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California Continues Trend of Pushing Housing Legislation to Address Ongoing Housing Shortage

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According to the Public Policy Institute of California, a non-profit, non-partisan think tank, California is facing a jaw-dropping 3.5 million unit housing deficient for the current population.[1] This despite several legislative sessions enacting a large number of bills aimed at boosting housing production.[2] 2023 was no different. During its first year of the current 2-year legislative cycle, Governor Newsom signed an unprecedented 56 housing bills into law, reflecting the California Legislature's continued effort to respond to the housing crisis in the state, and the multi-dimensional approach to developing, retaining, and permitting housing options for Californians. In sum, the housing bills intend to incentivize and reduce barriers to housing production, especially "affordable" or below-market rate housing by addressing previously-identified hurdles in the market. To do so, some bills include further expansion of State Density Bonus Law, including Senate Bill (SB) 423's extension of the sunset date in 2017's SB 35. The package also includes bills aimed to keep tenants in their existing homes and reflects the state's desire to limit local governments' ability to deny housing projects.

The following provides a summary of the key bills based on topical areas: (1) Streamlining Tools and Housing Production;

(2) Adaptive Reuse; (3) Land Use, Planning, and Housing Element; (4) Accessory Dwelling Units (ADUs); (5) Parking; (6) Housing and Infrastructure; (7) Surplus and Excess Lands; (8) Mitigation and Assessment Fees; (9) California Environmental Quality Act (CEQA); (10) Homeownership and Tenant Protections; and (11) Taxes and Financing.

These bills became effective on January 1, 2024, unless otherwise noted below.

Streamlining Tools and

- SB 4 (Wiener) – "Yes in God's Backyard"

Housing Production	• SB 423 (Wiener) – SB 35 Update
	• SB 1287 (Alvarez) – Density Bonus for Very Low or Moderate Income Units
	• SB 684 (Caballero) – Ministerial Approval for Small Housing Projects (10 H Units or Less)
	• Assembly Bill (AB) 1449 (Alvarez) – Affordable Housing Exemption (CEQA)
	• AB 281 (Grayson) – Streamlining Post-Entitlement Permits
	• AB 1114 (Haney) – Post Entitlement Permits
	• SB 713 (Padilla) – Density Bonus Development Standards
Adaptive Reuse	• AB 529 (Gabriel) – Adaptive Reuse Projects
	• AB 1490 (Lee) – Extremely Affordable Adaptive Reuse Projects
Land Use, Planning, and Housing Element	• AB 434 (Grayson) – Housing Element Local Agency Compliance
	• AB 1485 (Haney) – Housing Element Enforcement
	• AB 821 (Grayson) – Required Zoning Updates Based on Inconsistency with Plan
	• SB 555 (Wahab) – California Social Housing Study
	• AB 1474 (Reyes) – Veterans in the Statewide Housing Plan
	• AB 1508 (Ramos) – Statewide Housing Plan
Accessory Dwelling Units	• AB 1332 (Carrillo) – Streamlined Review of Preapproved ADU Plans
	• AB 976 (Ting) – ADU Owner-Occupancy Requirements Prohibited
	• AB 1033 (Ting) – ADUs Sold Separately as Condos
	• AB 671 (Ward) – Financing for ADUs
Parking	• AB 894 (Friedman) – Shared Parking
	• AB 1308 (Quirk-Silva) – Parking Requirements Single-Family Home
	• AB 1317 (Carrillo) – Unbundled Parking
Housing and Infrastructure	• AB 835 (Lee) – Fire Marshal Single-Exit Apartment Houses
	• AB 812 (Boemer) – Artist Unit Set-aside
	• AB 911 (Schiavo) – Unlawful Restrictive Covenants
	• AB 1218 (Lowenthal) – Affordable Housing Replacement
Surplus and Excess Lands	• AB 480 (Ting) / SB 747 (Caballero) – Amendments to Scale Back the Surpl Act (SLA)

	• AB 1734 (Jonas-Sawyer) – SLA Exemptions
	• SB 229 (Umberg) – Public Meeting
	• SB 240 (Bogh) – Affordable Housing and Housing for Formerly Incarcerate Individuals
	• SB 34 (Umberg) – Violations and County of Orange Statute
Mitigation and Assessment Fees	• AB 516 (Ramos) – Right to Request Audit (Mitigation Fee Act)
	• AB 572 (Haney) – Limits on Assessment Increases for Deed-Restricted Aff Housing
	• SB 439 (Skinner) – Special Motion to Strike for Housing Projects
CEQA	• AB 1307 (Wicks) – Residential Noise Impacts and Site Alternatives
	• AB 1633 (Ting) – Limiting CEQA on Housing Developments
Homeownership and Tenant Protections	• AB 323 (Holden) – For-Sale Density Bonus Units
	• SB 567 (Durazo) – Additional Requirements for No-Fault Just Cause Evicti
	• AB 12 (Haney) – Tenant Security Deposits
	• AB 318 (Addis) – Extends Mobilehome Residency Law Protection Act
	• AB 319 (Connolly) – Extends Mobilehome Residency Law Protection Act
	• AB 1620 (Zbur) – Costa-Hawkins Act and Physical Disability
	• SB 267 (Eggman) – Tenant Credit History
Taxes and Financing	• AB 84 (Ward) – Expansion of Welfare Tax Exemption
	• AB 1528 (Gipson) – Property Taxation
	• SB 469 (Allen) – Exemption from California Constitution for Low-Rent Hous Project

STREAMLINING TOOLS AND HOUSING PRODUCTION

SB 4 (Wiener) – Affordable Housing on Land Owned by Religious Organizations and Higher Education Institutions

SB 4, known as the Affordable Housing on Faith and Higher Education Lands Act of 2023, establishes a “by right” and time-limited (90-180 days) approval process, exempt from CEQA regulations, for affordable housing projects, which may include ground-floor commercial, childcare center, and community center uses, on land owned by religious organizations and higher education institutions. SB 4 projects can obtain project approvals even if the proposed project does not align with the jurisdiction’s general plan and zoning requirements.

Project Requirements:

- The land must be owned by the religious institution or higher education institution on or before January 1, 2024;
- The developer must be a local public entity, a nonprofit corporation, a developer that contracts with a nonprofit corporation that has received a welfare exemption, or a developer that the religious institution or higher education institution has contracted with before to construct housing or other improvements;
- Projects of more than 10 units, that do not qualify as public works, are required to pay construction workers “prevailing wage,” unless otherwise stipulated in a bona fide collective bargaining agreement;
- Projects of more than 50 units are required to ensure contractors provide specified apprenticeship training and certain health care expenditures for employees; and
- There are various additional qualifying criteria required for project sites.

SB 423 (Wiener) – Extension and Expansion of Streamlined Ministerial Approval Law for Affordable Projects

SB 423 expands and extends SB 35, the streamlined ministerial approval law for qualifying affordable housing projects. SB 35 was set to sunset in 2026 and SB 423 extends the provisions through 2036. SB 423 expands SB 35 in certain hazard zones and coastal zone areas, where it was previously prohibited.

AB 1287 (Alvarez) – Additional Density Bonus for Very Low or Moderate Income Units

AB 1287 provides advantages to projects that offer very-low or moderate income housing units, by allowing qualifying projects to maximize its production. If a project meets the maximum production of very-low, low or moderate units, as allowed by the current State Density Bonus Law then the project can utilize the bonuses in AB 1287. Once these thresholds are achieved, additional bonuses can be stacked on top of the previous maximum bonus.

SB 684 (Caballero) – Ministerial Approval for Projects with Up to 10 Housing Units

SB 684 aims to address the need for infill housing development by providing for a CEQA-exempt ministerial approval for projects up to 10 housing units on qualifying multifamily sites that are 5 acres or less. Projects on eligible sites are relieved of the requirement to adhere to any specific mandates regarding the size, width, depth, or dimensions of a property site. Qualifying projects may be exempt from the requirement of forming a homeowners’ association, unless it is required by the Davis-Stirling Common Interest Development Act.

AB 1449 (Alvarez) – CEQA Affordable Housing Exemption

AB 1449 creates a new exemption from CEQA for certain actions taken by public agencies related to 100% affordable housing projects. To qualify for the exemption, projects must (1) be 100% low-income affordable developments, (2) comply with AB 2011 labor standards and prevailing wage requirements, (3) be an infill project as defined by AB 1449, and (4) meet other transit and development standards. Qualifying projects are CEQA-exempt from agency actions beyond just approval of the project itself. Specifically, the exemption could apply to agency actions leading up to and following approval of the project. The lead agency, in approving the qualifying project, must file a Notice of Exemption for the project and any exempt project-related actions. Such project-related actions could include, for example, any required rezoning for the property and project financing. The exemption, codified at Public Resources Code section 21080.40, is in effect until January 1, 2033.

SB 482 (Blackspear) – Multifamily Housing Program for Supportive Housing

SB 482 is dedicated to facilitating the development of housing units for unhoused individuals with little or no income. Under SB 482, the State Department of Housing and Community Development is mandated to provide capitalized operating subsidy reserves (COSRs) to special needs units funded through the Multifamily Housing Program. COSRs allocate initial funds to cover anticipated operating revenue shortfalls. SB 482 aims to streamline the financing and development of these types of projects.

AB 281 (Grayson) – Streamlining Post-Entitlement Permits

AB 281 requires a special district that receives an application for service or post-entitlement phase permit for a housing development project to provide written notice to the applicant of the next steps within 30 days (for a housing development of 25 units or fewer) or 60 days (for a housing development of 26 units or more), including any information that may be required to begin review of the application.

AB 1114 (Haney) – Post-Entitlement Permits

AB 1114 modifies the definition of “post-entitlement phase permit” for purposes of an existing law that requires a local agency to compile a list of information needed to approve or deny such a permit for a housing development project. The bill expands the definition to include all building permits and related permits, whether discretionary or ministerial, for the construction, demolition, or alteration of buildings. For each post-entitlement phase permit for a housing development project that a local agency determines complies with permit standards, the bill requires the local agency to return an approved permit application and prohibits the local agency from subjecting the permit to appeals or additional hearings.

SB 713 (Padilla) – Density Bonus Development Standards

SB 713 updates the State Density Bonus Law to clarify that local governments cannot apply a development standard if the standard will have the effect of “physically precluding” the construction of a development otherwise permitted under the law. The bill further clarifies that “development standard” includes standards adopted by the local government or enacted by the local government’s electorate exercising its local initiative or referendum power.

SB 439 (Skinner) – Motion to Strike for Housing Projects

SB 439 creates a new procedural option for a party to file a special motion to strike the whole or any part of a pleading brought by a plaintiff to challenge approval or permitting of a priority housing development project. The bill would entitle the defendant on a successful motion to strike to recover their attorney’s fees and costs. The special motion to strike would have to be filed within 60 days of the service of the complaint. A “priority housing development” is a 100% affordable project for Lower-Income Households, as defined by Health and Safety Code Section 50079.5.

ADAPTIVE REUSE

AB 529 (Gabriel) – Adaptive Reuse Projects

AB 529 is meant to reduce barriers for adaptive reuse projects that convert or redevelop commercial

properties into housing by requiring the Department of Housing and Community Development (HCD) to convene a working group to identify challenges to, and opportunities that help support the creation of adaptive reuse residential projects.

AB 1490 (Lee) – Extremely Affordable Adaptive Reuse Projects

AB 1490 makes an allowable use an "extremely affordable adaptive reuse project" on an infill property that is not located on or adjoined to a site where more than one-third of the square footage of the site is dedicated to industrial use. In other words, an extremely affordable adaptive reuse project could be permitted (and deemed consistent) despite inconsistencies with an applicable plan, program, policy, ordinance, standard, or requirement at the local level. An extremely affordable adaptive reuse project is defined as a (1) multifamily housing development project that (2) involves retrofitting and repurposing of a residential or commercial building that currently allows temporary dwelling or occupancy to create new residential units (3) entirely within the envelope of an existing building and that (4) meets certain affordable requirements.

LAND USE, PLANNING, AND HOUSING ELEMENT

AB 434 (Grayson) – Housing Element Local Agency Compliance

AB 434 reduces the amount of time HCD has to review an adopted or amended Housing Element and report its findings to the local planning agency from 90 days to 60 days. The bill also expands the list of housing-related laws for which HCD is authorized to notify the Attorney General or local government when a local planning agency fails to comply, including 2023's SB 4, AB 1218, and SB 684.

AB 1485 (Haney) – Housing Element Enforcement

AB 1485 permits HCD and the Attorney General to intervene in any legal action alleging a violation of certain housing laws, including the Housing Accountability Act (HAA), State Density Bonus Law, and Housing Crisis Act of 2019. Previously, the Attorney General could only intervene in a third-party lawsuit against a local government after formally petitioning the court for permission to intervene, with the discretion whether to grant the petition held by the judge.

AB 821 (Grayson) – Required Zoning Updates Based on Inconsistency with General Plan

AB 821 imposes requirements on a local agency that has received a development application for a project, provided the project is not subject to the HAA, during the time that the local agency's zoning ordinance is inconsistent with its General Plan due to an amendment to the General Plan. If the project is consistent with the General Plan but inconsistent with the zoning ordinance, the local agency must either (1) amend the zoning ordinance within 180 days to be consistent with the General Plan, or (2) process the project application. If the application is processed, the bill states that the project is not required to be rezoned if there is substantial evidence that would allow a reasonable person to conclude that the project is consistent with objective General Plan standards and criteria. The bill authorizes enforcement by any resident or property owner through an action brought within 90 days of a local agency's failure to comply.

SB 555 (Wahab) – California Social Housing Study

SB 555 known as the Stable Affordable Housing Act of 2023, requires HCD to complete a California

Social Housing Study (Study) by December 31, 2026. The Study will comprehensively analyze "the opportunities, resources, obstacles, and recommendations for the creation of affordable and social housing at scale, to assist in meeting the" statewide need "for below market rate housing." The completed Study will be included in HCD's 2027 annual report to the Governor and Legislature. According to the Act's author, SB 555 makes "California the first state to explore the intersection of long-term affordability and state-supported housing."

AB 1474 (Reyes) – Veterans in the Statewide Housing Plan

AB 1474 adds veterans to the list of groups that HCD must consider in the Statewide Housing Plan.

AB 1508 (Ramos) – Statewide Housing Plan

AB 1508 adds new required elements to the California Statewide Housing Plan including: (1) analysis of first-time home buyer assistance policies, goals, and objectives; (2) recommendations for actions that will contribute to increasing home ownership opportunities for first-time home buyers in California; and (3) an evaluation and summary of demographic disparities in home ownership attainment in California. HCD must consult with the California Housing Finance Agency on the development and revision of these elements.

ACCESSORY DWELLING UNITS

AB 1332 (Carrillo) – Streamlined Review of Preapproved ADU Plans

AB 1332 introduces an even more efficient approval process for "preapproved" ADU designs. Before AB 1332, local agencies were obligated to review, approve, or deny an ADU application within 60 days. By January 1, 2025, local agencies are required to establish a program for preapproved ADU plans. Local agencies will be required to review and make its determination on preapproved ADU plans within 30 days. Additionally, AB 1332 requires local agencies to maintain a website page with preapproved ADU plans.

AB 976 (Ting) – ADU Owner-Occupancy Requirements Prohibited

AB 976 extends the prohibition indefinitely, which means that local agencies cannot enforce owner-occupancy requirements on ADUs approved after January 1, 2025. ADU legislation restricts local agencies from imposing "owner-occupancy" conditions on ADUs permitted between January 1, 2020, and January 1, 2025. However, local agencies are still mandated to apply owner-occupancy requirements to Junior ADUs, which are defined as units that are no larger than 500 square feet, contained entirely within a single-family residence.

AB 1033 (Ting) – ADUs Sold Separately as Condos

AB 1033 introduces a new provision that allows, without making it obligatory, for local agencies to implement local ordinances to permit ADUs to be sold as condominiums independently from the primary dwelling. Prior ADU legislation has allowed local agencies to prohibit the separate sale or conveyances of ADUs from the primary dwelling. An exception to that rule allows qualified nonprofit organizations to sell or transfer an ADU independently to a qualified low-income buyer, through the establishment of a tenancy-in-common. Condominium projects approved under AB 1033 will still be subject to compliance with the Subdivision Map Act and the Davis-Stirling Common Interest Development Act.

AB 671 (Ward) – Financing for ADUs

AB 671 creates a program that provides funding to assist low- and very low-income households in either becoming homeowners or to maintain homeownership status. The program also offers disaster relief assistance to households with incomes at or below 120% of the area median income. AB 671 clarifies that any CalHome Program funds used for the construction of ADUs does not preclude those ADUs from being separately conveyed to separate lowerincome households. Purchases or projects that utilize CalHome Program funds will need to be initially sold to and occupied by lower-income households, with a recorded covenant effective for at least 30 years, which includes various restrictions.

PARKING

AB 894 (Friedman) – Shared Parking

AB 894 requires local agencies to approve shared parking agreements, and to allow shared parking to count toward meeting local automobile parking requirements for a new or existing development or use. This requirement extends to shared parking in underutilized spaces and in parking lots and garages that are shared by nearby facilities (contiguous or within 2,000 feet walking distance), or where there is a plan for shuttle service.

AB 1308 (Quirk-Silva) – Parking Requirements Single-Family Home

AB 1308 prohibits increasing the minimum parking requirements for single-family residences as a condition of approval of a project to remodel, renovate, or add to a single-family residence.

AB 1317 (Carrillo) – Unbundled Parking

AB 1317 prohibits property owners from initiating eviction of a tenant for failure to pay a parking fee, though the tenant may lose the use of the space. Properties or units with individual garages, deed-restricted low-income properties, and properties financed with low-income housing tax credits or specified tax-exempt bonds are exempt from the prohibition.

HOUSING, TRANSPORTATION AND INFRASTRUCTURE

AB 835 (Lee) – Fire Marshal Single-Exit Apartment Houses

AB 835 requires the State Fire Marshal to research and report on fire and safety standards for single-exit, single stairway apartment houses with more than two dwelling units, in buildings above three stories by January 1, 2026. Currently, apartment buildings more than three stories must have two exit stairways.

AB 812 (Boemer) – Artist Unit Setaside

AB 812 authorizes local agencies to set aside up to 10 percent of affordable housing units within a half-mile of a state-designated cultural district or within a locally designated cultural district The statute defines an artist as “the creator of any work of visual, graphic, or performing art of any media, including, but not limited to, a painting, print, drawing, sculpture, craft, photograph, film, or performance.”

AB 911 (Schiavo) – Unlawful Restrictive Covenants

AB 911 facilitates the modifications to unlawfully restrictive covenants based on, among other things, the number of persons or families who may reside on the property. Upon submission of a copy of the unlawful covenant and documents that establish that the property qualifies as an affordable housing development for purposes of these provisions, the law requires county counsel to provide notification of their determination "without delay." The owner of the property may provide notice of this determination to any interested party. Any interested party receiving such notice will then have to file a lawsuit challenging the modification within 35 days.

AB 1218 (Lowenthal) – Affordable Housing Replacement

AB 1218 expands protections under the Housing Crisis Act of 2019 for affordable housing, which prohibits demolition of affordable housing unless all units are replaced and other protections offered to tenants, to sites with protected units that are proposed to be developed for non-residential purposes (e.g., offices, retail), and sites where protected housing units were demolished in the previous five years, as long as that demolition occurred after January 1, 2020. It also requires the relocation of displaced tenants and the replacement of demolished protected units, with an exception for industrial projects in non-residential zones, and notice to tenants at least six months before they must vacate.

SURPLUS AND EXCESS LANDS

AB 480 (Ting) / SB 747 (Caballero) – Amendment to Scale Back the SLA

SB 747 and AB 480 are intended to significantly unwind the SLA amendments enacted via 2019's AB 1486 but have resulted in substantial bureaucratic delays. The full universe of this year's SLA amendments is quite broad, but the primary focus of the amendments is to add new exemptions and clarifications to the exemptions. Some of the notable amendments include:[3]

- *Leases:* Exempts a lease less than 15 years or a lease for property on which no development or demolition will occur.
- *Size*: Increases the «small size» exemption for sites up to one-half acre that are not contiguous to land owned by a state or local agency used for open space or affordable housing purposes.
- *Affordable Housing*: Eliminates the obligation to conduct competitive bidding for qualifying affordable housing projects.
- *Third-Party Intermediary*: Allows an agency to transfer property to a third-party intermediary for a receiving agency›s use.
- *Valid Legal Restrictions*: Provides additional clarifications on the types of valid legal restrictions that may qualify for an exemption.
- *Transportation System*: Allows agencies whose mission is to supply the public with a transportation system to transfer property for the sole purpose of investment or generation of revenue.
- *Unique Scenarios*: Exempts certain other unique scenarios, such as California public-use airports and community land trusts.

SB 747 and AB 480 also clarifies that the penalty for noncompliance with the SLA will now be based on the final sales price of the land or the fair market value of the land at the time of the sale, whichever is greater. Since land may be sold at less than fair market value, this provision tying the

penalty to fair market value could increase the penalty amount in the event of a violation.

AB 1734 (Jonas-Sawyer) – SLA Exemptions

AB 1734 exempts the disposition of public-owned property to address housing insecurity and homelessness. Under this bill, in certain developments, a city with a population of at least 2,500,000 may dispose of property without subjecting the action to the existing SLA requirement that the land be declared surplus land or exempt surplus land, as supported by written findings and in compliance with proscribed noticing, prior to such disposition. Applicable developments include low barrier navigation centers, supportive housing, transitional housing for youth and young adults, or affordable housing. AB 1734 requires a city that disposes of land under these exceptions to publish an annual report. This bill sunsets January 1, 2034.

SB 229 (Umberg) – Public Meeting

SB 229 requires a local agency that has received a notification of violation from the HCD regarding the intended disposal of surplus property to hold an open and public session to review and consider the substance of the notice of violation. The bill also requires the local agency's governing body to provide prescribed notice no later than 14 days before the public session. Moreover, the local agency's governing body may not take final action to ratify or approve the proposed disposal until the required public session is held.

SB 240 (Bogh) – Affordable Housing and Housing for Formerly Incarcerated Individuals

SB 240 adds transitional housing projects intended for formerly incarcerated individuals as a priority in the disposal of state surplus land and provides that these projects are a use by-right, making the development ministerial in nature and exempt from CEQA requirements.

SB 34 (Umberg) – Violations and County of Orange Statute

SB 34 requires Orange County, or any city located within Orange County, to, if notified by HCD that its planned disposal of surplus land is in violation of existing law, cure or correct the alleged violation within 60 days. An Orange County jurisdiction that has not cured or corrected any alleged violation is prohibited from disposing of the parcel until HCD finds it has complied with existing law or deems the alleged violation not to be a violation. This bill also allows a local agency that receives that notice to submit a statement to HCD describing the actions taken to cure or correct the alleged violation within 60 days of receipt of the notice. HCD, if it receives such statement, must make specified determinations and notify the local agency of those determinations within 30 days of receipt. This bill sunsets January 1, 2030.

MITIGATION AND ASSESSMENT FEES

AB 516 (Ramos) – Right to Request Audit (Mitigation Fee Act)

AB 516 updates the Mitigation Fee Act to permit a person to request an audit to determine: (1) whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility, as defined in Section 66000, or service provided by the local agency; (2) when revenue generated by a fee or charge is scheduled to be expended; or (3) when the public improvement is scheduled to be completed. If the audit shows that the amount of the fee or charge is inconsistent with the Mitigation Fee Act, then the local agency is required to adjust

the fee accordingly.

AB 572 (Haney) – Limits on Assessment Increases for Deed-Restricted Affordable Housing

AB 572 prohibits "an association that records its original declaration on or after January 1, 2025, from imposing an increase of a regular assessment on the owner of a deed-restricted affordable housing unit that is more than 5% plus the percentage change in the cost of living, not to exceed 10% greater than the preceding regular assessment for the association's preceding fiscal year."

CEQA[4]

AB 1307 (Wicks) – Residential Noise Impacts and Site Alternatives

AB 1307, unanimously passed by the State Legislature and signed by Governor Newsom on September 7, 2023, was crafted in response to the court ruling in *Make UC a Good Neighbor v. Regents of University of California* (2023) 88 Cal.App.5th 656. AB 1307 expressly provides that unamplified noise from the occupants and guests of residential projects is not a significant impact as defined by CEQA. Additionally, the law provides that public universities are not required to consider alternative site locations for their proposed housing or mixed-use housing developments when (1) the project is located on a site no greater than 5 acres, and (2) the site has already been evaluated in an EIR for the University's long range development plan. The law took effect in September 2023.

AB 1633 (Ting) – Limiting CEQA on Housing Developments

AB 1633 is focused on limiting excessive CEQA review for residential development. To accomplish this goal, the law focuses on creating new violations of the HAA to force local jurisdictions to better streamline housing projects. AB 1633 also expands the definition of "disapprove the housing development project" under the HAA. The HAA prohibits a local agency from disapproving a housing development project unless it makes certain written findings based on a preponderance of evidence in the record. The bill adds a variety of CEQA violations to the definition of "disapprove", including (1) any instance in which a local agency fails to make a determination of whether the project is exempt from CEQA, (2) commits an abuse of discretion, or (3) fails to adopt, certify, or approve a CEQA document. This expanded definition only applies if the housing development project meets certain conditions, including that it is located within an urbanized area and proposes at least 15 dwelling units per acre. The bill also provides that the local agency's action or failure to act as described above is deemed final for purposes of filing a petition to enforce the HAA, provided certain conditions are met. These provisions apply until January 1, 2031.

HOMEOWNERSHIP AND TENANT PROTECTIONS

SB 567 (Durazo) – Additional Requirements for No-Fault Just Cause Evictions

SB 567 strengthens protections for residential tenants subject to no-fault just cause eviction after 12 months of occupancy. The bill requires the following of a property owner who evicts a tenant: (1) if based on the owner's intent to occupy the property, the owner or owner's family member must actually occupy the property for at least 12 continuous months as the person's primary residence; (2) if based on the withdrawal of the property from the rental market, the owner must actually withdraw the property from the rental market; and (3) if based on the intent of the owner to demolish or substantially remodel the property, the owner must provide the tenant with written notice and information regarding the remodel or demolition. The bill creates new enforcement mechanisms

against an owner who violates these requirements or the existing requirement that an owner limit rental increases to 5% plus the percentage change in the cost of living or 10% (whichever is lower) during any 12-month period. The bill takes effect on April 1, 2024, and expires on January 1, 2030.

AB 12 (Haney) – Tenant Security Deposits

AB 12 reduces the maximum amount a residential landlord can demand or receive as a security deposit from an amount equal to 2 months' rent (unfurnished) or 3 months' rent (furnished) to an amount equal to 1 month's rent (whether unfurnished or furnished). However, a landlord who is a natural person or a limited liability company comprised exclusively of natural persons and who owns no more than 2 residential rental properties consisting of no more than 4 residential rental units in total may demand or receive a security deposit in an amount equal to 2 months' rent, unless the prospective tenant is a service member. The bill takes effect on July 1, 2024.

AB 318 (Addis) – Extends Mobilehome Residency Law Protection Act

AB 318 extends the Mobilehome Residency Law Protection Act, and therefore the Mobilehome Residency Law Protection Program within HCD, until January 1, 2027. The Program assists in resolving complaints from mobilehome residents. The bill also authorizes HCD to adopt regulations as necessary or appropriate to implement the Program and makes changes to the Program's procedures, including those involving notice, reporting, and complaint selection for referral.

AB 319 (Connolly) – Extends Mobilehome Residency Law Protection Act

AB 319 extends provisions of the Mobilehome Parks Act requiring enforcement by HCD and imposition of a $4-perlot fee to pay for enforcement until January 1, 2025. Accordingly, the bill delays the operative date for additional changes to prescribed fees until January 1, 2025. The bill also requires HCD to establish policies to document and address complaints against inspectors regarding potential conflicts of economic interest.

AB 1620 (Zbur) – Costa-Hawkins Act and Physical Disability

AB 1620 authorizes a jurisdiction to require a residential property owner subject to a local rental rate control to permit a tenant who has a permanent physical disability related to mobility to move to a comparable or smaller unit on an accessible floor of the property, provided such a unit is available and the tenant is not subject to eviction for nonpayment. The bill also requires that the tenant be permitted to retain the same lease terms and rental rate if (1) the move is necessary to accommodate the tenant's physical disability related to mobility, (2) there is no operational elevator serving the tenant's existing unit, (3) the new unit is on the same parcel with at least 4 other units owned by the same owner, (4) the new unit does not require renovation to comply with the Health and Safety Code, (5) the applicable rent control authority determines the owner will continue to receive a fair rate of return, and (6) the tenant provides the owner a written request to move prior to the new unit becoming available.

AB 323 (Holden) – For-Sale Density Bonus Units

AB 323 amends the State Density Bonus Law to require a developer to initially sell a for-sale unit that qualifies the developer for the density to a person or family of the required income, who then must occupy the unit. Existing law requires a developer only to ensure the occupancy of a for-sale unit by a person or family with the required income, thereby allowing investors to purchase and rent out the

units. The bill also imposes more stringent requirements on housing nonprofits that may purchase the for-sale unit if it is not sold to a person or family of the required income within 180 days. Additionally, the bill prohibits a developer from selling a unit constructed pursuant to a local inclusionary zoning ordinance to a purchaser who is not a person or family with an income required by the ordinance, except to a qualified nonprofit housing corporation if the unit has not been purchased by an income-qualifying person or family within 180 days.

SB 267 (Eggman) – Tenant Credit History

SB 267 prohibits the use of a potential tenant's credit history for a rental housing without offering the applicant the option to provide a lawful, verifiable alternative evidence of the applicant's reasonable ability to pay the portion of rent to be paid by the tenant.

TAXES AND FINANCING

AB 84 (Ward) – Expansion of Welfare Tax Exemption

AB 84 expands the welfare exemption for property that is owned by certain types of nonprofit entities and that is used exclusively for rental housing, removing the requirement that the owner of the property receive a federal lowincome tax credit. A unit will now be treated as occupied by a lower income household if it is subject to rent control and is designated for and occupied by lower income households, as documented by a confidential affidavit. County assessors must presume that the property is eligible for the exemption, and must conditionally grant the exemption pending review of required tenant household income data.

AB 1528 (Gipson) – Non-Profit Property Tax Exemption

AB 1528 exempts property held by a nonprofit public benefit corporation and controlled by a public housing authority from taxation. The bill additionally requires the cancelation of outstanding ad valorem tax, interest, or penalty levied on a housing authority's property, and the refund of any such tax, interest, or penalty paid prior to January 1, 2024.

SB 469 (Allen) – Exemption from California Constitution for Low-Rent Housing Project

SB 469 narrows voter approval requirements for publicly-funded affordable housing under Article 34 of the California Constitution by adding statutory exemptions to the definition of "low rent housing project." Developments that use an allocation of federal and state low-income housing tax credits or that receive funding from state housing programs administered by the State Department of Housing and Community Development, Housing Finance Agency, or Business, Community Services and Housing Agency, or that receive funding under the Affordable Housing and Sustainable Communities Program administered by the Strategic Growth Council, will not require local voter approval.

[1] Hagerty, Mike and Gonzalez, Vicki; *California has lost population and built more homes. Why is there still a housing crisis?*; August 16, 2023; https://www.capradio.org/articles/2023/08/16/california-has-lost-population-and-built-more-homes-why-is-there-still-a-housingcrisis/

[2] Since 2017, more than 100 housing production laws have gone into effect.

[3] The sweeping extent of the SLA amendments codified under SB 747 and AB 480 is too nuanced for purposes of this alert. We welcome you to contact Sheppard Mullin with any questions about the

full applicability of this or any other bill.

[4] Please see here for an in-depth article on the CEQA Legislation effective as January 1, 2024.

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