable person to
+ conclude that the housing development project or emergency
+ shelter is consistent, compliant, or in conformity.

+ (5) For purposes of this section, a change to the zoning ordinance
+ or general plan land use designation subsequent to the date the
+ application was deemed complete shall not constitute a valid basis
+ to disapprove or condition approval of the housing development
+ project or emergency shelter.

+ (6) Notwithstanding paragraphs (1) to (5), inclusive, all of the
+ following apply to a housing development project that is a builder's
+ remedy project:

+ (A) A local agency may only require the project to comply with
+ the objective, quantifiable, written development standards,
+ conditions, and policies that would have applied to the project had
+ it been proposed on a site with a general plan designation and
+ zoning classification that allow the density and unit type proposed

- + by the applicant. If the local agency has no general plan designation
- + or zoning classification that would have allowed the density and
- + unit type proposed by the applicant, the development proponent
- + may identify any objective, quantifiable, written development
- + standards, conditions, and policies associated with a different
- + general plan designation or zoning classification within that
- + jurisdiction, that facilitate the project's density and unit type, and
- + those shall apply.
- + (B) (i) Except as authorized by paragraphs (1) to (4), inclusive,
- + of subdivision (d), a local agency shall not apply any individual
- + or combination of objective, quantifiable, written development
- + standards, conditions, and policies to the project that do any of the
- + following:
- + (I) Render the project infeasible.
- + (II) Preclude a project that meets the requirements allowed to
- + be imposed by subparagraph (A), as modified by any density bonus,
- + incentive, or concession, or waiver or reduction of development
- + standards and parking ratios, pursuant to Section 65915, from
- + being constructed as proposed by the applicant.
- + (ii) The local agency shall bear the burden of proof of complying
- + with clause (i).
- + (C) (i) A project applicant that qualifies for a density bonus
- + pursuant to Section 65915 shall receive two incentives or
- + concessions in addition to those granted pursuant to paragraph (2)
- + of subdivision (d) of Section 65915.
- + (ii) For a project seeking density bonuses, incentives,
- + concessions, or any other benefits pursuant to Section 65915, and
- + notwithstanding paragraph (6) of subdivision (o) of Section 65915,
- + for purposes of this paragraph, maximum allowable residential
- + density or base density means the density permitted for a builder's
- + remedy project pursuant to subparagraph (C) of paragraph (11) of
- + subdivision (h).
- + (iii) A local agency shall grant any density bonus pursuant to
- + Section 65915 based on the number of units proposed and
- + allowable pursuant to subparagraph (C) of paragraph (11) of
- + subdivision (h).
- + (iv) A project that dedicates units to extremely low-income
- + households pursuant to subclause (I) of clause (i) of subparagraph
- + (C) of paragraph (3) of subdivision (h) shall be eligible for the
- + same density bonus, incentives or concessions, and waivers or

- + reductions of development standards as provided to a housing
- + development project that dedicates three percentage points more
- + units to very low income households pursuant to paragraph (2) of
- + subdivision (f) of Section 65915.
- + (v) All units dedicated to extremely low-income, very low
- + income, low-income, and moderate-income households pursuant
- + to paragraph (11) of subdivision (h) shall be counted as affordable
- + units in determining whether the applicant qualifies for a density
- + bonus pursuant to Section 65915.
- + (D) (i) The project shall not be required to apply for, or receive
- + approval of, a general plan amendment, specific plan amendment,
- + rezoning, or other legislative approval.
- + (ii) The project shall not be required to apply for, or receive,
- + any approval or permit not generally required of a project of the
- + same type and density proposed by the applicant.
- + (iii) Any project that complies with this paragraph shall be
- + deemed consistent, compliant, and in conformity with an applicable
- + plan, program, policy, ordinance, standard, requirement,
- + redevelopment plan and implementing instruments, or other similar
- + provision for all purposes, and shall not be considered or treated
- + as a nonconforming lot, use, or structure for any purpose.
- + (E) A local agency shall not adopt or impose any requirement,
- + process, practice, or procedure or undertake any course of conduct,
- + including, but not limited to, increased fees or inclusionary housing
- + requirements, that applies to a project solely or partially on the
- + basis that the project is a builder's remedy project.
- + (F) (i) A builder's remedy project shall be deemed to be in
- + compliance with the residential density standards for the purposes
- + of complying with subdivision (b) of Section 65912.123.
- + (ii) A builder's remedy project shall be deemed to be in
- + compliance with the objective zoning standards, objective
- + subdivision standards, and objective design review standards for
- + the purposes of complying with paragraph (5) of subdivision (a)
- + of Section 65913.4.
- + (G) (i) (I) If the local agency had a local affordable housing
- + requirement, as defined in Section 65912.101, that on January 1,
- + 2024, required a greater percentage of affordable units than
- + required under subparagraph (A) of paragraph (11) of subdivision
- + (h), or required an affordability level deeper than what is required
- + under subparagraph (A) of paragraph (11) of subdivision (h), then,

- + except as provided in subclauses (II) and (III), the local agency
- + may require a housing development for mixed-income households
- + to comply with an otherwise lawfully applicable local affordability
- + percentage or affordability level. The local agency shall not require
- + housing for mixed-income households to comply with any other
- + aspect of the local affordable housing requirement.
- + (II) Notwithstanding subclause (I), the local affordable housing
- + requirements shall not be applied to require housing for
- + mixed-income households to dedicate more than 20 percent of the
- + units to affordable units of any kind.
- + (III) Housing for mixed-income households that is required to
- + dedicate 20 percent of the units to affordable units shall not be
- + required to dedicate any of the affordable units at an income level
- + deeper than lower income households, as defined in Section
- + 50079.5 of the Health and Safety Code.
- + (IV) A local agency may only require housing for mixed-income
- + households to comply with the local percentage requirement or
- + affordability level described in subclause (I) if it first makes written
- + findings, supported by a preponderance of evidence, that
- + compliance with the local percentage requirement or the
- + affordability level, or both, would not render the housing
- + development project infeasible. If a reasonable person could find
- + compliance with either requirement, either alone or in combination,
- + would render the project infeasible, the project shall not be required
- + to comply with that requirement.
- + (ii) Affordable units in the development project shall have a
- + comparable bedroom and bathroom count as the market rate units.
- + (iii) Each affordable unit dedicated pursuant to this subparagraph
- + shall count toward satisfying a local affordable housing
- + requirement. Each affordable unit dedicated pursuant to a local
- + affordable housing requirement that meets the criteria established
- + in this subparagraph shall count towards satisfying the requirements
- + of this subparagraph. This is declaratory of existing law.
- + (7) (A) For a housing development project application that is
- + deemed complete before January 1, 2025, the development
- + proponent for the project may choose to be subject to the provisions
- + of this section that were in place on the date the preliminary
- + application was submitted, or, if the project meets the definition
- + of a builder's remedy project, it may choose to be subject to any

+ or all of the provisions of this section applicable as of January 1, 2025.

+ (B) Notwithstanding subdivision (c) of Section 65941.1, for a housing development project deemed complete before January 1, 2025, the development proponent may choose to revise their application so that the project is a builder's remedy project, without being required to resubmit a preliminary application, even if the revision results in the number of residential units or square footage of construction changing by 20 percent or more.

+ (8) A housing development project proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, that is consistent with the density specified in the most recently updated and adopted housing element, and that is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation on the date the application was deemed complete, shall be subject to the provisions of subparagraphs (A), (B), and (D) of paragraph (6) and paragraph (9).

+ (9) For purposes of this subdivision, "objective, quantifiable, written development standards, conditions, and policies" means criteria that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal, including, but not limited to, any standard, ordinance, or policy described in paragraph (4) of subdivision (o). Nothing herein shall affect the obligation of the housing development project to comply with the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. In the event that applicable objective, quantifiable, written development standards, conditions, and policies are mutually inconsistent, a development shall be deemed consistent with the criteria that permits the density and unit type closest to that of the proposed project.

+ (g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

- + (h) The following definitions apply for the purposes of this section:
- + (1) “Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.
- + (2) “Housing development project” means a use consisting of any of the following:
 - + (A) Residential units only.
 - + (B) Mixed-use developments consisting of residential and nonresidential uses that meet any of the following conditions:
 - + (i) At least two-thirds of the new or converted square footage is designated for residential use.
 - + (ii) At least 50 percent of the new or converted square footage is designated for residential use and the project meets both of the following:
 - + (I) The project includes at least 500 net new residential units.
 - + (II) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.
 - + (iii) At least 50 percent of the net new or converted square footage is designated for residential use and the project meets all of the following:
 - + (I) The project includes at least 500 net new residential units.
 - + (II) The project involves the demolition or conversion of at least 100,000 square feet of nonresidential use.
 - + (III) The project demolishes at least 50 percent of the existing nonresidential uses on the site.
 - + (IV) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.
 - + (C) Transitional housing or supportive housing.
 - + (D) Farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.
- + (3) (A) “Housing for very low, low-, or moderate-income households” means housing for lower income households, mixed-income households, or moderate-income households.
- + (B) “Housing for lower income households” means a housing development project in which 100 percent of the units, excluding

+ managers' units, are dedicated to lower income households, as
+ defined in Section 50079.5 of the Health and Safety Code, at an
+ affordable cost, as defined by Section 50052.5 of the Health and
+ Safety Code, or an affordable rent set in an amount consistent with
+ the rent limits established by the California Tax Credit Allocation
+ Committee. The units shall be subject to a recorded deed restriction
+ for a period of 55 years for rental units and 45 years for
+ owner-occupied units.

+ (C) (i) "Housing for mixed-income households" means any of
+ the following:

+ (I) A housing development project in which at least 7 percent
+ of the total units, as defined in subparagraph (A) of paragraph (8)
+ of subdivision (o) of Section 65915, are dedicated to extremely
+ low income households, as defined in Section 50106 of the Health
+ and Safety Code.

+ (II) A housing development project in which at least 10 percent
+ of the total units, as defined in subparagraph (A) of paragraph (8)
+ of subdivision (o) of Section 65915, are dedicated to very low
+ income households, as defined in Section 50105 of the Health and
+ Safety Code.

+ (III) A housing development project in which at least 13 percent
+ of the total units, as defined in subparagraph (A) of paragraph (8)
+ of subdivision (o) of Section 65915, are dedicated to lower income
+ households, as defined in Section 50079.5 of the Health and Safety
+ Code.

+ (IV) A housing development project in which there are 10 or
+ fewer total units, as defined in subparagraph (A) of paragraph (8)
+ of subdivision (o) of Section 65915, that is on a site that is smaller
+ than one acre, and that is proposed for development at a minimum
+ density of 10 units per acre.

+ (ii) All units dedicated to extremely low income, very low
+ income, and low-income households pursuant to clause (i) shall
+ meet both of the following:

+ (I) The units shall have an affordable housing cost, as defined
+ in Section 50052.5 of the Health and Safety Code, or an affordable
+ rent, as defined in Section 50053 of the Health and Safety Code.

+ (II) The development proponent shall agree to, and the local
+ agency shall ensure, the continued affordability of all affordable
+ rental units included pursuant to this section for 55 years and all

- + affordable ownership units included pursuant to this section for a
- + period of 45 years.
- + (D) “Housing for moderate-income households” means a
- + housing development project in which 100 percent of the units are
- + sold or rented to moderate-income households, as defined in
- + Section 50093 of the Health and Safety Code, at an affordable
- + housing cost, as defined in Section 50052.5 of the Health and
- + Safety Code, or an affordable rent, as defined in Section 50053 of
- + the Health and Safety Code. The units shall be subject to a recorded
- + deed restriction for a period of 55 years for rental units and 45
- + years for owner-occupied units.
- + (4) “Area median income” means area median income as
- + periodically established by the Department of Housing and
- + Community Development pursuant to Section 50093 of the Health
- + and Safety Code.
- + (5) Notwithstanding any other law, until January 1, 2030,
- + “deemed complete” means that the applicant has submitted a
- + preliminary application pursuant to Section 65941.1 or, if the
- + applicant has not submitted a preliminary application, has
- + submitted a complete application pursuant to Section 65943. The
- + local agency shall bear the burden of proof in establishing that the
- + application is not complete.
- + (6) “Disapprove the housing development project” includes any
- + instance in which a local agency does any of the following:
- + (A) Votes or takes final administrative action on a proposed
- + housing development project application and the application is
- + disapproved, including any required land use approvals or
- + entitlements necessary for the issuance of a building permit.
- + (B) Fails to comply with the time periods specified in
- + subdivision (a) of Section 65950. An extension of time pursuant
- + to Article 5 (commencing with Section 65950) shall be deemed to
- + be an extension of time pursuant to this paragraph.
- + (C) Fails to meet the time limits specified in Section 65913.3.
- + (D) Fails to cease a course of conduct undertaken for an
- + improper purpose, such as to harass or to cause unnecessary delay
- + or needless increases in the cost of the proposed housing
- + development project, that effectively disapproves the proposed
- + housing development without taking final administrative action if
- + all of the following conditions are met:

- + (i) The project applicant provides written notice detailing the challenged conduct and why it constitutes disapproval to the local agency established under Section 65100.
- + (ii) Within five working days of receiving the applicant's written notice described in clause (i), the local agency shall post the notice on the local agency's internet website, provide a copy of the notice to any person who has made a written request for notices pursuant to subdivision (f) of Section 21167 of the Public Resources Code, and file the notice with the county clerk of each county in which the project will be located. The county clerk shall post the notice and make it available for public inspection in the manner set forth in subdivision (c) of Section 21152 of the Public Resources Code.
- + (iii) The local agency shall consider all objections, comments, evidence, and concerns about the project or the applicant's written notice and shall not make a determination until at least 60 days after the applicant has given written notice to the local agency pursuant to clause (i).
- + (iv) Within 90 days of receipt of the applicant's written notice described in clause (i), the local agency shall issue a written statement that it will immediately cease the challenged conduct or issue written findings that comply with both of the following requirements:
 - + (I) The findings articulate an objective basis for why the challenged course of conduct is necessary.
 - + (II) The findings provide clear instructions on what the applicant must submit or supplement so that the local agency can make a final determination regarding the next necessary approval or set the date and time of the next hearing.
- + (v) (I) If a local agency continues the challenged course of conduct described in the applicant's written notice and fails to issue the written findings described in clause (iv), the local agency shall bear the burden of establishing that its course of conduct does not constitute a disapproval of the housing development project under this subparagraph in an action taken by the applicant.
- + (II) If an applicant challenges a local agency's course of conduct as a disapproval under this subparagraph, the local agency's written findings described in clause (iv) shall be incorporated into the administrative record and be deemed to be the final administrative action for purposes of adjudicating whether the local agency's

- + course of conduct constitutes a disapproval of the housing development project under this subparagraph.
- + (vi) A local agency's action in furtherance of complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), including, but not limited to, imposing mitigating measures, shall not constitute project disapproval under this subparagraph.
- + (E) Fails to comply with Section 65905.5. For purposes of this subparagraph, a builder's remedy project shall be deemed to comply with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete.
- + (F) (i) Determines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943 and includes in the determination an item that is not required on the local agency's submittal requirement checklist. The local agency shall bear the burden of proof that the required item is listed on the submittal requirement checklist.
- + (ii) In a subsequent review of an application pursuant to Section 65943, requests the applicant provide new information that was not identified in the initial determination and upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943. The local agency shall bear the burden of proof that the required item was identified in the initial determination.
- + (iii) Determines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943, a reasonable person would conclude that the applicant has submitted all of the items required on the local agency's submittal requirement checklist, and the local agency upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943.
- + (iv) If a local agency determines that an application is incomplete under Section 65943 after two resubmittals of the application by the applicant, the local agency shall bear the burden of establishing that the determination is not an effective disapproval of a housing development project under this section.
- + (G) Violates subparagraph (D) or (E) of paragraph (6) of subdivision (f).
- + (H) Makes a written determination that a preliminary application described in subdivision (a) of Section 65941.1 has expired or that

- + the applicant has otherwise lost its vested rights under the
- + preliminary application for any reason other than those described
- + in subdivisions (c) and (d) of Section 65941.1.
- + (I) (i) Fails to make a determination of whether the project is
- + exempt from the California Environmental Quality Act (Division
- + 13 (commencing with Section 21000) of the Public Resources
- + Code), or commits an abuse of discretion, as defined in subdivision
- + (b) of Section 65589.5.1 if all of the conditions in Section
- + 65589.5.1 are satisfied.
- + (ii) This subparagraph shall become inoperative on January 1,
- + 2031.
- + (J) (i) Fails to adopt a negative declaration or addendum for
- + the project, to certify an environmental impact report for the
- + project, or to approve another comparable environmental document,
- + such as a sustainable communities environmental assessment
- + pursuant to Section 21155.2 of the Public Resources Code, as
- + required pursuant to the California Environmental Quality Act
- + (Division 13 (commencing with Section 21000) of the Public
- + Resources Code), if all of the conditions in Section 65589.5.2 are
- + satisfied.
- + (ii) This subparagraph shall become inoperative on January 1,
- + 2031.
- + (7) (A) For purposes of this section and Sections 65589.5.1 and
- + 65589.5.2, “lawful determination” means any final decision about
- + whether to approve or disapprove a statutory or categorical
- + exemption or a negative declaration, addendum, environmental
- + impact report, or comparable environmental review document
- + under the California Environmental Quality Act (Division 13
- + (commencing with Section 21000) of the Public Resources Code)
- + that is not an abuse of discretion, as defined in subdivision (b) of
- + Section 65589.5.1 or subdivision (b) of Section 65589.5.2.
- + (B) This paragraph shall become inoperative on January 1, 2031.
- + (8) “Lower density” includes any conditions that have the same
- + effect or impact on the ability of the project to provide housing.
- + (9) Until January 1, 2030, “objective” means involving no
- + personal or subjective judgment by a public official and being
- + uniformly verifiable by reference to an external and uniform
- + benchmark or criterion available and knowable by both the
- + development applicant or proponent and the public official.

- + (10) Notwithstanding any other law, until January 1, 2030,
- + “determined to be complete” means that the applicant has submitted
- + a complete application pursuant to Section 65943.
- + (11) “Builder’s remedy project” means a project that meets all
- + of the following criteria:
- + (A) The project is a housing development project that provides
- + housing for very low, low-, or moderate-income households.
- + (B) On or after the date an application for the housing
- + development project or emergency shelter was deemed complete,
- + the jurisdiction did not have a housing element that was in
- + substantial compliance with this article.
- + (C) The project has a density such that the number of units, as
- + calculated before the application of a density bonus pursuant to
- + Section 65915, complies with all of the following conditions:
- + (i) The density does not exceed the greatest of the following
- + densities:
- + (I) Fifty percent greater than the minimum density deemed
- + appropriate to accommodate housing for that jurisdiction as
- + specified in subparagraph (B) of paragraph (3) of subdivision (c)
- + of Section 65583.2.
- + (II) Three times the density allowed by the general plan, zoning
- + ordinance, or state law, whichever is greater.
- + (III) The density that is consistent with the density specified in
- + the housing element.
- + (ii) Notwithstanding clause (i), the greatest allowable density
- + shall be 35 units per acre more than the amount allowable pursuant
- + to clause (i), if any portion of the site is located within any of the
- + following:
- + (I) One-half mile of a major transit stop, as defined in Section
- + 21064.3 of the Public Resources Code.
- + (II) A very low vehicle travel area, as defined in subdivision
- + (h).
- + (III) A high or highest resource census tract, as identified by
- + the latest edition of the “CTCAC/HCD Opportunity Map”
- + published by the California Tax Credit Allocation Committee and
- + the Department of Housing and Community Development.
- + (D) (i) On sites that have a minimum density requirement and
- + are located within one-half mile of a commuter rail station or a
- + heavy rail station, the density of the project shall not be less than
- + the minimum density required on the site.

- + (I) For purposes of this subparagraph, “commuter rail” means
- + a railway that is not a light rail, streetcar, trolley, or tramway and
- + that is for urban passenger train service consisting of local short
- + distance travel operating between a central city and adjacent suburb
- + with service operated on a regular basis by or under contract with
- + a transit operator for the purpose of transporting passengers within
- + urbanized areas, or between urbanized areas and outlying areas,
- + using either locomotive-hauled or self-propelled railroad passenger
- + cars, with multitrip tickets and specific station-to-station fares.
- + (II) For purposes of this subparagraph, “heavy rail” means an
- + electric railway with the capacity for a heavy volume of traffic
- + using high speed and rapid acceleration passenger rail cars
- + operating singly or in multicar trains on fixed rails, separate
- + rights-of-way from which all other vehicular and foot traffic are
- + excluded, and high platform loading.
- + (ii) On all other sites with a minimum density requirement, the
- + density of the project shall not be less than the local agency’s
- + minimum density or one-half of the minimum density deemed
- + appropriate to accommodate housing for that jurisdiction as
- + specified in subparagraph (B) of paragraph (3) of subdivision (c)
- + of Section 65583.2, whichever is lower.
- + (E) The project site does not abut a site where more than
- + one-third of the square footage on the site has been used, within
- + the past three years, by a heavy industrial use, or a Title V
- + industrial use, as those terms are defined in Section 65913.16.
- + (12) “Condition approval” includes imposing on the housing
- + development project, or attempting to subject it to, development
- + standards, conditions, or policies.
- + (13) “Unit type” means the form of ownership and the kind of
- + residential unit, including, but not limited to, single-family
- + detached, single-family attached, for-sale, rental, multifamily,
- + townhouse, condominium, apartment, manufactured homes and
- + mobilehomes, factory-built housing, and residential hotel.
- + (14) “Proposed by the applicant” means the plans and designs
- + as submitted by the applicant, including, but not limited to, density,
- + unit size, unit type, site plan, building massing, floor area ratio,
- + amenity areas, open space, parking, and ancillary commercial uses.
- + (i) If any city, county, or city and county denies approval or
- + imposes conditions, including design changes, lower density, or
- + a reduction of the percentage of a lot that may be occupied by a

+ building or structure under the applicable planning and zoning in
+ force at the time the housing development project's application is
+ complete, that have a substantial adverse effect on the viability or
+ affordability of a housing development for very low, low-, or
+ moderate-income households, and the denial of the development
+ or the imposition of conditions on the development is the subject
+ of a court action which challenges the denial or the imposition of
+ conditions, then the burden of proof shall be on the local legislative
+ body to show that its decision is consistent with the findings as
+ described in subdivision (d), and that the findings are supported
+ by a preponderance of the evidence in the record, and with the
+ requirements of subdivision (o).

+ (j) (1) When a proposed housing development project complies
+ with applicable, objective general plan, zoning, and subdivision
+ standards and criteria, including design review standards, in effect
+ at the time that the application was deemed complete, but the local
+ agency proposes to disapprove the project or to impose a condition
+ that the project be developed at a lower density, the local agency
+ shall base its decision regarding the proposed housing development
+ project upon written findings supported by a preponderance of the
+ evidence on the record that both of the following conditions exist:

+ (A) The housing development project would have a specific,
+ adverse impact upon the public health or safety unless the project
+ is disapproved or approved upon the condition that the project be
+ developed at a lower density. As used in this paragraph, a "specific,
+ adverse impact" means a significant, quantifiable, direct, and
+ unavoidable impact, based on objective, identified written public
+ health or safety standards, policies, or conditions as they existed
+ on the date the application was deemed complete.

+ (B) There is no feasible method to satisfactorily mitigate or
+ avoid the adverse impact identified pursuant to paragraph (1), other
+ than the disapproval of the housing development project or the
+ approval of the project upon the condition that it be developed at
+ a lower density.

+ (2) (A) If the local agency considers a proposed housing
+ development project to be inconsistent, not in compliance, or not
+ in conformity with an applicable plan, program, policy, ordinance,
+ standard, requirement, or other similar provision as specified in
+ this subdivision, it shall provide the applicant with written
+ documentation identifying the provision or provisions, and an

- + explanation of the reason or reasons it considers the housing
- + development to be inconsistent, not in compliance, or not in
- + conformity as follows:
- + (i) Within 30 days of the date that the application for the housing
- + development project is determined to be complete, if the housing
- + development project contains 150 or fewer housing units.
- + (ii) Within 60 days of the date that the application for the
- + housing development project is determined to be complete, if the
- + housing development project contains more than 150 units.
- + (B) If the local agency fails to provide the required
- + documentation pursuant to subparagraph (A), the housing
- + development project shall be deemed consistent, compliant, and
- + in conformity with the applicable plan, program, policy, ordinance,
- + standard, requirement, or other similar provision.
- + (3) For purposes of this section, the receipt of a density bonus,
- + incentive, concession, waiver, or reduction of development
- + standards pursuant to Section 65915 shall not constitute a valid
- + basis on which to find a proposed housing development project is
- + inconsistent, not in compliance, or not in conformity, with an
- + applicable plan, program, policy, ordinance, standard, requirement,
- + or other similar provision specified in this subdivision.
- + (4) For purposes of this section, a proposed housing development
- + project is not inconsistent with the applicable zoning standards
- + and criteria, and shall not require a rezoning, if the housing
- + development project is consistent with the objective general plan
- + standards and criteria but the zoning for the project site is
- + inconsistent with the general plan. If the local agency has complied
- + with paragraph (2), the local agency may require the proposed
- + housing development project to comply with the objective
- + standards and criteria of the zoning which is consistent with the
- + general plan, however, the standards and criteria shall be applied
- + to facilitate and accommodate development at the density allowed
- + on the site by the general plan and proposed by the proposed
- + housing development project.
- + (k) (1) (A) (i) The applicant, a person who would be eligible
- + to apply for residency in the housing development project or
- + emergency shelter, or a housing organization may bring an action
- + to enforce this section. If, in any action brought to enforce this
- + section, a court finds that any of the following are met, the court
- + shall issue an order pursuant to clause (ii):

- + (I) The local agency, in violation of subdivision (d), disapproved
- + a housing development project or conditioned its approval in a
- + manner rendering it infeasible for the development of an emergency
- + shelter, or housing for very low, low-, or moderate-income
- + households, including farmworker housing, without making the
- + findings required by this section.
- + (II) The local agency, in violation of subdivision (j), disapproved
- + a housing development project complying with applicable,
- + objective general plan and zoning standards and criteria, or imposed
- + a condition that the project be developed at a lower density, without
- + making the findings required by this section.
- + (III) (ia) Subject to sub-subclause (ib), the local agency, in
- + violation of subdivision (o), required or attempted to require a
- + housing development project to comply with an ordinance, policy,
- + or standard not adopted and in effect when a preliminary
- + application was submitted.
- + (ib) This subclause shall become inoperative on January 1, 2030.
- + (IV) The local agency violated a provision of this section
- + applicable to a builder's remedy project.
- + (ii) If the court finds that one of the conditions in clause (i) is
- + met, the court shall issue an order or judgment compelling
- + compliance with this section within a time period not to exceed
- + 60 days, including, but not limited to, an order that the local agency
- + take action on the housing development project or emergency
- + shelter. The court may issue an order or judgment directing the
- + local agency to approve the housing development project or
- + emergency shelter if the court finds that the local agency acted in
- + bad faith when it disapproved or conditionally approved the
- + housing development or emergency shelter in violation of this
- + section. The court shall retain jurisdiction to ensure that its order
- + or judgment is carried out and shall award reasonable attorney's
- + fees and costs of suit to the plaintiff or petitioner, provided,
- + however, that the court shall not award attorney's fees in either of
- + the following instances:
 - + (I) The court finds, under extraordinary circumstances, that
 - + awarding fees would not further the purposes of this section.
 - + (II) (ia) In a case concerning a disapproval within the meaning
 - + of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the
 - + court finds that the local agency acted in good faith and had
 - + reasonable cause to disapprove the housing development project

- + due to the existence of a controlling question of law about the
- + application of the California Environmental Quality Act (Division
- + 13 (commencing with Section 21000) of the Public Resources
- + Code) or implementing guidelines as to which there was a
- + substantial ground for difference of opinion at the time of the
- + disapproval.
- + (ib) This subclause shall become inoperative on January 1, 2031.
- + (B) Upon a determination that the local agency has failed to
- + comply with the order or judgment compelling compliance with
- + this section within the time period prescribed by the court, the
- + court shall impose fines on a local agency that has violated this
- + section and require the local agency to deposit any fine levied
- + pursuant to this subdivision into a local housing trust fund. The
- + local agency may elect to instead deposit the fine into the Building
- + Homes and Jobs Trust Fund. The fine shall be in a minimum
- + amount of ten thousand dollars (\$10,000) per housing unit in the
- + housing development project on the date the application was
- + deemed complete pursuant to Section 65943. In determining the
- + amount of the fine to impose, the court shall consider the local
- + agency's progress in attaining its target allocation of the regional
- + housing need pursuant to Section 65584 and any prior violations
- + of this section. Fines shall not be paid out of funds already
- + dedicated to affordable housing, including, but not limited to, Low
- + and Moderate Income Housing Asset Funds, funds dedicated to
- + housing for very low, low-, and moderate-income households, and
- + federal HOME Investment Partnerships Program and Community
- + Development Block Grant Program funds. The local agency shall
- + commit and expend the money in the local housing trust fund
- + within five years for the sole purpose of financing newly
- + constructed housing units affordable to extremely low, very low,
- + or low-income households. After five years, if the funds have not
- + been expended, the money shall revert to the state and be deposited
- + in the Building Homes and Jobs Trust Fund for the sole purpose
- + of financing newly constructed housing units affordable to
- + extremely low, very low, or low-income households.
- + (C) If the court determines that its order or judgment has not
- + been carried out within 60 days, the court may issue further orders
- + as provided by law to ensure that the purposes and policies of this
- + section are fulfilled, including, but not limited to, an order to vacate
- + the decision of the local agency and to approve the housing

- + development project, in which case the application for the housing
- + development project, as proposed by the applicant at the time the
- + local agency took the initial action determined to be in violation
- + of this section, along with any standard conditions determined by
- + the court to be generally imposed by the local agency on similar
- + projects, shall be deemed to be approved unless the applicant
- + consents to a different decision or action by the local agency.
- + (D) Nothing in this section shall limit the court's inherent
- + authority to make any other orders to compel the immediate
- + enforcement of any writ brought under this section, including the
- + imposition of fees and other sanctions set forth under Section 1097
- + of the Code of Civil Procedure.
- + (2) For purposes of this subdivision, "housing organization"
- + means a trade or industry group whose local members are primarily
- + engaged in the construction or management of housing units or a
- + nonprofit organization whose mission includes providing or
- + advocating for increased access to housing for low-income
- + households and have filed written or oral comments with the local
- + agency prior to action on the housing development project. A
- + housing organization may only file an action pursuant to this
- + section to challenge the disapproval of a housing development by
- + a local agency. A housing organization shall be entitled to
- + reasonable attorney's fees and costs if it is the prevailing party in
- + an action to enforce this section.
- + (l) If the court finds that the local agency (1) acted in bad faith
- + when it violated this section and (2) failed to carry out the court's
- + order or judgment within the time period prescribed by the court,
- + the court, in addition to any other remedies provided by this
- + section, shall multiply the fine determined pursuant to subparagraph
- + (B) of paragraph (1) of subdivision (k) by a factor of five. If a court
- + has previously found that the local agency violated this section
- + within the same planning period, the court shall multiply the fines
- + by an additional factor for each previous violation. For purposes
- + of this section, "bad faith" includes, but is not limited to, an action
- + or inaction that is frivolous, pretextual, intended to cause
- + unnecessary delay, or entirely without merit.
- + (m) (1) Any action brought to enforce the provisions of this
- + section shall be brought pursuant to Section 1094.5 of the Code
- + of Civil Procedure, and the local agency shall prepare and certify
- + the record of proceedings in accordance with subdivision (c) of

- + Section 1094.6 of the Code of Civil Procedure no later than 30
+ days after the petition is served, provided that the cost of
+ preparation of the record shall be borne by the local agency, unless
+ the petitioner elects to prepare the record as provided in subdivision
+ (n) of this section. A petition to enforce the provisions of this
+ section shall be filed and served no later than 90 days from the
+ later of (1) the effective date of a decision of the local agency
+ imposing conditions on, disapproving, or any other final action on
+ a housing development project or (2) the expiration of the time
+ periods specified in subparagraph (B) of paragraph (5) of
+ subdivision (h). Upon entry of the trial court's order, a party may,
+ in order to obtain appellate review of the order, file a petition
+ within 20 days after service upon it of a written notice of the entry
+ of the order, or within such further time not exceeding an additional
+ 20 days as the trial court may for good cause allow, or may appeal
+ the judgment or order of the trial court under Section 904.1 of the
+ Code of Civil Procedure. If the local agency appeals the judgment
+ of the trial court, the local agency shall post a bond, in an amount
+ to be determined by the court, to the benefit of the plaintiff if the
+ plaintiff is the project applicant.
- + (2) (A) A disapproval within the meaning of subparagraph (I)
+ of paragraph (6) of subdivision (h) shall be final for purposes of
+ this subdivision, if the local agency did not make a lawful
+ determination within the time period set forth in paragraph (5) of
+ subdivision (a) of Section 65589.5.1 after the applicant's timely
+ written notice.
- + (B) This paragraph shall become inoperative on January 1, 2031.
- + (3) (A) A disapproval within the meaning of subparagraph (J)
+ of paragraph (6) of subdivision (h) shall be final for purposes of
+ this subdivision, if the local agency did not make a lawful
+ determination within 90 days of the applicant's timely written
+ notice.
- + (B) This paragraph shall become inoperative on January 1, 2031.
- + (n) In any action, the record of the proceedings before the local
+ agency shall be filed as expeditiously as possible and,
+ notwithstanding Section 1094.6 of the Code of Civil Procedure or
+ subdivision (m) of this section, all or part of the record may be
+ prepared (1) by the petitioner with the petition or petitioner's points
+ and authorities, (2) by the respondent with respondent's points and
+ authorities, (3) after payment of costs by the petitioner, or (4) as

- + otherwise directed by the court. If the expense of preparing the
- + record has been borne by the petitioner and the petitioner is the
- + prevailing party, the expense shall be taxable as costs.
- + (o) (1) Subject to paragraphs (2), (6), and (7), and subdivision
- + (d) of Section 65941.1, a housing development project shall be
- + subject only to the ordinances, policies, and standards adopted and
- + in effect when a preliminary application including all of the
- + information required by subdivision (a) of Section 65941.1 was
- + submitted.
- + (2) Paragraph (1) shall not prohibit a housing development
- + project from being subject to ordinances, policies, and standards
- + adopted after the preliminary application was submitted pursuant
- + to Section 65941.1 in the following circumstances:
- + (A) In the case of a fee, charge, or other monetary exaction, to
- + an increase resulting from an automatic annual adjustment based
- + on an independently published cost index that is referenced in the
- + ordinance or resolution establishing the fee or other monetary
- + exaction.
- + (B) A preponderance of the evidence in the record establishes
- + that subjecting the housing development project to an ordinance,
- + policy, or standard beyond those in effect when a preliminary
- + application was submitted is necessary to mitigate or avoid a
- + specific, adverse impact upon the public health or safety, as defined
- + in subparagraph (A) of paragraph (1) of subdivision (j), and there
- + is no feasible alternative method to satisfactorily mitigate or avoid
- + the adverse impact.
- + (C) Subjecting the housing development project to an ordinance,
- + policy, standard, or any other measure, beyond those in effect when
- + a preliminary application was submitted is necessary to avoid or
- + substantially lessen an impact of the project under the California
- + Environmental Quality Act (Division 13 (commencing with Section
- + 21000) of the Public Resources Code).
- + (D) The housing development project has not commenced
- + construction within two and one-half years, or three and one-half
- + years for an affordable housing project, following the date that the
- + project received final approval. For purposes of this subparagraph:
- + (i) “Affordable housing project” means a housing development
- + that satisfies both of the following requirements:
- + (I) Units within the development are subject to a recorded
- + affordability restriction for at least 55 years for rental housing and

- + 45 years for owner-occupied housing, or the first purchaser of each
- + unit participates in an equity sharing agreement as described in
- + subparagraph (C) of paragraph (2) of subdivision (c) of Section
- + 65915.
- + (II) All of the units within the development, excluding managers’
- + units, are dedicated to lower income households, as defined by
- + Section 50079.5 of the Health and Safety Code.
- + (ii) “Final approval” means that the housing development project
- + has received all necessary approvals to be eligible to apply for,
- + and obtain, a building permit or permits and either of the following
- + is met:
- + (I) The expiration of all applicable appeal periods, petition
- + periods, reconsideration periods, or statute of limitations for
- + challenging that final approval without an appeal, petition, request
- + for reconsideration, or legal challenge having been filed.
- + (II) If a challenge is filed, that challenge is fully resolved or
- + settled in favor of the housing development project.
- + (E) The housing development project is revised following
- + submittal of a preliminary application pursuant to Section 65941.1
- + such that the number of residential units or square footage of
- + construction changes by 20 percent or more, exclusive of any
- + increase resulting from the receipt of a density bonus, incentive,
- + concession, waiver, or similar provision, including any other locally
- + authorized program that offers additional density or other
- + development bonuses when affordable housing is provided. For
- + purposes of this subdivision, “square footage of construction”
- + means the building area, as defined by the California Building
- + Standards Code (Title 24 of the California Code of Regulations).
- + (3) This subdivision does not prevent a local agency from
- + subjecting the additional units or square footage of construction
- + that result from project revisions occurring after a preliminary
- + application is submitted pursuant to Section 65941.1 to the
- + ordinances, policies, and standards adopted and in effect when the
- + preliminary application was submitted.
- + (4) For purposes of this subdivision, “ordinances, policies, and
- + standards” includes general plan, community plan, specific plan,
- + zoning, design review standards and criteria, subdivision standards
- + and criteria, and any other rules, regulations, requirements, and
- + policies of a local agency, as defined in Section 66000, including

- + those relating to development impact fees, capacity or connection
- + fees or charges, permit or processing fees, and other exactions.
- + (5) This subdivision shall not be construed in a manner that
- + would lessen the restrictions imposed on a local agency, or lessen
- + the protections afforded to a housing development project, that are
- + established by any other law, including any other part of this
- + section.
- + (6) This subdivision shall not restrict the authority of a public
- + agency or local agency to require mitigation measures to lessen
- + the impacts of a housing development project under the California
- + Environmental Quality Act (Division 13 (commencing with Section
- + 21000) of the Public Resources Code).
- + (7) With respect to completed residential units for which the
- + project approval process is complete and a certificate of occupancy
- + has been issued, nothing in this subdivision shall limit the
- + application of later enacted ordinances, policies, and standards
- + that regulate the use and occupancy of those residential units, such
- + as ordinances relating to rental housing inspection, rent
- + stabilization, restrictions on short-term renting, and business
- + licensing requirements for owners of rental housing.
- + (8) (A) This subdivision shall apply to a housing development
- + project that submits a preliminary application pursuant to Section
- + 65941.1 before January 1, 2030.
- + (B) This subdivision shall become inoperative on January 1,
- + 2034.
- + (p) (1) Upon any motion for an award of attorney's fees
- + pursuant to Section 1021.5 of the Code of Civil Procedure, in a
- + case challenging a local agency's approval of a housing
- + development project, a court, in weighing whether a significant
- + benefit has been conferred on the general public or a large class
- + of persons and whether the necessity of private enforcement makes
- + the award appropriate, shall give due weight to the degree to which
- + the local agency's approval furthers policies of this section,
- + including, but not limited to, subdivisions (a), (b), and (c), the
- + suitability of the site for a housing development, and the
- + reasonableness of the decision of the local agency. It is the intent
- + of the Legislature that attorney's fees and costs shall rarely, if ever,
- + be awarded if a local agency, acting in good faith, approved a
- + housing development project that satisfies conditions established

- + in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1
- + or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.
- + (2) This subdivision shall become inoperative on January 1,
- + 2031.
- + (q) This section shall be known, and may be cited, as the
- + Housing Accountability Act.
- + (r) The provisions of this section are severable. If any provision
- + of this section or its application is held invalid, that invalidity shall
- + not affect other provisions or applications that can be given effect
- + without the invalid provision or application.

Page 2

1 ~~SECTION 1. Section 65400 of the Government Code is~~
2 ~~amended to read:~~
3 ~~65400. (a) After the legislative body has adopted all or part~~
4 ~~of a general plan, the planning agency shall do both of the~~
5 ~~following:~~
6 ~~(1) Investigate and make recommendations to the legislative~~
7 ~~body regarding reasonable and practical means for implementing~~
8 ~~the general plan or element of the general plan so that it will serve~~
9 ~~as an effective guide for orderly growth and development,~~
10 ~~preservation and conservation of open-space land and natural~~
11 ~~resources, and the efficient expenditure of public funds relating to~~
12 ~~the subjects addressed in the general plan.~~
13 ~~(2) Provide by April 1 of each year an annual report to the~~
14 ~~legislative body, the Office of Planning and Research, and the~~
15 ~~Department of Housing and Community Development that includes~~
16 ~~all of the following:~~
17 ~~(A) The status of the plan and progress in its implementation.~~
18 ~~(B) (i) (I) The progress in meeting its share of regional housing~~
19 ~~needs determined pursuant to Section 65584, including the need~~
20 ~~for extremely low income households, as determined pursuant to~~
21 ~~Section 65583, and local efforts to remove governmental~~
22 ~~constraints to the maintenance, improvement, and development of~~
23 ~~housing pursuant to paragraph (3) of subdivision (c) of Section~~
24 ~~65583.~~
25 ~~(H) The annual report shall include the progress in meeting the~~
26 ~~city's or county's progress in meeting its share of regional housing~~
27 ~~need, as described in subclause (I), for the sixth and previous~~
28 ~~revisions of the housing element.~~
29 ~~(ii) The housing element portion of the annual report, as required~~
30 ~~by this paragraph, shall be prepared through the use of standards,~~

Amendment 3

Page 3 1 forms, and definitions adopted by the Department of Housing and
2 Community Development. The department may review, adopt,
3 amend, and repeal the standards, forms, or definitions to implement
4 this article. Any standards, forms, or definitions adopted to
5 implement this article shall not be subject to Chapter 3.5
6 (commencing with Section 11340) of Part 1 of Division 3 of Title
7 2. Before and after adoption of the forms, the housing element
8 portion of the annual report shall include a section that describes
9 the actions taken by the local government towards completion of
10 the programs and status of the local government's compliance with
11 the deadlines in its housing element. The report shall be considered
12 at an annual public meeting before the legislative body where
13 members of the public shall be allowed to provide oral testimony
14 and written comments.
15 (iii) The report may include the number of units that have been
16 completed pursuant to subdivision (c) of Section 65583.1. For
17 purposes of this paragraph, committed assistance may be executed
18 throughout the planning period, and the program under paragraph
19 (1) of subdivision (c) of Section 65583.1 shall not be required.
20 The report shall document how the units meet the standards set
21 forth in that subdivision.
22 (iv) The planning agency shall include the number of units in
23 a student housing development for lower income students for which
24 the developer of the student housing development was granted a
25 density bonus pursuant to subparagraph (F) of paragraph (1) of
26 subdivision (b) of Section 65915.
27 (C) The number of housing development applications received
28 in the prior year, including whether each housing development
29 application is subject to a ministerial or discretionary approval
30 process.
31 (D) The number of units included in all development
32 applications in the prior year.
33 (E) (i) The number of units approved and disapproved in the
34 prior year, which shall include all of the following subcategories:
35 (I) The number of units located within an opportunity area.
36 (II) For the seventh and each subsequent revision of the housing
37 element, the number of units approved and disapproved for acutely
38 low income households within each opportunity area.

Page 4 1 ~~(III) For the seventh and each subsequent revision of the housing~~
2 ~~element, the number of units approved and disapproved for~~
3 ~~extremely low income households within each opportunity area.~~
4 ~~(IV) The number of units approved and disapproved for very~~
5 ~~low income households within each opportunity area.~~
6 ~~(V) The number of units approved and disapproved for lower~~
7 ~~income households within each opportunity area.~~
8 ~~(VI) The number of units approved and disapproved for~~
9 ~~moderate-income households within each opportunity area.~~
10 ~~(VII) The number of units approved and disapproved for above~~
11 ~~moderate-income households within each opportunity area.~~
12 ~~(ii) For purposes of this subparagraph, “opportunity area” means~~
13 ~~a highest, high, moderate, or low resource area pursuant to the~~
14 ~~most recent “CTCAC/HCD Opportunity Map” published by the~~
15 ~~California Tax Credit Allocation Committee and the Department~~
16 ~~of Housing and Community Development.~~
17 ~~(F) The degree to which its approved general plan complies~~
18 ~~with the guidelines developed and adopted pursuant to Section~~
19 ~~65040.2 and the date of the last revision to the general plan.~~
20 ~~(G) A listing of sites rezoned to accommodate that portion of~~
21 ~~the city’s or county’s share of the regional housing need for each~~
22 ~~income level that could not be accommodated on sites identified~~
23 ~~in the inventory required by paragraph (1) of subdivision (c) of~~
24 ~~Section 65583 and Section 65584.09. The listing of sites shall also~~
25 ~~include any additional sites that may have been required to be~~
26 ~~identified by Section 65863.~~
27 ~~(H) (i) The number of units of housing demolished and new~~
28 ~~units of housing, including both rental housing and for-sale housing~~
29 ~~and any units that the County of Napa or the City of Napa may~~
30 ~~report pursuant to an agreement entered into pursuant to Section~~
31 ~~65584.08, that have been issued a completed entitlement, a building~~
32 ~~permit, or a certificate of occupancy, thus far in the housing~~
33 ~~element cycle, and the income category, by area median income~~
34 ~~category, that each unit of housing satisfies. That production report~~
35 ~~shall do the following:~~
36 ~~(I) For each income category described in this subparagraph,~~
37 ~~distinguish between the number of rental housing units and the~~
38 ~~number of for-sale units that satisfy each income category.~~
39 ~~(II) For each entitlement, building permit, or certificate of~~
40 ~~occupancy, include a unique site identifier that must include the~~

Page 5 1 ~~assessor's parcel number, but may also include street address, or~~
 2 ~~other identifiers.~~
 3 ~~(III) For the seventh and subsequent revisions of the housing~~
 4 ~~element, suite-style student housing quarters. The Department of~~
 5 ~~Housing and Community Development shall evaluate the~~
 6 ~~jurisdiction's progress in meeting its share of the regional housing~~
 7 ~~needs determined pursuant to Section 65584, with particular~~
 8 ~~attention to the housing needs of lower income households.~~
 9 ~~Suite-style student housing quarters shall not satisfy more than 25~~
 10 ~~percent of any income category in determining a jurisdiction's~~
 11 ~~progress in meeting its share of the regional housing needs. A~~
 12 ~~suite-style student housing quarters that meets all of the following~~
 13 ~~requirements may be counted toward a jurisdiction's progress~~
 14 ~~toward meeting the regional housing needs:~~
 15 ~~(ia) The unit includes a fully functioning kitchen with a~~
 16 ~~refrigerator, stove, sink with hot and cold water, vent, and an area~~
 17 ~~to prepare food.~~
 18 ~~(ib) The unit has a ratio of beds to toilets, lavatories, and showers~~
 19 ~~not exceeding five to one.~~
 20 ~~(ic) The unit meets the requirements described in Section~~
 21 ~~17920.3 of the Health and Safety Code. Any unit or structure that~~
 22 ~~does not meet the requirements of that section shall not be counted~~
 23 ~~toward the local jurisdiction's progress.~~
 24 ~~(ii) For the County of Napa and the City of Napa, the production~~
 25 ~~report may report units identified in the agreement entered into~~
 26 ~~pursuant to Section 65584.08.~~
 27 ~~(I) The number of applications submitted pursuant to subdivision~~
 28 ~~(a) of Section 65913.4, the location and the total number of~~
 29 ~~developments approved pursuant to subdivision (c) of Section~~
 30 ~~65913.4, the total number of building permits issued pursuant to~~
 31 ~~subdivision (c) of Section 65913.4, the total number of units~~
 32 ~~including both rental housing and for-sale housing by area median~~
 33 ~~income category constructed using the process provided for in~~
 34 ~~subdivision (c) of Section 65913.4.~~
 35 ~~(J) If the city or county has received funding pursuant to the~~
 36 ~~Local Government Planning Support Grants Program (Chapter 3.1~~
 37 ~~(commencing with Section 50515) of Part 2 of Division 31 of the~~
 38 ~~Health and Safety Code), the information required pursuant to~~
 39 ~~subdivision (a) of Section 50515.04 of the Health and Safety Code.~~

Page 6 1 ~~(K) The progress of the city or county in adopting or amending~~
2 ~~its general plan or local open-space element in compliance with~~
3 ~~its obligations to consult with California Native American tribes,~~
4 ~~and to identify and protect, preserve, and mitigate impacts to~~
5 ~~places, features, and objects described in Sections 5097.9 and~~
6 ~~5097.993 of the Public Resources Code, pursuant to Chapter 905~~
7 ~~of the Statutes of 2004.~~
8 ~~(L) The following information with respect to density bonuses~~
9 ~~granted in accordance with Section 65915:~~
10 ~~(i) The number of density bonus applications received by the~~
11 ~~city or county.~~
12 ~~(ii) The number of density bonus applications approved by the~~
13 ~~city or county.~~
14 ~~(iii) Data from all projects approved to receive a density bonus~~
15 ~~from the city or county, including, but not limited to, the percentage~~
16 ~~of density bonus received, the percentage of affordable units in~~
17 ~~the project, the number of other incentives or concessions granted~~
18 ~~to the project, and any waiver or reduction of parking standards~~
19 ~~for the project.~~
20 ~~(M) The following information with respect to each application~~
21 ~~submitted pursuant to Chapter 4.1 (commencing with Section~~
22 ~~65912.100):~~
23 ~~(i) The location of the project.~~
24 ~~(ii) The status of the project, including whether it has been~~
25 ~~entitled, whether a building permit has been issued, and whether~~
26 ~~or not it has been completed.~~
27 ~~(iii) The number of units in the project.~~
28 ~~(iv) The number of units in the project that are rental housing.~~
29 ~~(v) The number of units in the project that are for-sale housing.~~
30 ~~(vi) The household income category of the units, as determined~~
31 ~~pursuant to subdivision (f) of Section 65584.~~
32 ~~(N) A list of all historic designations listed on the National~~
33 ~~Register of Historic Places, the California Register of Historic~~
34 ~~Resources, or a local register of historic places by the city or county~~
35 ~~in the past year, and the status of any housing development projects~~
36 ~~proposed for the new historic designations, including all of the~~
37 ~~following:~~
38 ~~(i) Whether the housing development project has been entitled.~~
39 ~~(ii) Whether a building permit has been issued for the housing~~
40 ~~development project.~~

Page 7 1 ~~(iii) The number of units in the housing development project.~~
2 ~~(b) (1) (A) The department may request corrections to the~~
3 ~~housing element portion of an annual report submitted pursuant~~
4 ~~to paragraph (2) of subdivision (a) within 90 days of receipt. A~~
5 ~~planning agency shall make the requested corrections within 30~~
6 ~~days after which the department may reject the report if the report~~
7 ~~is not in substantial compliance with the requirements of that~~
8 ~~paragraph.~~
9 ~~(B) If the department rejects the housing element portion of an~~
10 ~~annual report as authorized by subparagraph (A), the department~~
11 ~~shall provide the reasons the report is inconsistent with paragraph~~
12 ~~(2) of subdivision (a) to the planning agency in writing.~~
13 ~~(2) If a court finds, upon a motion to that effect, that a city,~~
14 ~~county, or city and county failed to submit, within 60 days of the~~
15 ~~deadline established in this section, the housing element portion~~
16 ~~of the report required pursuant to subparagraph (B) of paragraph~~
17 ~~(2) of subdivision (a) that substantially complies with the~~
18 ~~requirements of this section, the court shall issue an order or~~
19 ~~judgment compelling compliance with this section within 60 days.~~
20 ~~If the city, county, or city and county fails to comply with the~~
21 ~~court's order within 60 days, the plaintiff or petitioner may move~~
22 ~~for sanctions, and the court may, upon that motion, grant~~
23 ~~appropriate sanctions. The court shall retain jurisdiction to ensure~~
24 ~~that its order or judgment is carried out. If the court determines~~
25 ~~that its order or judgment is not carried out within 60 days, the~~
26 ~~court may issue further orders as provided by law to ensure that~~
27 ~~the purposes and policies of this section are fulfilled. This~~
28 ~~subdivision applies to proceedings initiated on or after the first~~
29 ~~day of October following the adoption of forms and definitions by~~
30 ~~the Department of Housing and Community Development pursuant~~
31 ~~to paragraph (2) of subdivision (a), but no sooner than six months~~
32 ~~following that adoption.~~
33 ~~(c) The Department of Housing and Community Development~~
34 ~~shall post a report submitted pursuant to this section on its internet~~
35 ~~website within a reasonable time of receiving the report.~~
36 ~~SEC. 2. The Legislature finds and declares that Section 1 of~~
37 ~~this act amending Section 65400 of the Government Code address~~
38 ~~a matter of statewide concern rather than a municipal affair as that~~
39 ~~term is used in Section 5 of Article XI of the California~~

PROPOSED AMENDMENTS

SB 457

— 38 —

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SUBSTANTIVE

Page 8 1 ~~Constitution. Therefore, Section 1 of this act applies to all cities,~~
 2 ~~including charter cities.~~
 3 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
 4 ~~Section 6 of Article XIII B of the California Constitution because~~
 5 ~~a local agency or school district has the authority to levy service~~
 6 ~~charges, fees, or assessments sufficient to pay for the program or~~
 7 ~~level of service mandated by this act, within the meaning of Section~~
 8 ~~17556 of the Government Code.~~

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