

Assembly Bill No. 116

CHAPTER 62

An act to amend Section 65961 of, and to add Section 66452.24 to, the Government Code, relating to land use, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 2013. Filed with
Secretary of State July 11, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 116, Bocanegra. Land use: subdivision maps: expiration dates.

(1) The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency, and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification thereof. The act generally requires a subdivider to file a tentative map or vesting tentative map with the local agency, as specified, and the local agency, in turn, to approve, conditionally approve, or disapprove the map within a specified time period. The act requires an approved tentative map or vesting tentative map to expire 24 months after its approval, or after an additional period of time prescribed by local ordinance, not to exceed 12 months. However, the act extends the expiration date of certain approved tentative maps and vesting tentative maps, as specified.

This bill would extend by 24 months the expiration date of any approved tentative map or vesting tentative map that was approved on or after January 1, 2000. The bill would additionally require the extension of an approved or conditionally approved tentative map or vesting tentative map, or parcel map for which a tentative map or vesting tentative map was approved on or before December 31, 1999, upon application by the subdivider at least 90 days prior to the expiration of the map, as specified. By adding to the procedures that local agency officials must follow, this bill would impose a state-mandated local program.

(2) The Permit Streamlining Act prohibits a local agency, after its approval of a tentative map for a subdivision of single- or multiple-family residential units, from requiring conformance with, or the performance of, any conditions that the local agency could have lawfully imposed as a condition to the previously approved tentative or parcel map, as a condition to the issuance of any building permit or equivalent permit upon approval of that subdivision, during a 5-year period following the recordation of the final map or parcel map for that subdivision. The act also prohibits a local agency from refusing to issue a building permit or equivalent permit for a subdivider's failure to conform with or perform those conditions. However,

the act also provides that this 5-year period is a 3-year period for a tentative map extended pursuant to a specified provision of law, and the local agency is not prohibited from levying a fee, or imposing a condition that requires the payment of a fee upon the issuance of a building permit, with respect to the underlying units.

This bill would provide that a tentative map extended pursuant to its provisions is also subject to the truncated 3-year period described above, and that the local agency is not prohibited from levying a fee, as specified, or imposing a condition that requires the payment of a fee upon the issuance of a building permit, with respect to the underlying units. By adding to the procedures that local agency officials must follow, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 65961 of the Government Code is amended to read:

65961. Notwithstanding any other provision of law, except as provided in subdivisions (e) and (f), upon approval or conditional approval of a tentative map for a subdivision of single- or multiple-family residential units, or upon recordation of a parcel map for such a subdivision for which no tentative map was required, during the five-year period following recordation of the final map or parcel map for the subdivision, a city, county, or city and county shall not require as a condition to the issuance of any building permit or equivalent permit for such single- or multiple-family residential units, conformance with or the performance of any conditions that the city or county could have lawfully imposed as a condition to the previously approved tentative or parcel map. Nor shall a city, county, or city and county withhold or refuse to issue a building permit or equivalent permit for failure to conform with or perform any conditions that the city, county, or city and county could have lawfully imposed as a condition to the previously approved tentative or parcel map. However, the provisions of this section shall not prohibit a city, county, or city and county from doing any of the following:

(a) Imposing conditions or requirements upon the issuance of a building permit or equivalent permit which could have been lawfully imposed as a condition to the approval of a tentative or parcel map if the local agency finds it necessary to impose the condition or requirement for any of the following reasons:

(1) A failure to do so would place the residents of the subdivision or of the immediate community, or both, in a condition perilous to their health or safety, or both.

(2) The condition is required in order to comply with state or federal law.

(b) Withholding or refusing to issue a building permit or equivalent permit if the local agency finds it is required to do so in order to comply with state or federal law.

(c) Assuring compliance with the applicable zoning ordinance.

(d) This section shall also apply to a city or city and county which incorporates on or after January 1, 1985, and which includes within its boundaries any areas included in the tentative or parcel map described in this section.

When the incorporation includes areas included in the tentative or parcel map described in this section, “a condition that the city could have lawfully imposed as a condition to the previously approved tentative or parcel map,” as used in this section, refers to conditions the county could have imposed had there been no incorporation.

(e) For purposes only of a tentative subdivision map or parcel map that is extended pursuant to Section 66452.22, 66452.23, or 66452.24, the five-year period described in this section shall be three years.

(f) For purposes only of a tentative subdivision map or parcel map that is extended pursuant to Section 66452.22, 66452.23, or 66452.24, this section does not prohibit a city, county, or city and county from levying a fee or imposing a condition that requires the payment of a fee in the amount in effect upon the issuance of a building permit, including an adopted fee that is not included within an applicable zoning ordinance, upon the issuance of a building permit, including, but not limited to, a fee defined in Section 66000.

SEC. 2. Section 66452.24 is added to the Government Code, to read:

66452.24. (a) The expiration date of any tentative map, vesting tentative map, or parcel map for which a tentative map or vesting tentative map, as the case may be, that was approved on or after January 1, 2000, and that has not expired on or before the effective date of the act that added this section, shall be extended by 24 months.

(b) Upon application of the subdivider filed at least 90 days prior to the expiration of the approved or conditionally approved tentative map or vesting tentative map, or parcel map for which the tentative map or vesting tentative map, as the case may be, that was approved on or before December 31, 1999, the time at which the map expires shall be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps, for a period of 24 months upon a determination that the map is consistent with the applicable zoning and general plan requirements in effect when the application is filed. If the map is determined not to be consistent with applicable zoning and general plan requirements in effect when the application is filed, the legislative body or advisory agency may deny or conditionally approve an extension for a period of 24 months. Prior to the expiration of an approved or conditionally approved tentative

map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs last. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(c) The extension provided by subdivisions (a) and (b) shall be in addition to any extension of the expiration date provided for in Section 66452.6, 66452.11, 66452.13, 66452.21, 66452.22, 66452.23, or 66463.5.

(d) Any legislative, administrative, or other approval by any state agency that pertains to a development project included in a map that is extended pursuant to subdivisions (a) and (b) shall be extended by 24 months if this approval has not expired on or before the effective date of the act that added this section. This extension shall be in addition to any extension provided for in Sections 66452.13, 66452.21, 66452.22, and 66452.23.

(e) The provisions of Section 65961 relating to conditions that may be imposed upon or after a building permit for a subdivision of single- or multiple-family residential units or a parcel map for a subdivision for which no tentative map was required, are modified as set forth in subdivisions (e) and (f) of Section 65961 for tentative maps extended pursuant to this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to permit cities, counties, and cities and counties to preserve development applications that are set to expire and that cannot be processed presently due to prevailing adverse economic conditions in the construction industry, it is necessary that this act take effect immediately.