



## California Housing Legislation – 2019 Update

By: Alfred Fraijo Jr. and Yue Shi

In 2019, the California legislature passed, and Governor Newsom approved, new legislation impacting the development industry. Effective January 1, 2020, the laws summarized below will impact the development process in many ways<sup>1</sup> – from streamlining local permitting procedures for eligible projects to tenant protections and new incentives for financing affordable housing. The new laws also obligate local government to undertake updates in their housing plans and plan for growth, among other requirements. In 2020, we anticipate the state legislature to continue to tackle housing access and affordability and we are closely tracking progress on key bills, including Senate Bill 50 (Weiner).

California Housing Legislation		
Bill Number & Name	Author	Key Provisions
<b>Development Streamlining, Production, and Incentives</b>		
SB 330 – Housing Crisis Act of 2019	Skinner	<ul style="list-style-type: none"> <li>• Limits a jurisdiction’s ability to change development standards and zoning applicable to the project once a “preliminary application” is submitted.</li> <li>• Amends the Permit Streamlining Act to specify what constitutes a “preliminary application” and states that a jurisdiction has 1 chance to identify incomplete items in an initial application, and after that may not request any new information.</li> <li>• Prevents jurisdictions from increasing exactions or fees during a project’s application period, and only allows such increases if the resolution or ordinance establishing the fee calls for automatic increases in the fee over time.</li> <li>• Prohibits jurisdictions from conducting more than 5 hearings if a proposed housing project complies with the applicable, objective general plan and zoning standards in effect at the time the application is deemed complete.</li> <li>• Prohibits a jurisdiction from enacting development policies, standards or conditions that would change current zoning and general plan designations of land to “lessen the intensity of housing”; from placing a moratorium or similar restrictions on housing development; and from limiting or capping the number of land use approvals or permits.</li> <li>• Creates the Housing Accountability Act.</li> </ul>
AB 1763 – Planning and zoning: density bonuses: affordable housing	Chiu	<ul style="list-style-type: none"> <li>• Creates enhanced density bonus options, including a potential 80% increase in base density and unlimited density bonuses for qualifying projects within a half-mile of a major transit stop.</li> <li>• Applies only to projects that consist of 100% affordable housing (no more than 20% moderate-income, and the rest for lower-income).</li> </ul>

<sup>1</sup> Please note, this chart does not include all housing-related bills signed into law during the 2019 Legislative Session. Instead, this chart identifies the bills we believe to be the most impactful on the California real estate industry.

<p>AB 1485 – Housing development: streamlining</p>	<p>Wicks</p>	<ul style="list-style-type: none"> <li>• Clarifies that the calculation to determine if a project qualifies for SB 35 where it consists of two-thirds residential excludes underground space.</li> <li>• Clarifies that the 3-year expiration for SB 35 approval in case of litigation expires 3 years after a final judgment upholding the approval, and clarifies that the approval also remains valid as long as vertical construction has begun and is in progress.</li> <li>• Clarifies that local governments must issue subsequent permits without unreasonable delay, as long as those subsequent permit applications substantially comply with the approved SB 35 permit.</li> <li>• Clarifies that a project complies with SB 35's qualifying criteria as long as "there is substantial evidence that would allow a reasonable person to conclude" that the development qualifies.</li> <li>• Clarifies that under existing law, SB 35 projects are entitled to protection under the Housing Accountability Act.</li> </ul>
<p>AB 1483 – Housing data: collection and reporting</p>	<p>Grayson</p>	<ul style="list-style-type: none"> <li>• Requires local agencies to make information available on housing development fees, applicable zoning ordinances and standards, annual fee reports and archived nexus fee studies.</li> <li>• Requires cities to clearly post their impact fee schedules and nexus studies.</li> <li>• HCD will be required to prepare a 10-year housing data strategy that identifies the data useful to enforce existing housing laws and inform state housing policymaking.</li> </ul>
<p>AB 101 – Housing Development and Financing 2019-20 Budget Act</p>	<p>N/A</p>	<ul style="list-style-type: none"> <li>• Effective as of July 31, 2019.</li> <li>• Requires local governments to provide "by right," CEQA-exempt approvals to certain qualifying navigation centers that move homeless Californians into permanent housing.</li> <li>• Creates additional incentives for cities to comply with their mandates to plan for sufficient housing under housing element law.</li> <li>• Creates steep penalties for cities that refuse to comply with Housing Element law, and ties financial incentives to cities that adopt "pro-housing" policies.</li> </ul>
<h3>CEQA Fast Track</h3>		
<p>AB 1560 – CEQA: transportation: major transit stop</p>	<p>Friedman</p>	<ul style="list-style-type: none"> <li>• Broadens the definition of a "major transit stop" to include bus rapid transit.</li> <li>• Provides that projects located within a ½ mile of a qualifying bus rapid transit stop may qualify for parking reductions, CEQA infill housing, aesthetic and parking exemptions, SB 375 streamlining for qualifying transit priority projects, and a less than significant VMT impact presumption.</li> <li>• The new definition also applies to local incentives.</li> </ul>
<p>SB 744 – Planning and zoning: CEQA: permanent supportive housing</p>	<p>Caballero</p>	<ul style="list-style-type: none"> <li>• Streamlines the approval process for supportive housing projects by clarifying that a decision to seek funding through the <i>No Place Like Home</i> program is not a project for the purpose of CEQA.</li> </ul>
<p>AB 1197 – CEQA: exemption: City of Los Angeles: Supportive Housing and Emergency Shelters</p>	<p>Santiago</p>	<ul style="list-style-type: none"> <li>• Exempts from CEQA, until January 1, 2025, any action taken by certain local public agencies to convey, lease, encumber land or provide financial assistance in furtherance of providing emergency shelters or supportive housing in the City of LA.</li> </ul>
<h3>Tenant Protections</h3>		
<p>AB 1482 – Tenant Protection Act of 2019</p>	<p>Chiu</p>	<ul style="list-style-type: none"> <li>• Enacts a yearly cap of 5% plus the change in cost of living on rent increases statewide for the next 10 years.</li> <li>• Enacts a just cause provision to prevent landlords from evicting certain tenants absent just cause.</li> <li>• Contains exemptions, the 2 most important of which are (i) properties built in the last 15 years, and (ii) single-family home rentals not owned by a REIT or corporation.</li> <li>• Does not replace more stringent local measures, including existing local rent control with lower limits and local just cause eviction laws.</li> </ul>

AB 1110 – Rent increases: noticing	Friedman	<ul style="list-style-type: none"> <li>Requires 90-day notice, rather than 60-day notice, before a landlord may increase the rent of a month-to-month tenant by more than 10%.</li> </ul>
SB 329 – Discrimination: housing: source of income	Mitchell	<ul style="list-style-type: none"> <li>Prohibits landlords from discriminating against tenants who rely on housing assistance paid directly to landlords, such as a Section 8 voucher.</li> </ul>
SB 18 – Keep Californians Housed Act	Skinner	<ul style="list-style-type: none"> <li>Removes the December 31, 2019 sunset date on a state law which gives tenants at least 90-days' notice before their tenancy can be terminated if a landlord loses ownership of their rental property as a result of a foreclosure sale.</li> </ul>
<b>Accessory Dwellings Units (ADUs)</b>		
AB 68 – Land use: accessory dwelling units	Ting	<ul style="list-style-type: none"> <li>Allows 2 ADUs on a single lot, as well as multiple ADUs on multifamily lots.</li> <li>Requires local agencies to approve or deny an ADU project within 60 days.</li> <li>Restricts local agencies' ability to adopt certain ordinances that would discourage ADUs.</li> </ul>
AB 881 – Accessory dwelling units	Bloom	<ul style="list-style-type: none"> <li>Restricting local jurisdictions' permitting criteria.</li> <li>Clarifies that ADUs must receive streamlined approval if constructed in existing garages.</li> <li>Eliminates local jurisdictions' ability to require owner-occupancy for 5 years.</li> </ul>
SB 13 – Accessory dwelling units	Wieckowski	<ul style="list-style-type: none"> <li>Sunset on January 1, 2025.</li> <li>Creates a tiered fee structure which charges ADUs more fairly based on their size and location.</li> <li>Prohibits local jurisdictions from imposing impact fees on ADUs under 750 square feet.</li> <li>Prohibits conditional approval of an ADU on the applicant being an "owner-applicant."</li> </ul>
AB 587 – Accessory dwelling units: sale or separate conveyances	Friedman	<ul style="list-style-type: none"> <li>Provides that local jurisdictions may allow ADUs to be sold or conveyed separately from a primary residence if certain conditions are met.</li> <li>Allows affordable housing organizations to sell deed-restricted ADUs to eligible low-income homeowners.</li> </ul>
AB 670 – Common interest developments: accessory dwelling units	Friedman	<ul style="list-style-type: none"> <li>Prevents homeowners' associations from barring ADUs.</li> <li>Allows reasonable restrictions.</li> </ul>
AB 671 – Accessory dwelling units: incentives	Friedman	<ul style="list-style-type: none"> <li>Requires local governments to include in their housing plans to incentivize and promote the creation of affordable ADUs.</li> <li>Requires HCD to develop a list of state grants and financial incentives for ADU development and post it by Dec. 31, 2020.</li> </ul>
<b>Surplus Land</b>		
AB 1486 – Surplus Land	Ting	<ul style="list-style-type: none"> <li>Expands Surplus Land Act requirements for local agencies.</li> <li>Clarify what it means to grant "priority" to affordable housing proposals by requiring that agencies negotiate exclusively with the entity proposing the most units at the deepest affordability.</li> <li>Requires local governments to include specified information relating to surplus lands in their housing elements and annual progress reports.</li> <li>Requires HCD to maintain a searchable and public inventory of all publicly owned or controlled lands and their present usage.</li> <li>Provides that a local agency that violates the Act is liable for up to 30 percent to 50 percent of the final sale price.</li> </ul>
SB 6 – Residential development: available land	Beall	<ul style="list-style-type: none"> <li>Requires DGS to create public searchable database of: (1) local land suitable and available for residential development based on information included in local Housing Elements; and (2) state land determined or declared to be excess.</li> </ul>
AB 1255 – Surplus public land: inventory	Rivas	<ul style="list-style-type: none"> <li>Requires cities and counties to report to the state an inventory of its surplus lands in urbanized areas.</li> <li>Requires the state to include this information in a digitized inventory of state surplus land sites.</li> </ul>

Funding		
AB 1487 – San Francisco Bay Area Regional Housing Finance Act	Chiu	<ul style="list-style-type: none"> <li>Establishes a new regional authority to raise, administer and allocate funding for affordable housing in the San Francisco Bay Area, and provide technical assistance at a regional level for tenant protection, affordable housing preservation and new affordable housing production.</li> </ul>
SB 751 – Joint powers authority: San Gabriel Valley Regional Housing Trust	Rubio	<ul style="list-style-type: none"> <li>Authorizes the creation of the Trust, a joint powers authority, by the County of Los Angeles and any or all of the cities within the jurisdiction of the San Gabriel Council of Governments, with the stated purpose of funding housing to assist the homeless population and low-income persons and families within the San Gabriel Valley.</li> </ul>
AB 116 – Local government	Ting	<ul style="list-style-type: none"> <li>Removes the requirement that Enhanced Infrastructure Financing Districts (EIFDs) must receive voter approval prior to issuing bonds.</li> </ul>
Miscellaneous		
SB 128 – Public contracts: Best Value Construction Contracting for Counties Pilot Program	Beall	<ul style="list-style-type: none"> <li>Extends the pilot program allowing certain counties to select a bidder on a “best value” basis for construction projects over \$1 million to January 1, 2025 and adds new counties to the program.</li> <li>Participating counties must submit a report describing, among other things, the projects awarded using the best value procedure.</li> </ul>
AB 695 – Community college facilities: design-build contracts	Medina	<ul style="list-style-type: none"> <li>Effective July 1, 2020.</li> <li>A design-build entity cannot be prequalified or shortlisted unless the entity provides an enforceable commitment to the school district that the entity and its subcontractors use skilled and trained workers or building and construction trade apprentices to perform all work on the project or contract.</li> </ul>
AB 1768 – Prevailing wage: public works	Carrillo	<ul style="list-style-type: none"> <li>Workers employed on public works projects may not be paid less than the general prevailing rate of per diem wages.</li> <li>Expands the definition of public works to include preconstruction works such as design, feasibility studies, land surveying, and site assessments.</li> </ul>
SB 197 – Department of Transportation: retention proceeds	Beall	<ul style="list-style-type: none"> <li>Department of Transportation is indefinitely prohibited from withholding retention proceeds when making progress payments for work performed by a contractor.</li> </ul>

\*\*\*\*\*

**Please contact Sheppard Mullin with any questions.**



**Alfred Fraijo Jr.**

213.617.5567 (LA)  
415.434.9100

[afraijo@sheppardmullin.com](mailto:afraijo@sheppardmullin.com)



**Yue Shi**

213.617.4256

[yshi@sheppardmullin.com](mailto:yshi@sheppardmullin.com)