

AMENDED IN SENATE JULY 12, 2011

AMENDED IN ASSEMBLY MAY 4, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1103**

---

---

**Introduced by Assembly Member Huffman**

February 18, 2011

---

---

An act to amend Section 65583.1 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL’S DIGEST

AB 1103, as amended, Huffman. Land use: housing element.

The Planning and Zoning Law authorizes the Department of Housing and Community Development to allow a city or county to substitute the provision of units for up to 25% of the city’s or county’s obligation to identify adequate sites for any income category in its housing element if the city or county includes in its housing element a program committing the city or county to provide units in that income category within the city or county that will be made available through the provision of committed assistance, during the planning period covered by the element, to very low and low-income households at affordable housing costs or affordable rents, as defined. In order for a unit to qualify for inclusion in the program, it must meet one of several, specified criteria.

This bill would add to that list of potential criteria, ~~until January 1, 2017~~, the additional criterion of being located on foreclosed property and converted with committed assistance from the city or county from

nonaffordable to very low and low-income households to affordable to those households.

~~The bill would also add to that list of potential criteria the additional criterion of being a 2nd unit on a property that is converted from nonaffordable to very low and low-income housing.~~

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. It is the intent of the Legislature to examine~~  
2     ~~whether the densities specified in subparagraph (B) of paragraph~~  
3     ~~(3) of subdivision (c) of Section 65583.2 of the Government Code~~  
4     ~~could be adjusted for some jurisdictions without impeding the~~  
5     ~~attainment of the state housing goal as described in Section 65580~~  
6     ~~of the Government Code.~~

7     ~~SECTION 1. The Department of Housing and Community~~  
8     ~~Development's Housing Element Working Group is encouraged~~  
9     ~~to discuss the default densities described in subparagraph (B) of~~  
10    ~~paragraph (3) of subdivision (c) of Section 65583.2 of the~~  
11    ~~Government Code.~~

12    ~~SEC. 2. Section 65583.1 of the Government Code is amended~~  
13    ~~to read:~~

14    ~~65583.1. (a) The Department of Housing and Community~~  
15    ~~Development, in evaluating a proposed or adopted housing element~~  
16    ~~for substantial compliance with this article, may allow a city or~~  
17    ~~county to identify adequate sites, as required pursuant to Section~~  
18    ~~65583, by a variety of methods, including, but not limited to,~~  
19    ~~redesignation of property to a more intense land use category and~~  
20    ~~increasing the density allowed within one or more categories. The~~  
21    ~~department may also allow a city or county to identify sites for~~  
22    ~~second units based on the number of second units developed in~~  
23    ~~the prior housing element planning period whether or not the units~~  
24    ~~are permitted by right, the need for these units in the community,~~  
25    ~~the resources or incentives available for their development, and~~  
26    ~~any other relevant factors, as determined by the department.~~  
27    ~~Nothing in this section reduces the responsibility of a city or county~~  
28    ~~to identify, by income category, the total number of sites for~~  
29    ~~residential development as required by this article.~~

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 where the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

1 (C) Demonstrate that the units meet the requirements of  
2 paragraph (2).

3 (2) Only units that comply with subparagraph (A), (B), *or* (C);  
4 ~~or (D)~~ qualify for inclusion in the housing element program  
5 described in paragraph (1), as follows:

6 (A) Units that are to be substantially rehabilitated with  
7 committed assistance from the city or county and constitute a net  
8 increase in the community's stock of housing affordable to low-  
9 and very low income households. For purposes of this  
10 subparagraph, a unit is not eligible to be "substantially  
11 rehabilitated" unless all of the following requirements are met:

12 (i) At the time the unit is identified for substantial rehabilitation,  
13 (I) the local government has determined that the unit is at imminent  
14 risk of loss to the housing stock, (II) the local government has  
15 committed to provide relocation assistance pursuant to Chapter 16  
16 (commencing with Section 7260) of Division 7 of Title 1 to any  
17 occupants temporarily or permanently displaced by the  
18 rehabilitation or code enforcement activity, or the relocation is  
19 otherwise provided prior to displacement either as a condition of  
20 receivership, or provided by the property owner or the local  
21 government pursuant to Article 2.5 (commencing with Section  
22 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and  
23 Safety Code, or as otherwise provided by local ordinance; provided  
24 the assistance includes not less than the equivalent of four months'  
25 rent and moving expenses and comparable replacement housing  
26 consistent with the moving expenses and comparable replacement  
27 housing required pursuant to Section 7260, (III) the local  
28 government requires that any displaced occupants will have the  
29 right to reoccupy the rehabilitated units, and (IV) the unit has been  
30 found by the local government or a court to be unfit for human  
31 habitation due to the existence of at least four violations of the  
32 conditions listed in subdivisions (a) to (g), inclusive, of Section  
33 17995.3 of the Health and Safety Code.

34 (ii) The rehabilitated unit will have long-term affordability  
35 covenants and restrictions that require the unit to be available to,  
36 and occupied by, persons or families of low- or very low income  
37 at affordable housing costs for at least 20 years or the time period  
38 required by any applicable federal or state law or regulation.

39 (iii) Prior to initial occupancy after rehabilitation, the local code  
40 enforcement agency shall issue a certificate of occupancy indicating

1 compliance with all applicable state and local building code and  
2 health and safety code requirements.

3 (B) Units that are located either on foreclosed property or in a  
4 multifamily rental or ownership housing complex of three or more  
5 units, are converted with committed assistance from the city or  
6 county from nonaffordable to affordable by acquisition of the unit  
7 or the purchase of affordability covenants and restrictions for the  
8 unit, are not acquired by eminent domain, and constitute a net  
9 increase in the community's stock of housing affordable to low-  
10 and very low income households. For purposes of this  
11 subparagraph, a unit is not converted by acquisition or the purchase  
12 of affordability covenants unless all of the following occur:

13 (i) The unit is made available for rent at a cost affordable to  
14 low- or very low income households.

15 (ii) At the time the unit is identified for acquisition, the unit is  
16 not available at an affordable housing cost to either of the  
17 following:

18 (I) Low-income households, if the unit will be made affordable  
19 to low-income households.

20 (II) Very low income households, if the unit will be made  
21 affordable to very low income households.

22 (iii) At the time the unit is identified for acquisition the unit is  
23 not occupied by low- or very low income households or if the  
24 acquired unit is occupied, the local government has committed to  
25 provide relocation assistance prior to displacement, if any, pursuant  
26 to Chapter 16 (commencing with Section 7260) of Division 7 of  
27 Title 1 to any occupants displaced by the conversion, or the  
28 relocation is otherwise provided prior to displacement; provided  
29 the assistance includes not less than the equivalent of four months'  
30 rent and moving expenses and comparable replacement housing  
31 consistent with the moving expenses and comparable replacement  
32 housing required pursuant to Section 7260.

33 (iv) The unit is in decent, safe, and sanitary condition at the  
34 time of occupancy.

35 (v) The unit has long-term affordability covenants and  
36 restrictions that require the unit to be affordable to persons of low-  
37 or very low income for not less than 55 years.

38 (vi) For units located in multifamily ownership housing  
39 complexes with three or more units, *or on or after January 1, 2015,*  
40 *on foreclosed properties,* at least an equal number of

1 new-construction multifamily rental units affordable to lower  
2 income households have been constructed in the city or county  
3 within the same planning period as the number of ownership units  
4 to be converted.

5 (C) Units that will be preserved at affordable housing costs to  
6 persons or families of low- or very low incomes with committed  
7 assistance from the city or county by acquisition of the unit or the  
8 purchase of affordability covenants for the unit. For purposes of  
9 this subparagraph, a unit shall not be deemed preserved unless all  
10 of the following occur:

11 (i) The unit has long-term affordability covenants and  
12 restrictions that require the unit to be affordable to, and reserved  
13 for occupancy by, persons of the same or lower income group as  
14 the current occupants for a period of at least 40 years.

15 (ii) The unit is within an “assisted housing development,” as  
16 defined in paragraph (3) of subdivision (a) of Section 65863.10.

17 (iii) The city or county finds, after a public hearing, that the unit  
18 is eligible, and is reasonably expected, to change from housing  
19 affordable to low- and very low income households to any other  
20 use during the next five years due to termination of subsidy  
21 contracts, mortgage prepayment, or expiration of restrictions on  
22 use.

23 (iv) The unit is in decent, safe, and sanitary condition at the  
24 time of occupancy.

25 (v) At the time the unit is identified for preservation it is  
26 available at affordable cost to persons or families of low- or very  
27 low income.

28 ~~(D) Units that are second units on a property that will be~~  
29 ~~converted with committed assistance from the city or county from~~  
30 ~~nonaffordable to affordable to very low or low-income households~~  
31 ~~by the purchase of affordability covenants and restrictions that~~  
32 ~~require the unit to be affordable to, and reserved for occupancy~~  
33 ~~by, very low or low-income households for a period of not less~~  
34 ~~than 40 years.~~

35 (3) This subdivision does not apply to any city or county that,  
36 during the current or immediately prior planning period, as defined  
37 by Section 65588, has not met any of its share of the regional need  
38 for affordable housing, as defined in Section 65584, for low- and  
39 very low income households. A city or county shall document for  
40 any housing unit that a building permit has been issued and all

1 development and permit fees have been paid or the unit is eligible  
2 to be lawfully occupied.

3 (4) For purposes of this subdivision, “committed assistance”  
4 means that the city or county enters into a legally enforceable  
5 agreement during the period from the beginning of the projection  
6 period until the end of the second year of the planning period that  
7 obligates sufficient available funds to provide the assistance  
8 necessary to make the identified units affordable and that requires  
9 that the units be made available for occupancy within two years  
10 of the execution of the agreement. “Committed assistance” does  
11 not include tenant-based rental assistance.

12 (5) For purposes of this subdivision, “net increase” includes  
13 only housing units provided committed assistance pursuant to  
14 subparagraph (A) or (B) of paragraph (2) in the current planning  
15 period, as defined in Section 65588, that were not provided  
16 committed assistance in the immediately prior planning period.

17 (6) For purposes of this subdivision, “the time the unit is  
18 identified” means the earliest time when any city or county agent,  
19 acting on behalf of a public entity, has proposed in writing or has  
20 proposed orally or in writing to the property owner, that the unit  
21 be considered for substantial rehabilitation, acquisition, or  
22 preservation.

23 (7) In the third year of the planning period, as defined by Section  
24 65588, in the report required pursuant to Section 65400, each city  
25 or county that has included in its housing element a program to  
26 provide units pursuant to subparagraph (A), (B), or (C) of  
27 paragraph (2) shall report in writing to the legislative body, and  
28 to the department within 30 days of making its report to the  
29 legislative body, on its progress in providing units pursuant to this  
30 subdivision. The report shall identify the specific units for which  
31 committed assistance has been provided or which have been made  
32 available to low- and very low income households, and it shall  
33 adequately document how each unit complies with this subdivision.  
34 If, by July 1 of the third year of the planning period, the city or  
35 county has not entered into an enforceable agreement of committed  
36 assistance for all units specified in the programs adopted pursuant  
37 to subparagraph (A), (B), or (C) of paragraph (2), the city or county  
38 shall, not later than July 1 of the fourth year of the planning period,  
39 adopt an amended housing element in accordance with Section  
40 65585, identifying additional adequate sites pursuant to paragraph

1 (1) of subdivision (c) of Section 65583 sufficient to accommodate  
2 the number of units for which committed assistance was not  
3 provided. If a city or county does not amend its housing element  
4 to identify adequate sites to address any shortfall, or fails to  
5 complete the rehabilitation, acquisition, purchase of affordability  
6 covenants, or the preservation of any housing unit within two years  
7 after committed assistance was provided to that unit, it shall be  
8 prohibited from identifying units pursuant to subparagraph (A),  
9 (B), or (C) of paragraph (2) in the housing element that it adopts  
10 for the next planning period, as defined in Section 65588, above  
11 the number of units actually provided or preserved due to  
12 committed assistance.