

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2222

Introduced by Assembly Member Nazarian

February 20, 2014

An act to amend ~~Section 65915~~ *Sections 65915 and 65915.5* of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2222, as amended, Nazarian. Housing density bonus.

The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

Existing law requires continued affordability for 30 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus.

This bill instead would require continued affordability for 55 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus. This bill also would prohibit an applicant from receiving a density bonus unless the proposed housing development would ~~maintain the number and proportion of affordable housing units on parcels included within the proposed development.~~

replace the existing affordable units with at least the same number of affordable units of equivalent size or type, or both, and would include the additional required set aside of affordable units according to specified percentages.

Existing law also requires a city, county, or city and county to grant a density bonus or other incentives, as specified, when an applicant for approval to convert apartments to a condominium project agrees, among other things, to provide a specified percentage of units for low or moderate income persons and families or for lower income households, as defined.

This bill also would prohibit an applicant from receiving a density bonus unless the proposed condominium project would replace the existing affordable units with at least the same number of affordable units of equivalent size or type, or both, and would include the additional required set aside of affordable units according to specified percentages.

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. Section 65915 of the Government Code is
- 2 amended to read:
- 3 65915. (a) When an applicant seeks a density bonus for a
- 4 housing development within, or for the donation of land for housing
- 5 within, the jurisdiction of a city, county, or city and county, that
- 6 local government shall provide the applicant with incentives or
- 7 concessions for the production of housing units and child care
- 8 facilities as prescribed in this section. All cities, counties, or cities
- 9 and counties shall adopt an ordinance that specifies how
- 10 compliance with this section will be implemented. Failure to adopt
- 11 an ordinance shall not relieve a city, county, or city and county
- 12 from complying with this section.
- 13 (b) (1) A city, county, or city and county shall grant one density
- 14 bonus, the amount of which shall be as specified in subdivision
- 15 (f), and incentives or concessions, as described in subdivision (d),
- 16 when an applicant for a housing development seeks and agrees to
- 17 construct a housing development, excluding any units permitted
- 18 by the density bonus awarded pursuant to this section, that will
- 19 contain at least any one of the following:

1 (A) Ten percent of the total units of a housing development for
2 lower income households, as defined in Section 50079.5 of the
3 Health and Safety Code.

4 (B) Five percent of the total units of a housing development for
5 very low income households, as defined in Section 50105 of the
6 Health and Safety Code.

7 (C) A senior citizen housing development, as defined in Sections
8 51.3 and 51.12 of the Civil Code, or mobilehome park that limits
9 residency based on age requirements for housing for older persons
10 pursuant to Section 798.76 or 799.5 of the Civil Code.

11 (D) Ten percent of the total dwelling units in a common interest
12 development as defined in Section 4100 of the Civil Code for
13 persons and families of moderate income, as defined in Section
14 50093 of the Health and Safety Code, provided that all units in the
15 development are offered to the public for purchase.

16 (2) For purposes of calculating the amount of the density bonus
17 pursuant to subdivision (f), the applicant who requests a density
18 bonus pursuant to this subdivision shall elect whether the bonus
19 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)
20 of paragraph (1).

21 (3) For the purposes of this section, “total units” or “total
22 dwelling units” does not include units added by a density bonus
23 awarded pursuant to this section or any local law granting a greater
24 density bonus.

25 (c) (1) An applicant shall agree to, and the city, county, or city
26 and county shall ensure, continued affordability of all low- and
27 very low income units that qualified the applicant for the award
28 of the density bonus for 55 years or a longer period of time if
29 required by the construction or mortgage financing assistance
30 program, mortgage insurance program, or rental subsidy program.
31 Rents for the lower income density bonus units shall be set at an
32 affordable rent as defined in Section 50053 of the Health and Safety
33 Code. Owner-occupied units shall be available at an affordable
34 housing cost as defined in Section 50052.5 of the Health and Safety
35 Code.

36 (2) An applicant shall agree to, and the city, county, or city and
37 county shall ensure that, the initial occupant of the
38 moderate-income units that are directly related to the receipt of
39 the density bonus in the common interest development, as defined
40 in Section 4100 of the Civil Code, are persons and families of

1 moderate income, as defined in Section 50093 of the Health and
 2 Safety Code, and that the units are offered at an affordable housing
 3 cost, as that cost is defined in Section 50052.5 of the Health and
 4 Safety Code. The local government shall enforce an equity sharing
 5 agreement, unless it is in conflict with the requirements of another
 6 public funding source or law. The following apply to the equity
 7 sharing agreement:

8 (A) Upon resale, the seller of the unit shall retain the value of
 9 any improvements, the downpayment, and the seller’s proportionate
 10 share of appreciation. The local government shall recapture any
 11 initial subsidy, as defined in subparagraph (B), and its proportionate
 12 share of appreciation, as defined in subparagraph (C), which
 13 amount shall be used within five years for any of the purposes
 14 described in subdivision (e) of Section 33334.2 of the Health and
 15 Safety Code that promote home ownership.

16 (B) For purposes of this subdivision, the local government’s
 17 initial subsidy shall be equal to the fair market value of the home
 18 at the time of initial sale minus the initial sale price to the
 19 moderate-income household, plus the amount of any downpayment
 20 assistance or mortgage assistance. If upon resale the market value
 21 is lower than the initial market value, then the value at the time of
 22 the resale shall be used as the initial market value.

23 (C) For purposes of this subdivision, the local government’s
 24 proportionate share of appreciation shall be equal to the ratio of
 25 the local government’s initial subsidy to the fair market value of
 26 the home at the time of initial sale.

27 (3) An applicant shall be ineligible for a density bonus or any
 28 other incentives or concessions under this section if the housing
 29 development is proposed on any property that includes a parcel or
 30 parcels on which dwelling units have, at any time in the five-year
 31 period preceding the application, been occupied by lower or very
 32 low income households, been subject to a recorded covenant,
 33 ordinance, or law that restricts rents to levels affordable to persons
 34 and families of lower or very low income, or been subject to any
 35 other form of rent or price control through a public entity’s valid
 36 exercise of its police power, unless the proposed housing
 37 development ~~includes~~ *replaces the existing units with* at least the
 38 same number of units *of equivalent size or type, or both*, to be
 39 made available for rent at affordable housing costs to, and occupied
 40 by, persons and families in the same or lower income category in

1 the same proportion as the existing affordable ~~units~~, *units*, and the
2 *proposed housing development includes the additional required*
3 *set aside of affordable units at the percentages set forth in*
4 *subdivision (b).*

5 (d) (1) An applicant for a density bonus pursuant to subdivision
6 (b) may submit to a city, county, or city and county a proposal for
7 the specific incentives or concessions that the applicant requests
8 pursuant to this section, and may request a meeting with the city,
9 county, or city and county. The city, county, or city and county
10 shall grant the concession or incentive requested by the applicant
11 unless the city, county, or city and county makes a written finding,
12 based upon substantial evidence, of any of the following:

13 (A) The concession or incentive is not required in order to
14 provide for affordable housing costs, as defined in Section 50052.5
15 of the Health and Safety Code, or for rents for the targeted units
16 to be set as specified in subdivision (c).

17 (B) The concession or incentive would have a specific adverse
18 impact, as defined in paragraph (2) of subdivision (d) of Section
19 65589.5, upon public health and safety or the physical environment
20 or on any real property that is listed in the California Register of
21 Historical Resources and for which there is no feasible method to
22 satisfactorily mitigate or avoid the specific adverse impact without
23 rendering the development unaffordable to low- and
24 moderate-income households.

25 (C) The concession or incentive would be contrary to state or
26 federal law.

27 (2) The applicant shall receive the following number of
28 incentives or concessions:

29 (A) One incentive or concession for projects that include at least
30 10 percent of the total units for lower income households, at least
31 5 percent for very low income households, or at least 10 percent
32 for persons and families of moderate income in a common interest
33 development.

34 (B) Two incentives or concessions for projects that include at
35 least 20 percent of the total units for lower income households, at
36 least 10 percent for very low income households, or at least 20
37 percent for persons and families of moderate income in a common
38 interest development.

39 (C) Three incentives or concessions for projects that include at
40 least 30 percent of the total units for lower income households, at

1 least 15 percent for very low income households, or at least 30
2 percent for persons and families of moderate income in a common
3 interest development.

4 (3) The applicant may initiate judicial proceedings if the city,
5 county, or city and county refuses to grant a requested density
6 bonus, incentive, or concession. If a court finds that the refusal to
7 grant a requested density bonus, incentive, or concession is in
8 violation of this section, the court shall award the plaintiff
9 reasonable attorney's fees and costs of suit. Nothing in this
10 subdivision shall be interpreted to require a local government to
11 grant an incentive or concession that has a specific, adverse impact,
12 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
13 upon health, safety, or the physical environment, and for which
14 there is no feasible method to satisfactorily mitigate or avoid the
15 specific adverse impact. Nothing in this subdivision shall be
16 interpreted to require a local government to grant an incentive or
17 concession that would have an adverse impact on any real property
18 that is listed in the California Register of Historical Resources.
19 The city, county, or city and county shall establish procedures for
20 carrying out this section, that shall include legislative body
21 approval of the means of compliance with this section.

22 (e) (1) In no case may a city, county, or city and county apply
23 any development standard that will have the effect of physically
24 precluding the construction of a development meeting the criteria
25 of subdivision (b) at the densities or with the concessions or
26 incentives permitted by this section. An applicant may submit to
27 a city, county, or city and county a proposal for the waiver or
28 reduction of development standards that will have the effect of
29 physically precluding the construction of a development meeting
30 the criteria of subdivision (b) at the densities or with the
31 concessions or incentives permitted under this section, and may
32 request a meeting with the city, county, or city and county. If a
33 court finds that the refusal to grant a waiver or reduction of
34 development standards is in violation of this section, the court
35 shall award the plaintiff reasonable attorney's fees and costs of
36 suit. Nothing in this subdivision shall be interpreted to require a
37 local government to waive or reduce development standards if the
38 waiver or reduction would have a specific, adverse impact, as
39 defined in paragraph (2) of subdivision (d) of Section 65589.5,
40 upon health, safety, or the physical environment, and for which

1 there is no feasible method to satisfactorily mitigate or avoid the
 2 specific adverse impact. Nothing in this subdivision shall be
 3 interpreted to require a local government to waive or reduce
 4 development standards that would have an adverse impact on any
 5 real property that is listed in the California Register of Historical
 6 Resources, or to grant any waiver or reduction that would be
 7 contrary to state or federal law.

8 (2) A proposal for the waiver or reduction of development
 9 standards pursuant to this subdivision shall neither reduce nor
 10 increase the number of incentives or concessions to which the
 11 applicant is entitled pursuant to subdivision (d).

12 (f) For the purposes of this chapter, “density bonus” means a
 13 density increase over the otherwise maximum allowable residential
 14 density as of the date of application by the applicant to the city,
 15 county, or city and county. The applicant may elect to accept a
 16 lesser percentage of density bonus. The amount of density bonus
 17 to which the applicant is entitled shall vary according to the amount
 18 by which the percentage of affordable housing units exceeds the
 19 percentage established in subdivision (b).

20 (1) For housing developments meeting the criteria of
 21 subparagraph (A) of paragraph (1) of subdivision (b), the density
 22 bonus shall be calculated as follows:

23	Percentage Low-Income Units	Percentage Density Bonus
24	10	20
25	11	21.5
26	12	23
27	13	24.5
28	14	26
29	15	27.5
30	17	30.5
31	18	32
32	19	33.5
33	20	35
34		
35		
36		

37 (2) For housing developments meeting the criteria of
 38 subparagraph (B) of paragraph (1) of subdivision (b), the density
 39 bonus shall be calculated as follows:

	Percentage Very Low Income Units	Percentage Density Bonus
1		
2	5	20
3	6	22.5
4	7	25
5	8	27.5
6	9	30
7	10	32.5
8	11	35
9		

10 (3) For housing developments meeting the criteria of
 11 subparagraph (C) of paragraph (1) of subdivision (b), the density
 12 bonus shall be 20 percent of the number of senior housing units.

13 (4) For housing developments meeting the criteria of
 14 subparagraph (D) of paragraph (1) of subdivision (b), the density
 15 bonus shall be calculated as follows:

	Percentage Moderate-Income Units	Percentage Density Bonus
16		
17		
18	10	5
19	11	6
20	12	7
21	13	8
22	14	9
23	15	10
24	16	11
25	17	12
26	18	13
27	19	14
28	20	15
29	21	16
30	22	17
31	23	18
32	24	19
33	25	20
34	26	21
35	27	22
36	28	23
37	29	24
38	30	25
39	31	26
40	32	27

1	33	28
2	34	29
3	35	30
4	36	31
5	37	32
6	38	33
7	39	34
8	40	35
9		

10 (5) All density calculations resulting in fractional units shall be
 11 rounded up to the next whole number. The granting of a density
 12 bonus shall not be interpreted, in and of itself, to require a general
 13 plan amendment, local coastal plan amendment, zoning change,
 14 or other discretionary approval.

15 (g) (1) When an applicant for a tentative subdivision map,
 16 parcel map, or other residential development approval donates
 17 land to a city, county, or city and county in accordance with this
 18 subdivision, the applicant shall be entitled to a 15-percent increase
 19 above the otherwise maximum allowable residential density for
 20 the entire development, as follows:

21	Percentage Very Low Income	Percentage Density Bonus
22		
23	10	15
24	11	16
25	12	17
26	13	18
27	14	19
28	15	20
29	16	21
30	17	22
31	18	23
32	19	24
33	20	25
34	21	26
35	22	27
36	23	28
37	24	29
38	25	30
39	26	31
40	27	32

1	28	33
2	29	34
3	30	35
4		

5 (2) This increase shall be in addition to any increase in density
6 mandated by subdivision (b), up to a maximum combined mandated
7 density increase of 35 percent if an applicant seeks an increase
8 pursuant to both this subdivision and subdivision (b). All density
9 calculations resulting in fractional units shall be rounded up to the
10 next whole number. Nothing in this subdivision shall be construed
11 to enlarge or diminish the authority of a city, county, or city and
12 county to require a developer to donate land as a condition of
13 development. An applicant shall be eligible for the increased
14 density bonus described in this subdivision if all of the following
15 conditions are met:

16 (A) The applicant donates and transfers the land no later than
17 the date of approval of the final subdivision map, parcel map, or
18 residential development application.

19 (B) The developable acreage and zoning classification of the
20 land being transferred are sufficient to permit construction of units
21 affordable to very low income households in an amount not less
22 than 10 percent of the number of residential units of the proposed
23 development.

24 (C) The transferred land is at least one acre in size or of
25 sufficient size to permit development of at least 40 units, has the
26 appropriate general plan designation, is appropriately zoned with
27 appropriate development standards for development at the density
28 described in paragraph (3) of subdivision (c) of Section 65583.2,
29 and is or will be served by adequate public facilities and
30 infrastructure.

31 (D) The transferred land shall have all of the permits and
32 approvals, other than building permits, necessary for the
33 development of the very low income housing units on the
34 transferred land, not later than the date of approval of the final
35 subdivision map, parcel map, or residential development
36 application, except that the local government may subject the
37 proposed development to subsequent design review to the extent
38 authorized by subdivision (i) of Section 65583.2 if the design is
39 not reviewed by the local government prior to the time of transfer.

1 (E) The transferred land and the affordable units shall be subject
2 to a deed restriction ensuring continued affordability of the units
3 consistent with paragraphs (1) and (2) of subdivision (c), which
4 shall be recorded on the property at the time of the transfer.

5 (F) The land is transferred to the local agency or to a housing
6 developer approved by the local agency. The local agency may
7 require the applicant to identify and transfer the land to the
8 developer.

9 (G) The transferred land shall be within the boundary of the
10 proposed development or, if the local agency agrees, within
11 one-quarter mile of the boundary of the proposed development.

12 (H) A proposed source of funding for the very low income units
13 shall be identified not later than the date of approval of the final
14 subdivision map, parcel map, or residential development
15 application.

16 (h) (1) When an applicant proposes to construct a housing
17 development that conforms to the requirements of subdivision (b)
18 and includes a child care facility that will be located on the
19 premises of, as part of, or adjacent to, the project, the city, county,
20 or city and county shall grant either of the following:

21 (A) An additional density bonus that is an amount of square
22 feet of residential space that is equal to or greater than the amount
23 of square feet in the child care facility.

24 (B) An additional concession or incentive that contributes
25 significantly to the economic feasibility of the construction of the
26 child care facility.

27 (2) The city, county, or city and county shall require, as a
28 condition of approving the housing development, that the following
29 occur:

30 (A) The child care facility shall remain in operation for a period
31 of time that is as long as or longer than the period of time during
32 which the density bonus units are required to remain affordable
33 pursuant to subdivision (c).

34 (B) Of the children who attend the child care facility, the
35 children of very low income households, lower income households,
36 or families of moderate income shall equal a percentage that is
37 equal to or greater than the percentage of dwelling units that are
38 required for very low income households, lower income
39 households, or families of moderate income pursuant to subdivision
40 (b).

1 (3) Notwithstanding any requirement of this subdivision, a city,
2 county, or city and county shall not be required to provide a density
3 bonus or concession for a child care facility if it finds, based upon
4 substantial evidence, that the community has adequate child care
5 facilities.

6 (4) “Child care facility,” as used in this section, means a child
7 day care facility other than a family day care home, including, but
8 not limited to, infant centers, preschools, extended day care
9 facilities, and schoolage child care centers.

10 (i) “Housing development,” as used in this section, means a
11 development project for five or more residential units. For the
12 purposes of this section, “housing development” also includes a
13 subdivision or common interest development, as defined in Section
14 4100 of the Civil Code, approved by a city, county, or city and
15 county and consists of residential units or unimproved residential
16 lots and either a project to substantially rehabilitate and convert
17 an existing commercial building to residential use or the substantial
18 rehabilitation of an existing multifamily dwelling, as defined in
19 subdivision (d) of Section 65863.4, where the result of the
20 rehabilitation would be a net increase in available residential units.
21 For the purpose of calculating a density bonus, the residential units
22 shall be on contiguous sites that are the subject of one development
23 application, but do not have to be based upon individual
24 subdivision maps or parcels. The density bonus shall be permitted
25 in geographic areas of the housing development other than the
26 areas where the units for the lower income households are located.

27 (j) The granting of a concession or incentive shall not be
28 interpreted, in and of itself, to require a general plan amendment,
29 local coastal plan amendment, zoning change, or other discretionary
30 approval. This provision is declaratory of existing law.

31 (k) For the purposes of this chapter, concession or incentive
32 means any of the following:

33 (1) A reduction in site development standards or a modification
34 of zoning code requirements or architectural design requirements
35 that exceed the minimum building standards approved by the
36 California Building Standards Commission as provided in Part 2.5
37 (commencing with Section 18901) of Division 13 of the Health
38 and Safety Code, including, but not limited to, a reduction in
39 setback and square footage requirements and in the ratio of
40 vehicular parking spaces that would otherwise be required that

1 results in identifiable, financially sufficient, and actual cost
2 reductions.

3 (2) Approval of mixed-use zoning in conjunction with the
4 housing project if commercial, office, industrial, or other land uses
5 will reduce the cost of the housing development and if the
6 commercial, office, industrial, or other land uses are compatible
7 with the housing project and the existing or planned development
8 in the area where the proposed housing project will be located.

9 (3) Other regulatory incentives or concessions proposed by the
10 developer or the city, county, or city and county that result in
11 identifiable, financially sufficient, and actual cost reductions.

12 (l) Subdivision (k) does not limit or require the provision of
13 direct financial incentives for the housing development, including
14 the provision of publicly owned land, by the city, county, or city
15 and county, or the waiver of fees or dedication requirements.

16 (m) This section shall not be construed to supersede or in any
17 way alter or lessen the effect or application of the California
18 Coastal Act of 1976 (Division 20 (commencing with Section
19 30000) of the Public Resources Code).

20 (n) If permitted by local ordinance, nothing in this section shall
21 be construed to prohibit a city, county, or city and county from
22 granting a density bonus greater than what is described in this
23 section for a development that meets the requirements of this
24 section or from granting a proportionately lower density bonus
25 than what is required by this section for developments that do not
26 meet the requirements of this section.

27 (o) For purposes of this section, the following definitions shall
28 apply:

29 (1) “Development standard” includes a site or construction
30 condition, including, but not limited to, a height limitation, a
31 setback requirement, a floor area ratio, an onsite open-space
32 requirement, or a parking ratio that applies to a residential
33 development pursuant to any ordinance, general plan element,
34 specific plan, charter, or other local condition, law, policy,
35 resolution, or regulation.

36 (2) “Maximum allowable residential density” means the density
37 allowed under the zoning ordinance and land use element of the
38 general plan, or if a range of density is permitted, means the
39 maximum allowable density for the specific zoning range and land
40 use element of the general plan applicable to the project. Where

1 the density allowed under the zoning ordinance is inconsistent
2 with the density allowed under the land use element of the general
3 plan, the general plan density shall prevail.

4 (p) (1) Upon the request of the developer, no city, county, or
5 city and county shall require a vehicular parking ratio, inclusive
6 of handicapped and guest parking, of a development meeting the
7 criteria of subdivision (b), that exceeds the following ratios:

8 (A) Zero to one bedroom: one onsite parking space.

9 (B) Two to three bedrooms: two onsite parking spaces.

10 (C) Four and more bedrooms: two and one-half parking spaces.

11 (2) If the total number of parking spaces required for a
12 development is other than a whole number, the number shall be
13 rounded up to the next whole number. For purposes of this
14 subdivision, a development may provide “onsite parking” through
15 tandem parking or uncovered parking, but not through onstreet
16 parking.

17 (3) This subdivision shall apply to a development that meets
18 the requirements of subdivision (b) but only at the request of the
19 applicant. An applicant may request parking incentives or
20 concessions beyond those provided in this subdivision pursuant
21 to subdivision (d).

22 *SEC. 2. Section 65915.5 of the Government Code is amended*
23 *to read:*

24 65915.5. (a) When an applicant for approval to convert
25 apartments to a condominium project agrees to provide at least 33
26 percent of the total units of the proposed condominium project to
27 persons and families of low or moderate income as defined in
28 Section 50093 of the Health and Safety Code, or 15 percent of the
29 total units of the proposed condominium project to lower income
30 households as defined in Section 50079.5 of the Health and Safety
31 Code, and agrees to pay for the reasonably necessary administrative
32 costs incurred by a city, county, or city and county pursuant to this
33 section, the city, county, or city and county shall either (1) grant
34 a density bonus or (2) provide other incentives of equivalent
35 financial value. A city, county, or city and county may place such
36 reasonable conditions on the granting of a density bonus or other
37 incentives of equivalent financial value as it finds appropriate,
38 including, but not limited to, conditions which assure continued
39 affordability of units to subsequent purchasers who are persons

1 and families of low and moderate income or lower income
2 households.

3 (b) For purposes of this section, “density bonus” means an
4 increase in units of 25 percent over the number of apartments, to
5 be provided within the existing structure or structures proposed
6 for conversion.

7 (c) For purposes of this section, “other incentives of equivalent
8 financial value” shall not be construed to require a city, county,
9 or city and county to provide cash transfer payments or other
10 monetary compensation but may include the reduction or waiver
11 of requirements which the city, county, or city and county might
12 otherwise apply as conditions of conversion approval.

13 (d) An applicant for approval to convert apartments to a
14 condominium project may submit to a city, county, or city and
15 county a preliminary proposal pursuant to this section prior to the
16 submittal of any formal requests for subdivision map approvals.
17 The city, county, or city and county shall, within 90 days of receipt
18 of a written proposal, notify the applicant in writing of the manner
19 in which it will comply with this section. The city, county, or city
20 and county shall establish procedures for carrying out this section,
21 which shall include legislative body approval of the means of
22 compliance with this section.

23 (e) Nothing in this section shall be construed to require a city,
24 county, or city and county to approve a proposal to convert
25 apartments to condominiums.

26 (f) An applicant shall be ineligible for a density bonus or other
27 incentives under this section if the apartments proposed for
28 conversion constitute a housing development for which a density
29 bonus or other incentives were provided under Section 65915.

30 (g) *An applicant shall be ineligible for a density bonus or any*
31 *other incentives or concessions under this section if the*
32 *condominium project is proposed on any property that includes a*
33 *parcel or parcels on which dwelling units have, at any time in the*
34 *five-year period preceding the application, been occupied by lower*
35 *or very low income households, been subject to a recorded*
36 *covenant, ordinance, or law that restricts rents to levels affordable*
37 *to persons and families of lower or very low income, or been*
38 *subject to any other form of rent or price control through a public*
39 *entity’s valid exercise of its police power, unless the proposed*
40 *condominium project replaces the existing units with at least the*

1 *same number of units of equivalent size or type, or both, to be*
2 *made available for sale at affordable housing costs to, and*
3 *occupied by, persons and families in the same or lower income*
4 *category in the same proportion as the existing affordable units,*
5 *and the proposed condominium project includes the additional*
6 *required set aside of affordable units at the percentages set forth*
7 *in subdivision (a).*

O