

AMENDED IN SENATE JUNE 14, 2016

AMENDED IN ASSEMBLY JUNE 1, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

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 add Section 65915.7 to the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1934, as amended, Santiago. Planning and zoning: development 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.

This bill, when an applicant for approval for commercial development agrees to partner with an affordable housing developer to construct a joint project or 2 separate projects encompassing affordable housing, would require a city, county, or city and county to grant to the commercial developer a development bonus, as specified. The bill would

define the development bonus to mean incentives mutually agreed upon by the developer and the jurisdiction ~~including, but that may include~~ but are not limited to, specified variances. By increasing the duties of local officials relating to the administration of development 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 developer
11 to construct a joint project or two separate projects encompassing
12 affordable housing, the city, county, or city and county shall, in
13 addition to any density bonus and incentives or concessions granted
14 to the affordable housing developer as prescribed in subparagraph
15 (C) of paragraph (2) of subdivision (d) of Section 65915, grant to
16 the commercial developer a development bonus as prescribed in
17 subdivision (b). Offsite housing constructed according to this
18 subdivision shall be all of the following:

- 19 (1) Within the boundaries of the local government.
- 20 (2) In close proximity to public amenities including schools and
21 employment centers.
- 22 ~~(3) In close proximity to both pedestrian amenities and transit~~
23 ~~corridors.~~

1 (3) *Located within one-half mile of a major transit stop, as*
2 *defined in subdivision (b) of Section 21155 of the Public Resources*
3 *Code.*

4 (b) The development bonus granted to the commercial developer
5 shall mean incentives, mutually agreed upon by the developer and
6 the jurisdiction, that may include, but are not limited to, any of the
7 following:

8 (1) Up to a 20-percent variance in maximum allowable intensity
9 in the General Plan, zoning ordinance, or other regulation.

10 (2) Up to a 20-percent variance in maximum allowable floor
11 area ratio.

12 (3) Up to a 20-percent variance in maximum height
13 requirements.

14 (4) Up to a 20-percent variance in minimum parking
15 requirements.

16 (5) A specific use of a limited-use/limited-application elevator
17 for upper floor accessibility.

18 (c) For the purposes of this section, the agreement for partnered
19 housing and commercial developments shall be approved by the
20 affordable housing developer, the commercial developer, and the
21 local government.

22 (d) For the purposes of this section, affordable housing may be
23 contributed by the commercial developer in one of the following
24 manners:

25 (1) The commercial developer may directly build the units.

26 (2) The commercial developer may dedicate a portion of the
27 site or property elsewhere to the affordable housing developer for
28 use as a site for affordable housing.

29 (3) The commercial developer may make an in-lieu payment to
30 the affordable housing developer that shall be used towards the
31 costs of affordable housing construction on a pending project.

32 (e) For the purposes of this section, subparagraph (A) of
33 paragraph (3) of subdivision (c) of Section 65915 shall apply.

34 (f) Nothing in this section shall preclude any additional
35 allowances or incentives offered to developers by local
36 governments pursuant to law or regulation.

37 (g) (1) If the developer of the affordable units does not
38 commence with construction of those units in accordance with
39 timelines ascribed by the agreement described in subdivision (c),
40 the local government may withhold certificates of occupancy for

1 any market rate units under construction until the developer has
2 completed construction of the affordable units.

3 (2) For the purposes of this subdivision, “commence with
4 construction” shall mean either of the following:

5 (A) Commence or complete the construction of affordable units.

6 (B) Issuance of building permits for the construction of the
7 affordable units.

8 *(h) For purposes of this section, “partner” shall mean formation*
9 *of a partnership, limited liability company, corporation, or other*
10 *entity recognized by the state in which the commercial development*
11 *applicant and the affordable housing developer are each partners,*
12 *members, shareholders or other participants, or a contract or*
13 *agreement between a commercial development applicant and*
14 *affordable housing developer for the development of both the*
15 *commercial and the affordable housing properties.*

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 a local agency or school district has the authority to levy service
19 charges, fees, or assessments sufficient to pay for the program or
20 level of service mandated by this act, within the meaning of Section
21 17556 of the Government Code.