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New Pathways to Encourage Housing Production: A Review of California's Recent Housing Legislation

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Since 2017, the State of California has adopted over 100 new laws designed to increase housing production. Most of these laws have been focused on incentivizing local governments to approve more housing and expedite housing approval processes.

Some have focused on making long-standing legal authorities work better (e.g., significantly changing the ways in which cities must plan for new housing by adding new requirements to Housing Element law and creating stricter penalties for violating housing laws). Others have introduced new ways to facilitate housing production (e.g., offering pathways to streamline development and pre-empting local prohibitions on smaller-scale development in areas zoned only for single-family homes).

This new spate of laws has reshaped the housing entitlement process throughout California, and by certain metrics, permitting has increased in some areas. The Center for Continuing Study of the California Economy recently concluded that residential building permits increased 15.5 percent in the first six months of 2022, with most of that increase occurring in multifamily permits, which typically benefit the most from housing production laws.[1] Recent state legislation has also resulted in an increase in production in other building types, such as accessory dwelling units (ADUs). At the same time, overall production remains well below levels observed before the Great Recession. In addition, given the economic uncertainty posed by inflation and instability in the banking sector, there are concerns that homebuilding starts may stagnate in the near future.

In this brief, we interview planners and land use lawyers to gain an early understanding about the extent to which the new laws are influencing housing production. Making a connection between new laws and housing production is difficult; data can be hard to gather, and a range of other issues affect production, such as cost and availability of land, labor, and construction supplies. This brief is therefore not meant to be an evaluation of the effectiveness of these state laws. Rather, it is an effort to characterize the breadth and goals of recent legislation, and to assess practitioner experiences with using these laws to further housing production. The report provides an over-

view of California's housing system, catalogs recent housing legislation, and summarizes themes from interviews with stakeholders across the state. This report is also being released with **an accompanying online tool** that allows users to search and sort legislation passed since 2016. We conclude by laying out next steps for exploring the effectiveness of these recent changes in California housing policy.

Methods

In its February 2018 Statewide Housing Assessment Report, the California Department of Housing and Community Development (HCD) included a matrix of the state's major housing laws.[2] This table divided California housing laws into four categories based on the part of the housing production process to which they pertain: planning, zoning, permitting, and building. The table further subdivided laws by function and act name, and described each category and some of the legislation that shaped it.

Using HCD's typology, we documented changes and additions to these laws since 2016 that were intended to spur housing production (see Appendix A). This analysis of legislative activity reveals that the state is addressing housing laws in two distinct ways. First, many of the laws work to amend or strengthen existing state authorities and mandates. The fact that housing laws are often iterative, refining implementation over time, is a critical aspect to housing policy. It also means that new laws cannot be interpreted without a broader understanding of their historical origins, and that their impact is often a function of the cumulative changes over time, rather than one specific change. Second, the report also highlights that the state is initiating new approaches to bolster and/or target new housing production.

One important caveat is that no one law operates on its own, and many of the laws that shape California's housing landscape—including its Housing Element planning law, the Regional Housing Needs Allocation (RHNA) law, and the California Environmental Quality Act (CEQA)—are complex and inter-related. In this report, we provide an overview of the changes to these laws, and do not delve more deeply into all the dimensions that influence their implementation and effectiveness. As we discuss further in the conclusion, more research is needed to understand the impacts of recent legislative efforts and how those vary across California's diverse communities.

In addition to this legislative review, we interviewed 22 stakeholders across the state—including land use attorneys and city planners—to better understand how and to what extent developers and public agencies have been drawing on these legislative shifts and their experiences in using them to overcome barriers to housing production.

A Review of California's New Housing Laws

California's housing law framework can be divided into four categories: planning, zoning, permitting, and building. Many of these laws are part of the Planning and Zoning Law, or PZL[3], and go back several decades in many instances. In this brief, we will deal only with the first three categories—planning, zoning, and permitting (referred to as Entitlement Review below)—all of which have seen significant new legislation since 2016. We do not include a category on building code as few laws passed since 2016 that are specific to changing the building code.

Planning

California has many laws governing land use planning, but those most relevant to housing are the General Plan law[4], the Housing Element Law,[5] and the Regional Housing Needs Allocation (RHNA) law[6] (which is part of the Housing Element Law). The California Environmental Quality Act (CEQA)[7] also plays an important role in land use planning, as does the Affirmatively Furthering Fair Housing law.[8]

The Housing Element and RHNA laws are especially important. Unlike most states, California requires local governments to create plans to meet housing production targets. Targets are set for regions and regional governmental bodies coordinate and allocate a share of the total number of new homes needed to each city, town, and county. The RHNA process establishes local production targets. All cities and counties must participate and adopt a Housing Element that lays out both a land use strategy to accommodate the needed housing by identifying sites that are properly zoned, available for construction as well as a strategy for using housing funds and programs to meet affordable housing goals.

The Housing Element Law was originally passed in 1969,[9] but was widely considered ineffective for many years.[10] Recent statutory changes, along with strengthened enforcement from California's Department of Housing & Community Development (HCD) and the California Office of the Attorney General, have made the RHNA process and Housing Elements much more powerful tools. Below we discuss the recent changes to planning law that have resulted in a stronger process. However, the state's cities and counties are currently working through the sixth cycle of the RHNA process which reflects these changes, meaning that it is too soon to know their effects.

Higher Housing Targets and Other Considerations

Over the past five years, the Legislature significantly expanded the planning requirements within Housing Element Law in ways that have greatly increased the number of homes that cities must now plan for. This change, along with reforms to how cities must plan for these new homes, have influenced how cities are approaching the Housing Element process and have the potential to increase housing production in the future.

For example, the Housing Element has long required cities to identify and inventory enough sites to accommodate the number of units included in their RHNA. However, in previous planning cycles, cities frequently included sites where building was infeasible, resulting in a low development rate even though the Housing Element was compliant. To make site inventories more effective at facilitating development, Assembly Bill (AB) 1397 (2017) requires cities to assess the probability of development on specific parcels. The bill also prevents cities from including sites that had been identified in a previous inventory unless those sites would be subject to by-right zoning in the current planning cycle, thus increasing the likelihood the site would be built on.

Senate Bill (SB) 828 (2018) and AB 1771 (2018) amended the RHNA process to require the consideration of factors such as housing cost burdens, overcrowding, fair housing, and other issues in establishing new housing production targets for cities and counties. Prior to these changes, RHNA targets were more susceptible to

political negotiation and oftentimes were not reflective of actual housing needs. For example, in the 5th RHNA cycle, the city of Beverly Hills was given a housing production target of only three new units over the eight year planning period. The new laws will reduce the likelihood that cities will be given such low targets, and the net effect of these changes has been an increase in HCD's allocations of housing units needed throughout the state. For example, the RHNA target figure for the Southern California Association of Governments (SCAG) region increased from 412,000 units in the fifth cycle to 1.3 million in the sixth cycle. The target number for the Association of Bay Area Governments (ABAG) grew from 188,000 in the fifth cycle to 445,000 in the sixth cycle. This significant increase has caused local cities and counties to increase the densities permitted on residential projects and change their zoning ordinances in other ways to accommodate these higher numbers.

Interviewees expressed optimism that recent legislative changes would result in an increase in construction by requiring that cities plan and zone for more housing in ways that could be reasonably expected to facilitate actual housing growth. Interviewees pointed to the significant increases in planned housing that cities are now putting together, as well as the new enforcement mechanisms that have also been passed into law in recent years (discussed in further detail below). However, some interviewees also expressed concern that many cities will fail to obtain approval of their housing elements from HCD due to their inability or unwillingness to identify enough feasible sites. As of March 6th, 2023 , HCD indicated that 195 cities and counties had formally adopted Housing Elements for the sixth cycle and 106 of those—35.1 percent—were out of compliance.[11] Some said that high targets could undermine the effectiveness of expanded planning requirements unless the state provides adequate technical assistance and/or enforces the law with sufficient penalties, as even many cities that want to comply do not have the staff or technical expertise to do so.

There are penalties for being out of compliance, but it is not clear how important those sticks will be. In Southern California, some cities that failed to obtain HCD compliance approval before the deadline in October of 2022 have become ineligible for certain state funding sources. Moreover, cities without certified Housing Elements also find themselves subject to the so-called "builder's remedy"—a provision adopted as part of the 1990 amendments to the Housing Accountability Act that requires approval of projects with 20 percent affordable units in cities that are out of compliance. The provision is largely untested and it is unclear how much, if any, new projects will obtain approvals as a result of the builder's remedy. Cities without certified Housing Elements have also become subject to additional legal pressures from private parties. Specifically, legal groups have begun to take legal action against cities and counties that have yet to secure Housing Element compliance.[12]

Enforcement

The legislature added new mechanisms for enforcement of planning and housing law that have made it very difficult for cities to skirt their housing target obligations under the Housing Element and RHNA. For example, AB 72 (2017) allows HCD to revoke a prior finding that the locality is in compliance with Housing Element law, and allows it to

report violations to the Attorney General. AB 72 was invoked at the beginning of the Newsom Administration in 2019, when the Attorney General sued Huntington Beach.[13] (The lawsuit was later settled.[14]) Interviewees noted that this added enforcement capability—and the willingness of the Attorney General to use it—have made a difference in holding cities accountable to Housing Element law. Interviewees pointed to several letters issued by HCD and the Attorney General to cities observed to be acting unlawfully as important in getting those cities to comply with state law.

Fair Housing

With the passage of AB 686 in 2018, the legislature added new requirements to Affirmatively Further Fair Housing in California. The new law, which codified federal rules at the state level, requires cities to analyze patterns of residential segregation and rezone affluent, historically exclusive areas (which tend to be zoned solely for single-family homes) for multifamily use. These changes have an important impact on the Housing Element process because HCD has required cities to demonstrate that their Housing Element plans achieve the goals of AB 686. Some cities have had to address HCD comments on their proposed Housing Elements by going further in changing zoning in affluent areas to encourage more multifamily construction in those locations zoned for single-family homes. Interviewees told us that prior to the passage of AB 686, cities would regularly concentrate new planned housing in less affluent areas of the city in their Housing Elements. They indicated that this was changing, though it is not yet clear as to the extent to which this will lead to more multifamily housing production in higher-resourced areas.

Zoning

Under the statewide Planning and Zoning Law (PZL), local governments must adopt zoning ordinances that specify what may be built on each parcel of land within its jurisdiction. The zoning ordinance must be consistent with the General Plan and its land use designations. Zoning plays a significant role in determining the amount of housing allowed in each community.

A zoning law typically has three components: 1. standards dictating the use of the parcel, 2. standards dictating the form of the structures on the property (for example, setbacks and height limits), and 3. standards addressing the impact of the property on the community (most significantly parking requirements).

In addition to the PZL (or, in some cases, as part of the PZL), several other laws associated with zoning affect the amount of housing allowed by local governments. These include the Subdivision Map Act,[15] laws relating to accessory dwelling units,[16] specific plan law,[17] the Fair Housing Law (state and federal), the Mitigation Fee Act,[18] laws relating to impact fees, and those parts of SB 330 that provide early, developer-controlled vested rights and restrict local governments' ability to impose moratoria on housing.[19] Below we discuss recent changes to laws related to zoning.

Density Bonus Law

The state's Density Bonus Law (DBL)[20] initially enacted in 1979, has long allowed increases in a housing project's density for inclusion of a minimum amount of affordable housing facilitated by regulatory concessions. The DBL has been modified several times since 2016, in part as a response to increased

development costs and barriers to production. Specifically, 12 bills have been passed that have expanded the applicability and incentives available to developers. Our interviewees noted that the combination of all of these changes has made DBL much more beneficial to use, resulting in more units and greater project feasibility.

Generally speaking, DBL allows more units to be built in a given project if some of the units are designated as affordable housing. It also grants various concessions and waivers, such as reductions of development standards. Prior to 2017, the maximum density bonus available was an additional 35 percent of the maximum number of units allowed by the zoning for a project. A handful of bills have made changes to this maximum allowed increase. For example, AB 2345 (2020) allows a density increase of up to 50 percent for projects that dedicate 15 percent of their units to lower-income households. In addition, AB 1763 (2019) allows 100 percent affordable housing projects to access an 80 percent density bonus, or unlimited density (up to three stories) for projects located within a quarter mile of a major transit stop. AB 2334 (2022) expanded upon allowable density for 100 percent affordable projects by extending the benefits of AB 1763 to low-vehicle miles traveled areas.

Interviewees told us that these changes have been helpful in making projects more financially feasible by increasing the number of units and by allowing housing developers to obtain incentives and waivers from development standards. These bonus units can allow mixed-income projects to more easily absorb the costs of the required affordable units. As a result, developers are more often pursuing projects that take advantage of density bonuses. However, the added density allowed does not necessarily work for mixed-income projects in lower-cost markets, such as inland areas, because the market rate rents in the area are not high enough to offset the costs of operating the affordable units as required.

In addition to the changes noted above, there have been other notable reforms to DBL intended to facilitate greater DBL usage. AB 2372 (2018) allows cities to give a floor area ratio (FAR) bonus instead of a density bonus and limits new parking requirements. AB 571 (2021) prevents affordable housing fees from being imposed on affordable units. SB 290 (2021) allows bonuses for projects with 20 percent of units reserved for lower-income students.

Another important feature of DBL is the ability of developers to access "concessions" and other waivers to further facilitate development. Specifically, DBL requires cities to grant concessions to development or design standards that applicants identify as barriers to their project feasibility. For example, developers might request to reduce setback requirements or height restrictions, or requirements for specific finishes or materials. DBL also allows applicants to access lower parking requirements. Since 2016, some laws have expanded DBL concessions. In addition to the increased allowable density described above, AB 2345 also lowers the threshold requirement for mixed-income projects to access multiple concessions. AB 2334 (2022) increases available concessions for 100 percent affordable projects from three to four.

Accessory Dwelling Units and Small Scale Projects

Since 2016, the legislature has passed 17 bills related to ADUs. The combination of all of these reforms appears to have been successful in increasing ADU production statewide. For example, in 2016, California permitted just over one thousand ADUs. In 2021, over 20,000 ADUs were permitted.

These reforms began in 2016 with the passage of SB 1069/AB 2299 (2016), which established that ADU approval must be ministerial.[21] Subsequent laws have made ADUs a stronger development option. For example, AB 881 (2019) limits the grounds for disallowing ADUs, including through owner occupancy requirements, restrictive lot size, setback, and parking standards. AB 68 (2019) reduces the time in which cities have to approve ADUs and eliminates replacement parking requirements for garage conversions. SB 13 (2019) reduces impact fees and shortens application review periods. Interviewees credited the recent spate of ADU laws with the increase in ADU construction that has occurred since their passage. In particular, the ministerial approvals now afforded to ADUs have greatly sped up the process of approving these projects, and the prescriptive standards that cities must adhere to has limited the ways in which localities can block or change such development.

Building on the progress made on ADUs, legislators passed SB 9 in 2021. The law requires ministerial approval of duplexes and lot splits within areas zoned for single-family homes. An earlier Terner Center analysis concluded that SB 9 could make up to 700,000 homes market-feasible that would not have been permitted before.[22] However, the passage of SB 9 in 2021 has yet to translate into similar increases in duplexes, in part because some localities are finding ways to hinder implementation through local ordinances with requirements such as front setback or easement requirements for newly subdivided lots.[23] As of January 2023, the Terner Center found very limited uptake based on a survey of planners working at 13 California cities.[24] Interviewees confirmed that usage of SB 9 appeared to be light so far, though the legislation is still relatively new.

Deregulating Parking and Expanding Housing on Non-Residential Land

Finally, a few laws passed in 2022 prohibit local governments from requiring parking within a half-mile of certain transit stops (AB 2097) and allow developers to override local commercial zoning to build housing on lots zoned for retail and office use (AB 2011/SB 6). Interviewees were optimistic about these new laws, though it is too early to tell their impact so far (for example, AB 2011 goes into effect on July 1, 2023).

Entitlement Review

Traditionally, with a few exceptions, state law allowed local governments significant leeway over entitlement of projects, even allowing many projects to be denied even if they met general plan requirements and zoning standards. CEQA almost always comes into play at the entitlement level, because the law identifies environmental impacts that must be mitigated, adding to conditions of approval. In this section, we review laws that pertain to streamlining the entitlement process and reducing the number of projects that go through discretionary review.

Streamlining

The legislature has passed a handful of laws to streamline the entitlement process. One such law is SB 35 (2017), which requires ministerial approval of multifamily infill housing projects in cities that are not meeting their RHNA goals. Significantly, this means that no analysis under CEQA is required. The bill sets a minimum threshold for affordable units (depending on the project size and jurisdiction) and also requires certain labor standards to be met in specific instances, such as the use of prevailing wage in affordable housing construction and the usage of a "skilled and trained" workforce in mixed-income development. The legislature subsequently passed multiple bills to clarify and improve implementation of SB 35. For example, AB 831 (2020) allows developers to apply for modifications of projects approved under SB 35. AB 1174 (2021) extends the validity of a development approved under SB 35 for three years after a final judgment upholding the approval in any litigation against it.

Cities had difficulty managing SB 35 applications at first, and some cities pushed back on the law's applicability. In Berkeley, for example, the city challenged an SB 35 project by claiming that it would interfere with a historic structure (which is not permitted under SB 35) but lost in court.[25] In Burbank, the City Council challenged eligibility of one SB 35 project, relying on an apparent inconsistency between the general plan and zoning, but eventually settled the case.[26]

Interviewees said that SB 35 has been somewhat successful in facilitating streamlined approvals for 100 percent affordable housing projects, but developers have used SB 35 for market-rate projects less frequently than expected. Interviewees highlighted that, in some cases, the 50 percent affordability requirement, which applies in cities and counties meeting their market-rate RHNA goals, and labor standards can reduce the financial feasibility of projects. Several interviewees suggested that meeting labor standards is a politically important goal to many developers, especially in the Bay Area, and therefore they are more likely to use SB 35 if they plan to meet labor standards anyway. One attorney noted that the tribal consultation process created by AB 168 (2020) can also add uncertainty and delay. This process requires local agencies to consult with tribes "culturally affiliated with the geographic area" of a development seeking approval under SB 35 and has caused some delays for certain projects. Preliminary findings from the Terner Center's analysis of state data echo some of what we heard in interviews, as the majority of projects applied for or approved through SB 35 are for affordable units. The Terner Center will publish a more complete review of SB 35's strengths and weaknesses in the summer of 2023.

Other legislative efforts have also provided streamlining benefits by creating by-right, or ministerial, approval processes for specific housing types, such as ADUs or duplexes under SB 9, or permanent supportive housing projects. By-right and ministerial processes remove discretionary reviews and in some instances require approvals within a certain timeframe. Interviewees noted that these processes have benefited eligible projects by providing certainty for builders and homeowners. Interviewees noted that creating by-right pathways should be considered for more types of housing given how successful this strategy has been for certain subsets of housing.

SB 330 and the Housing Accountability Act

The changes that have strengthened the Housing Accountability Act (HAA)[27] have been particularly important for ensuring that projects are not denied despite being compliant with objective local land use regulations. The HAA was first passed in 1982 and has been amended some two dozen times since, but it was strengthened most significantly in 2017 by three bills: SB 167, AB 678, AB 1515. Among other things, these three bills apply a developer-friendly standard of review (using a "preponderance of evidence" rather than "substantial evidence" standard), increase fines on localities that unlawfully deny permits, and require that the code in place at the time the application was deemed complete must be used in reviewing the project. Interviewees said that the early vesting contained in the HAA, along with the narrowing of conditions required to deny a project, have made the HAA a more effective tool. Interviewees identified several instances where localities have backpedaled on project denials given the penalties to which they would be subject.

In 2019, both the HAA and the Permit Streamlining Act[28] were strengthened by the passage of SB 330, the Housing Crisis Act of 2019. SB 330 limited cities' ability to deny permits in several ways. It created a non-discretionary "preliminary application" that vests rights upon submission, establishes a private right of action for challenging permit denials, allows plaintiffs to win attorneys' fees, and requires that changes to zoning ordinances do not result in a net loss of residential capacity within the jurisdiction. SB 330 amended the Permit Streamlining Act as well by placing time limits on an agency's ability to comment on a project and imposing a five-hearing rule; now a decision must be made after no more than five hearings after the project application is complete. Of these changes, interviewees noted that the five-hearing rule was the most consequential, as applicants now have certainty around the number of hearings that cities can require of an applicant.

One recent appellate court ruling in a high-profile case shows the power of the HAA. The Terraces of Lafayette housing development project has been the subject of litigation and ballot measures for more than a decade—and the ongoing conflict was featured in Conor Dougherty's 2020 book *Golden Gates: Fighting for Housing in America*. In response to local resistance, including ligation largely based on CEQA, the developer at one point greatly reduced the size of the proposed project, among other things. In a ruling published in early 2023, the First District Court of Appeal said the HAA required that the original, larger application be locked in. The developer reverted to the original, much larger proposal, which the city eventually approved.

The California Environmental Quality Act (CEQA)

CEQA requires environmental review of all housing developments that require discretionary approval unless they qualify for a "statutory" exemption, which is an exemption adopted by a statute, or a "categorical" exemption, which is contained within a category of exemptions as determined by the Secretary of Natural Resources. By-right or ministerial projects are not subject to CEQA. Traditionally, the Legislature has not engaged in large-scale CEQA reform and this trend has continued even since 2017 as many housing bills have been passed. In the years before 2017, the Legislature did add more exemptions

from CEQA (for example, an exemption for infill development projects). In recent years, CEQA exemptions have also been narrowly passed for specific types of projects, such as permanent supportive housing and shelters for people experiencing homelessness. However, generally speaking, the bounds of CEQA have been determined far more by judicial review than by the state legislature.

On the legislative front, lawmakers have prioritized creating new exemptions for housing reserved for people experiencing homelessness. For example, AB 2162 (2018) allows permanent supportive housing to be approved by-right, thereby bypassing the CEQA process. Similarly, AB 101 (2019 budget trailer bill) exempts homeless "navigation" centers from CEQA. SB 744 (2019) streamlines CEQA approval for projects funded through California's No Place Like Home program.

However, outside of projects for people experiencing homelessness, there have only been a few bills that provide CEQA exemptions serving other populations. One such bill was SB 10 (2021). This bill does not exempt specific projects from CEQA, but rather it authorizes cities to zone parcels in transit-rich or urban infill areas up to 10 units and exempts such rezonings from CEQA review. SB 866 (2022) creates a CEQA exemption for student and faculty housing built by public universities.

Interviewees cited CEQA litigation as a significant obstacle to permitting and construction. Holland & Knight, a law firm representing developers, estimated that in 2020 CEQA lawsuits challenged projects representing almost 50,000 housing units.[29] This does not mean that these housing units were not built, but it is likely that the litigation added cost and delays to the projects, as well as a decrease in the number of units in some cases.

Interviewees told us that developers use existing exemptions when available, including the urban infill categorical exemption[30] and the specific plan statutory exemption.[31] Indeed, recent data from the California Governor's Office of Planning & Research has found that, between 2008 and 2019, exemptions grew from 38 percent to 55 percent of all CEQA actions (with a corresponding decline in mitigated negative declarations).[32] However, interviewees also said that even when projects qualify for an exemption from CEQA review, there can still be costs and delays. Specifically, litigation can still be likely, and it is difficult and costly to provide the documentation necessary to prove that the project is eligible for an exemption. As such, interviewees told us that they do not always recommend utilizing eligible exemptions.

Several recent laws, including SB 35, require ministerial approval (hence bypassing CEQA altogether) for certain projects, but only when specific labor standards are met. As noted above, this tradeoff means that such laws are usually only used in high-cost areas where entitlement is difficult, making prevailing wage more financially feasible when compared with going through the CEQA process.

Conclusion

It is too early to know whether the full set of new state laws is having a meaningful impact on spurring increased homebuilding. Implementation takes time, and the length of time it takes for any new housing development to get off the ground means that it can take several years before a law's impact takes

effect. In addition, the timing of Housing Element and RHNA cycles vary across regions: the staggered implementation of state laws, coupled with the time it takes to develop interpretive guidance and local ordinances, means that it will be several years before the statewide impacts of these laws can be measured. There also needs to be greater consideration of how laws interact, and in some cases, conflict, not only with other state laws but also with federal funding and planning requirements (for example, around AFFH). The past few years have also introduced significant instability in the housing market, resulting both from the effects of the COVID-19 pandemic and rising inflation and interest rates. All of this points to the need for continuing research into the different components of state law, including empirical studies that can measure not only the impacts of legislative changes on housing production, but also the ways in which local market conditions and implementation influence those outcomes.

However, there have been positive, measurable impacts on construction starts within some specific housing domains, and interviewees expressed optimism that process changes could unlock significant increases in home-building in the future. Our interviews broadly indicated three areas for cautious optimism.

First, we heard that new legislation has helped stimulate the production of new housing in the form of both ADUs and subsidized affordable housing. The state's permit data provides some evidence that these sectors are producing more housing, particularly for ADUs and affordable housing. Interviewees told us the ADU laws and affordable housing targeted reforms such as SB 35 and AB 2162 have created important pathways for faster development by requiring ministerial approval processes. For ADUs, creating clarity around setbacks, parking, and other design requirements have also been critical. For affordable housing, changes to density bonus law have been important in both allowing more units on a given site as well as obligating cities to accept mandatory waivers to specific zoning and design requirements to unlock that density. Changes to ADU and affordable housing law suggest possible pathways that could be applied to housing production more broadly.

We also heard that, in some cities at least, new laws have encouraged a shift to a culture of "yes" around project approvals. Part of this shift is that the full suite of state laws send a signal to city staff and elected officials that housing is a matter of statewide importance and cities need to do their part. But it also reflects the fact that specific laws—for example, the limited grounds for denial under the Housing Accountability Act—make it legally more difficult to deny otherwise compliant projects. This enforcement has been helpful in keeping projects moving forward, particularly in the face of local opposition. Other laws, such as SB 330, have made the process by which approvals are obtained much more predictable by doing such things as limiting public hearings to five in total and establishing early vesting rights. In implementing the laws, many cities have used them as the foundation for a more pro-housing approach. While these culture shifts are hard to quantify, it seems likely that they could have a durable impact.

Lastly, our interviewees gave credence to the idea that changes in RHNA and Housing Element law could be extremely powerful. In the most recent Housing Element cycle (6th Cycle), a great deal of land previously off limits to housing is now being made available, and many existing housing parcels have already been or will soon be rezoned for higher densities. Many cities are still a few years out from implementing the zoning changes and programs specified in their Housing Elements. Furthermore, the Housing Element's strengthened requirements for cities to comprehensively mitigate barriers to housing in their adopted housing programs was somewhat limited in the 6th Cycle due to tight timeframes. It may not be until the 7th Cycle that the State is effectively able to put into law–and cities then to implement—more rigorous standards. These standards could effectuate the legal obligation that, for example, all non-vacant housing inventory sites have a reasonable probability of development over the eight year period and, if not, measures are proposed to be taken to increase zoned capacity or boost feasibility. These standards, in turn, could result in cities not just laying the table for new zoned land but also requiring them to look much more comprehensively at all process and feasibility barriers to new supply that are controlled at the local level, in ways that could lead to significant local changes.

At the same time, we identified several concerns that the state policymakers and housing advocates should be aware of as they assess the effectiveness of new housing laws. First, we consistently heard that many localities lack the personnel capacity and technical skill to effectively implement the large changes in housing policy stemming from state law changes. Many are scrambling to respond effectively, but additional staff resources, consultant support, and technical assistance are likely needed for local governments to fully implement new laws to be consistent with legislative intent.

Our interviewees also expressed concerns as to whether the state will be able to sustain its aggressive enforcement of the new laws over the long-term. HCD and the Office of the Attorney General are currently devoting considerable attention and resources to enforcement of housing law. But past experience suggests that, as political circumstances change and new gubernatorial or legislative priorities emerge, both HCD and the Office of the Attorney General can retreat from an aggressive posture. Given the long lead time for effective implementation of law changes, such as those to the Housing Element, any reduction in ongoing enforcement and accountability risks leading to local governments retreating from a pro-housing posture even as those housing laws remain on the books.

Finally, we heard repeatedly that high development costs—such as labor, materials, development impact fees, and stringent building code requirements—continue to impede housing development in even the most permissive cities and counties. Permissive land use laws are not enough to spur building if housing development is not financially feasible. Without the state's careful attention to unwinding the underlying cost drivers—and/or aggressively increasing financial incentives for market-rate housing and boosting funding for affordable housing—California will likely lag in its efforts to increase housing production.

Endnotes

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ABOUT THE TERNER CENTER

The Terner Center formulates bold strategies to house families from all walks of life in vibrant, sustainable, and affordable homes and communities. Our focus is on generating constructive, practical strategies for public policy makers and innovative tools for private sector partners to achieve better results for families and communities.
For more information visit: **www.ternercenter.berkeley.edu**

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Appendix A: Summary of Amendments to Existing Legal Authorities

	NAME	CODE SECTION	DESCRIPTION OF STATE AUTHORITY AND/OR MANDATE	UPDATES (2017 AND LATER)	DESCRIPTIONS OF RECENT LEGISLATIVE ACTIONS
DEVELOPMENT PHASE: PLANNING	General Plan	Gov't Code § 65300 et seq.	A General Plan is the local government's long-term blueprint for the community's vision of future growth and is typically updated every 20 years. Mandatory elements include: Land Use, Circulation (Traffic & Utilities), Housing (state mandated affordable housing program), Conservation (natural resources), Open Space, Noise, Safety. All subsequent planning documents (e.g., zoning ordinance) and land-use actions (and public works decisions) must be consistent with the General Plan.	AB 879 (2017), SB 35 (2017), SB 1333 (2018), AB 1486 (2019), AB 168 (2020), AB 2345 (2020), AB 787 (2021), SB 290 (2021), AB 2011 (2022), AB 2094 (2022), AB 2653 (2022)	AB 879 (2017) increases required analyses of housing constraints within housing elements. SB 35 (2017) makes some projects eligible for ministerial, streamlined approval. SB 1333 (2018) allows charter cities to adopt general plans by resolution. AB 1486 (2019) requires annual plans to include inventory of surplus lands. AB 168 (2020) requires localities to report on updates they make to housing elements to comply with new tribal consultation, density bonus, and student housing requirements. AB 2345 (2020) requires localities to report on the number of density bonus applications granted. SB 290 (2021) requires reporting on student housing. AB 787 (2021) allows cities to claim credit for converting market rate housing to moderate income housing, up to 25 percentpercent of RHNA requirements. AB 2011 (2022) requires reporting on applications received under new zoning rules. AB 2653 (2022) allows HCD to request corrections to annual progress reports.
	Housing Element	Gov't Code § 65580 et seq.	Local governments plan for current and future housing needs, including their share of the regional housing need, through the housing element update process. Unlike other parts of the General Plan, a housing element must be revised every five to eight years. Among other provisions, the housing element provides an inventory of land adequately zoned or planned for residential zoning, certainty in permit processing procedures, and a commitment to assist in housing development through regulatory concessions and incentives. It also requires the adoption of specific program actions to facilitate the development of housing within the jurisdiction. Housing element law requires local governments to rezone, if necessary, to provide sufficient capacity in higher density zones to accommodate the RHNA for lower-income households. They are required to allow multifamily housing on those sites for rental and ownership through ministerial approval. Ministerial approval means the local government may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of CEQA .	AB 2584 (2016), AB 1397 (2017), AB 1515 (2017), AB 72 (2017), AB 879 (2017), SB 167 (2017), SB 828 (2018), AB 1771 (2018), AB 3194 (2018), AB 2162 (2018), AB 686 (2018), AB 101 (2019), AB 1486 (2019), AB 671 (2019), SB 330 (2019), SB 6 (2019), AB 1743 (2019), AB 725 (2020), AB 1561 (2020), AB 1029 (2021), SB 478 (2021), AB 1304 (2021), AB 1398 (2021), AB 215 (2021), SB 8 (2021), AB 1584 (2021), AB 2011 (2022), AB 2097 (2022), AB 2234 (2022), AB 2339 (2022), AB 2653 (2022),	AB 2584 (2016) allows certain housing organizations to sue under the HAA. AB 1397 (2017) adds requirements on sites that can be included in inventories within housing elements. AB 1515 (2017) increases the range of projects subject to the HAA. AB 72 (2017) requires HCD to review local actions during the planning period. AB 879 (2017) increases required analyses of housing constraints within housing elements. SB 167 (2017) applies a developer-friendly standard of review and increases fines on localities that unlawfully deny permits under the HAA. SB 828 (2018) adds policy goals to the RHNA process, including environmental and fair housing goals. AB 1771 (2018) makes RHNA process include specific data, allows appeals. AB 3194 (2018) allows projects compliant with general plan objective criteria not to comply with zoning if the zoning is incompatible with the general plan. AB 2162 (2018) streamlines approval for supportive housing projects. AB 686 (2018) specifies how housing elements must address Affirmatively Furthering Fair Housing. AB 1742 (2019) clarifies that cities cannot reject emergency shelters because of their tax exemptions. AB 101 (2019) imposes fines for failing to meet Housing Element goals. AB 1486 (2019) creates penalties for violating surplus lands act. AB 671 (2019) requires local governments to plan for and incentivize ADUs in their Housing Elements. Asks HCD to develop a list of state grants and incentives. SB 330 (2019) limits when localities can deny permits for low-income housing developments. SB 6 (2019) requires local planning agencies to provide a list of sites suitable for residential development to HCD. AB 1561 (2020) allows Native American tribes more time to respond to notifications of housing proposals. AB 725 (2020) requires cities to zone a minimum of 25 percent of their land for 4-plexes or above. AB 1029 (2021) adds preservation of affordable housing to the pro-housing designation from HCD. SB 478 (2021) allows the Attorney General to bring enforcement actions. SB 8 (2021) extends some limitations to 2030. Allows projects to be subject to rules enacted after approval if construction has not begun in 2.5 years. AB 1584 (2021) clarifies that concessions, waivers, and changes in development standards gained through density bonuses are not valid bases for finding projects inconsistent. AB 1304 (2021) expands the ways in which local agencies must affirmatively further fair housing (AFFH) in their housing elements. AB 1398 (2021) shortens deadlines for cities with non-compliant housing elements to rezone to allow development from 3 years to 1 year. AB 215 (2021) requires public comment for housing elements, gives HCD more tools for enforcement of housing element laws. AB 2011 (2022) allows HCD to report localities not complying with AB 2011 to the Attorney General. AB 2097 (2022) does the same. AB 2234 (2022) enforces time limits for review of post entitlement permit applications. AB 2339 (2022) adds requirements to lan for emergency shelters. Ab 2653 (2022) allows HCD to report localities to the Attorney General for failing to make requested corrections to annual progress reports.

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	NAME	CODE SECTION	DESCRIPTION OF STATE AUTHORITY AND/OR MANDATE	UPDATES (2017 AND LATER)	DESCRIPTIONS OF RECENT LEGISLATIVE ACTIONS
DEVELOPMENT PHASE: PLANNING	Regional Housing Needs Allocation	Gov't Code § 65300 et seq.	The RHNA, established by legislation in 1980, is a process whereby HCD, in consultation with the Department of Finance, projects housing demand by income group to accommodate population growth for all regions of the state. These regions, through their Council of Governments (COG), then determine each city and county's fair share of the housing need. Each jurisdiction's updated housing element must demonstrate enough residential capacity, through adequate zoning, to accommodate this projected growth. The RHNA process has the following objectives: 1. Increase the housing supply and the mix of housing types, tenure, and affordability in all cities and counties in an equitable manner. 2. Promote infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns. 3. Promote intraregional relationship between jobs and housing	AB 1771 (2018), SB 828 (2018)	AB 1771 (2018) and SB 828 (2018) adjust the RHND process (HCD's determination of regional housing need) and the RHNA process (council of governments' allocation of housing units within a region) to include new data and analysis and allow appeals.
	The Cortese-Knox-Hertzberg Local Government Reorganization Act	Gov't Code § 56000, et seq	Local Agency Formation Commissions (LAFCo) approve annexation requests by local governments. Factors that the LAFCO considers in reviewing annexation proposals include, but are not limited to, the following (Section 56841): 1. Population, land area and use, per capita assessed valuation, topography, natural boundaries, drainage basins, proximity to populated areas, and the likelihood of significant growth, during the next 10 years. 2. Need for organized community services, present cost and adequacy of government services, effect of the on the cost and adequacy of services and controls in the area and vicinity. 3. Conformity of the proposal and its effects with LAFCO policies on providing planned, orderly, efficient patterns of urban development and with state policies and priorities. 4. Effect of the proposal on maintaining the physical and economic integrity of lands in an agricultural preserve in open-space use. 5. Consistency with appropriate city or county general and specific plans.		
	Sustainable Community Strategy of SB 375	Cal. Public Resource Code § 75125 Gov't Code § 65080	In an effort to reduce California's carbon emissions, legislation such as SB 375 required regions to develop a Sustainable Community Strategy plan (SCS) to integrate housing in their transportation plans in a way that encourages infill development and reduces vehicle miles traveled, achieving their greenhouse gas reduction goals. This planning is adopted at the regional level, and while many jurisdictions implement the objectives of the plan, they are not required to do so.	AB 101 (2019), AB 1095 (2021),	AB 101 (2019) awards additional points in the Affordable Housing and Sustainable Communities Program (AHSC) to jurisdictions deemed "prohousing" by HCD. AB 1095 (2021) specifies the AHSC and Strategic Growth Council aim to increase home ownership among low-income families.
	Williamson Act	Gov't Code § 51200	Enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural, or related, open space use. In return, landowners receive property tax assessments.		
	Housing Element	Gov't Code § 11011.8		SB 6 (2019)	SB 6 (2019) requires HCD to provide Dept of General Services a list of land identified in local housing elements as suitable for residential development. Requires DGS to post a database
	Affirmatively Furthering Fair Housing	Gov't Code § 8899.50		AB 686 (2018), AB 1304 (2021)	AB 686 (2018) requires localities to report on and "affirmatively further" fair housing (AFFH). AB 1304 (2021) clarifies that AFFH is mandatory.

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DEVELOPMENT PHASE: ZONING	Specific Plan	Gov't Code § 65450	Specific Plans are commonly used to tailor land-use requirements for a particular subdivision or planning area (such as an historic old town or a redevelopment area) and can include development or other specific standards. The plan must be consistent with the general plan.		
	Zoning Ordinances	Gov't Code § 65850 et seq	Zoning ordinances divide city or county into use districts, such as single-family residential, multifamily residential, commercial, industrial, in conformity with the land-use element of the general plan. Among other things, zoning ordinances describe permitted uses, conditionally permitted uses, development standards, and special incentives such as density bonus. Variances allow exceptions to zoning laws to account for unique circumstances of a property, such as an odd shape.	AB 1521 (2017), AB 1505 (2017), SB 166 (2017), SB 1333 (2018), AB 881 (2019), AB 587 (2019), SB 13 (2019), SB 330 (2019), SB 9 (2021), SB 8 (2021), AB 1584 (2021), AB 916 (2022), AB 2221 (2022), SB 897 (2022), SB 6 (2022), AB 2339 (2022), AB 2097 (2022)	AB 1505 (2017) allows inclusionary zoning ordinances. SB 166 (2017) requires zoning for "no net loss" of units. AB 1521 (2017) limits sales of "assisted housing" projects. SB 1333 (2018) applies planning and zoning requirements to charter cities. AB 881 (2019) allows ministerial permitting for ADUs and JR ADUs, limited to 60 days, no minimum or maximum sizes or parking requirements. Allows HCD to report violations to the Attorney General. AB 587 (2019) allows ADUs to be sold separately from the main house. SB 13 (2019) limits restrictions on ADUs including space, ownership, and fees. SB 330 (2019) limits cities to 5 hearings on complete applications. SB 9 (2021) requires ministerial review for duplexes in single-family zoned areas. SB 8 (2021) clarifies limits on hearings and clarifies that density bonuses are not bases for finding inconsistency with a local plan. AB 1584 (2021) clarifies definition of "assisted housing developments" and required procedures for their sales. AB 916 (2021) prohibits local requirements for hearing for reconfigurations of space that add up to two new bedrooms. AB 2221 (2022) shortens permit review timelines for ADUs, changes some development standards. SB 897 (2022) limits local land use limitations and development standards on ADUs. AB 2097 (2022) prohibits parking requirements on new developments within ½ mile of public transit.
	Subdivision Map Act	Gov't Code § 66410	The Subdivision Map Act provides procedures for the orderly subdivision of land by regulating the division of land into separate parcels for lease, sale or financing. Common approvals under this law are: subdivision maps (which create five or more parcels), parcel maps (which create four or fewer parcels), and lot line adjustments (which affect fewer than four parcels).	SB 9 (2021)	SB 9 (2021) requires ministerial review for dividing residential parcels in two and/or converting single family structures to duplexes.
	Federal and State Fair Housing Law	Fair Housing 42 U.S.C. § 3601, et seq; 42 U.S.C. § 5304(b)(2); 42 U.S.C. § 5306(s)(B); 42 U.S.C. § 12705	Fair Housing laws make it illegal to discriminate against any person because of race, color, religion, sex, disability, familial status, national origin, ancestry, marital status, sexual orientation, source of income and age in the rental or sale, financing, advertising, appraisal, provision of real estate brokerage services, etc., and land-use practices.	AB 686 (2018), AB 1304 (2021)	AB 686 (2018) requires cities to "Affirmatively Further Fair Housing." AB 1304 (2021) clarifies that AFFH is mandatory.

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DEVELOPMENT PHASE: ZONING	Limits on Moratoriums on Housing	Gov't Code §65858	A jurisdiction cannot extend any interim ordinance that puts a moratorium on the development of housing for the development of projects with a significant component of multifamily housing except upon specific written findings (noted in the statute) adopted by the legislative body, supported by substantial evidence on the record. Moratoriums on multifamily housing development cannot include the demolition, conversion, redevelopment, or rehabilitation of multifamily housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or that will result in an increase in the price or reduction of the number of affordable units in a multifamily housing project	SB 330 (2019)	SB 330 (2019) prohibits jurisdictions from imposing new laws that would have the effect of reducing the legal limit of housing allowed, including actions such as downsizing or otherwise removing housing capacity without commensurately increasing capacity elsewhere.
	Least Cost Zoning	Gov't Code § 65913.1.	Least Cost Zoning Law requires local governments to zone sufficient land for residential use with appropriate standards in relation to zoning for nonresidential uses, to meet the housing needs of all income groups. Appropriate standards are defined to mean densities and development standards must contribute to the economic feasibility of producing housing at the lowest possible cost.	SB 8 (2021)	SB 8 (2021) extends the freeze of historical site status during development.
	Mitigation Fee Act	Gov't Code § 66000	The Mitigation Fee Act authorizes local governments to impose fees on new development and requires that a nexus be shown between the fee charged and its purpose. Local governments can impose development fees to defray all, or a portion of, the cost of public facilities related to the development of the project. These fees commonly include planning-related fees to contribute to the cost of staff time when processing applications and preparing environmental documents, and impact fees related to the building of the development such as water and sewer connections. Local governments may also impose fees on new development for other public benefits such as roads, parks, libraries, and affordable housing.	AB 602 (2021), AB 2536 (2022), AB 2668 (2022)	AB 602 (2021) adds to requirements for impact fee nexus studies and allows anyone to submit evidence that the locality incorrectly calculated its fees. AB 2536 (2022) requires localities to evaluate whether new or amended fees exceed reasonable cost of providing service. AB 2668 (2022) clarifies that rules about nexus fee studies apply to cities, counties and special districts.
	Enhanced Infrastructure Financing Districts Infrastructure Financing Districts	Gov't Code § 53398.50	Differing from former Redevelopment Areas (RDAs) an Enhanced Infrastructure Financing District (EIFD) may not redirect property tax revenue from K-14 schools. EIFDs can be created by cities or counties without voter approval. All participating affected taxing entities must first agree to provide their tax increment revenue to the EIFD. However, approval from at least 55 percent of impacted residents is required before the EIFD may issue tax increment-financed debt. EIFDs may fund projects including housing for rental or purchase, transit priority projects, sustainable communities strategies, military base reuse, and brownfield restoration among other uses. EIFDs may overlap with RDA project areas, but cities and counties that formerly operated RDAs may participate in an EIFD once the Successor Agency has received a Finding of Completion from the Department of Finance, and cleared their audit findings from the State Controller's Office asset transfer reviews.		
	Community Revitalization and Investment Authorities	Gov't Code § 62000	Local Community Revitalization Investment Authorities (CRIA) are empowered to invest the property tax increment of consenting local agencies (other than schools) and use other available funding to improve conditions leading to increased employment opportunities, including reducing high crime rates, repairing deteriorated and inadequate infrastructure, and developing affordable housing. CRIAs are subject to more rigorous accountability criteria than former Redevelopment Agencies.		
	Impact Fees	Gov't Code § 66016.5		AB 602 (2021), AB 2536 (2022), AB 2668 (2022)	AB 602 (2021) adds to requirements for impact fee nexus studies. AB 2536 (2022) requires localities to evaluate whether new or amended fees exceed reasonable cost of providing service. AB 2668 (2022) clarifies that rules about nexus fee studies apply to cities, counties and special districts.

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DEVELOPMENT PHASE: ZONING	Second Unit Law	Civil Code § 4751		AB 670 (2019)	AB 670 (2019) prevents HOAs and other entities from restricting ADUs.
	Second Unit Law	Civil Code § 714.3		AB 1584 (2021)	AB 1584 (2021) makes covenants unenforceable if they restrict ADUs on single-family zoned areas
DEVELOPMENT PHASE: ZONING, PERMITTING	Emergency Shelter, Transitional and Supportive Housing Zoning Requirements (SB 2)	Gov't Code § 65583.(a)(4)(5)	A local government must identify where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. In addition, transitional housing and supportive housing are considered a residential use of property and subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.	AB 2339 (2022)	AB 2339 (2022) requires localities to plan for emergency shelters.
	Second Unit Law	Gov't Code § 65852.2 and 65583.1.	Second Unit Law requires local governments to establish a process to consider approval of the development of secondary dwelling units. Local governments are required to provide ministerial approval of second units and promote their development.	SB 1069 (2016), AB 2299 (2016), AB 881 (2019), AB 68 (2019), SB 13 (2019), AB 345 (2021)	SB 1069 (2016) adds requirements to ordinances authorizing ADUs. AB 2299 (2016) adds requirements to ordinances authorizing ADUs. AB 881 (2019) allows ministerial permitting for ADUs, limited to 60 days, no minimum or maximum sizes, parking requirements, allows JR ADU's too. Allows HCD to report violations to the Attorney General. AB 68 (2019) changes mandatory building standards including setbacks and size. Reduces approval periods. SB 13 (2019) limits restrictions on ADUs including space, ownership, and fees. AB 345 (2021) allows nonprofits to sell ADUs separate from primary dwellings.
	Junior Accessory Dwelling Units	Government Code § 65852.22	Jurisdictions are allowed to create an ordinance allowing junior accessory dwelling units, in single-family residential zones. "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure.	AB 2406 (2016), AB 68 (2019), SB 897 (2022)	AB 2406 (2016) authorizes ordinances allowing Junior ADUs. AB 68 (2019) requires ministerial approval of some Junior ADUs. SB 897 (2022) reduces and changes requirements for Junior ADUs.
	Manufactured and Factory Built Housing Law	Gov't Code § 65852.3.	Local governments must allow the siting and permit process for manufactured housing in the same manner as a conventional or stick-built structure.		
	Group Home Law	Health and Safety Code § 1267.8, 1566.3, 1568.08	Local governments are required to treat licensed group homes and residential care facilities with six or fewer residents no differently than other by-right single-family housing uses. "Six or fewer persons" does not include the operator, the operator's family or persons employed as staff. Local agencies must allow these licensed residential care facilities in any area zoned for residential use.		
	Employee Housing Act	Health and Safety Code § 17021.5, 17021.6, 17021.5.	Employee housing for six or fewer persons must be treated as a single-family structure and residential use in a residential zone. Section 17021.6 generally requires employee housing consisting or not more than 36 beds in group quarters or 12 units or less designed for use by a single family or household to be treated as an agricultural use.	AB 1783 (2019)	AB 1783 (2019) requires ministerial approval for qualifying farmworker housing projects.

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DEVELOPMENT PHASE: ZONING, PERMITTING	Density Bonus Law	Gov't Code § 65915	State Density Bonus allows for a developer to get a density bonus of up to 35 percent, up to three incentives or concessions, and allows developments reduced parking standards for provision of housing affordable to lower-income households.	AB 1934 (2016), AB 2753 (2018), AB 2372 (2018), AB 2797 (2018), SB 1227 (2018), AB 1763 (2019), AB 2345 (2020), AB 571 (2021), SB 290 (2021), SB 728 (2021), AB 2334 (2022), AB 682 (2022), AB 1551 (2022)	AB 1934 (2016) provides density bonuses for commercial developers that partner with addordable developers on joint projects. AB 2753 (2018) makes process adjustments to density bonus process. AB 2372 (2018) allows cities to give floor area ratio bonus instead of a density bonus, limits new parking requirements. AB 2797 (2018) requires density bonuses to comply with coastal zone act. SB 1227 (2018) provides density bonus for student housing with affordability restrictions. AB 1763 (2019) provides density bonuses for projects with 100 percent affordable units. AB 2345 (2020) increases density bonuses and incentives. AB 571 (2021) prevents affordable housing fees from being imposed on affordable units. SB 290 (2021) expands density bonus law, allows bonuses for projects with 20 percent lower income students. SB 728 (2021) allows nonprofit housing orgs to purchase units under density bonus law. AB 2334 (2022) adjusts maximum rent levels for some units in developments receiving density bonuses, extends density bonuses to developments in low vehicle travel areas within designated counties, adjust standards used to determine maximum density allowed by localities, extends prohibition on parking requirements for some developments. AB 682 (2022) makes shared housing developments eligible for density bonuses. AB 1551 (2022) reenacts a recently expired law that extended density bonuses to some commercial developments that include affordable housing developments.
	Navigation Centers	Gov't Code § 65660 - 65668		AB 101 (2019)	AB 101 (2019) makes homeless "navigation" centers by-right developments, exempt from CEQA
DEVELOPMENT PHASE: PERMITTING	Permit Streamlining Act	Gov't Code § 65920, 65950	Sets deadlines for action on land-use permits and grants automatic approval ("deemed approved") if action is not taken in a timely manner.	SB 330 (2019), SB 8 (2021)	SB 330 (2019) sets time limits for processing applications. SB 8 (2021) extends until 2030 the provisions that limit application response time.
	Housing Accountability Act (HAA)	Gov't Code § 65589.5	Limits local governments' ability to reject or make affordable housing developments infeasible through conditions affordable housing developments, including emergency shelters and farmworker housing. Specifically, the local government can only deny a project affordable to moderate-, low- and very low-income households when the jurisdiction's housing element is in compliance with state law and the jurisdiction has met, or exceeded, the RHNA for the income group of the proposed project, makes specific health and safety findings, or finds the project located on certain agriculturally zoned land.	AB 1515 (2017), SB 167 (2017), AB 3194 (2018), SB 330 (2019), AB 1743 (2019), SB 8 (2021), AB 1584 (2021), AB 2234 (2022)	AB 1515 (2017) increases the range of projects subject to the HAA. SB 167 (2017) applies a developer-friendly standard of review and increases fines on localities that unlawfully deny permits under the HAA. AB 3194 (2018) allows projects compliant with general plan objective criteria not to comply with zoning if the zoning is incompatible with the general plan. SB 330 (2019) limits when localities can deny permits for low-income housing developments, related to RHNA targets. AB 1743 (2019) clarifies that localities cannot deny applications for emergency shelters due to their tax exempt status. SB 8 (2021) allows localities to subject projects to rules enacted after approval if construction has not begun within 2.5 years. AB 1584 (2021) clarifies that incentives, concessions, and waivers due to density bonuses are not bases for rejection as inconsistent with local plans. AB 2234 (2022) enforces time limits for review of post entitlement permits.
	No-Net-Loss	Gov't Code § 65863.	No-net-loss law ensures sites are available throughout the housing element planning period to accommodate the local government's RHNA. It also prohibits a local government from reducing the allowable density on a site identified in the housing element's site inventory unless certain findings are made or an alternative parcel's density is increased.	SB 166 (2017), SB 1333 (2018), AB 2339 (2022),	SB 166 (2017) requires zoning for "not net loss" of units. SB 1333 (2018) applies limits on reduction of residential density to charter cities. AB 2339 (2022) requires housing element site inventories to include unaccommodated housing need from the prior planning period.

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DEVELOPMENT PHASE: PERMITTING	Multifamily Permit Streamlining	Gov't Code § 65589.4	Under specific conditions, multifamily infill housing projects with housing affordable to at least 50 percent moderate-income units, 20 percent low-income units, or 10 percent very low-income units must be allowed as a permitted use and are not subject to a conditional use permitting process.		
	Prohibiting Discrimination Against Affordable Housing	Gov't Code §65008	A jurisdiction action is null and void if it denies to any individual or group of individuals the enjoyment of residence, land ownership, tenancy, or any other land use in this state because the development or shelter is intended for occupancy by persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income or the development consists of a multifamily residential project that is consistent with both the jurisdiction's zoning ordinance and general plan as they existed on the date the application was deemed complete	AB 1743 (2019)	AB 1743 (2019) limits localities' ability to reject projects because they qualify for Community Facilities District tax exemptions.
	CEQA Streamlining	California Public Resources Code § 21000	Certain types of development such as some affordable housing, infill projects, or transit-oriented development are exempt from the provisions of CEQA. Streamlining in the form of exemptions, or being able to use existing environmental documentation (tiering) when evaluating a project, are available for Transportation Priority Projects (TPPs) that are consistent with the Regional SCS.	AB 73 (2017), SB 765 (2018), AB 1560 (2019), AB 101 (2019), SB 744 (2019), SB 7 (2021), SB 10 (2021), AB 140 (2021), SB 886 (2022)	AB 73 (2017) exempts projects within Housing Sustainability Districts from some environmental impact report (EIR) requirements. 1560 (2019) broadens CEQA exemptions based on proximity to transit. SB 7 (2021) reestablishes expedited CEQA review for some projects. SB 886 (2022) creates a CEQA exemption for public university faculty and staff housing projects as well as some student housing projects.
	Attorney's Fees	Gov section 65914	Attorney fees are awarded to the prevailing public entity or non-profit developer in cases where frivolous lawsuits are filed against low and moderate income housing to stop development.		
	CEQA Streamlining	Gov't Code § 8698.4		SB 765 (2018)	SB 765 (2018) expands CEQA exemptions for some affordable housing projects and homeless shelters.
	Housing Crisis Act	Gov't Code § 66300		SB 330 (2019), SB 8 (2021)	SB 330 (2019) limits cities' ability to impose moratoria or stricter development standards. SB 8 (2021) limits downzoning and provides a right of return for displaced renters.
	CEQA Streamlining	Gov't Code § 65913.5		SB 10 (2021)	SB 10 (2021) makes upzoning to 10 units on certain parcels exempt from CEQA.
	Housing Crisis Act	Gov't Code § 65913.10		SB 330 (2019)	SB 330 (2019) requires cities determining whether a proposed development site is "historic" to do so at time application is complete.
	Housing Crisis Act	Gov't Code § 65940		SB 330 (2019), SB 8 (2021)	SB 330 (2019) requires cities to compile a list of everything needed from a development applicant. SB 8 (2021) clarifies the definition of a development project for the sake of the requirement to provide proponents with a checklist.
	Housing Crisis Act	Gov't Code § 65941.1		SB 330 (2019), AB 168 (2020), SB 8 (2021),	SB 330 (2019) provides a list of information applicants must provide. States that applications are deemed preliminary applications if they include this information. AB 168 (2020) clarifies that preliminary applications do not preclude listing of tribal sites on historic registers. SB 8 (2021) extends permit streamlining provisions until 2030.

Appendix A: Summary of Amendments to Existing Legal Authorities

	NAME	CODE SECTION	DESCRIPTION OF STATE AUTHORITY AND/OR MANDATE	UPDATES (2017 AND LATER)	DESCRIPTIONS OF RECENT LEGISLATIVE ACTIONS
DEVELOPMENT PHASE: PERMITTING	Housing Crisis Act	Gov't Code § 65943		SB 330 (2019), SB 8 (2021)	SB 330 (2019) specifies how cities must treat applications, including more accommodations for applicants. SB 8 (2021) clarifies the definition of development project for other permit streamlining provisions and extends those provisions until 2030.
	Building Standards	Civil Code § 4747		SB 478 (2021)	SB 478 (2021) makes covenants/deed restrictions unenforceable if they include certain Floor Area Ratio standards.
	Building Standards	Gov't Code § 65913.11		SB 478 (2021)	SB 478 (2021) prohibits local governments from imposing too strict Floor Area Ratio (FAR) standards.
	CEQA Streamlining	Health and Safety Code § 50675.1.4		AB 83 (2020), AB 140 (2021)	AB 83 (2020) creates a CEQA exemption for Projects RoomKey projects. AB 140 (2021) creates new CEQA exemption for projects targeted at people facing homelessness and COVID hardship
	Housing Crisis Act	Gov't Code § 65940.1		AB 1483 (2019), AB 602 (2021)	AB 1483 (2019) requires local agencies to report on fees, ordinances, zoning. AB 602 (2021) requires localities to post their fee schedules online and to post how much developers pay for actual projects.
	Multifamily Permit Streamlining	Gov't Code § 65913.4		SB 35 (2017), SB 765 (2018), AB 101 (2019), AB 1485 (2019), AB 168 (2020), AB 831 (2020), AB 1174 (2021), AB 2668 (2022), SB 6 (2022),	SB 35 (2017) creates ministerial approval processes for qualifying projects. SB 765 (2018) requires for ministerial approval: affordability restriction/covenant, HCD determines if jurisdiction eligible for streamlining based on low income housing permits, CEQA does not apply. AB 101 (2019) requires jurisdictions to include information about a project's density bonuses and floor space in the jurisdiction's calculation of square footage. AB 1485 (2019) makes moderate-income projects in the Bay Area eligible for SB 35 streamlining. AB 168 (2020) allows tribes to require consultation for SB 35 projects. AB 831 (2020) tightens/improves SB 35 streamlining law. AB 1174 (2021) clarifies SB streamlining and specifies that permit validity is paused during litigation or modification of applications. AB 2668 (2022) adds requirements to projects qualifying for SB 35. SB 6 (2022) allows parcels subject to approval under SB 6 (unused commercial properties) to be eligible for SB 35 streamlining.
	Religious-Use Parking	Gov't Code § 65913.6		AB 1851 (2020)	AB 1851 (2020) allows religious institutions to convert 50 % of their parking spaces to housing.
	Supportive Housing	Gov't Code § 65650 - 65656		AB 2162 (2018), SB 744 (2019), AB 1584 (2021)	AB 2162 (2018) streamlines approval for supportive housing projects. SB 744 (2019) limits review of supporting housing projects to objective standards and adds legislative findings about No Place Like Home that insulate it from legal challenge.
	Transit-Oriented Development	Public Utilities Code § 29010.1		AB 2923 (2018)	AB 2923 (2018) streamlines development on places close to BART stations.
	Impact Fees	Health and Safety Code § 50466.5		AB 602 (2021)	AB 602 (2021) requires HCD to create an impact fee nexus study template

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DEVELOPMENT PHASE: BUILDING	Affordable Housing Beneficiary Districts	Health and Safety Code § 34191.30	Allows a jurisdiction to redirect its distribution of property tax revenue payable to the city or county from the Redevelopment Property Tax Trust Fund to an affordable housing beneficiary district. The jurisdiction is then authorized to issue bonds against the property tax revenue to provide financial assistance for the development of affordable housing in the form of loans, grants, and other incentives.		
	State Housing Law	Health and Safety Code § 17910	The California Health and Safety Code provisions known as the State Housing Law, often referred to as building code, were enacted to encourage uniformity in building standards and to protect the health, safety and general welfare of the public and occupants of residential buildings statewide. HCD's State Housing Law Program (SHL) develops and proposes the adoption of residential building standards to the California Building Standards Commission for approval and adoption into the California Code of Regulations These building standards apply to new construction of hotels, motels, lodging houses, apartments, dwellings, and accessory buildings. Local governments may adopt local amendments to these codes provided they make express findings that they are reasonable and necessary based upon climatic, geological or topographical conditions. Prior to construction of a development, the local government must ensure that building plans conform to all codes and regulations. After completion of the project, the local officials inspect the property to ensure compliance with standards and conditions for development placed on the project.	SB 13 (2019), AB 491 (2021)	SB 13 (2019) gives ADU owners a right to request delay in enforcement of state building code. AB 491 (2021) requires affordable units within mixed-income projects to have the same access to amenities as market rate units.
	California Green Building Standards (CalGreen)		CalGreen requires new buildings and renovations in California to meet certain sustainability and ecological standards. Jurisdictions which aspire to be more green and sustainable may voluntarily adopt more stringent provisions from CALGreen, known as "Tier 1" or "Tier 2" from the CALGreen Appendix A4 Residential Voluntary Measures. These enhanced green building measures contain prerequisites and electives for jurisdictions to determine their own level of local green building code		
	Surplus Sites	Gov't Code § 11011, GC § 54200	Current state law allows the disposal of surplus state government real property through the Department of General Services. Disposal of surplus sites at less than fair market value is allowed to promote the development of housing affordable to persons and families of low- and moderate-income. For locally controlled surplus property, local agencies, including school districts, must prioritize the use of surplus property to increase the supply of housing.	SB 6 (2019), AB 1486 (2019), AB 1180 (2019), AB 1255 (2019), SB 561 (2022), AB 2592 (2022)	SB 6 (2019) requires HCD to provide Dept of General Services a list of land identified in local housing elements as suitable for residential development. Requires DGS to post a database. AB 1486 (2019) clarifies and strengthens the Surplus Land Act by defining terms, changing noticing requirements, prohibiting terms that disallow housing, imposing penalties, specifying minimum affordability standards, and making other changes. AB 1180 (2019) exempts surplus land given to tribes from the Surplus Land Act. SB 561 (2019) requires the Department of General Services (DGS) to evaluate the suitability of state-owned parcels for affordable housing. AB 2592 (2022) requires DGS to plan to transition underutilized multistory state buildings into housing
	Costa-Hawkins Rental Housing Act	Civil Code § 1954.5	Established parameters for implementing local rent control laws which include: (1) housing constructed after 1995 must be exempt from local rent controls, (2) new housing that was already exempt from a local rent control law in place before February 1, 1995, must remain exempt, (3) single family homes and other units like condominiums that are separate from the title to any other dwelling units must be exempt from local rent controls, and (4) rental property owners must have the ability to establish their own rental rates when dwelling units change tenancy. It also includes some tenant protections to protect tenants from arbitrary terminations of leases.		

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DEVELOPMENT PHASE: BUILDING	Ellis Act	Gov't Code §7060	The "Ellis Act" is a state law which says that landlords have the unconditional right to evict tenants if the landlord removes all of the units in the building from the rental market. The evicted tenants have certain rights including first right of return for a period of 10 years, re-rental must be the same as previous rents for 5-years, and relocation payments must be provided to the tenant.		
	Tenant Protections	Civil Code § 1940 – 1954.05	Provides certain rights to tenants who rent residential property. These rights include: (1) limits on the amount of the security deposit and right refund; (2) limits on the landlord's right to enter the rental unit; (3) The right to sue the landlord for violations of the law or rental agreement; (4) The right to repair serious defects in the rental unit; (5) The right to withhold rent under certain circumstances and warranty of habitability; (6) Protection against retaliatory eviction.	AB 2219 (2018), AB 1482 (2019)	AB 2219 (2018) allows tenants to pay rent through third parties. AB 1482 (2019) statewide rent cap and just cause eviction protections.
	Historic Buildings	Health and Safety Code § 18962		AB 2263 (2018)	AB 2263 (2018) reduces parking requirements for historical building conversions.
	State Housing Law	Health and Safety Code § 18938.5		AB 2913 (2018)	AB 2913 (2018) extends the duration of building permits.
	Surplus Sites	Gov't Code § 54233.5		AB 1486 (2019)	AB 1486 (2019) requires localities to offer surplus land to affordable housing developers first, requires reporting to HCD on the process, and a fine for violation.