

Real Estate Alert

June 2023

California Housing Legislative Update

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California is facing a housing affordability crisis. According to the U.S. Federal Reserve, the median listing price of homes in California in May 2023 was \$775,000, more than 75% higher than the national average of \$441,000. Of course, the median listing price in the Los Angeles Metro market is considerably higher, \$1.1 million. The California Public Policy Institute recently found that a whopping [34% of Californians have seriously considered leaving the state](#) because of high housing costs.

Over the past three legislative cycles, the California Legislature played a significantly more active role in housing policy. Many of these bills require municipalities to streamline the local development process. To date, these bills have had [mixed success in producing more housing in California](#).

In 2023, the California Legislature continues to advance bills to spur housing production and ultimately reduce housing costs in the state. Below, you will find summaries of key housing legislation currently being debated in Sacramento, including analysis from the California Legislative Analyst's Office. (We have not included bills that did not make it out of committee or did not pass the Senate floor or Assembly floor.)

We are in the middle of the legislative process. Many of these bills will not pass; others will be amended; and some will be signed into law. To become law, all bills must pass both the California Assembly and the California Senate by Sept. 14, 2023. The governor must sign or veto bills by Oct. 14, 2023.

Please let us know if you have any questions or concerns about these bills, or would like to discuss the legislative process.



Streamlining Development; Ministerial Approvals

SB 423 (Wiener): SB 423 eliminates SB 35's Dec. 31, 2025, sunset provision. **SB 35** (Wiener) (2017) created a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment (RHNA) numbers. Developers were restricted from developing on environmentally sensitive sites or from development that would result in the demolition of housing that had been rented out in the past 10 years. Essentially, SB 35 posed an ultimatum for local governments hostile to new development—either start permitting enough new homes to meet the state's housing goals or start fast-tracking new apartments so long as they met a set of basic qualifications. Developers have used the law to speed up approval for 12,000 to 13,000 new units.

SB 423 changes SB 35's workforce requirements. In order to avail themselves of SB 423's streamlining provisions, developers must follow certain labor standards. Specifically, for any project over 85 feet in height above grade, the bill requires developers to

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enter into construction contracts with prime contractors that (1) contain an enforceable commitment that all subcontractors will use a skilled and trained workforce, and (2) require the prime contractor to sign an affidavit declaring that they included an enforceable commitment requiring subcontractors to use a skilled and trained workforce. Alternatively, a developer may sign an affidavit declaring that they did not receive at least three responsive bids in any license category from subcontractors that attest to satisfying the skilled and trained workforce requirements. Under such a scenario, the prime contractor may rebid that scope of work.

The labor provisions do not apply to projects where 100% of the units are subsidized affordable housing. The bill also authorizes SB 35 streamlining to apply in the Coastal Zone.

The bill passed the Senate and will now be reviewed by Assembly committees.

SB 450 (Atkins): This bill provides that an application for a duplex or a lot split must be considered and approved or denied within 60 days from the date the local agency receives a completed application. If a local agency denies an application for a duplex or lot split, the permitting agency must return in writing a detailed reason for the denial. The bill prohibits a local agency from imposing objective zoning standards, objective subdivision standards and objective design standards that do not apply uniformly to developments within the underlying zone.

SB 450 is meant as a companion bill to SB 9 (2021), which ended single-family zoning. SB 450 is meant to restrict cities from imposing restrictions that violate the spirit of SB 9. The bill passed the Senate and will now be reviewed by Assembly committees. Sponsorship of the bill by Sen. Atkins, the leader of the Senate, increases its chance of passage.

SB 684 (Caballero): This bill requires a local agency to ministerially approve a parcel map or a tentative and final map for a housing development project that meets the following requirements: (1) the project consists of 10 or fewer single-family residential units; (2) the development meets certain minimum density requirements and (3) the development is located on a lot zoned for multifamily or single-family residential development that is no larger than five acres and is substantially surrounded by

qualified urban uses. The bill passed the Senate and will now be reviewed by Assembly committees.

AB 1114 (Haney): This legislation expands the definition of "post-entitlement phase permit" to include all building permits and other permits issued under the California Building Standards Code or any applicable local building code for the construction, demolition or alteration of buildings, whether discretionary or nondiscretionary. The bill also prohibits a local agency from subjecting the post-entitlement phase permit to any appeals or additional hearing requirements once the local agency determines that the post-entitlement permit is compliant with applicable permit standards. The bill passed the Assembly floor and will now be reviewed by Senate committees.

California Environmental Quality Act

AB 1307 (Wicks): This bill specifies that noise generated by the unamplified voices of residents is not considered a significant effect on the environment for residential projects for purposes of CEQA. The legislation was drafted in response to *UC a Good Neighbor v. Regents of University of California*, in which the court told UC Berkeley to consider alternative locations for its new dorm and to assess potential noise impacts of student parties. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 1633 (Ting): The Housing Accountability Act prohibits a local agency from disapproving a housing development project unless it makes certain written findings based on a preponderance of the evidence in the record. The act defines "disapprove the housing development project" as including any instance in which a local agency either votes against or disapproves a proposed housing development project application. This bill would broaden the definition of disapprove the housing development project to also include any instance in which a local agency fails to issue a project an exemption from CEQA for which the project is eligible.

The bill was created in the wake of the San Francisco Board of Supervisors rejecting two infill housing projects. The board ordered additional environmental review and arguably did not provide guidance on how the projects could be brought into compliance. The bill passed the Assembly floor and will now be reviewed by Senate committees.

SB 393 (Glazer): This bill requires a CEQA plaintiff to disclose any contributions of \$5,000 or more they received to help fund the legal action. It also prevents a CEQA action from being filed against a housing project that was included as part of a larger plan or project already approved under CEQA. This bill passed the Senate floor and will now be reviewed by Assembly committees.

SB 91 (Umberg): This bill eliminates the Jan. 1, 2025, sunset date on a provision of state law that exempts from CEQA certain projects that convert a motel, hotel, residential hotel or hostel to supportive or transitional housing. This bill passed the Senate floor and will now be reviewed by Assembly committees.

Fire and Building Standards

AB 835 (Lee): This bill requires the State Fire Marshal (SFM) to research, develop and propose building standards for single-exit, single-stairway and multiunit residential buildings more than three stories tall. According to the author, the state's current requirement to have two exit routes for certain residential buildings is not necessary for buildings that now have sprinklers, fire-rated walls and separations. He argues the requirement increases the costs of building housing. The bill passed the Assembly floor and will now be reviewed by Senate committees.

Taxation

SB 584 (Limon): This bill would impose a tax beginning January 1, 2025, on the occupancy of a short-term rental (e.g., Airbnb) of 15% of the rental price. "Short-term rental" is defined as the occupancy of a home, house, a room in a home or house, or other lodging that is not a hotel, inn, motel, or bed and breakfast, for 30 days or less. Funds collected from the tax must be allocated to the construction, acquisition and rehabilitation of affordable housing and renter protection programs. This bill passed the Senate floor and will be reviewed by Assembly committees.

State Mandates on Local Jurisdictions

AB 281 (Grayson): This bill requires a special district that receives a post-entitlement phase permit application to provide written notice to the applicant or local agency of additional information that may be required to begin

the next steps in the review process. The bill would require special districts to provide this notice within 30 business days of receipt of the application for a housing development with 25 units or fewer and within 60 business days for a housing development with more than 25 units. This bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 1218 (Lowenthal): The Housing Crisis Act of 2019 prohibits an affected city or county from approving a housing development project that will require the demolition of *certain* residential dwelling units unless the project creates at least as many residential dwelling units as will be demolished. This bill applies these demolition protections to *all* development projects. Additionally, it specifies that if a development project is not a housing development project, the developer must ensure that any necessary replacement housing is developed prior to or concurrently with its development project. The demolition prohibitions apply to sites where certain housing units were demolished in the previous five years. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 1287 (Alvarez): This bill requires a city or county to grant additional density and concessions and incentives if an applicant agrees to include additional moderate-income units on top of the maximum number of units for lower-, very-low- or moderate-income units. The law also applies the Density Bonus Law (DBL) to the Coastal Act without limitation. The density bonus figures can be found in the [Legislative Analyst's report](#) (page 3-4). The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 516 (Ramos): The bill imposes additional reporting and disclosure requirements on local agencies relative to annual Mitigation Fee Act revenue reports. The reports must include each public improvement identified in a previous report and whether construction began on the approximate date noted in the previous report. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 821 (Grayson): This bill requires local agencies that have zoning ordinances that are inconsistent with their general plan and that receive a development application, to apply the objective development standards in the general plan or to rezone within 90 days to create

consistency between the zoning ordinance and the general plan. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 1335 (Zbur): This requires each Metropolitan Planning Organization to include in its Sustainable Communities Strategy (SCS) the number of new housing units necessary to house all the entire population of the region over the course of the four-year planning period of the regional transportation plan (RTP). The bill passed the Assembly floor and will now be reviewed by the Senate committees.

Local Governance

AB 1319 (Wicks): The legislation modifies how the Bay Area Housing Finance Authority (BAHFA) may collect and expend revenue. It also states that actions taken by BAHFA to raise, administer or allocate funding for tenant protection, affordable housing preservation or new affordable housing production are exempt from CEQA. The bill passed two Assembly policy committees and the Assembly Appropriations Committee and is now before the Assembly floor.

SB 20 (Rubio): The legislation allows cities to create housing trust joint powers authorities without special legislation. The bill passed the relevant policy committee and is now on the Senate floor.

Parking

AB 894 (Friedman): This bill requires public agencies with underutilized parking to share such parking with the public, a private entity, public agencies or other users. The bill would require a public agency to allow shared parking arrangements to be counted toward meeting automobile parking requirements for a new or existing development. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 1317 (Carrillo): This bill requires the owner of residential real property that provides parking with a residential unit property to unbundle parking from the price of rent. The bill would provide a tenant of a residential unit property with a right of first refusal for parking spaces built for their unit. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 1334 (Pellerin): The bill authorizes an owner of an existing mobile home park to add new spaces to the park, not to exceed 10% of the previously approved number of spaces in the park. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 1308 (Quirk-Silva): This bill prohibits a public agency from increasing the minimum parking requirement that applies to a single-family residence as a condition of approval of a project to remodel, renovate or add to a single-family residence, provided the project does not cause the residence to exceed any legal maximum size limit. The bill passed the Assembly floor and will now be reviewed by Senate committees.

Department of Housing and Community Development (DHCD)

AB 1485 (Haney): This bill permits both the DHCD and the Attorney General to intervene as a matter of unconditional right in any legal action addressing a violation of specified laws, including the Housing Accountability Act, the Density Bonus Law, the Housing Crisis Act of 2019, fair housing laws and certain housing streamlining laws. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 1508 (Ramos): Existing law requires the DHCD to update the California Statewide Housing Plan every four years. This bill would require the DHCD to include specified information on homeownership opportunities for first-time homebuyers. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 1474 (Reyes): This bill adds veterans to the list of population groups that the DHCD must consider in the Statewide Housing Plan (SHP). The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 578 (Berman): Existing law requires the DHCD to administer the Multifamily Housing Program (MHP). Under this program, the DHCD provides financial assistance in the form of deferred payment loans to pay for the eligible costs of development for specified activities. This bill would prohibit, for the first 30 years of the loan term, the amount of the required loan payments from exceeding 0.42% per annum or \$150 per assisted unit, whichever is less. The bill passed the Assembly floor and will now be reviewed by Senate committees.

SB 482 (Blakespear): This bill would explicitly require the DHCD to offer capitalized operating reserves to supportive housing units developed under the MHP. The bill passed the Senate floor and will now be reviewed by Assembly committees.

SB 341 (Becker): This bill removes the Affordable Housing and Sustainable Communities Program from the prescribed programs for which the DHCD may award additional points in the scoring of specific housing and infrastructure program applications. The bill passed the Senate floor and will now be reviewed by Assembly committees.

Accessory Dwelling Units (ADUs)

AB 976 (Ting): The bill makes permanent the existing prohibition on local government's ability to require owner-occupancy on a parcel containing an ADU. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 671 (Ward): This bill requires the DHCD to allow community land trusts to use CalHome funds to purchase a property, construct ADUs and junior accessory dwelling units on the property, and separately lease or sell those units to qualified owners. The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 932 (Ting): Requires the California Housing Finance Agency to provide reports to the Legislature regarding its work on ADUs. The bill passed the Assembly floor and will now be reviewed by Senate committees.

Affordable Housing

SB 4 (Wiener): This bill requires a housing development project to be a use by right on land owned by an independent institution of higher education or a religious institution. The bill would require that 100% of the units, exclusive of manager units, be affordable to lower-income households, except that 20% of the units may be for moderate-income households, and 5% of the units may be for staff of the independent institution of higher education or the religious institution that owns the land. The bill passed the Senate floor and will now be reviewed by Assembly committees.

AB 1657 (Wicks): This authorizes the Affordable Housing Bond Act of 2024 to place a \$10 billion housing bond on

the March 5, 2024, primary ballot to fund the production of affordable housing and supportive housing. The bond funds would flow in the following manner: \$5.25 billion to the Multifamily Housing Program, \$1.75 billion to supportive housing, \$1.5 billion to preserve or rehabilitate existing subsidized or unsubsidized rental housing, \$1 billion to the CalHome Program and the down payment assistance program, and \$500 million to a farmworker housing program. The bill passed the Assembly floor and will now be reviewed by Senate committees. This legislation is a high priority of the Assembly Housing Committee Chair, Buffy Wicks.

SB 834 (Portantino): This bill would authorize the issuance of bonds in the amount of \$25 billion to finance the California Family Home Construction and Homeownership Program. Such bonds would need to be approved by voters on the November 2024 ballot. The bond is for \$18 billion for mortgage loans for first-time homebuyers and \$7 billion in infrastructure loans for new home construction, as specified. The bill also authorizes use of SB 35's expedited ministerial process (discussed above) under certain conditions. Additionally, the legislation exempts from CEQA a project for the construction of new single-family homes if the project is eligible for the bill's home construction program and (1) the project consists of the division of property in urbanized areas zoned for residential, commercial or industrial uses into 50 or fewer parcels when the division is in conformance with the general plan and zoning; (2) no variances or exceptions are required; (3) all services and access to the proposed parcels to local standards are available; and (4) the parcel does not have an average slope greater than 20%. The bill passed the Senate floor and will now be reviewed by Assembly committees.

AB 309 (Lee): The bill would create the California Housing Authority, a public developer of "social housing." Social housing is government funded and occupied by residents of all income levels. The bill passed the Assembly floor and will now be reviewed by Senate committees. Two previous social housing bills sponsored by Lee failed to pass the Legislature.

SB 225 (Caballero): This bill establishes the Community Anti-Displacement and Preservation Program to provide guidance, technical assistance and other resources to local jurisdictions, nonprofits or other community developers that wish to acquire nonsubsidized housing,

rehabilitate the units when necessary and convert them to long-term affordable units. It also creates the Community Anti-Displacement and Preservation Fund in the State Treasury and provides that all appropriated money will be available to the DHCD. The bill passed the Senate floor and will now be reviewed by Assembly committees.

AB 84 (Ward): The bill expands the welfare exemption to a low-income rental property financed with qualified 501(c) (3) bonds. Additionally, it presumes that certain property applying for the welfare exemption is eligible if that property is subject to a legal restriction that the property be rented to low-income households. The bill passed the Assembly floor and will now be reviewed by Senate committees.

SB 440 (Skinner): This bill permits two or more local governments to establish a regional housing authority for the purpose of raising, administering and allocating funding, and providing technical assistance at a regional level for affordable housing development. The bill passed the Senate floor and will now be reviewed by Assembly committees.

SB 555 (Wahab): This bill creates the Stable Affordable Housing Act of 2023 for the purpose of planning for the development of social housing through a mix of acquisition and new production. The bill would declare a 10-year goal of creating 1.2 million units of social housing and a five-year goal of creating 600,000 units of social housing through a mix of acquisition and new production, of which no fewer than 200,000 units of social housing are affordable to extremely low- and very-low-income households. The bill passed the Senate floor and will now be reviewed by Assembly committees.

Renters' Policies

SB 466 (Wahab): This bill gives local jurisdictions the option to limit the amount that residential landlords can raise the rent each year for housing that is more than 28 years old. The bill does not impose rent control on any local jurisdiction. The bill passed the Senate floor and will now be reviewed by Assembly committees.

SB 569 (Glazer): The bill adjusts the amount of the renter's credit annually based on inflation. The bill also makes the credit "refundable" for the recipient. The bill passed the Senate floor and will now be reviewed by Assembly committees.

Density Bonus

AB 440 (Wicks): This clarifies in the Density Bonus Law that the base density for a development requesting a density bonus is the greatest allowable density in the zoning ordinance, the specific plan or the land use element of the general plan. According to the author, "[l]ast year, AB 2334 inadvertently created confusion regarding how the base density for a density bonus project is calculated. This bill revises the definition to create more clarity." The bill passed the Assembly floor and will now be reviewed by Senate committees.

AB 323 (Holden): This bill prohibits developers from offering a unit constructed pursuant to a local inclusionary zoning ordinance that is intended for owner-occupancy to a purchaser that intends to rent the unit to extremely low-, very-low-, low- and moderate-income families unless the developer can prove that none of the applicants for owner-occupancy can qualify for the unit as an owner-occupant pursuant to the income limitations. The bill passed the Assembly floor and will now be reviewed by Senate committees.

Surplus Land

AB 457 (Patterson): This bill would expand the definition of "exempt surplus land" to include land that is identified in the local agency's circulation element or capital improvement program for a future roadway, provided the parcel is no larger than two acres, is zoned for retail commercial use and abuts a state highway right of way. "According to the author, this bill will allow cities to lease property for longer periods only in instances in which a future public-purpose is intended, such as transportation infrastructure." The bill passed the Assembly floor and will now be reviewed by Senate committees.

SB 240 (Bogh): This bill authorizes a local agency or nonprofit affordable housing sponsor to be considered as a potential priority buyer of surplus state real property upon demonstrating that the property is to be used for transitional housing for formerly incarcerated individuals and provides that these projects are a use by right. The bill passed the Senate floor and will now be reviewed by Assembly committees.

SB 747 (Caballero): This bill expands the definition of exempt surplus land and would authorize a city, county, or city and county, in addition to a sale or lease, to

otherwise transfer property to create an economic opportunity. This bill would authorize a local agency to administratively declare that land is exempt surplus land if the local agency meets specified requirements, including, among other things, receiving a prohousing designation and posting the declaration and findings on the local agency's internet website. The bill passed the Senate floor and will now be reviewed by Assembly committees.

Community Land Trust (CLT)

[AB 430](#) (Bennett): This bill expands the definition of a community land trust (CLT) to include a CLT's wholly owned subsidiary. The bill passed the Assembly floor and will now be reviewed by Senate committees.

Related Professionals

Nick Warshaw nwarshaw@loeb.com
Paul Rohrer. prohrer@loeb.com

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