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Affordable housing bill package

By Jon Goetz and Eva Plaza

A package of 15 bills designed to help communities combat California's affordable housing crisis becomes law in 2018. The bills take several different approaches to the housing dilemma, including providing more funding for affordable housing development, streamlining local government housing approvals, restoring local authority to require affordable housing in private projects, and strengthening the state's general plan housing element and "Anti-NIMBY" laws.

SB 2: The Permanent Source. Senate Bill 2 will provide a "permanent source" of funds for affordable housing development through the imposition of a \$75 fee on most recorded real estate documents (except for home sales). The recording fee is expected to generate approximately \$200-\$300 million per year. Half of the 2018 funds will go to local governments for planning efforts to streamline housing production and the other half will go to the state for homeless assistance programs. Beginning in 2019, 70 percent of the funds will be directly allocated to local governments for affordable housing projects and programs, and the other 30 percent will be used by the state for farmworker housing, multifamily housing and other affordable housing programs.

SB 3: \$4 Billion Housing Bond. This bill will place a bond act on the November 2018 state ballot, with bond proceeds to be used to fund various existing housing programs. \$1.5 billion of the funds would go to the state's Multifamily Housing Program for affordable housing development loans, \$1 billion would go to the state's CalVet veteran's home loan program, and the remainder will be allocated for other affordable housing programs.

SB 35: Streamlined Approval Process. This complex bill creates a streamlined ministerial approval pro-

cess for housing development applications in communities that have not approved sufficient housing to keep up with regional fair share housing goals. Eligible projects will not require conditional use permits, and can take advantage of lower state-mandated parking standards. To take advantage of the special process, the proposed development must be on an urban infill site, the existing zoning or general plan must allow residential uses, and the development must not be located in sensitive areas. A developer who uses the streamlined process must pay prevailing wages.

AB 1505: Inclusionary Housing. Assembly Bill 1505 overturns the 2009 *Palmer/Sixth Street Properties, L.P. v. City of Los Angeles* ruling, which held that cities and counties were not allowed to require private developers to restrict rent levels under the state's Costa Hawkins Rental Housing Act. This bill authorizes (without mandating) local governments to require that new rental housing developments include a specified percentage of affordable units. Localities need to allow alternate means of compliance, such as in lieu fees, land dedication, offsite construction, and rehabilitation of existing housing. This bill also gives the California Department of Housing and Community Development review and approval rights in some localities over inclusionary ordinances that require more than 15 percent low-income affordable housing.

AB 678, SB 167 and AB 1515: Strengthening Anti-NIMBY Law. These bills strengthen the state's Housing Accountability Act, known as the "Anti-NIMBY Law," which limits the ability of cities and counties to disapprove proposed housing developments without making specified findings. AB 678 and SB 167 impose a higher standard of proof on local governments that make findings to support disapproval of housing projects, and award attorney fees to housing

advocates (in addition to project applicants) who successfully challenge local disapprovals. The bills further allow courts to vacate local disapprovals and impose fines of \$10,000 or more per unit for violation of the Housing Accountability Act. AB 1515 directs courts to give less deference to local government determinations of a project's consistency with local zoning and general plans.

SB 540 and AB 73: Housing Districts. Under SB 540, local governments can identify Workforce Housing Opportunity Zones requiring at least half of the housing to be affordable, and conduct upfront environmental reviews and public engagement, thus eliminating the need for reviews of projects later proposed within those zones. AB 73 authorizes local governments to establish Housing Sustainability Districts requiring at least 20 percent of the housing to be affordable, and provides incentive funds for upfront zoning and environmental review to localities issuing permits for residential units on infill sites within the district. Both bills limit local government discretion to disapprove projects within the zones. Projects in both types of zones must pay prevailing wages.

AB 1397 and SB 166: No Net Loss Zoning. These bills will modify the existing "No Net Loss Zoning" law, which ensures that local governments do not downzone sites or approve new housing at significantly lower densities than projected in their housing elements without identifying other sites that could accommodate the local need for housing sites at specified income levels. The bills require that as development occurs, local governments assess their ability to accommodate new housing on the remaining sites in their inventory and make adjustments to their zoning if needed. The bills also tighten standards for those sites.

AB 72 and SB 879: Housing Elements. AB 72 authorizes the state



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housing department to review actions by cities and counties for compliance with their adopted housing elements, and allows the department to revoke findings of housing element compliance for noncompliance. AB 879 tightens housing element requirements, expands local analysis of constraints on housing development, and directs the state housing department to study the reasonableness of local fees charged to housing developments.

AB 1521: Expiring Affordability Restrictions. This bill strengthens the law regarding the preservation of assisted housing developments by requiring an owner of an assisted housing development to accept a bona fide offer to purchase the development from a qualified purchaser, if specified requirements are met. For assisted housing developments, SB 1521 expands owner obligations to provide tenants notice of expiring use restrictions and remedies for failure to provide such notice.

AB 571: Farmworker Housing. AB 571 makes several changes to the farmworker state low-income housing tax credit program to provide more flexibility to this underutilized program, including reducing the percentage of units that must be occupied by farmworker households.

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