

Summary of Adopted Housing Bills

Funding For Housing

SB2 Permanent Source for Housing—Recording Fee: SB2 imposes a \$75 recordation fee for every recorded document associated with the transfer of real property. The fee would not exceed \$225 per transaction. The bill is proposed to generate approximately \$250 million annually.

- Funds collected between January 1, 2018 and December 31, 2018 would be distributed in the following way:
 - 50% would be made available to local governments to fund the updating of planning documents and zoning ordinances in order to streamline housing production.
 - 50% would be made available to the Department of Housing and Community Development (HCD) to assist persons who are experiencing or at risk of homelessness.
- After January 1, 2019, funds collected would be distributed in the following way:
 - 70% of would be provided to local governments to support affordable housing, home ownership opportunities and other housing-related programs.
 - 30% would be made available to HCD for specified purposes, including a continuous appropriation of moneys to the California Housing Finance Agency (CalHFA) for the purpose of creating mixed income multifamily residential housing for lower to moderate income households, as provided.
 - The 20% of all moneys in the fund must be expended for affordable owner-occupied workforce housing.

SB 3 Veterans and Affordable Housing Bonds: SB 3 authorizes the issuance of bonds in the amount of \$4 billion. Of the proceeds from the sale of these bonds, \$3 billion would be used to finance various existing predominately multifamily housing programs, as well as infill infrastructure financing and affordable housing matching grant programs. \$1 billion would be used to provide additional funding to fund farm, home and mobile home purchasing assistance for veterans. The

funds would be administered by the Department of Housing and Community Development (HCD) and the Department of Veterans Affairs.

The \$3 billion would be allocated to various programs that the Department of Housing and Community Development administers:

- \$1.5 billion to the Multifamily Housing Program
- \$150 million to the Transit-Oriented Development Implementation Fund
- \$300 million to the Infill Incentive Grant Program
- \$150 million to the Self-Help Housing Fund
- \$300 million to the Joe Serna, Jr. Farmworker Housing Grant Fund
- \$300 million to the Local Housing Trust Fund Matching Grant Program Affordable Housing Innovation Fund
- \$300 million to be deposited in homeownership programs including \$270 million to CalHOME program and \$30,000 to the Self Help Housing Program

AB 1568 *Neighborhood and Infill Finance and Transit Improvements Act*: After the dissolution of redevelopment agencies, several economic development tools were adopted by the State using more restrictive tax increment funding mechanisms than the one utilized under redevelopment. One of these tools is an "enhanced infrastructure financing district" ("EIFD"). AB 1568 allows a local jurisdiction to direct a portion of its local sales and use taxes and transaction and use taxes to an EIFD if the area is an infill site and specific affordable housing requirements are met.

AB 571 *Farmworker Housing*: AB 571 makes several changes to the farmworker state low-income housing tax credit program to make the program more flexible. Only 50 percent (rather than 100 percent) of the units funded under the program must be occupied by farmworker households. In addition, the bill also makes several changes to the law regarding migrant farm labor centers to allow for advance payments of up to 20 percent of annual operating costs and measure.

Processing Housing Development Applications

SB 35 *Streamlined Approval for Some Housing Projects*: This is a voluntary bill that would authorize multifamily housing developments which meet certain affordability requirements and planning standards, to be subject only to a ministerial approval process. A ministerial approval process does not require environmental review which at times can slow or halt a project completely. While

this streamlining component is of value to developers, the bill also requires the payment of prevailing wages. In geographies where the payment of prevailing wages are not typical, the requirements of the bill would likely offset the benefits associated with streamlining. The bill is more likely to help already affordable housing projects in geographies that require prevailing wage.

SB 166 *Maintaining Sites to Meet Affordable Housing Needs*: SB 166 prohibits a city and county from permitting or causing its inventory of sites identified in the housing element to be insufficient to meet its remaining unmet share of the regional housing need for lower and moderate-income households. Specifically, SB 166 requires that findings be made if sites are not developed for the income category shown in the housing element and extends the mandate to charter cities. This would push cities and counties to plan for their share of low-income and moderate-income housing needed in the region and ensure development is consistent with the housing element.

AB 678/SB167 and AB 1515: *Housing Accountability Act Changes*: Unlike SB 35, these bills affect every housing development application reviewed by local government. Currently, any project conforming with all 'objective' general plan and zoning standards may not be denied, or reduced in density, unless specific findings can be made. AB 678 and SB 167 (identical bills) require that local government provide developers with a list of any inconsistencies between a proposed project and all local plans, zoning, and standards within 30 to 60 days after the housing application is complete, or the project will be 'deemed consistent' with all local policies. AB 1515 gives much less deference to local government's findings of consistency with local plans, allowing courts to give just as much weight to an applicant's evidence of consistency.

Return of Rental Inclusionary Housing

AB 1505 *The Palmer Fix*: Since the Court of Appeal's 2009 decision in *Palmer/Sixth Street Properties LP v City of Los Angeles*, local agencies have not been able to require affordable housing in rental projects. This bill would authorize any county or city to adopt ordinances to require, as a condition of development of residential rental units, that a residential development include a certain percentage of residential rental units affordable to, and occupied by, moderate-income, lower income, very low income, or extremely low income

households so long as an alternative mean of compliance, such as an in-lieu fee is provided. In essence this bill affirms the legality of inclusionary ordinances.

Districts and Zones to Streamline Development

AB 73 Housing Sustainability Districts: AB 73 permits local jurisdictions, with HCD's approval, to create housing sustainability districts meeting designated conditions, including a specified amount of low- and moderate-income housing and zoning to permit residences through a ministerial permit. The city or county must include an Environmental Impact Report (EIR) for the proposed district development as part of the application to HCD, which will serve as the EIR for all housing projects developed in the district for the next 10 years. Grounds to deny a housing project are very specific and limited. Similar to SB 35, the bill requires payment of prevailing wages and use of a "skilled and trained workforce" for projects with more than 10 units. Local agencies adopting these districts are eligible for "zoning incentive payments" administered by HCD.

SB 540: Workforce Housing Opportunity Zones: This bill authorizes cities and counties to establish Workforce Housing Opportunity Zones by preparing an EIR and adopting a specific plan creating the zone, which must require a specific amount of low- and moderate-income housing. After the specific plan is adopted, a housing development that satisfies certain criteria must be approved, unless the local government makes specified and limited findings regarding the site. The local government must approve a housing development that is consistent with the plan and meets certain criteria within 60 days after the application is deemed complete. The bill requires the payment of prevailing wages and related requirements under the Labor Code. No additional environmental review is required for housing within the zone if specified criteria are met and the EIR is updated every five years. HCD may provide grants or no-interest loans to cities and counties to develop the specific plan and related EIR.

Housing Element Annual Reporting

SB 35/AB 879 Enhanced Annual Reporting: SB 35 requires cities and counties to provide additional information in their annual reports regarding housing element compliance, including the number of entitlements, permits, and certificates of occupancy that are issued for housing projects. AB 879 includes additional

technical requirements for the annual reports and directs HCD to evaluate the reasonableness of local government fees charged under the Mitigation Fee Act by June 30, 2019.

Housing Element Requirements

AB 1397/AB 879/AB 72 Increasing and Enforcing Housing Element

Requirements: AB 1397 creates numerous additional technical requirements for housing elements prepared by cities and counties, with a primary focus on enhanced analysis of sites identified for affordable housing development, especially sites that would be redeveloped for housing. Current law requires jurisdictions to approve multi-family housing projects 'by right' on sites rezoned to achieve housing element compliance; AB 1397 requires that projects restrict at least 20 percent of the units to lower income households to qualify for by-right approval. AB 879 requires substantial additional analysis of local constraints on housing development. AB 72 authorizes HCD to review city and county actions for compliance with a certified housing element and issue a notice of noncompliance. If a jurisdiction fails to take corrective action, HCD may revoke its finding that the housing element complies with state law and notify the Attorney General that the jurisdiction is in violation of state law.

Expiring Affordability Restrictions

SB 1521 Expiring Affordability Restrictions: For assisted housing developments, SB 1521 (1) requires the owner to provide notice of use restrictions that are expiring after January 1, 2021 to all prospective tenants and existing tenants within 3 years of the scheduled expiration of rental restrictions; (2) expands potential remedies for failure to provide notice to include the reimposition of prior restrictions, restitution of improper rent increases, and award of attorney's fees and costs to a prevailing plaintiff; (3) requires HCD to certify persons or entities that are eligible to purchase the development and to receive notice of the expiring restrictions based on their experience with affordable housing; (4) revises the procedure regarding the owner's ability to accept an offer to purchase; and (5) requires HCD to monitor compliance and provide an annual report to the legislature starting March 31, 2019.