

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1934

Introduced by Assembly Member Santiago

February 12, 2016

An act to ~~amend Section 65915 of~~ *add Section 65915.7 to the* Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1934, as amended, Santiago. Planning and zoning: density ~~bonuses:~~ *bonuses: mixed-use projects.*

The Planning and Zoning Law requires, when an applicant 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 for 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 defines the term "housing development" for these purposes to mean a development project for 5 or more residential units, as specified.~~

~~This bill would specify that for these purposes the term "housing development" may include a mixed-use project or a commercial development with a housing component. By increasing the duties of local officials relating to the administration of density bonuses, this bill would create 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 no reimbursement is required by this act for a specified reason.~~

This bill would, when an applicant for approval for commercial development agrees to partner with an affordable housing developer to construct a mixed-used project for which the housing will be either located onsite at the proposed commercial development or located within a one-mile radius of the proposed commercial development, require a city, county, or city and county to grant to the commercial developer a density bonus, as specified. By increasing the duties of local officials relating to the administration of density bonuses, this bill would create 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 no reimbursement is required by this act for a specified reason.

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 that the*
2 *development of affordable housing is a matter of statewide concern*
3 *and is not a municipal affair as that term is used in Section 5 of*
4 *Article XI of the California Constitution. Therefore, Section*
5 *65915.7 of the Government Code, as proposed to be added by this*
6 *act, shall apply to all cities, including charter cities.*

7 SEC. 2. *Section 65915.7 is added to the Government Code, to*
8 *read:*

9 65915.7. (a) *When an applicant for approval for commercial*
10 *development agrees to partner with an affordable housing*
11 *developer to construct a mixed-used project for which the housing*
12 *will be either located onsite at the proposed commercial*
13 *development or located within a one-mile radius of the proposed*
14 *commercial development, the city, county, or city and county shall,*
15 *in addition to any density bonus and incentives or concessions*

1 granted to the affordable housing developer as prescribed in
2 Section 65915, grant to the commercial developer a density bonus
3 as prescribed in subdivision (b).

4 (b) The density bonus granted to the commercial developer shall
5 mean a density increase of up to 20 percent variance of the city,
6 county, or city and county's zoning ordinance or regulation,
7 including, but not limited to, floor area ratios or commercial
8 linkage fees.

9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 a local agency or school district has the authority to levy service
12 charges, fees, or assessments sufficient to pay for the program or
13 level of service mandated by this act, within the meaning of Section
14 17556 of the Government Code.

15 SECTION 1. ~~Section 65915 of the Government Code is~~
16 ~~amended 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 (e) (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:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

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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:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5

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 resulting in fractional units shall be~~
 8 ~~rounded up to the next whole number. The granting of a density~~
 9 ~~bonus shall not be interpreted, in and of itself, to require a general~~
 10 ~~plan amendment, local coastal plan amendment, zoning change,~~
 11 ~~or other discretionary approval.~~

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

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

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

12 ~~(A) The applicant donates and transfers the land no later than~~
13 ~~the date of approval of the final subdivision map, parcel map, or~~
14 ~~residential development application.~~

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

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

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

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

1 ~~(F) The land is transferred to the local agency or to a housing~~
2 ~~developer approved by the local agency. The local agency may~~
3 ~~require the applicant to identify and transfer the land to the~~
4 ~~developer.~~

5 ~~(G) The transferred land shall be within the boundary of the~~
6 ~~proposed development or, if the local agency agrees, within~~
7 ~~one-quarter mile of the boundary of the proposed development.~~

8 ~~(H) A proposed source of funding for the very low income units~~
9 ~~shall be identified not later than the date of approval of the final~~
10 ~~subdivision map, parcel map, or residential development~~
11 ~~application.~~

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

17 ~~(A) An additional density bonus that is an amount of square~~
18 ~~feet of residential space that is equal to or greater than the amount~~
19 ~~of square feet in the child care facility.~~

20 ~~(B) An additional concession or incentive that contributes~~
21 ~~significantly to the economic feasibility of the construction of the~~
22 ~~child care facility.~~

23 ~~(2) The city, county, or city and county shall require, as a~~
24 ~~condition of approving the housing development, that the following~~
25 ~~occur:~~

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

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

37 ~~(3) Notwithstanding any requirement of this subdivision, a city,~~
38 ~~county, or city and county shall not be required to provide a density~~
39 ~~bonus or concession for a child care facility if it finds, based upon~~

1 substantial evidence, that the community has adequate child care
2 facilities:

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

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

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

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

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) Except as provided in paragraphs (2) and (3), upon the~~
 10 ~~request of the developer, 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 subdivisions~~
 13 ~~(b) and (c), 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) Notwithstanding paragraph (1), if a development includes~~
 18 ~~the maximum percentage of low- or very low income units~~
 19 ~~provided for in paragraphs (1) and (2) of subdivision (f) and is~~
 20 ~~located within one-half mile of a major transit stop, as defined in~~
 21 ~~subdivision (b) of Section 21155 of the Public Resources Code,~~
 22 ~~and there is unobstructed access to the major transit stop from the~~
 23 ~~development, then, upon the request of the developer, a city,~~
 24 ~~county, or city and county shall not impose a vehicular parking~~
 25 ~~ratio, inclusive of handicapped and guest parking, that exceeds 0.5~~
 26 ~~spaces per bedroom. For purposes of this subdivision, a~~
 27 ~~development shall have unobstructed access to a major transit stop~~
 28 ~~if a resident is able to access the major transit stop without~~
 29 ~~encountering natural or constructed impediments.~~

30 ~~(3) Notwithstanding paragraph (1), if a development consists~~
 31 ~~solely of rental units, exclusive of a manager’s unit or units, with~~
 32 ~~an affordable housing cost to lower income families, as provided~~
 33 ~~in Section 50052.5 of the Health and Safety Code, then, upon the~~
 34 ~~request of the developer, a city, county, or city and county shall~~
 35 ~~not impose a vehicular parking ratio, inclusive of handicapped and~~
 36 ~~guest parking, that exceeds the following ratios:~~

- 37 ~~(A) If the development is located within one-half mile of a major~~
 38 ~~transit stop, as defined in subdivision (b) of Section 21155 of the~~
 39 ~~Public Resources Code, and there is unobstructed access to the~~

1 major transit stop from the development, the ratio shall not exceed
2 0.5 spaces per unit.

3 (B) If the development is a for-rent housing development for
4 individuals who are 62 years of age or older that complies with
5 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed
6 0.5 spaces per unit. The development shall have either paratransit
7 service or unobstructed access, within one-half mile, to fixed bus
8 route service that operates at least eight times per day.

9 (C) If the development is a special needs housing development,
10 as defined in Section 51312 of the Health and Safety Code, the
11 ratio shall not exceed 0.3 spaces per unit. The development shall
12 have either paratransit service or unobstructed access, within
13 one-half mile, to fixed bus route service that operates at least eight
14 times per day.

15 (4) If the total number of parking spaces required for a
16 development is other than a whole number, the number shall be
17 rounded up to the next whole number. For purposes of this
18 subdivision, a development may provide on-site parking through
19 tandem parking or uncovered parking, but not through on-street
20 parking.

21 (5) This subdivision shall apply to a development that meets
22 the requirements of subdivisions (b) and (c), but only at the request
23 of the applicant. An applicant may request parking incentives or
24 concessions beyond those provided in this subdivision pursuant
25 to subdivision (d).

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

29 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
30 city and county, or an independent consultant has conducted an
31 areawide or jurisdictionwide parking study in the last seven years,
32 then the city, county, or city and county may impose a higher
33 vehicular parking ratio not to exceed the ratio described in
34 paragraph (1), based upon substantial evidence found in the parking
35 study, that includes, but is not limited to, an analysis of parking
36 availability, differing levels of transit access, walkability access
37 to transit services, the potential for shared parking, the effect of
38 parking requirements on the cost of market-rate and subsidized
39 developments, and the lower rates of car ownership for low- and
40 very low income individuals, including seniors and special needs

1 individuals. The city, county, or city and county shall pay the costs
2 of any new study. The city, county, or city and county shall make
3 findings, based on a parking study completed in conformity with
4 this paragraph, supporting the need for the higher parking ratio.

5 SEC. 2. ~~No reimbursement is required by this act pursuant to~~
6 ~~Section 6 of Article XIII B of the California Constitution because~~
7 ~~a local agency or school district has the authority to levy service~~
8 ~~charges, fees, or assessments sufficient to pay for the program or~~
9 ~~level of service mandated by this act, within the meaning of Section~~
10 ~~17556 of the Government Code.~~