

AMENDED IN SENATE AUGUST 18, 2016  
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

**ASSEMBLY BILL**

**No. 1934**

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**Introduced by Assembly Member Santiago**

February 12, 2016

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An act to add *and repeal* Section 65915.7 ~~to~~ of 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~~ of a commercial development ~~agrees to partner~~ *has entered into an agreement for*

*partnered housing with an affordable housing developer to construct contribute affordable housing through a joint project or 2 separate projects encompassing affordable housing, would would, until January 1, 2022, 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: changes in land use requirements. This bill would also require a city or county to submit to the Department of Housing and Community Development information describing an approved commercial development bonus. 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~~ *of a*  
 10 commercial development ~~agrees to partner with an affordable~~  
 11 ~~housing developer~~ *has entered into an agreement for partnered*  
 12 *housing described in subdivision (c) to construct contribute*  
 13 *affordable housing through a joint project or two separate projects*  
 14 *encompassing affordable housing, the city, county, or city and*  
 15 *county shall grant to the commercial developer a development*  
 16 *bonus as prescribed in subdivision (b). Offsite housing constructed*  
 17 ~~according to this subdivision shall be~~ *Housing shall be constructed*

1 *on the site of the commercial development or on a site that is all*  
2 *of the following:*

- 3 (1) Within the boundaries of the local government.
- 4 (2) In close proximity to public amenities including schools and  
5 employment centers.
- 6 (3) Located within one-half mile of a major transit stop, as  
7 defined in subdivision (b) of Section 21155 of the Public Resources  
8 Code.

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

- 13 (1) Up to a 20-percent ~~variance increase~~ *increase* in maximum allowable  
14 intensity in the General ~~Plan, zoning ordinance, or other regulation.~~  
15 *Plan.*
- 16 (2) Up to a 20-percent ~~variance increase~~ *increase* in maximum allowable  
17 floor area ratio.
- 18 (3) Up to a 20-percent ~~variance increase~~ *increase* in maximum height  
19 requirements.
- 20 (4) Up to a 20-percent ~~variance reduction~~ *reduction* in minimum parking  
21 requirements.
- 22 (5) ~~A specific use~~ *Use* of a limited-use/limited-application  
23 elevator for upper floor accessibility.
- 24 (6) ~~An exception to a zoning ordinance or other land use~~  
25 *regulation.*

26 (c) For the purposes of this section, the agreement for partnered  
27 housing ~~and commercial developments~~ *shall be between the*  
28 *commercial developer and the housing developer, shall identify*  
29 *how the commercial developer will contribute affordable housing,*  
30 *and shall be approved by the* ~~affordable housing developer, the~~  
31 ~~commercial developer, and the local government.~~ *city, county, or*  
32 *city and county.*

33 (d) For the purposes of this section, affordable housing may be  
34 contributed by the commercial developer in one of the following  
35 manners:

- 36 (1) The commercial developer may directly build the units.
- 37 (2) The commercial developer may ~~dedicate~~ *donate* a portion  
38 of the site or property elsewhere to the affordable housing  
39 developer for use as a site for affordable housing.

1 (3) The commercial developer may make ~~an in-lieu~~ *a cash*  
2 payment to the affordable housing developer that shall be used  
3 towards the costs of *constructing the* affordable housing  
4 ~~construction on a pending~~ project.

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

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

10 (g) ~~(4)~~ If the developer of the affordable units does not  
11 commence with construction of those units in accordance with  
12 timelines ascribed by the agreement described in subdivision (c),  
13 the local government may withhold certificates of occupancy for  
14 the commercial development under construction until the developer  
15 has completed construction of the affordable units.

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

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

19 ~~(B) Issuance of building permits for the construction of the~~  
20 ~~affordable units.~~

21 (h) In order to qualify for a development bonus under this  
22 section, a commercial developer shall partner with a housing  
23 developer that provides at least 30 percent of the total units for  
24 low-income households or at least 15 percent of the total units for  
25 very low-income households.

26 (i) Nothing in this section shall preclude an ~~applicant for a~~  
27 ~~development bonus~~ *affordable housing developer* from seeking a  
28 density bonus, concessions or incentives, waivers or reductions of  
29 development standards, or parking ratios under Section 65915.

30 (j) A development bonus pursuant to this section shall not  
31 include a reduction *or waiver of fees for affordable housing* or  
32 ~~authorize noncompliance with other affordable housing the~~  
33 ~~requirements within a local commercial linkage and impact fee~~  
34 ~~ordinance.~~ *an ordinance that requires the payment of a fee by a*  
35 *commercial developer for the promotion or provision of affordable*  
36 *housing.*

37 (k) *A city or county shall submit to the Department of Housing*  
38 *and Community Development, as part of the annual report required*  
39 *by Section 65400, information describing a commercial*  
40 *development bonus approved pursuant to this section, including*

1 *the terms of the agreements between the commercial developer*  
2 *and the affordable housing developer, and the developers and the*  
3 *local jurisdiction, and the number of affordable units constructed*  
4 *as part of the agreements.*

5 ~~(k)~~

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

14 (m) *This section shall remain in effect only until January 1,*  
15 *2022, and as of that date is repealed.*

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.