

## 2019 New Laws Overview

More than 200 housing bills were introduced by state legislators in 2019. On October 9<sup>th</sup>, Governor Gavin Newsom signed into law a housing package<sup>1</sup> that included bills on streamlining application processes, fee transparency, tenant protections, ADUs, surplus lands and financing.

### STREAMLINING

**SB 330** modifies the Permit Streamlining Act (PSA) and Housing Accountability Act (HAA) to include a new Preliminary Application and expedited timeline<sup>2</sup>. Several rules to sunset January 1, 2025. Applies to housing developments with at least two-thirds of square footage designated for residential use.

- **New Preliminary Application** includes a limited list of information required by applicants, which can be found in [Section 8](#) of bill. Only local rules adopted and in effect at the time a complete form is submitted apply, with specific exceptions. CEQA determination still required.
  - Jurisdictions can either develop their own form or use what will be developed by HCD. The deadline to post the preliminary application online has yet to be determined.
  - The bill states that localities shall compile a *checklist* to assist applicants in satisfying the requirements for submitting a preliminary application. However, jurisdictions may want to consider the checklist a part of the application form.
- **Application** must be submitted by applicant no less than 180 days after preliminary application. Jurisdictions have 30 days to respond to completeness. Applicants must submit complete application within 90 days after initial 180-day period.
  - **Information from Applicants** that is not listed in the *checklist/application form or first incomplete letter* cannot be requested.
  - **Projects Complying with Objective Standards** may only deny or reduce density if ‘specific health and safety’ finding can be made. Cannot supersede CEQA.
  - **Historic Significance** must be determined at the time full application is determined complete. Cannot supersede CEQA. Must be added to the application form.
  - **Determination of Consistency with Objective Standards** must be provided to applicant 30-60 days after final application deemed complete.
  - **Public Meetings Conducted by the City** are limited to no more than 5 after application is deemed complete IF project is consistent with all standards and does not require any legislative approvals. Project must be approved or disapproved during the process. HAA amendment.
  - **Approval** must be given 60-90 days after certification of EIR, a change from 90-120 days. PSA Amendment
- **Downzoning** is not allowed below local rules in effect as of January 1, 2018 unless upzoning is occurring at the same time.
- **Housing Moratoriums** are not allowed by affected cities – census designated urbanized area – unless “Imminent Health & Safety Threat” and HCD approval.
- **Unobjective Design Standards** are not allowed on or after January 1, 2020.
- **Replacement Housing** must be provided by developer at a one-to-one ratio for all demolished units and existing or demolished *protected units* – lower income households for past 5 years and those vacated under Ellis Act in past 10 years. Residents of protected units are also entitled to State relocation benefits.
- **Add historic determination to Application Form and post all related materials on website.**

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<sup>1</sup> <https://www.gov.ca.gov/2019/10/09/governor-gavin-newsom-signs-18-bills-to-boost-housing-production/>

<sup>2</sup> [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB330](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB330)

### FEE TRANSPARENCY

**AB1483** requires jurisdictions to publicly share fee and standards information on websites by January 1, 2020, and HCD to develop and update a 10-year housing data strategy<sup>3</sup>. Items to post are:

- Zoning, design and other development standards
- Fees
- Affordability requirements
- Public Art/Mello-Roos Fees
- Application Forms
- Current and past 5 annual MFA Reports
- Archive of Nexus and Fee Studies after January 1, 2018
- *Post all aforementioned fee and standards materials on their websites by 1/1/20.*

### INCENTIVES

**AB 1485** amends SB 35 to include projects with 20 percent of units up to 120 percent AMI in cities not meeting above-moderate RHNA goals<sup>4</sup>. It also clarifies the two-thirds mixed-use calculation, approval expiration dates, subsequent permit issuing and standards of review and consistency with other laws.

**AB 1763** provides enhanced density bonus for 100% affordable developments including 80 percent density bonus and no density limit if within ½ mile major transit stop under State Density Bonus Law<sup>5</sup>.

### TENANT PROTECTIONS

**AB 1482** restricts rents from being increased more than 5 percent plus inflation annually for the next 10 years and requires landlords to demonstrate “just cause” prior to evicting tenants of at least one year. Property owners evicting tenants for renovations or condo constructions must provide relocation fee equal to one month’s rent. Visit [here](#) for detailed information on this and other related bills passed.

**SB 329** prohibits discrimination against tenants paying for housing with public assistance, such as Section 8 vouchers.

### SURPLUS LANDS

**AB 1255** requires jurisdictions to report surplus lands in urbanized areas to the state and to develop a digitized inventory beginning April 1, 2021<sup>6</sup>. Updates will be provided to HCD each year after by April 1<sup>st</sup>.

*Develop inventory and digital version and provide list to requesting parties without charge by 4/1/21.*

**AB 1486** expands Surplus Land Act, requires local jurisdictions to include surplus land in housing elements and annual progress reports (APRs) and requires HCD to create a database.<sup>7</sup>

- Applies to almost all land dispositions including successor agencies
- Must notify HCD about disposition process – HCD must provide written findings within 30 days
- After a notice of interest to buy or lease land has been received, a good faith negotiation not less than 90 days will be entered into with the interested buyer. If price and terms cannot be agreed upon, land may be disposed of without further regard to bill, with specific exceptions.

<sup>3</sup> [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1483](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1483)

<sup>4</sup> [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1485](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1485)

<sup>5</sup> [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1763](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1763)

<sup>6</sup> [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1255](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1255)

<sup>7</sup> [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1486](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1486)

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- Penalty of 30 to 50 percent of price if act is violated
- *Include surplus land in housing elements and APRs.*

**SB 6** requires the state to create a public inventory of local surplus land sites suitable for residential development, along with state surplus land sites<sup>8</sup>. Effective on or after January 1, 2021.

### HOMELESSNESS AND NEW PROHOUSING DESIGNATION

**AB 101** requires jurisdictions to approve navigation centers by-right in mixed use and nonresidential zones that allow multifamily uses. Additionally, if a locality has been designated *prohousing* by HCD – compliant with housing element requirements and enacted policies that advance the planning, approval and construction of housing – extra points will be given on IIG, AHSC and TTC grant program applications. Awards will be based on categories including favorable zoning, faster processing, reducing costs and financial subsidies.

### FINANCING AND TAXING

**AB 116** removes the requirement for Enhanced Infrastructure Financing Districts (EIFDs) to receive voter approval prior to issuing bonds<sup>9</sup>.

**AB 1487** allows ABAG and MTC to place measures on the ballot to generate revenue for affordable housing and tenant protections, as well as oversee coordination, allocation of funds and technical assistance to local jurisdictions<sup>10</sup>. The new Bay Area Housing Finance Authority (BAHFA) – governed and staffed by MTC – will be tasked with raising and distributing funds to localities.

**AB 1743** expands properties exempt from community facility district taxes to include those qualifying for the property tax welfare exemption and limits the ability to deny housing projects due to qualifying<sup>11</sup>.

**SB 196** enacts a new welfare exemption from property tax for property owned by a Community Land Trust (CLT) and makes other property tax assessment changes subject to contracts with CLTs<sup>12</sup>.

### BUDGET

Nearly 2.5 billion was allocated for housing and related infrastructure<sup>13</sup>:

- \$750M short-term planning & infrastructure
- \$500M low- and moderate-income housing
- \$500M to increase housing tax credit
- \$20M legal assistance to renters
- \$650M shelter / permanent supportive housing

### ADUs

**SB 13, AB 68 and AB 881** reduce barriers to ADU approval and construction:

- No impact fees under 750sf, scaled over 750 sf
- Cannot have standard about lot size

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<sup>8</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB6](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB6)

<sup>9</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB116](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB116)

<sup>10</sup> [https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201920200AB1487](https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201920200AB1487)

<sup>11</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1743](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1743)

<sup>12</sup> [http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB196](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB196)

<sup>13</sup> <https://ternercenter.berkeley.edu/blog/2019-california-housing-legislation-round-up>

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- Zones for exterior ADUs and attached ADUS (not within existing structure) must only be based on water, sewer, safety and traffic
- No owner occupancy until 2025 (except required for JADUs)
- If garage lost, no makeup parking
- Must permit 850 sf for 1 bedroom and 1000 sf for 2 bedroom
- Must allow 800 sf ADUs with 4-foot setbacks 16 feet high
- Cannot require correction to nonconforming zoning
- One JADU in main building and ADU in 800 sf building (owner-occupancy required)
- Multifamily can convert nonliving space to ADUs (25 ADUs per 100 units) or add 2 detached ADUS with 4-foot setbacks
- 60 days to approve after application complete
- Must allow JADUs
- Amnesty program
- Increased HCD scrutiny

**AB 587** provides a narrow, opt-in exemption for affordable housing developers to sell deed-restricted land to eligible low-income homeowners.

**AB 671** requires local jurisdictions to encourage affordable ADU rentals in their housing plans and requires the state to develop a list of grants and financial incentives.

**AB 670** limits the ability of single-family HOAs to ban ADUs.