

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2522

Introduced by Assembly Member Bloom

February 19, 2016

An act to amend Section ~~65850~~ 65589.4 of the Government Code, relating to ~~local government~~ *housing*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2522, as amended, Bloom. Land use: ~~zoning regulations~~; *attached housing developments*.

Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years, and if the project meets specified conditions relating to location, being subject to a discretionary decision other than a conditional use permit, and a negative or mitigated negative declaration having been adopted for the project under the California Environmental Quality Act.

This bill would instead require an attached housing development to be a permitted use by right, as defined, if it satisfies the same specified conditions as to location and other conditions requiring location on property that is part of the jurisdiction's residential inventory or that has been or will be rezoned under the jurisdiction's housing program. This bill would also condition the permitted use by right upon the development not having more units than projected for the location and upon compliance with general plan and zoning standards and criteria.

By imposing new duties upon local agencies with respect to housing developments, this bill would impose 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.

~~The Planning and Zoning Law authorizes the legislative body of any city, county, or city and county, to adopt ordinances regulating zoning within its jurisdiction, as specified.~~

~~This bill would make a nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65589.4 of the Government Code is
2 amended to read:

3 65589.4. (a) An attached housing development shall be a
4 permitted use ~~not subject to a conditional use permit on any parcel~~
5 ~~zoned for an attached housing development by right, as defined~~
6 ~~in subdivision (i) of Section 65583.2, if local law so provides or if~~
7 it satisfies the requirements of subdivision (b) and either of the
8 following:

9 (1) The attached housing development satisfies the criteria of
10 Section 21159.22, 21159.23, or 21159.24 of the Public Resources
11 Code.

12 (2) The attached housing development meets all of the following
13 criteria:

14 (A) *The attached housing development is either:*

15 (i) *Located on a site that is identified in the jurisdiction's*
16 *inventory of land suitable for residential development described*
17 *in paragraph (3) of subdivision (a) of Section 65583.*

18 ~~(A) The attached housing development is subject to~~

19 (ii) *Located on a discretionary decision other than a conditional*
20 *use permit and a negative declaration or mitigated negative*
21 *declaration site that has been adopted for the attached housing*
22 *development under the California Environmental Quality Act*
23 *(Division 13 (commencing with Section 21000) of the Public*

1 Resources Code). If no public hearing is held with respect or will
2 be rezoned pursuant to the discretionary decision, then program
3 identified in the negative declaration or mitigated negative
4 declaration for the attached jurisdiction's housing development
5 may be adopted only after a public hearing to receive comments
6 on element, as required by subdivision (c) of Section 65583, and
7 either the negative declaration rezoning has been completed or
8 mitigated negative declaration. three years have passed following
9 the date that the jurisdiction's housing element was adopted.

10 (B) The attached housing development is consistent with both
11 the jurisdiction's zoning ordinance and general plan as it existed
12 on the date the application was deemed complete, except that an
13 attached housing development shall not be deemed does not contain
14 more dwelling units than were projected by the jurisdiction to be
15 inconsistent with accommodated on the zoning designation for the
16 site if that zoning designation is inconsistent with the general plan
17 only because sites described in subparagraph (A) of paragraph
18 (2) of subdivision (a) plus any density bonus units for which the
19 attached housing development site has not been rezoned is eligible
20 pursuant to conform with the most recent adopted general plan.
21 Section 65915.

22 (C) The attached housing development is located in an area that
23 is covered by one of the following documents that has been adopted
24 by the jurisdiction within five years of the date the application for
25 the complies with applicable general plan and zoning standards
26 and criteria, including, but not limited to, design standards, in
27 effect when the attached housing development was deemed
28 complete: determined to be complete.

- 29 (i) A general plan.
- 30 (ii) A revision or update to the general plan that includes at least
31 the land use and circulation elements.
- 32 (iii) An applicable community plan.
- 33 (iv) An applicable specific plan.

34 (D) The attached housing development consists of not more
35 than 100 residential units with a minimum density of not less than
36 12 units per acre or a minimum density of not less than eight units
37 per acre if the attached housing development consists of four or
38 fewer units. element is either:

39 (E) The attached housing development is located

1 (i) *Located* in an urbanized area as defined in Section 21071
2 of the Public Resources Code or within a census-defined place
3 with a population density of at least 5,000 persons per square mile
4 or, if the attached housing development consists of 50 or fewer
5 units, within an incorporated city with a population density of at
6 least 2,500 persons per square mile and a total population of at
7 least 25,000 persons.

8 ~~(F) The attached housing development is located~~

9 (ii) *Located* on an infill site as defined in Section ~~21061.0.5~~
10 ~~21061.3~~ of the Public Resources Code.

11 (b) At least 10 percent of the units of the attached housing
12 development shall be available at affordable housing cost to very
13 low income households, as defined in Section 50105 of the Health
14 and Safety Code, or at least 20 percent of the units of the attached
15 housing development shall be available at affordable housing cost
16 to lower income households, as defined in Section 50079.5 of the
17 Health and Safety Code, or at least 50 percent of the units of the
18 attached housing development available at affordable housing cost
19 to moderate-income households, consistent with Section 50052.5
20 of the Health and Safety Code. *The jurisdiction shall require the*
21 *developer of the attached housing development shall to provide*
22 *sufficient legal commitments to the local agency to ensure the*
23 *continued availability and use of the housing units for very low,*
24 *low-, or moderate-income households for a period of at least 30*
25 *years.*

26 ~~(e) Nothing in this section shall prohibit a local agency from~~
27 ~~applying design and site review standards in existence on the date~~
28 ~~the application was deemed complete.~~

29 ~~(d)~~

30 (c) The provisions of this section are independent of any
31 obligation of a jurisdiction pursuant to subdivision (c) of Section
32 65583 to identify multifamily sites developable by right.

33 ~~(e)~~

34 (d) This section does not apply to the issuance of coastal
35 development permits pursuant to the California Coastal Act
36 (Division 20 (commencing with Section 30000) of the Public
37 Resources Code).

38 ~~(f)~~

39 (e) This section does not relieve a public agency from complying
40 with the California Environmental Quality Act (Division 13

1 (~~commencing with Section 21000~~) of the Public Resources Code)
2 or relieve an applicant or public agency from complying with the
3 Subdivision Map Act (Division 2 (~~commencing with Section~~
4 ~~66473~~): 66410)).

5 (~~g~~)

6 (f) This section is applicable to all cities and counties, including
7 charter cities, because the Legislature finds that the lack of
8 affordable housing is of vital statewide importance, and thus a
9 matter of statewide concern.

10 (~~h~~)

11 (g) For purposes of this section, “attached housing development”
12 means a newly constructed or substantially rehabilitated structure
13 containing two or more dwelling units ~~and consisting only of~~
14 ~~residential units~~; that is a housing development project, as defined
15 by paragraph (2) of subdivision (h) of Section 65589.5, but does
16 not include a second unit, as defined by paragraph (4) of
17 subdivision ~~(h)~~ (i) of Section 65852.2, or the conversion of an
18 existing structure to condominiums.

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 a local agency or school district has the authority to levy service
22 charges, fees, or assessments sufficient to pay for the program or
23 level of service mandated by this act, within the meaning of Section
24 17556 of the Government Code.

25 SECTION 1. ~~Section 65850 of the Government Code is~~
26 ~~amended to read:~~

27 ~~65850. The legislative body of any county or city may, pursuant~~
28 ~~to this chapter, adopt ordinances that do any of the following:~~

29 (~~a~~) ~~Regulate the use of buildings, structures, and land as between~~
30 ~~industry, business, residences, open space, including agriculture,~~
31 ~~recreation, enjoyment of scenic beauty, use of natural resources,~~
32 ~~and other purposes.~~

33 (~~b~~) ~~Regulate signs and billboards.~~

34 (~~e~~) ~~Regulate all of the following:~~

35 (~~1~~) ~~The location, height, bulk, number of stories, and size of~~
36 ~~buildings and structures.~~

37 (~~2~~) ~~The size and use of lots, yards, courts, and other open spaces.~~

38 (~~3~~) ~~The percentage of a lot which may be occupied by a building~~
39 ~~or structure.~~

40 (~~4~~) ~~The intensity of land use.~~

- 1 ~~(d) Establish requirements for off-street parking and loading.~~
- 2 ~~(e) Establish and maintain building setback lines.~~
- 3 ~~(f) Create civic districts around civic centers, public parks,~~
- 4 ~~public buildings, or public grounds, and establish regulations for~~
- 5 ~~those civic districts.~~