

36. Direct the Chair of the Board to send a letter of support for Senate Bill 457 (Becker), which clarifies provisions of the Housing Accountability Act related to housing element compliance, to the bill's author and to our legislative delegation ()



County of Santa Cruz Board of Supervisors

Agenda Item Submittal

From: Board of Supervisors - Third District

Subject: Support for Senate Bill 457 (Becker) - Housing Element Compliance

Meeting Date: May 20, 2025

Formal Title: Direct the Chair of the Board to send a letter of support for Senate Bill 457 (Becker), which clarifies provisions of the Housing Accountability Act related to housing element compliance, to the bill's author and to our legislative delegation

Recommended Actions

Direct the Chair of the Board to send a letter of support for Senate Bill 457 (Becker), which clarifies provisions of the Housing Accountability Act related to housing element compliance, to the bill's author and to our legislative delegation.

Executive Summary

Senate Bill 457 (SB 457) would amend the Planning and Zoning Law and the Housing Accountability Act to revise the definitions and conditions under which local jurisdictions may disapprove housing development projects based on inconsistencies with zoning or general plan designations. Specifically, the bill clarifies the definition of when an application is “deemed complete,” and affirms the date a housing element is considered in “substantial compliance” with state law. These changes improve legal clarity and implementation efficiency for local jurisdictions working to comply with state housing mandates.

Discussion

Under existing law, cities and counties are required to adopt a general plan that includes a housing element identifying how the jurisdiction will accommodate its share of the regional housing need (RHNA). The Department of Housing and Community Development (HCD) is tasked with reviewing these housing elements to determine if they are in substantial compliance with state law.

The Housing Accountability Act (HAA) limits a local government's ability to deny or condition housing projects for very low-, low-, or moderate-income households unless certain findings are made. One such finding allows denial if the project is inconsistent with local zoning or general plans as they existed when the application was deemed complete—provided the jurisdiction has a housing element that is in substantial compliance with state law.

SB 457 introduces two key clarifications:

1. Clarification of “Deemed Complete”:

The bill revises the definition of “deemed complete” to ensure it refers to a full and complete application under standard procedures, removing ambiguity about the role of preliminary applications. This updated definition would apply to any project application that, as of January 1, 2026, has not received local approval or generated substantial

liability based on such approval. This change improves consistency across jurisdictions and reduces the risk of litigation over procedural definitions.

2. Clarification of “Substantial Compliance”:

SB 457 confirms that a housing element is considered substantially compliant with housing law on the date of its adoption by a local agency, provided that HCD or a court later determines the element to be compliant, and that such findings are not overturned or contradicted. This provides local governments with greater certainty as they implement adopted housing elements and make decisions about proposed developments.

These provisions strengthen the alignment between local land use authority and state housing goals by improving legal clarity, reducing procedural confusion, and protecting jurisdictions that act in good faith to meet state requirements. Support for SB 457 will support the County’s goal of having predictability in housing element implementation and Housing Accountability Act compliance.

Financial Impact

The recommended actions do not have a financial impact.

Strategic Initiatives

Operational Plan - Attainable Housing, Operational Excellence

Submitted By:

Justin Cummings, Third District Supervisor

Recommended By:

Carlos J. Palacios, County Executive Officer

Artificial Intelligence Acknowledgment:

Artificial Intelligence (AI) did not significantly contribute to the development of this agenda item.

AMENDED IN SENATE APRIL 21, 2025

AMENDED IN SENATE MARCH 24, 2025

SENATE BILL

No. 457

Introduced by Senator Becker
(Principal coauthor: Senator Stern)

February 19, 2025

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

LEGISLATIVE COUNSEL'S DIGEST

SB 457, as amended, Becker. 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.

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

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

1 SECTION 1. Section 65585.03 of the Government Code is
2 amended to read:

3 65585.03. A housing element or amendment shall be considered
4 to be in substantial compliance with this article on the date when
5 the governing body of a local agency adopts the housing element
6 or amendment for the current planning period in accordance with
7 Section 65585, provided that either of the following occurs after
8 the date the housing element or amendment is adopted and without
9 further action by the governing body:

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

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

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

21 65589.5. (a) (1) The Legislature finds and declares all of the
22 following:

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

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

32 (C) Among the consequences of those actions are discrimination
33 against low-income and minority households, lack of housing to

1 support employment growth, imbalance in jobs and housing,
2 reduced mobility, urban sprawl, excessive commuting, and air
3 quality deterioration.

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

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

12 (A) California has a housing supply and affordability crisis of
13 historic proportions. The consequences of failing to effectively
14 and aggressively confront this crisis are hurting millions of
15 Californians, robbing future generations of the chance to call
16 California home, stifling economic opportunities for workers and
17 businesses, worsening poverty and homelessness, and undermining
18 the state's environmental and climate objectives.

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

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

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

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

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

38 (G) The majority of California renters, more than 3,000,000
39 households, pay more than 30 percent of their income toward rent

1 and nearly one-third, more than 1,500,000 households, pay more
2 than 50 percent of their income toward rent.

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

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

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

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

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

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

35 (4) It is the intent of the Legislature that the amendments
36 removing provisions from subparagraphs (D) and (E) of paragraph
37 (6) of subdivision (h) and adding those provisions to Sections
38 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar
39 as they are substantially the same as existing law, shall be

1 considered restatements and continuations of existing law, and not
2 new enactments.

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

9 (c) The Legislature also recognizes that premature and
10 unnecessary development of agricultural lands for urban uses
11 continues to have adverse effects on the availability of those lands
12 for food and fiber production and on the economy of the state.
13 Furthermore, it is the policy of the state that development should
14 be guided away from prime agricultural lands; therefore, in
15 implementing this section, local jurisdictions should encourage,
16 to the maximum extent practicable, in filling existing urban areas.

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

25 (1) The jurisdiction has adopted a housing element pursuant to
26 this article that has been revised in accordance with Section 65588,
27 is in substantial compliance with this article, and the jurisdiction
28 has met or exceeded its share of the regional housing need
29 allocation pursuant to Section 65584 for the planning period for
30 the income category proposed for the housing development project,
31 provided that any disapproval or conditional approval shall not be
32 based on any of the reasons prohibited by Section 65008. If the
33 housing development project includes a mix of income categories,
34 and the jurisdiction has not met or exceeded its share of the regional
35 housing need for one or more of those categories, then this
36 paragraph shall not be used to disapprove or conditionally approve
37 the housing development project. The share of the regional housing
38 need met by the jurisdiction shall be calculated consistently with
39 the forms and definitions that may be adopted by the Department
40 of Housing and Community Development pursuant to Section

1 65400. In the case of an emergency shelter, the jurisdiction shall
2 have met or exceeded the need for emergency shelter, as identified
3 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
4 disapproval or conditional approval pursuant to this paragraph
5 shall be in accordance with applicable law, rule, or standards.

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

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

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

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

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

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

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

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

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

29 (ii) ~~This Notwithstanding paragraph (7) of subdivision (f), this~~
30 subparagraph applies to an application that, as of January 1, 2026,
31 has not met both of the following criteria:

32 (I) Received a local agency approval.

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

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

1 (e) Nothing in this section shall be construed to relieve the local
2 agency from complying with the congestion management program
3 required by Chapter 2.6 (commencing with Section 65088) of
4 Division 1 of Title 7 or the California Coastal Act of 1976
5 (Division 20 (commencing with Section 30000) of the Public
6 Resources Code). Neither shall anything in this section be
7 construed to relieve the local agency from making one or more of
8 the findings required pursuant to Section 21081 of the Public
9 Resources Code or otherwise complying with the California
10 Environmental Quality Act (Division 13 (commencing with Section
11 21000) of the Public Resources Code).

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

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

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

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

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

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

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

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

34 (I) Render the project infeasible.

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

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

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

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

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

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

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

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

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

37 (iii) Any project that complies with this paragraph shall be
38 deemed consistent, compliant, and in conformity with an applicable
39 plan, program, policy, ordinance, standard, requirement,
40 redevelopment plan and implementing instruments, or other similar

1 provision for all purposes, and shall not be considered or treated
2 as a nonconforming lot, use, or structure for any purpose.

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

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

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

16 (G) (i) (I) If the local agency had a local affordable housing
17 requirement, as defined in Section 65912.101, that on January 1,
18 2024, required a greater percentage of affordable units than
19 required under subparagraph (A) of paragraph (11) of subdivision
20 (h), or required an affordability level deeper than what is required
21 under subparagraph (A) of paragraph (11) of subdivision (h), then,
22 except as provided in subclauses (II) and (III), the local agency
23 may require a housing development for mixed-income households
24 to comply with an otherwise lawfully applicable local affordability
25 percentage or affordability level. The local agency shall not require
26 housing for mixed-income households to comply with any other
27 aspect of the local affordable housing requirement.

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

32 (III) Housing for mixed-income households that is required to
33 dedicate 20 percent of the units to affordable units shall not be
34 required to dedicate any of the affordable units at an income level
35 deeper than lower income households, as defined in Section
36 50079.5 of the Health and Safety Code.

37 (IV) A local agency may only require housing for mixed-income
38 households to comply with the local percentage requirement or
39 affordability level described in subclause (I) if it first makes written
40 findings, supported by a preponderance of evidence, that

1 compliance with the local percentage requirement or the
2 affordability level, or both, would not render the housing
3 development project infeasible. If a reasonable person could find
4 compliance with either requirement, either alone or in combination,
5 would render the project infeasible, the project shall not be required
6 to comply with that requirement.

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

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

15 (7) (A) For a housing development project application that is
16 deemed complete before January 1, 2025, the development
17 proponent for the project may choose to be subject to the provisions
18 of this section that were in place on the date the preliminary
19 application was submitted, or, if the project meets the definition
20 of a builder’s remedy project, it may choose to be subject to any
21 or all of the provisions of this section applicable as of January 1,
22 2025.

23 (B) Notwithstanding subdivision (c) of Section 65941.1, for a
24 housing development project deemed complete before January 1,
25 2025, the development proponent may choose to revise their
26 application so that the project is a builder’s remedy project, without
27 being required to resubmit a preliminary application, even if the
28 revision results in the number of residential units or square footage
29 of construction changing by 20 percent or more.

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

39 (9) For purposes of this subdivision, “objective, quantifiable,
40 written development standards, conditions, and policies” means

1 criteria that involve no personal or subjective judgment by a public
2 official and are uniformly verifiable by reference to an external
3 and uniform benchmark or criterion available and knowable by
4 both the development applicant or proponent and the public official
5 before submittal, including, but not limited to, any standard,
6 ordinance, or policy described in paragraph (4) of subdivision (o).
7 Nothing herein shall affect the obligation of the housing
8 development project to comply with the minimum building
9 standards approved by the California Building Standards
10 Commission as provided in Part 2.5 (commencing with Section
11 18901) of Division 13 of the Health and Safety Code. In the event
12 that applicable objective, quantifiable, written development
13 standards, conditions, and policies are mutually inconsistent, a
14 development shall be deemed consistent with the criteria that
15 permits the density and unit type closest to that of the proposed
16 project.

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

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

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

25 (2) “Housing development project” means a use consisting of
26 any of the following:

27 (A) Residential units only.

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

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

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

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

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

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

4 (I) The project includes at least 500 net new residential units.
5 (II) The project involves the demolition or conversion of at least
6 100,000 square feet of nonresidential use.
7 (III) The project demolishes at least 50 percent of the existing
8 nonresidential uses on the site.

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

13 (C) Transitional housing or supportive housing.

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

16 (3) (A) “Housing for very low, low-, or moderate-income
17 households” means housing for lower income households,
18 mixed-income households, or moderate-income households.

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

29 (C) (i) “Housing for mixed-income households” means any of
30 the following:

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

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

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

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

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

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

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

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

31 (4) “Area median income” means area median income as
32 periodically established by the Department of Housing and
33 Community Development pursuant to Section 50093 of the Health
34 and Safety Code.

35 (5) Notwithstanding any other law, until January 1, 2030,
36 “deemed complete” means that the applicant has submitted a
37 preliminary application pursuant to Section 65941.1 or, if the
38 applicant has not submitted a preliminary application, has
39 submitted a complete application pursuant to Section 65943. The

1 local agency shall bear the burden of proof in establishing that the
2 application is not complete.

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

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

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

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

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

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

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

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

37 (iv) Within 90 days of receipt of the applicant’s written notice
38 described in clause (i), the local agency shall issue a written
39 statement that it will immediately cease the challenged conduct or

1 issue written findings that comply with both of the following
2 requirements:

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

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

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

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

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

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

31 (F) (i) Determines that an application for a housing development
32 project is incomplete pursuant to subdivision (a) or (b) of Section
33 65943 and includes in the determination an item that is not required
34 on the local agency's submittal requirement checklist. The local
35 agency shall bear the burden of proof that the required item is
36 listed on the submittal requirement checklist.

37 (ii) In a subsequent review of an application pursuant to Section
38 65943, requests the applicant provide new information that was
39 not identified in the initial determination and upholds this
40 determination in the final written determination on an appeal filed

1 pursuant to subdivision (c) of Section 65943. The local agency
2 shall bear the burden of proof that the required item was identified
3 in the initial determination.

4 (iii) Determines that an application for a housing development
5 project is incomplete pursuant to subdivision (a) or (b) of Section
6 65943, a reasonable person would conclude that the applicant has
7 submitted all of the items required on the local agency's submittal
8 requirement checklist, and the local agency upholds this
9 determination in the final written determination on an appeal filed
10 pursuant to subdivision (c) of Section 65943.

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

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

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

23 (I) (i) Fails to make a determination of whether the project is
24 exempt from the California Environmental Quality Act (Division
25 13 (commencing with Section 21000) of the Public Resources
26 Code), or commits an abuse of discretion, as defined in subdivision
27 (b) of Section 65589.5.1 if all of the conditions in Section
28 65589.5.1 are satisfied.

29 (ii) This subparagraph shall become inoperative on January 1,
30 2031.

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

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

3 (7) (A) For purposes of this section and Sections 65589.5.1 and
4 65589.5.2, “lawful determination” means any final decision about
5 whether to approve or disapprove a statutory or categorical
6 exemption or a negative declaration, addendum, environmental
7 impact report, or comparable environmental review document
8 under the California Environmental Quality Act (Division 13
9 (commencing with Section 21000) of the Public Resources Code)
10 that is not an abuse of discretion, as defined in subdivision (b) of
11 Section 65589.5.1 or subdivision (b) of Section 65589.5.2.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (I) One-half mile of a major transit stop, as defined in Section
10 21064.3 of the Public Resources Code.

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

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

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

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

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

36 (ii) On all other sites with a minimum density requirement, the
37 density of the project shall not be less than the local agency’s
38 minimum density or one-half of the minimum density deemed
39 appropriate to accommodate housing for that jurisdiction as

1 specified in subparagraph (B) of paragraph (3) of subdivision (c)
2 of Section 65583.2, whichever is lower.

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

7 (12) “Condition approval” includes imposing on the housing
8 development project, or attempting to subject it to, development
9 standards, conditions, or policies.

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

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

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

34 (j) (1) When a proposed housing development project complies
35 with applicable, objective general plan, zoning, and subdivision
36 standards and criteria, including design review standards, in effect
37 at the time that the application was deemed complete, but the local
38 agency proposes to disapprove the project or to impose a condition
39 that the project be developed at a lower density, the local agency
40 shall base its decision regarding the proposed housing development

1 project upon written findings supported by a preponderance of the
2 evidence on the record that both of the following conditions exist:

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

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

16 (2) (A) If the local agency considers a proposed housing
17 development project to be inconsistent, not in compliance, or not
18 in conformity with an applicable plan, program, policy, ordinance,
19 standard, requirement, or other similar provision as specified in
20 this subdivision, it shall provide the applicant with written
21 documentation identifying the provision or provisions, and an
22 explanation of the reason or reasons it considers the housing
23 development to be inconsistent, not in compliance, or not in
24 conformity as follows:

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

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

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

36 (3) For purposes of this section, the receipt of a density bonus,
37 incentive, concession, waiver, or reduction of development
38 standards pursuant to Section 65915 shall not constitute a valid
39 basis on which to find a proposed housing development project is
40 inconsistent, not in compliance, or not in conformity, with an

1 applicable plan, program, policy, ordinance, standard, requirement,
2 or other similar provision specified in this subdivision.

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

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

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

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

33 (III) (ia) Subject to sub-subclause (ib), the local agency, in
34 violation of subdivision (o), required or attempted to require a
35 housing development project to comply with an ordinance, policy,
36 or standard not adopted and in effect when a preliminary
37 application was submitted.

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

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

1 (ii) If the court finds that one of the conditions in clause (i) is
2 met, the court shall issue an order or judgment compelling
3 compliance with this section within a time period not to exceed
4 60 days, including, but not limited to, an order that the local agency
5 take action on the housing development project or emergency
6 shelter. The court may issue an order or judgment directing the
7 local agency to approve the housing development project or
8 emergency shelter if the court finds that the local agency acted in
9 bad faith when it disapproved or conditionally approved the
10 housing development or emergency shelter in violation of this
11 section. The court shall retain jurisdiction to ensure that its order
12 or judgment is carried out and shall award reasonable attorney's
13 fees and costs of suit to the plaintiff or petitioner, provided,
14 however, that the court shall not award attorney's fees in either of
15 the following instances:

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

18 (II) (ia) In a case concerning a disapproval within the meaning
19 of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the
20 court finds that the local agency acted in good faith and had
21 reasonable cause to disapprove the housing development project
22 due to the existence of a controlling question of law about the
23 application of the California Environmental Quality Act (Division
24 13 (commencing with Section 21000) of the Public Resources
25 Code) or implementing guidelines as to which there was a
26 substantial ground for difference of opinion at the time of the
27 disapproval.

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

29 (B) Upon a determination that the local agency has failed to
30 comply with the order or judgment compelling compliance with
31 this section within the time period prescribed by the court, the
32 court shall impose fines on a local agency that has violated this
33 section and require the local agency to deposit any fine levied
34 pursuant to this subdivision into a local housing trust fund. The
35 local agency may elect to instead deposit the fine into the Building
36 Homes and Jobs Trust Fund. The fine shall be in a minimum
37 amount of ten thousand dollars (\$10,000) per housing unit in the
38 housing development project on the date the application was
39 deemed complete pursuant to Section 65943. In determining the
40 amount of the fine to impose, the court shall consider the local

1 agency's progress in attaining its target allocation of the regional
2 housing need pursuant to Section 65584 and any prior violations
3 of this section. Fines shall not be paid out of funds already
4 dedicated to affordable housing, including, but not limited to, Low
5 and Moderate Income Housing Asset Funds, funds dedicated to
6 housing for very low, low-, and moderate-income households, and
7 federal HOME Investment Partnerships Program and Community
8 Development Block Grant Program funds. The local agency shall
9 commit and expend the money in the local housing trust fund
10 within five years for the sole purpose of financing newly
11 constructed housing units affordable to extremely low, very low,
12 or low-income households. After five years, if the funds have not
13 been expended, the money shall revert to the state and be deposited
14 in the Building Homes and Jobs Trust Fund for the sole purpose
15 of financing newly constructed housing units affordable to
16 extremely low, very low, or low-income households.

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

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

34 (2) For purposes of this subdivision, "housing organization"
35 means a trade or industry group whose local members are primarily
36 engaged in the construction or management of housing units or a
37 nonprofit organization whose mission includes providing or
38 advocating for increased access to housing for low-income
39 households and have filed written or oral comments with the local
40 agency prior to action on the housing development project. A

1 housing organization may only file an action pursuant to this
2 section to challenge the disapproval of a housing development by
3 a local agency. A housing organization shall be entitled to
4 reasonable attorney’s fees and costs if it is the prevailing party in
5 an action to enforce this section.

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

18 (m) (1) Any action brought to enforce the provisions of this
19 section shall be brought pursuant to Section 1094.5 of the Code
20 of Civil Procedure, and the local agency shall prepare and certify
21 the record of proceedings in accordance with subdivision (c) of
22 Section 1094.6 of the Code of Civil Procedure no later than 30
23 days after the petition is served, provided that the cost of
24 preparation of the record shall be borne by the local agency, unless
25 the petitioner elects to prepare the record as provided in subdivision
26 (n) of this section. A petition to enforce the provisions of this
27 section shall be filed and served no later than 90 days from the
28 later of (1) the effective date of a decision of the local agency
29 imposing conditions on, disapproving, or any other final action on
30 a housing development project or (2) the expiration of the time
31 periods specified in subparagraph (B) of paragraph (5) of
32 subdivision (h). Upon entry of the trial court’s order, a party may,
33 in order to obtain appellate review of the order, file a petition
34 within 20 days after service upon it of a written notice of the entry
35 of the order, or within such further time not exceeding an additional
36 20 days as the trial court may for good cause allow, or may appeal
37 the judgment or order of the trial court under Section 904.1 of the
38 Code of Civil Procedure. If the local agency appeals the judgment
39 of the trial court, the local agency shall post a bond, in an amount

1 to be determined by the court, to the benefit of the plaintiff if the
2 plaintiff is the project applicant.

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

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

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

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

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

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

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

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

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

9 (C) Subjecting the housing development project to an ordinance,
10 policy, standard, or any other measure, beyond those in effect when
11 a preliminary application was submitted is necessary to avoid or
12 substantially lessen an impact of the project under the California
13 Environmental Quality Act (Division 13 (commencing with Section
14 21000) of the Public Resources Code).

15 (D) The housing development project has not commenced
16 construction within two and one-half years, or three and one-half
17 years for an affordable housing project, following the date that the
18 project received final approval. For purposes of this subparagraph:

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

21 (I) Units within the development are subject to a recorded
22 affordability restriction for at least 55 years for rental housing and
23 45 years for owner-occupied housing, or the first purchaser of each
24 unit participates in an equity sharing agreement as described in
25 subparagraph (C) of paragraph (2) of subdivision (c) of Section
26 65915.

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

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

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

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

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

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

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

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

30 (6) This subdivision shall not restrict the authority of a public
31 agency or local agency to require mitigation measures to lessen
32 the impacts of a housing development project under the California
33 Environmental Quality Act (Division 13 (commencing with Section
34 21000) of the Public Resources Code).

35 (7) With respect to completed residential units for which the
36 project approval process is complete and a certificate of occupancy
37 has been issued, nothing in this subdivision shall limit the
38 application of later enacted ordinances, policies, and standards
39 that regulate the use and occupancy of those residential units, such
40 as ordinances relating to rental housing inspection, rent

1 stabilization, restrictions on short-term renting, and business
2 licensing requirements for owners of rental housing.

3 (8) (A) This subdivision shall apply to a housing development
4 project that submits a preliminary application pursuant to Section
5 65941.1 before January 1, 2030.

6 (B) This subdivision shall become inoperative on January 1,
7 2034.

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

24 (2) This subdivision shall become inoperative on January 1,
25 2031.

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

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

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