

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1268**

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**Introduced by Assembly Member Steinorth**  
*(Principal coauthor: Assembly Member Kim)*  
*(Coauthors: Assembly Members Brough, Harper, Mayes, Olsen, and Wilk)*

February 27, 2015

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An act to amend Section 21159.21 of the Public Resources Code, relating to the California Environmental Quality Act.

LEGISLATIVE COUNSEL'S DIGEST

AB 1268, as amended, Steinorth. California Environmental Quality Act: exemption for a housing project.

The California Environmental Quality Act (CEQA) generally requires all state and local governmental lead agencies to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any discretionary project that they propose to carry out or approve that may result in a significant effect on the environment, that is, a substantial, or potentially substantial, adverse change in the physical conditions that exist within the area that will be affected by the project. Under existing law, a housing project qualifies for an exemption from CEQA if certain requirements are met, including the requirement that the site is not located within the boundaries of a state conservancy.

This bill would eliminate the requirement that the site not be located within the boundaries of a state conservancy.

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 21159.21 of the Public Resources Code  
2 is amended to read:  
3 21159.21. A housing project qualifies for an exemption from  
4 this division pursuant to Section 21159.22, 21159.23, or 21159.24  
5 if it meets the criteria in the applicable section and all of the  
6 following criteria:  
7 (a) The project is consistent with any applicable general plan,  
8 specific plan, and local coastal program, including any mitigation  
9 measures required by a plan or program, as that plan or program  
10 existed on the date that the application was deemed complete and  
11 with any applicable zoning ordinance, as that zoning ordinance  
12 existed on the date that the application was deemed complete,  
13 except that a project shall not be deemed to be inconsistent with  
14 the zoning designation for the site if that zoning designation is  
15 inconsistent with the general plan only because the project site has  
16 not been rezoned to conform with a more recently adopted general  
17 plan.  
18 (b) ~~Community-level~~A *community-level* environmental review  
19 has been adopted or certified.  
20 (c) The project and other projects approved prior to the approval  
21 of the project can be adequately served by existing utilities, and  
22 the project applicant has paid, or has committed to pay, all  
23 applicable in-lieu or development fees.  
24 (d) The site of the project does not contain wetlands, does not  
25 have any value as a wildlife habitat, and the project does not harm  
26 any species protected by the federal Endangered Species Act of  
27 1973 (16 U.S.C. Sec. 1531 et seq.) or *protected* by the Native Plant  
28 Protection Act (Chapter 10 (commencing with Section 1900) of  
29 Division 2 of the Fish and Game Code), the California Endangered  
30 Species Act (Chapter 1.5 (commencing with Section 2050) of  
31 Division 3 of the Fish and Game Code), and the project does not  
32 cause the destruction or removal of any species protected by a  
33 local ordinance in effect at the time the application for the project  
34 was deemed complete. For the purposes of this subdivision,  
35 “wetlands” has the same meaning as in Section 328.3 of Title 33

1 of the Code of Federal Regulations and “wildlife habitat” means  
2 the ecological communities upon which wild animals, birds, plants,  
3 fish, amphibians, and invertebrates depend for their conservation  
4 and protection.

5 (e) The site of the project is not included on any list of facilities  
6 and sites compiled pursuant to Section 65962.5 of the Government  
7 Code.

8 (f) The site of the project is subject to a preliminary  
9 endangerment assessment prepared by an environmental assessor  
10 to determine the existence of any release of a hazardous substance  
11 on the site and to determine the potential for exposure of future  
12 occupants to significant health hazards from any nearby property  
13 or activity.

14 (1) If a release of a hazardous substance is found to exist on the  
15 site, the release shall be removed, or any significant effects of the  
16 release shall be mitigated to a level of insignificance in compliance  
17 with state and federal requirements.

18 (2) If a potential for exposure to significant hazards from  
19 surrounding properties or activities is found to exist, the effects of  
20 the potential exposure shall be mitigated to a level of insignificance  
21 in compliance with state and federal requirements.

22 (g) The project does not have a significant effect on historical  
23 resources pursuant to Section 21084.1.

24 (h) The project site is not subject to any of the following:

25 (1) A wildland fire hazard, as determined by the Department of  
26 Forestry and Fire Protection, unless the applicable general plan or  
27 zoning ordinance contains provisions to mitigate the risk of a  
28 wildland fire hazard.

29 (2) An unusually high risk of fire or explosion from materials  
30 stored or used on nearby properties.

31 (3) Risk of a public health exposure at a level that would exceed  
32 the standards established by any state or federal agency.

33 (4) Within a delineated earthquake fault zone, as determined  
34 pursuant to Section 2622, or a seismic hazard zone, as determined  
35 pursuant to Section 2696, unless the applicable general plan or  
36 zoning ordinance contains provisions to mitigate the risk of an  
37 earthquake fault or seismic hazard zone.

38 (5) Landslide hazard, flood plain, flood way, or restriction zone,  
39 unless the applicable general plan or zoning ordinance contains  
40 provisions to mitigate the risk of a landslide or flood.

- 1 (i) (1) The project site is not located on developed open space.
- 2 (2) For the purposes of this subdivision, “developed open space”
- 3 means land that meets all of the following criteria:
- 4 (A) Is publicly owned, or financed in whole or in part by public
- 5 funds.
- 6 (B) Is generally open to, and available for use by, the public.
- 7 (C) Is predominantly lacking in structural development other
- 8 than structures associated with open spaces, including, but not
- 9 limited to, playgrounds, swimming pools, ballfields, enclosed child
- 10 play areas, and picnic facilities.
- 11 (3) For the purposes of this subdivision, “developed open space”
- 12 includes land that has been designated for acquisition by a public
- 13 agency for developed open space, but does not include lands
- 14 acquired by public funds dedicated to the acquisition of land for
- 15 housing purposes.