

AMENDED IN SENATE AUGUST 1, 2016

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

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**ASSEMBLY BILL**

**No. 1934**

**Introduced by Assembly Member Santiago**

February 12, 2016

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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 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, shall~~  
16 grant to the commercial developer a development bonus as  
17 prescribed in subdivision (b). Offsite housing constructed according  
18 to this 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.

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~~ *the commercial development* under  
2 construction until the developer has completed construction of the  
3 affordable units.

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

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

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

9 *(h) In order to qualify for a development bonus under this*  
10 *section, a commercial developer shall partner with a housing*  
11 *developer that provides at least 30% of the total units for*  
12 *low-income households or at least 15% of the total units for very*  
13 *low-income households.*

14 *(i) Nothing in this section shall preclude an applicant for a*  
15 *development bonus from seeking a density bonus, concessions or*  
16 *incentives, waivers or reductions of development standards, or*  
17 *parking ratios under Section 65915.*

18 *(j) A development bonus pursuant to this section shall not*  
19 *include a reduction of fees for affordable housing or authorize*  
20 *noncompliance with other affordable housing requirements within*  
21 *a local commercial linkage and impact fee ordinance.*

22 ~~(h)~~

23 *(k) For purposes of this section, “partner” shall mean formation*  
24 *of a partnership, limited liability company, corporation, or other*  
25 *entity recognized by the state in which the commercial*  
26 *development applicant and the affordable housing developer are*  
27 *each partners, members, shareholders or other participants, or a*  
28 *contract or agreement between a commercial development applicant*  
29 *and affordable housing developer for the development of both the*  
30 *commercial and the affordable housing properties.*

31 SEC. 3. No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution because  
33 a local agency or school district has the authority to levy service  
34 charges, fees, or assessments sufficient to pay for the program or  
35 level of service mandated by this act, within the meaning of Section  
36 17556 of the Government Code.

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