

AMENDED IN ASSEMBLY JUNE 2, 2015  
AMENDED IN ASSEMBLY MARCH 26, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 744**

---

---

**Introduced by Assembly Member Chau**  
*(Principal coauthor: Assembly Member Gonzalez)*

February 25, 2015

---

---

An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 744, as amended, Chau. Planning and zoning: density bonuses.

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 55 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus. Existing law prohibits a city, county, or city and county from requiring a vehicular parking ratio for a housing development that meets these criteria in excess of specified ratios. This prohibition applies only at the request of the developer and specifies that the developer may request additional parking incentives or concessions.

~~This bill would additionally prohibit, at the request of the developer, a city, county, or city and county from imposing a minimum onsite parking requirement on a development that is located within one-half mile of a major transit stop, is a senior housing development, or is a special needs housing development, as those terms are defined. The bill would specify that a city, county, or city and county may impose a maximum onsite parking requirement for a development.~~

*This bill would, notwithstanding the above-described provisions, additionally prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio in excess of 0.5 spaces per bedroom on a development that includes the maximum percentage of low- and very low income units, as specified, and is located within one-half mile of a major transit stop, as defined, and there is unobstructed access to the transit stop from the development. The bill would also prohibit, at the request of the developer, a city, county, or city and county from imposing a vehicular parking ratio in excess of specified amounts per unit on a development that consists solely of units with an affordable housing cost to lower income households, as specified, if the development is within one-half mile of a major transit stop and there is unobstructed access to the transit stop from the development, is a for-rent housing development for individuals that are 62 years of age or older, or is a special needs housing development, as those terms are defined. The bill would make findings and declarations in this regard, including that this constitutes a matter of statewide concern and is not a municipal affair.*

By imposing additional duties on local governments in awarding density bonuses, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1     *SECTION 1. The Legislature finds and declares all of the*  
2 *following:*

3     *(a) Having a healthy housing market that provides an adequate*  
4 *supply of homes that are affordable to Californians at all income*  
5 *levels is critical to the economic prosperity and quality of life in*  
6 *the state.*

7     *(b) There exists a severe shortage of affordable housing,*  
8 *especially for persons and families of extremely low, very low and*  
9 *low income, and there is an immediate need to encourage the*  
10 *development of new housing, not only through the provision of*  
11 *financial assistance but also through reforms to regulation.*

12     *(c) Affordable housing is expensive to build in California.*

13     *(d) The cost of building affordable housing in California is*  
14 *impacted by local opposition, changes imposed by local design*  
15 *and review, and requirements for on-site parking.*

16     *(e) The average construction cost per space, excluding land*  
17 *cost, in a parking structure in the United States is about \$24,000*  
18 *for aboveground parking and \$34,000 for underground parking.*  
19 *In an affordable housing project with a fixed budget, every \$24,000*  
20 *spent on a required parking space is \$24,000 less to spend on*  
21 *housing.*

22     *(f) The biggest single determinant of vehicle miles traveled and*  
23 *therefore greenhouse gas emissions is ownership of a private*  
24 *vehicle.*

25     *(g) A review of developments funded through the Department*  
26 *of Housing and Community Development's Transit-Oriented*  
27 *Development Implementation Program (TOD program) shows*  
28 *that lower Income households drive 25 to 30 percent fewer miles*  
29 *when living within one-half mile of transit than those living in*  
30 *non-TOD program areas. When living within one-quarter mile of*  
31 *frequent transit, they drove nearly 50 percent less.*

32     *(h) When cities require off-street parking with all new residential*  
33 *construction, they shift what should be the cost of driving, the cost*  
34 *of parking a car, into the cost of housing, which artificially*  
35 *increases the cost of housing.*

36     *(i) Increases in public transportation and shared mobility*  
37 *options and the development of more walkable and bikeable*  
38 *neighborhoods reduce the demand for parking.*

1 (j) Consistent with Chapter 488 of the Statutes of 2006 (AB 32)  
2 and Chapter 728 of the Statutes of 2008 (SB 375), it is state policy  
3 to promote transit-oriented infill development to reduce greenhouse  
4 gas emissions.

5 (k) The high cost of the land and improvements required to  
6 provide parking significantly increases the cost of transit-oriented  
7 development, making lower cost and affordable housing  
8 development financially infeasible and hindering the goals of SB  
9 375.

10 (l) Eliminating minimum parking requirements will allow the  
11 limited funding available for affordable housing to support more  
12 housing for more Californians. A given housing subsidy fund can  
13 benefit about 6.5 times more households with no parking spaces  
14 than households with 2 spaces per unit.

15 (m) Minimum parking requirements provide large subsidies for  
16 parking, which in turn encourage more people to drive cars.

17 (n) Minimum parking requirements create a barrier to effective  
18 use of the density bonus law contained in Section 65915 of the  
19 Government Code. The parking required for the extra units adds  
20 construction and land costs that may be prohibitive and requires  
21 vacant land that may be unavailable, especially in locations near  
22 transit.

23 (o) Increasing the supply of affordable housing near transit  
24 helps achieve deeper affordability through reduced transportation  
25 costs, in addition to reduced housing costs.

26 (p) Governmental parking requirements for infill and  
27 transit-oriented development reduce the viability of transit by  
28 limiting the number of households or workers near transit,  
29 increasing walking distances, and degrading the pedestrian  
30 environment.

31 (q) Reducing or eliminating minimum parking requirements for  
32 infill and transit-oriented development and allowing builders and  
33 the market to decide how much parking is needed can achieve all  
34 of the following:

35 (1) Ensure sufficient amounts of parking at almost all times.

36 (2) Reduce the cost of development and increase the number of  
37 transit-accessible and affordable housing units.

38 (3) Allow for more effective use of the density bonus law.

39 (4) Increase density in areas with the most housing demand,  
40 and improve the viability of developing alternate modes of

1 *transportation, such as public transit, ridesharing, biking, and*  
2 *walking.*

3 *(5) Reduce greenhouse gas emissions and vehicle miles traveled*  
4 *by removing an incentive to drive.*

5 *(r) It is the intent of the Legislature to reduce the cost of*  
6 *development by eliminating excessive minimum parking*  
7 *requirements for transit-oriented developments that includes*  
8 *affordable housing, senior housing, and special needs housing.*

9 *(s) The Legislature further declares that the need to address*  
10 *infill development and excessive parking requirements is a matter*  
11 *of statewide concern and is not a municipal affair as that term is*  
12 *used in Section 5 of Article XI of the California Constitution.*  
13 *Therefore, this act shall apply to all cities, including charter cities.*

14 **SECTION 1.**

15 *SEC. 2.* Section 65915 of the Government Code is amended  
16 to read:

17 65915. (a) When an applicant seeks a density bonus for a  
18 housing development within, or for the donation of land for housing  
19 within, the jurisdiction of a city, county, or city and county, that  
20 local government shall provide the applicant with incentives or  
21 concessions for the production of housing units and child care  
22 facilities as prescribed in this section. All cities, counties, or cities  
23 and counties shall adopt an ordinance that specifies how  
24 compliance with this section will be implemented. Failure to adopt  
25 an ordinance shall not relieve a city, county, or city and county  
26 from complying with this section.

27 (b) (1) A city, county, or city and county shall grant one density  
28 bonus, the amount of which shall be as specified in subdivision  
29 (f), and incentives or concessions, as described in subdivision (d),  
30 when an applicant for a housing development seeks and agrees to  
31 construct a housing development, excluding any units permitted  
32 by the density bonus awarded pursuant to this section, that will  
33 contain at least any one of the following:

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

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

1 (C) A senior citizen housing development, as defined in Sections  
 2 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits  
 3 residency based on age requirements for housing for older persons  
 4 pursuant to Section 798.76 or 799.5 of the Civil Code.

5 (D) Ten percent of the total dwelling units in a common interest  
 6 development, as defined in Section 4100 of the Civil Code, for  
 7 persons and families of moderate income, as defined in Section  
 8 50093 of the Health and Safety Code, provided that all units in the  
 9 development are offered to the public for purchase.

10 (2) For purposes of calculating the amount of the density bonus  
 11 pursuant to subdivision (f), an applicant who requests a density  
 12 bonus pursuant to this subdivision shall elect whether the bonus  
 13 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)  
 14 of paragraph (1).

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

19 (c) (1) An applicant shall agree to, and the city, county, or city  
 20 and county shall ensure, the continued affordability of all very low  
 21 and low-income rental units that qualified the applicant for the  
 22 award of the density bonus for 55 years or a longer period of time  
 23 if required by the construction or mortgage financing assistance  
 24 program, mortgage insurance program, or rental subsidy program.  
 25 Rents for the lower income density bonus units shall be set at an  
 26 affordable rent as defined in Section 50053 of the Health and Safety  
 27 Code.

28 (2) An applicant shall agree to, and the city, county, or city and  
 29 county shall ensure that, the initial occupant of all for-sale units  
 30 that qualified the applicant for the award of the density bonus are  
 31 persons and families of very low, low, or moderate income, as  
 32 required, and that the units are offered at an affordable housing  
 33 cost, as that cost is defined in Section 50052.5 of the Health and  
 34 Safety Code. The local government shall enforce an equity sharing  
 35 agreement, unless it is in conflict with the requirements of another  
 36 public funding source or law. The following apply to the equity  
 37 sharing agreement:

38 (A) Upon resale, the seller of the unit shall retain the value of  
 39 any improvements, the downpayment, and the seller’s proportionate  
 40 share of appreciation. The local government shall recapture any

1 initial subsidy, as defined in subparagraph (B), and its proportionate  
2 share of appreciation, as defined in subparagraph (C), which  
3 amount shall be used within five years for any of the purposes  
4 described in subdivision (e) of Section 33334.2 of the Health and  
5 Safety Code that promote home ownership.

6 (B) For purposes of this subdivision, the local government's  
7 initial subsidy shall be equal to the fair market value of the home  
8 at the time of initial sale minus the initial sale price to the  
9 moderate-income household, plus the amount of any downpayment  
10 assistance or mortgage assistance. If upon resale the market value  
11 is lower than the initial market value, then the value at the time of  
12 the resale shall be used as the initial market value.

13 (C) For purposes of this subdivision, the local government's  
14 proportionate share of appreciation shall be equal to the ratio of  
15 the local government's initial subsidy to the fair market value of  
16 the home at the time of initial sale.

17 (3) (A) An applicant shall be ineligible for a density bonus or  
18 any other incentives or concessions under this section if the housing  
19 development is proposed on any property that includes a parcel or  
20 parcels on which rental dwelling units are or, if the dwelling units  
21 have been vacated or demolished in the five-year period preceding  
22 the application, have been subject to a recorded covenant,  
23 ordinance, or law that restricts rents to levels affordable to persons  
24 and families of lower or very low income; subject to any other  
25 form of rent or price control through a public entity's valid exercise  
26 of its police power; or occupied by lower or very low income  
27 households, unless the proposed housing development replaces  
28 those units, and either of the following applies:

29 (i) The proposed housing development, inclusive of the units  
30 replaced pursuant to this paragraph, contains affordable units at  
31 the percentages set forth in subdivision (b).

32 (ii) Each unit in the development, exclusive of a manager's unit  
33 or units, is affordable to, and occupied by, either a lower or very  
34 low income household.

35 (B) For the purposes of this paragraph, "replace" shall mean  
36 either of the following:

37 (i) If any dwelling units described in subparagraph (A) are  
38 occupied on the date of application, the proposed housing  
39 development shall provide at least the same number of units of  
40 equivalent size or type, or both, to be made available at affordable

1 rent or affordable housing cost to, and occupied by, persons and  
2 families in the same or lower income category as those households  
3 in occupancy. For unoccupied dwelling units described in  
4 subparagraph (A) in a development with occupied units, the  
5 proposed housing development shall provide units of equivalent  
6 size or type, or both, to be made available at affordable rent or  
7 affordable housing cost to, and occupied by, persons and families  
8 in the same or lower income category in the same proportion of  
9 affordability as the occupied units. All replacement calculations  
10 resulting in fractional units shall be rounded up to the next whole  
11 number. If the replacement units will be rental dwelling units,  
12 these units shall be subject to a recorded affordability restriction  
13 for at least 55 years. If the proposed development is for-sale units,  
14 the units replaced shall be subject to paragraph (2).

15 (ii) If all dwelling units described in subparagraph (A) have  
16 been vacated or demolished within the five-year period preceding  
17 the application, the proposed housing development shall provide  
18 at least the same number of units of equivalent size or type, or  
19 both, as existed at the highpoint of those units in the five-year  
20 period preceding the application to be made available at affordable  
21 rent or affordable housing cost to, and occupied by, persons and  
22 families in the same or lower income category as those persons  
23 and families in occupancy at that time, if known. If the incomes  
24 of the persons and families in occupancy at the highpoint is not  
25 known, then one-half of the required units shall be made available  
26 at affordable rent or affordable housing cost to, and occupied by,  
27 very low income persons and families and one-half of the required  
28 units shall be made available for rent at affordable housing costs  
29 to, and occupied by, low-income persons and families. All  
30 replacement calculations resulting in fractional units shall be  
31 rounded up to the next whole number. If the replacement units will  
32 be rental dwelling units, these units shall be subject to a recorded  
33 affordability restriction for at least 55 years. If the proposed  
34 development is for-sale units, the units replaced shall be subject  
35 to paragraph (2).

36 (C) Paragraph (3) of subdivision (c) does not apply to an  
37 applicant seeking a density bonus for a proposed housing  
38 development if his or her application was submitted to, or  
39 processed by, a city, county, or city and county before January 1,  
40 2015.



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

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

13 (B) The concession or incentive would have a specific adverse  
14 impact, as defined in paragraph (2) of subdivision (d) of Section  
15 65589.5, upon public health and safety or the physical environment  
16 or on any real property that is listed in the California Register of  
17 Historical Resources and for which there is no feasible method to  
18 satisfactorily mitigate or avoid the specific adverse impact without  
19 rendering the development unaffordable to low- and  
20 moderate-income households.

21 (C) The concession or incentive would be contrary to state or  
22 federal law.

23 (2) The applicant shall receive the following number of  
24 incentives or concessions:

25 (A) One incentive or concession for projects that include at least  
26 10 percent of the total units for lower income households, at least  
27 5 percent for very low income households, or at least 10 percent  
28 for persons and families of moderate income in a common interest  
29 development.

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

35 (C) Three incentives or concessions for projects that include at  
36 least 30 percent of the total units for lower income households, at  
37 least 15 percent for very low income households, or at least 30  
38 percent for persons and families of moderate income in a common  
39 interest development.

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

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

1 development standards that would have an adverse impact on any  
2 real property that is listed in the California Register of Historical  
3 Resources, or to grant any waiver or reduction that would be  
4 contrary to state or federal law.

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

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

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

20	Percentage Low-Income Units	Percentage Density
21		Bonus
22	10	20
23	11	21.5
24	12	23
25	13	24.5
26	14	26
27	15	27.5
28	17	30.5
29	18	32
30	19	33.5
31	20	35
32		
33		

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

37	Percentage Very Low Income Units	Percentage Density Bonus
38	5	20
39	6	22.5
40		

1	7	25
2	8	27.5
3	9	30
4	10	32.5
5	11	35
6		

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

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

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

1	36	31
2	37	32
3	38	33
4	39	34
5	40	35

7 (5) All density ~~calculations, including, but not limited to,~~  
8 ~~maximum allowable density, total affordable units, and the total~~  
9 ~~amount of density bonus,~~ *calculations* resulting in fractional units  
10 shall be rounded up to the next whole number. The granting of a  
11 density bonus shall not be interpreted, in and of itself, to require  
12 a general plan amendment, local coastal plan amendment, zoning  
13 change, or other discretionary approval.

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

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

1	29	34
2	30	35
3		

4 (2) This increase shall be in addition to any increase in density  
5 mandated by subdivision (b), up to a maximum combined mandated  
6 density increase of 35 percent if an applicant seeks an increase  
7 pursuant to both this subdivision and subdivision (b). All density  
8 calculations, ~~including, but not limited to, maximum allowable~~  
9 ~~density, total affordable units, and the total amount of density~~  
10 ~~bonus, calculations~~ resulting in fractional units shall be rounded  
11 up to the next whole number. Nothing in this subdivision shall be  
12 construed to enlarge or diminish the authority of a city, county, or  
13 city and county to require a developer to donate land as a condition  
14 of development. An applicant shall be eligible for the increased  
15 density bonus described in this subdivision if all of the following  
16 conditions are met:

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

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

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

32 (D) The transferred land shall have all of the permits and  
33 approvals, other than building permits, necessary for the  
34 development of the very low income housing units on the  
35 transferred land, not later than the date of approval of the final  
36 subdivision map, parcel map, or residential development  
37 application, except that the local government may subject the  
38 proposed development to subsequent design review to the extent  
39 authorized by subdivision (i) of Section 65583.2 if the design is  
40 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) (1) 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 (2) Except as provided in subdivisions (d) and (e), the granting  
32 of a density bonus shall not be interpreted to require the waiver of  
33 a local ordinance or provisions of a local ordinance unrelated to  
34 development standards.

35 (k) For the purposes of this chapter, concession or incentive  
36 means any of the following:  
37 (1) A reduction in site development standards or a modification  
38 of zoning code requirements or architectural design requirements  
39 that exceed the minimum building standards approved by the  
40 California Building Standards Commission as provided in Part 2.5



1 (commencing with Section 18901) of Division 13 of the Health  
2 and Safety Code, including, but not limited to, a reduction in  
3 setback and square footage requirements and in the ratio of  
4 vehicular parking spaces that would otherwise be required that  
5 results in identifiable, financially sufficient, and actual cost  
6 reductions.

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

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

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

20 (m) This section does not supersede or in any way alter or lessen  
21 the effect or application of the California Coastal Act of 1976  
22 (Division 20 (commencing with Section 30000) of the Public  
23 Resources Code).

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

31 (o) For purposes of this section, the following definitions shall  
32 apply:

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

1 (2) “Maximum allowable residential density” means the density  
 2 allowed under the zoning ordinance and land use element of the  
 3 general plan, or if a range of density is permitted, means the  
 4 maximum allowable density for the specific zoning range and land  
 5 use element of the general plan applicable to the project. Where  
 6 the density allowed under the zoning ordinance is inconsistent  
 7 with the density allowed under the land use element of the general  
 8 plan, the general plan density shall prevail.

9 (p) (1) ~~Upon the request of the developer, Except as provided~~  
 10 ~~in paragraphs (2) and (3), a city, county, or city and county shall~~  
 11 ~~not require a vehicular parking ratio, inclusive of handicapped and~~  
 12 ~~guest parking, of a development meeting the criteria of subdivision~~  
 13 ~~(b), that exceeds the following ratios:~~

- 14 (A) Zero to one bedroom: one onsite parking space.
- 15 (B) Two to three bedrooms: two onsite parking spaces.
- 16 (C) Four and more bedrooms: two and one-half parking spaces.

17 ~~(2) If the total number of parking spaces required for a~~  
 18 ~~development is other than a whole number, the number shall be~~  
 19 ~~rounded up to the next whole number. For purposes of this~~  
 20 ~~subdivision, a development may provide “onsite parking” through~~  
 21 ~~tandem parking or uncovered parking, but not through onstreet~~  
 22 ~~parking.~~

23 ~~(3) Upon the request of the developer, a city, county, or city~~  
 24 ~~and county shall not impose a minimum onsite parking requirement~~  
 25 ~~on a development that meets any of the following criteria:~~

26 (A) ~~The development is located within one-half mile of a major~~  
 27 ~~transit stop. For the purposes of this subparagraph, “major transit~~  
 28 ~~stop” has the same meaning as that term is defined in Section~~  
 29 ~~21064.3 of the Public Resources Code and also includes a major~~  
 30 ~~transit stop that is included in the applicable regional transportation~~  
 31 ~~plan. A project shall be considered to be within one-half mile of~~  
 32 ~~a major transit stop if all parcels within the project have no more~~  
 33 ~~than 25 percent of their area farther than one-half mile of the major~~  
 34 ~~transit stop and if not more than 10 percent of the residential units~~  
 35 ~~or 100 units, whichever is fewer, in the project are farther than~~  
 36 ~~one-half mile from the major transit stop.~~

37 (B) ~~The development is a senior citizen housing development,~~  
 38 ~~as defined in Sections 51.3 and 51.12 of the Civil Code.~~

39 (2) *Notwithstanding paragraph (1), if a development includes*  
 40 *the maximum percentage of low- and very low income units*

1 provided for in paragraphs (1) and (2) of subdivision (f) and is  
2 located within one-half mile of a major transit stop, as defined in  
3 subdivision (b) of Section 21155 of the Public Resources Code,  
4 and there is unobstructed access to the major transit stop from the  
5 development, then, upon the request of the developer, a city, county,  
6 or city and county shall not impose a vehicular parking ratio that  
7 exceeds 0.5 spaces per bedroom.

8 (3) Notwithstanding paragraph (1), if a development consists  
9 solely of rental units, exclusive of a manager's unit or units, with  
10 an affordable housing cost to lower income families, as provided  
11 in Section 50052.5 of the Health and Safety Code, then, upon the  
12 request of the developer, a city, county, or city and county shall  
13 not impose a minimum vehicular parking requirement, if the  
14 development meets any of the following criteria:

15 (A) The development is located within one-half mile of a major  
16 transit stop, as defined in subdivision (b) of Section 21155 of the  
17 Public Resources Code, and there is unobstructed access to the  
18 major transit stop from the development.

19 (B) The development is a for-rent housing development for  
20 individuals who are 62 years of age or older.

21 (C) The development is a special needs housing development,  
22 as defined in Section 51312 of the Health and Safety Code.

23 ~~(4) Notwithstanding paragraph (3), this subdivision does not~~  
24 ~~preclude a city, county, or city and county from imposing a~~  
25 ~~maximum onsite parking requirement for a development.~~

26 (4) If the total number of parking spaces required for a  
27 development is other than a whole number, the number shall be  
28 rounded up to the next whole number. For purposes of this  
29 subdivision, a development may provide on-site parking through  
30 tandem parking or uncovered parking, but not through on-street  
31 parking.

32 (5) This subdivision shall apply to a development that meets  
33 the requirements of subdivision (b) but only at the request of the  
34 applicant. An applicant may request parking incentives or  
35 concessions beyond those provided in this subdivision pursuant  
36 to subdivision (d).

37 (6) This subdivision does not preclude a city, county, or city  
38 and county from reducing or eliminating a parking requirement  
39 for development projects of any type in any location.

1     (7) *Notwithstanding paragraphs (2) and (3), a city, county, or*  
2 *city and county may impose a higher parking standard, not to*  
3 *exceed the standard described in paragraph (1), based upon*  
4 *substantial evidence found in an area-wide, or jurisdiction-wide*  
5 *parking study conducted by an independent consultant within the*  
6 *last 5 years, that includes, but is not limited to, an analysis of*  
7 *parking availability, differing levels of transit access, walkability*  
8 *access to transit services, the potential for shared parking, and*  
9 *the effect of parking requirements on the cost of market-rate and*  
10 *subsidized developments. The city, county, or city and county shall*  
11 *make findings supporting the need for the higher parking ratio.*

12     ~~SEC. 2.~~

13     SEC. 3. If the Commission on State Mandates determines that  
14 this act contains costs mandated by the state, reimbursement to  
15 local agencies and school districts for those costs shall be made  
16 pursuant to Part 7 (commencing with Section 17500) of Division  
17 4 of Title 2 of the Government Code.