

AMENDED IN SENATE APRIL 28, 2015

AMENDED IN SENATE APRIL 13, 2015

**SENATE BILL**

**No. 511**

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**Introduced by Senator Nguyen**

February 26, 2015

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An act to amend *and repeal* Section 65584.6 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 511, as amended, Nguyen. Housing element: affordable housing: County of Orange.

The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. That law requires the housing element to, among other things, identify the existing and projected housing needs of all economic segments of the community and to include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of those needs.

Existing law authorizes the County of Napa to, until June 30, 2007, meet up to 15% of its existing share of the regional housing need for lower income households, as defined, by committing funds for the purpose of constructing affordable housing units in one or more cities within the county, if specified conditions are met.

This bill would recast these provisions and instead authorize the County of Orange to meet up to 15% of its existing share of the regional housing need for lower income households, as defined, by committing funds for the purpose of constructing affordable housing units in one

or more cities within the county, if specified conditions are met. *The bill would repeal these provisions as of October 31, 2021.*

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Orange.

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

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

- 1 SECTION 1. Section 65584.6 of the Government Code is  
2 amended to read:  
3 65584.6. (a) The County of Orange may, during its current  
4 and subsequent housing element planning periods, identified in  
5 Section 65588, meet up to 15 percent of its existing share of the  
6 regional housing need for lower income households, as defined in  
7 subdivision (e) of Section 65584, by committing funds for the  
8 purpose of constructing affordable lower income housing units,  
9 and constructing those units in one or more cities within the county,  
10 only after all of the following conditions are met:  
11 (1) An agreement has been executed between the county and  
12 the receiving city or cities, following a public hearing held by the  
13 county and the receiving city or cities to solicit public comments  
14 on the draft agreement. The agreement shall contain information  
15 sufficient to demonstrate that the county and city or cities have  
16 complied with the requirements of this section and shall also  
17 include the following:  
18 (A) A plan and schedule for timely construction of dwelling  
19 units.  
20 (B) Site identification by street address for the units to be  
21 developed.  
22 (C) A statement either that the sites upon which the units will  
23 be developed were identified in the receiving city's housing  
24 element as potential sites for the development of housing for lower  
25 income households, or that the units will be developed on  
26 previously unidentified sites.  
27 (D) The number and percentage of the county's lower income  
28 housing needs previously transferred to the receiving city or cities,  
29 for the appropriate planning period, pursuant to this section.  
30 (E) The number and percentage of the county's lower income  
31 housing needs that will be transferred to the receiving city or cities,

1 for the appropriate planning period, pursuant to this section. The  
2 number and percentage of the county's lower income housing  
3 needs that will be transferred to the receiving city or cities shall  
4 be equal to the percentage of a project's total development costs  
5 that are financed with county funds.

6 (2) The council of governments that assigned the county's share  
7 receives and approves each proposed agreement to meet a portion  
8 of the county's fair share housing allocation within one or more  
9 of the cities within the county after taking into consideration the  
10 criteria of subdivision (a) of Section 65584. If the council of  
11 governments fails to take action to approve the agreement between  
12 the county and the receiving city or cities within 45 days following  
13 the receipt of the agreement, the agreement shall be deemed  
14 approved.

15 (3) The city or cities in which the units are developed agree not  
16 to count the units towards their share of the region's affordable  
17 housing need.

18 (4) The county and the receiving city or cities, based on  
19 substantial evidence on the record, make the following findings:

20 (A) Adequate sites with appropriate zoning exist in the receiving  
21 city or cities to accommodate the units to be developed pursuant  
22 to this section. The agreement shall demonstrate that the city or  
23 cities have identified sufficient vacant or underutilized or vacant  
24 and underutilized sites in their housing elements to meet their  
25 existing share of regional housing need, as allocated by the council  
26 of governments pursuant to subdivision (b) of Section ~~65584~~.  
27 *65584, in addition to the sites needed to construct the units*  
28 *pursuant to this section.*

29 (B) If needed, additional subsidy or financing for the  
30 construction of the units is available.

31 (C) The receiving city or cities have housing elements that have  
32 been found by the Department of Housing and Community  
33 Development to be in compliance with this article.

34 (5) *If the sites upon which units are to be developed pursuant*  
35 *to this section were previously identified in the receiving city's*  
36 *housing element as potential sites for the development of housing*  
37 *sufficient to accommodate the receiving city's share of the lower*  
38 *income household need identified in its housing element, then the*  
39 *receiving city shall have amended its housing element to identify*  
40 *replacement sites by street address for housing for lower income*

1 *households. Additionally, the Department of Housing and*  
2 *Community Development shall have received and reviewed the*  
3 *amendment and found that the city's housing element continues*  
4 *to comply with this article.*

5 ~~(5)~~

6 (6) The county and receiving city or cities shall have completed,  
7 and provided to the department, the annual report required by  
8 paragraph (2) of subdivision (a) of Section 65400.

9 ~~(6)~~

10 (7) For a period of five years after a transfer occurs, the report  
11 required by paragraph (2) of subdivision (a) of Section 65400 shall  
12 include information on the status of transferred units,  
13 implementation of the terms and conditions of the transfer  
14 agreement, and information on any dwelling units actually  
15 constructed, including the number, type, location, and affordability  
16 requirements.

17 (8) *The receiving city demonstrates that it has met, in the current*  
18 *or previous housing element cycle, at least 20 percent of its share*  
19 *of the regional need for housing for very low income households*  
20 *allocated to the city pursuant to Section 65584.*

21 (b) *The credit that the county receives pursuant to this section*  
22 *shall not exceed 40 percent of the number of units that are*  
23 *affordable to lower income households and constructed and*  
24 *occupied during the same housing element cycle in unincorporated*  
25 *areas of the county.* The county shall only receive the credit after  
26 the units have been constructed and occupied. Within 60 days of  
27 issuance of a certificate of occupancy for the units, the county shall  
28 inform the council of governments and the department in writing  
29 that a certificate of occupancy has been issued.

30 (c) Concurrent with the review by the council of governments  
31 prescribed by this section, the Department of Housing and  
32 Community Development shall evaluate the agreement to  
33 determine whether the city or cities are in substantial compliance  
34 with this section. The department shall report the results of its  
35 evaluation to the county and city or cities for inclusion in their  
36 record of compliance with this section.

37 (d) If at the end of the five-year period identified in subdivision  
38 (c) of Section 65583, any percentage of the regional share  
39 allocation has not been constructed as provided pursuant to  
40 subdivision (a), or, after consultation with the department, the

1 council of governments determines that the requirements of  
2 ~~paragraph (6)~~ paragraphs (5) and (7) of subdivision (a) have not  
3 been substantially complied with, the council of governments shall  
4 add the unbuilt units to the county's regional share allocation for  
5 the planning period of the next periodic update of the housing  
6 element.

7 *(e) This section shall remain in effect only until October 31,*  
8 *2021, and as of that date is repealed.*

9 SEC. 2. The Legislature finds and declares that a special law  
10 is necessary and that a general law cannot be made applicable  
11 within the meaning of Section 16 of Article IV of the California  
12 Constitution because of the unique circumstances that exist with  
13 respect to the County of Orange that justify the enactment of this  
14 act, as recognized in existing law permitting the transfer of housing  
15 funds to cities by the County of Orange in Section 33334.2a of the  
16 Health and Safety Code. The County of Orange has a policy,  
17 consistent with state law, of encouraging annexation and  
18 incorporation of already developed areas so as to minimize the  
19 role of the county as a provider of municipal services. This policy  
20 has resulted in a shrinking unincorporated area within the County  
21 of Orange that is available and suitable for development of lower  
22 income housing. In addition, the county's housing funds have  
23 decreased by 80 percent since the elimination of redevelopment  
24 and large decreases in federal affordable housing funds. This act  
25 is necessary to support the continuation of the County of Orange's  
26 function as a regional lender while also leveraging limited  
27 resources in cities and the county to maximize the number of  
28 low-income housing units built in the County of Orange.