

AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 650

Introduced by Assembly Member Papan

February 13, 2025

An act to amend ~~Section 38405~~ Sections 65583, 65584, 65584.01, 65584.04, 65584.05, 65585, and 65589.5 of the Government Code, relating to ~~parks~~: *land use*.

LEGISLATIVE COUNSEL’S DIGEST

AB 650, as amended, Papan. ~~Discontinuance of parks~~. *Planning and zoning; housing element; regional housing needs allocation.*

(1) *Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, which includes, among other mandatory elements, a housing element. Existing law requires a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing. Existing law defines “affirmatively furthering fair housing,” as provided.*

The Planning and Zoning Law requires that a housing element include, among other things, a program that sets forth a schedule of actions during the planning period. Existing law requires the Department of Housing and Community Development to develop a standardized reporting format for programs and actions taken pursuant to the requirement to affirmatively further fair housing.

This bill would require the department to develop the above-described standardized reporting format on or before December 31, 2026.

(2) Existing law requires, for the 4th and subsequent revisions of the housing element, the department to determine the existing and projected need for housing for each region, as specified. Existing law requires the department, in consultation with the council of governments, to determine the existing and projected need of housing for each region at least 2 years prior to the scheduled revision of the housing element, as provided. Existing law requires the department to meet and consult with the council of governments regarding the assumptions and methodology to be used to determine the region's housing needs at least 26 months prior to the scheduled revision of the housing element, as provided.

This bill would extend the above-described timeline for the department to determine the existing and projected need of housing for each region from 2 years to 30 months prior to the scheduled revision of the housing element, and the above-described timeline to meet and consult with a council of governments from at least 26 months to at least 32 months prior to the scheduled revision of the housing element, respectively.

(3) Existing law, at least 2 years before a scheduled revision of the housing element, as specified, requires each council of governments, or delegate subregion as applicable, to develop, in consultation with the department, a proposed methodology for distributing the existing and projected regional housing need to jurisdictions, as specified. Existing law, at least 1 $\frac{1}{2}$ years before a scheduled revision of the housing element, as specified, requires each council of governments and delegate subregion, as applicable, to distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, and the department, as specified.

This bill, except with respect to the 7th housing element cycle for councils of governments with a housing element revision due date during the 2027 calendar year, would instead require that the above-described methodology be developed from at least 2 $\frac{1}{2}$ years before a scheduled revision of the housing element, and that the distribution of the draft allocation plan be made at least 2 years before a scheduled revision of the housing element, respectively.

(4) Existing law requires a planning agency to submit a copy of its draft housing element or amendments to its housing element or housing element revision to the department for review, and requires the department to notify the city, county, or city and county with written findings if the department finds that the housing element or the amendment does not substantially comply with specified law. If the

department finds that the draft housing element or draft amendment is not in substantial compliance, existing law requires the jurisdiction to either update the draft to substantially comply with specified law, or adopt the draft housing element or amendment without changes, as provided.

This bill would require the department, if the department finds that a draft element or draft amendment does not substantially comply, as described above, to (A) identify and explain the specific deficiencies in the draft element or draft amendment and (B) provide the specific analysis or text that the department expects the planning agency to include in the draft element or draft amendment to remedy those deficiencies, as specified. The bill would require a jurisdiction, in updating a noncompliant housing element or amendment under the above-described provisions, to include the specific analysis or text in its draft element or amendment. The bill would also exempt a jurisdiction from certain requirements to approve a so-called “builder’s remedy project” under specified law for the period during which the department is reviewing that jurisdiction’s updated draft element or draft amendment after submission of the updated element or amendment, as described above, or for 90 days from the date the department notifies the planning agency of additional deficiencies with the draft, as provided. The bill would make various conforming changes in this regard.

(5) By imposing additional duties on local governments, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes a legislative body, defined as a board of trustees, city council, or other governing body of a city, to abandon a park and sell the land comprising it pursuant to a prescribed procedure.~~

~~This bill would make nonsubstantive changes to those provisions.~~

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

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

1 SECTION 1. Section 65583 of the Government Code is
2 amended to read:

3 65583. The housing element shall consist of an identification
4 and analysis of existing and projected housing needs and a
5 statement of goals, policies, quantified objectives, financial
6 resources, and scheduled programs for the preservation,
7 improvement, and development of housing. The housing element
8 shall identify adequate sites for housing, including rental housing,
9 factory-built housing, mobilehomes, and emergency shelters, and
10 shall make adequate provision for the existing and projected needs
11 of all economic segments of the community. The housing element
12 shall contain all of the following:

13 (a) An assessment of housing needs and an inventory of
14 resources and constraints that are relevant to the meeting of these
15 needs. The assessment and inventory shall include all of the
16 following:

17 (1) An analysis of population and employment trends and
18 documentation of projections and a quantification of the locality's
19 existing and projected housing needs for all income levels. These
20 existing and projected needs shall include the locality's share of
21 the regional housing need in accordance with Section 65584.

22 (2) An analysis and documentation of household characteristics,
23 including level of payment compared to ability to pay, housing
24 characteristics, including overcrowding, and housing stock
25 condition.

26 (3) An inventory of land suitable and available for residential
27 development, including vacant sites and sites having realistic and
28 demonstrated potential for redevelopment during the planning
29 period to meet the locality's housing need for a designated income
30 level, and an analysis of the relationship of zoning and public
31 facilities and services to these sites, and an analysis of the
32 relationship of the sites identified in the land inventory to the
33 jurisdiction's duty to affirmatively further fair housing.

34 (4) (A) The identification of one or more zoning designations
35 that allow residential uses, including mixed uses, where emergency
36 shelters are allowed as a permitted use without a conditional use
37 or other discretionary permit and that are suitable for residential
38 uses. The identified zoning designations shall include sufficient

1 sites meeting the requirements of subparagraph (H) with sufficient
2 capacity, as described in subparagraph (I), to accommodate the
3 need for emergency shelter identified in paragraph (7), except that
4 each local government shall identify a zoning designation or
5 designations that can accommodate at least one year-round
6 emergency shelter. If the local government cannot identify a zoning
7 designation or designations with sufficient capacity, the local
8 government shall include a program to amend its zoning ordinance
9 to meet the requirements of this paragraph within one year of the
10 adoption of the housing element. The local government may
11 identify additional zoning designations where emergency shelters
12 are permitted with a conditional use permit. The local government
13 shall also demonstrate that existing or proposed permit processing,
14 development, and management standards that apply to emergency
15 shelters are objective and encourage and facilitate the development
16 of, or conversion to, emergency shelters.

17 (B) Emergency shelters shall only be subject to the following
18 written, objective standards:

19 (i) The maximum number of beds or persons permitted to be
20 served nightly by the facility.

21 (ii) Sufficient parking to accommodate all staff working in the
22 emergency shelter, provided that the standards do not require more
23 parking for emergency shelters than other residential or commercial
24 uses within the same zone.

25 (iii) The size and location of exterior and interior onsite waiting
26 and client intake areas.

27 (iv) The provision of onsite management.

28 (v) The proximity to other emergency shelters, provided that
29 emergency shelters are not required to be more than 300 feet apart.

30 (vi) The length of stay.

31 (vii) Lighting.

32 (viii) Security during hours that the emergency shelter is in
33 operation.

34 (C) For purposes of this paragraph, “emergency shelter” shall
35 include other interim interventions, including, but not limited to,
36 a navigation center, bridge housing, and respite or recuperative
37 care.

38 (D) The permit processing, development, and management
39 standards applied under this paragraph shall not be deemed to be
40 discretionary acts within the meaning of the California

1 Environmental Quality Act (Division 13 (commencing with Section
2 21000) of the Public Resources Code).

3 (E) If a local government has adopted written, objective
4 standards pursuant to subparagraph (B), the local government shall
5 include an analysis of the standards in the analysis of constraints
6 pursuant to paragraph (5).

7 (F) A local government that can demonstrate, to the satisfaction
8 of the department, the existence of one or more emergency shelters
9 either within its jurisdiction or pursuant to a multijurisdictional
10 agreement that can accommodate that jurisdiction's need and the
11 needs of the other jurisdictions that are a part of the agreement for
12 emergency shelter identified in paragraph (7) may comply with
13 the zoning requirements of subparagraph (A) by identifying a
14 zoning designation where new emergency shelters are allowed
15 with a conditional use permit.

16 (G) A local government with an existing ordinance or ordinances
17 that comply with this paragraph shall not be required to take
18 additional action to identify zoning designations for emergency
19 shelters. The housing element must only describe how existing
20 ordinances, policies, and standards are consistent with the
21 requirements of this paragraph.

22 (H) The zoning designation or designations where emergency
23 shelters are allowed, as described in subparagraph (A), shall include
24 sites that meet at least one of the following standards:

25 (i) Vacant sites zoned for residential use.

26 (ii) Vacant sites zoned for nonresidential use that allow
27 residential development, if the local government can demonstrate
28 how the sites with this zoning designation that are being used to
29 satisfy the requirements of paragraph (1) are located near amenities
30 and services that serve people experiencing homelessness, which
31 may include health care, transportation, retail, employment, and
32 social services, or that the local government will provide free
33 transportation to services or offer services onsite.

34 (iii) Nonvacant sites zoned for residential use or for
35 nonresidential use that allow residential development that are
36 suitable for use as a shelter in the current planning period, or which
37 can be redeveloped for use as a shelter in the current planning
38 period. A nonvacant site with an existing use shall be presumed
39 to impede emergency shelter development absent an analysis based
40 on substantial evidence that the use is likely to be discontinued

1 during the planning period. The analysis shall consider current
2 market demand for the current uses, market conditions, and
3 incentives or standards to encourage shelter development.

4 (I) The zoning designation or designations shall have sufficient
5 sites meeting the requirements of subparagraph (H) to
6 accommodate the need for shelters identified pursuant to paragraph
7 (7). The number of people experiencing homelessness that can be
8 accommodated on any site shall be demonstrated by dividing the
9 square footage of the site by a minimum of 200 square feet per
10 person, unless the locality can demonstrate that one or more
11 shelters were developed on sites that have fewer square feet per
12 person during the prior planning period or the locality provides
13 similar evidence to the department demonstrating that the site can
14 accommodate more people experiencing homelessness. Any
15 standard applied pursuant to this subparagraph is intended only
16 for calculating site capacity pursuant to this section, and shall not
17 be construed as establishing a development standard applicable to
18 the siting, development, or approval of a shelter.

19 (J) Notwithstanding subparagraph (H), a local government may
20 accommodate the need for emergency shelters identified pursuant
21 to paragraph (7) on sites owned by the local government if it
22 demonstrates with substantial evidence that the sites will be made
23 available for emergency shelter during the planning period, they
24 are suitable for residential use, and the sites are located near
25 amenities and services that serve people experiencing
26 homelessness, which may include health care, transportation, retail,
27 employment, and social services, or that the local government will
28 provide free transportation to services or offer services onsite.

29 (5) An analysis of potential and actual governmental constraints
30 upon the maintenance, improvement, or development of housing
31 for all income levels, including the types of housing identified in
32 paragraph (1) of subdivision (c), and for persons with disabilities
33 as identified in the analysis pursuant to paragraph (7), including
34 land use controls, building codes and their enforcement, site
35 improvements, fees, and other exactions required of developers,
36 local processing and permit procedures, historic preservation
37 practices and policies and an assessment of how existing and
38 proposed historic designations affect the locality's ability to meet
39 its share of the housing need pursuant to paragraph (1), and any
40 locally adopted ordinances that directly impact the cost and supply

1 of residential development. The analysis shall also demonstrate
2 local efforts to remove governmental constraints that hinder the
3 locality from meeting its share of the regional housing need in
4 accordance with Section 65584 and from meeting the need for
5 housing for persons with disabilities, supportive housing,
6 transitional housing, and emergency shelters identified pursuant
7 to paragraph (7).

8 (6) An analysis of potential and actual nongovernmental
9 constraints upon the maintenance, improvement, or development
10 of housing for all income levels, including the availability of
11 financing, the price of land, the cost of construction, the requests
12 to develop housing at densities below those anticipated in the
13 analysis required by subdivision (c) of Section 65583.2, and the
14 length of time between receiving approval for a housing
15 development and submittal of an application for building permits
16 for that housing development that hinder the construction of a
17 locality's share of the regional housing need in accordance with
18 Section 65584. The analysis shall also demonstrate local efforts
19 to remove nongovernmental constraints that create a gap between
20 the locality's planning for the development of housing for all
21 income levels and the construction of that housing.

22 (7) (A) An analysis of any special housing needs, such as those
23 of the elderly; persons with disabilities, including a developmental
24 disability, as defined in Section 4512 of the Welfare and
25 Institutions Code; extremely low income households; large
26 families; farmworkers; families with female heads of households;
27 and families and persons in need of emergency shelter. The need
28 for emergency shelter shall be assessed based on the capacity
29 necessary to accommodate the most recent homeless point-in-time
30 count conducted before the start of the planning period, the need
31 for emergency shelter based on number of beds available on a
32 year-round and seasonal basis, the number of shelter beds that go
33 unused on an average monthly basis within a one-year period, and
34 the percentage of those in emergency shelters that move to
35 permanent housing solutions. The need for emergency shelter may
36 be reduced by the number of supportive housing units that are
37 identified in an adopted 10-year plan to end chronic homelessness
38 and that are either vacant or for which funding has been identified
39 to allow construction during the planning period. An analysis of

1 special housing needs by a city or county may include an analysis
2 of the need for frequent user coordinated care housing services.

3 (B) For the seventh and subsequent revisions of the housing
4 element, the analysis required in subparagraph (A) shall also
5 include an analysis of the housing needs of acutely and extremely
6 low income households.

7 (8) An analysis of opportunities for energy conservation with
8 respect to residential development. Cities and counties are
9 encouraged to include weatherization and energy efficiency
10 improvements as part of publicly subsidized housing rehabilitation
11 projects. This may include energy efficiency measures that
12 encompass the building envelope, its heating and cooling systems,
13 and its electrical system.

14 (9) An analysis of existing assisted housing developments that
15 are eligible to change from low-income housing uses during the
16 next 10 years due to termination of subsidy contracts, mortgage
17 prepayment, or expiration of restrictions on use. “Assisted housing
18 developments,” for the purpose of this section, shall mean
19 multifamily rental housing that receives governmental assistance
20 under federal programs listed in subdivision (a) of Section
21 65863.10, state and local multifamily revenue bond programs,
22 local redevelopment programs, the federal Community
23 Development Block Grant Program, or local in-lieu fees. “Assisted
24 housing developments” shall also include multifamily rental units
25 that were developed pursuant to a local inclusionary housing
26 program or used to qualify for a density bonus pursuant to Section
27 65916.

28 (A) The analysis shall include a listing of each development by
29 project name and address, the type of governmental assistance
30 received, the earliest possible date of change from low-income
31 use, and the total number of elderly and nonelderly units that could
32 be lost from the locality’s low-income housing stock in each year
33 during the 10-year period. For purposes of state and federally
34 funded projects, the analysis required by this subparagraph need
35 only contain information available on a statewide basis.

36 (B) The analysis shall estimate the total cost of producing new
37 rental housing that is comparable in size and rent levels, to replace
38 the units that could change from low-income use, and an estimated
39 cost of preserving the assisted housing developments. This cost
40 analysis for replacement housing may be done aggregately for

1 each five-year period and does not have to contain a
2 project-by-project cost estimate.

3 (C) The analysis shall identify public and private nonprofit
4 corporations known to the local government that have legal and
5 managerial capacity to acquire and manage these housing
6 developments.

7 (D) The analysis shall identify and consider the use of all federal,
8 state, and local financing and subsidy programs that can be used
9 to preserve, for lower income households, the assisted housing
10 developments, identified in this paragraph, including, but not
11 limited to, federal Community Development Block Grant Program
12 funds, tax increment funds received by a redevelopment agency
13 of the community, and administrative fees received by a housing
14 authority operating within the community. In considering the use
15 of these financing and subsidy programs, the analysis shall identify
16 the amounts of funds under each available program that have not
17 been legally obligated for other purposes and that could be
18 available for use in preserving assisted housing developments.

19 (b) (1) A statement of the community's goals, quantified
20 objectives, and policies relative to affirmatively furthering fair
21 housing and to the maintenance, preservation, improvement, and
22 development of housing.

23 (2) It is recognized that the total housing needs identified
24 pursuant to subdivision (a) may exceed available resources and
25 the community's ability to satisfy this need within the content of
26 the general plan requirements outlined in Article 5 (commencing
27 with Section 65300). Under these circumstances, the quantified
28 objectives need not be identical to the total housing needs. The
29 quantified objectives shall establish the maximum number of
30 housing units by income category that can be constructed,
31 rehabilitated, and conserved over a five-year time period.

32 (c) A program that sets forth a schedule of actions during the
33 planning period, each with a timeline for implementation, that may
34 recognize that certain programs are ongoing, such that there will
35 be beneficial impacts of the programs within the planning period,
36 that the local government is undertaking or intends to undertake
37 to implement the policies and achieve the goals and objectives of
38 the housing element through the administration of land use and
39 development controls, the provision of regulatory concessions and
40 incentives, the utilization of appropriate federal and state financing

1 and subsidy programs when available, and the utilization of moneys
2 in a low- and moderate-income housing fund of an agency if the
3 locality has established a redevelopment project area pursuant to
4 the Community Redevelopment Law (Division 24 (commencing
5 with Section 33000) of the Health and Safety Code). In order to
6 make adequate provision for the housing needs of all economic
7 segments of the community, the program shall do all of the
8 following:

9 (1) Identify actions that will be taken to make sites available
10 during the planning period with appropriate zoning and
11 development standards and with services and facilities to
12 accommodate that portion of the city's or county's share of the
13 regional housing need for all income levels that could not be
14 accommodated on sites identified in the inventory completed
15 pursuant to paragraph (3) of subdivision (a) without rezoning, and
16 to comply with the requirements of Section 65584.09. Sites shall
17 be identified as needed to affirmatively further fair housing and
18 to facilitate and encourage the development of a variety of types
19 of housing for all income levels, including multifamily rental
20 housing, factory-built housing, mobilehomes, housing for
21 agricultural employees, supportive housing, single-room occupancy
22 units, emergency shelters, and transitional housing.

23 (A) Where the inventory of sites, pursuant to paragraph (3) of
24 subdivision (a), does not identify adequate sites to accommodate
25 the need for groups of all household income levels pursuant to
26 Section 65584, a program for rezoning of those sites, subject to
27 the following deadlines:

28 (i) For the adoption of the sixth revision of the housing element,
29 jurisdictions with an eight-year housing element planning period
30 pursuant to Section 65588, including adoption of minimum density
31 and development standards or, for a jurisdiction in the coastal zone,
32 any necessary local coastal program amendments related to land
33 use designations, changes in intensity of land use, zoning
34 ordinances, or zoning district maps, consistent with Sections 30512,
35 30512.2, 30513, and 30514 of the Public Resources Code, shall
36 be completed no later than three years after either the date the
37 housing element is adopted pursuant to subdivision (f) of Section
38 65585 or the date that is 90 days after receipt of comments from
39 the department pursuant to subdivision (b) of Section 65585,
40 whichever is earlier, unless the deadline is extended pursuant to

1 subdivision (f). Notwithstanding the foregoing, for a local
2 government that fails to adopt a housing element that the
3 department has found to be in substantial compliance with this
4 article within 120 days of the statutory deadline in Section 65588
5 for adoption of the housing element, rezoning of those sites,
6 including adoption of minimum density and development standards
7 or, for a jurisdiction in the coastal zone, any necessary local coastal
8 program amendments related to land use designations, changes in
9 intensity of land use, zoning ordinances, or zoning district maps,
10 consistent with Sections 30512, 30512.2, 30513, and 30514 of the
11 Public Resources Code, shall be completed no later than one year
12 from the statutory deadline in Section 65588 for adoption of the
13 housing element.

14 (ii) For adoption of the seventh and all subsequent revisions of
15 the housing element, rezonings shall be completed no later than
16 one year from the statutory deadline in Section 65588 for adoption
17 of the housing element.

18 (iii) Notwithstanding clause (ii), for the adoption of the seventh
19 and all subsequent revisions of the housing element, rezonings
20 shall be completed no later than three years and 90 days after the
21 statutory deadline in Section 65588 for adoption of the housing
22 element, unless the deadline is extended pursuant to subdivision
23 (f). This clause shall apply only if the local government complies
24 with all of the following:

25 (I) The local government submits a draft element or draft
26 amendment to the department for review pursuant to paragraph
27 (1) of subdivision (b) of Section 65585 at least 90 days before the
28 statutory deadline established in Section 65588 for adoption of the
29 housing element.

30 (II) The local government receives from the department findings
31 that the draft element or draft amendment substantially complies
32 with this article pursuant to paragraph (3) of subdivision (b) of
33 Section 65585 on or before the statutory deadline set forth in
34 Section 65588 for adoption of the housing element.

35 (III) The local government adopts the draft element or draft
36 amendment that the department found to substantially comply with
37 this article no later than 120 days after the statutory deadline set
38 forth in Section 65588.

39 (B) Where the inventory of sites, pursuant to paragraph (3) of
40 subdivision (a), does not identify adequate sites to accommodate

1 the need for groups of all household income levels pursuant to
2 Section 65584, the program shall identify sites that can be
3 developed for housing within the planning period pursuant to
4 subdivision (h) of Section 65583.2. The identification of sites shall
5 include all components specified in Section 65583.2.

6 (C) Where the inventory of sites pursuant to paragraph (3) of
7 subdivision (a) does not identify adequate sites to accommodate
8 the need for farmworker housing, the program shall provide for
9 sufficient sites to meet the need with zoning that permits
10 farmworker housing use by right, including density and
11 development standards that could accommodate and facilitate the
12 feasibility of the development of farmworker housing for low- and
13 very low income households.

14 (2) (A) Assist in the development of adequate housing to meet
15 the needs of extremely low, very low, low-, and moderate-income
16 households.

17 (B) For the seventh and subsequent revisions of the housing
18 element, the program shall also assist in the development of
19 adequate housing to meet the needs of acutely low income
20 households.

21 (3) Address and, where appropriate and legally possible, remove
22 governmental and nongovernmental constraints to the maintenance,
23 improvement, and development of housing, including housing for
24 all income levels and housing for persons with disabilities. The
25 program shall remove constraints to, and provide reasonable
26 accommodations for housing designed for, intended for occupancy
27 by, or with supportive services for, persons with disabilities.
28 Transitional housing and supportive housing shall be considered
29 a residential use of property and shall be subject only to those
30 restrictions that apply to other residential dwellings of the same
31 type in the same zone. Supportive housing, as defined in Section
32 65650, shall be a use by right in all zones where multifamily and
33 mixed uses are permitted, as provided in Article 11 (commencing
34 with Section 65650).

35 (4) Conserve and improve the condition of the existing
36 affordable housing stock, which may include addressing ways to
37 mitigate the loss of dwelling units demolished by public or private
38 action.

39 (5) Promote and affirmatively further fair housing opportunities
40 and promote housing throughout the community or communities

1 for all persons regardless of race, religion, sex, marital status,
 2 ancestry, national origin, color, familial status, or disability, and
 3 other characteristics protected by the California Fair Employment
 4 and Housing Act (Part 2.8 (commencing with Section 12900) of
 5 Division 3 of Title 2), Section 65008, and any other state and
 6 federal fair housing and planning law.

7 (6) Preserve for lower income households the assisted housing
 8 developments identified pursuant to paragraph (9) of subdivision
 9 (a). The program for preservation of the assisted housing
 10 developments shall utilize, to the extent necessary, all available
 11 federal, state, and local financing and subsidy programs identified
 12 in paragraph (9) of subdivision (a), except where a community has
 13 other urgent needs for which alternative funding sources are not
 14 available. The program may include strategies that involve local
 15 regulation and technical assistance.

16 (7) Develop a plan that incentivizes and promotes the creation
 17 of accessory dwelling units that can be offered at affordable rent,
 18 as defined in Section 50053 of the Health and Safety Code, for
 19 very low, low-, or moderate-income households. For purposes of
 20 this paragraph, “accessory dwelling units” has the same meaning
 21 as “accessory dwelling unit” as defined in subdivision (a) of
 22 Section 66313.

23 (8) Include an identification of the agencies and officials
 24 responsible for the implementation of the various actions and the
 25 means by which consistency will be achieved with other general
 26 plan elements and community goals.

27 (9) Include a diligent effort by the local government to achieve
 28 public participation of all economic segments of the community
 29 in the development of the housing element, and the program shall
 30 describe this effort.

31 (10) (A) Affirmatively further fair housing in accordance with
 32 Chapter 15 (commencing with Section 8899.50) of Division 1 of
 33 Title 2. The program shall include an assessment of fair housing
 34 in the jurisdiction that shall include all of the following
 35 components:

36 (i) A summary of fair housing issues in the jurisdiction and an
 37 assessment of the jurisdiction’s fair housing enforcement and fair
 38 housing outreach capacity.

39 (ii) An analysis of available federal, state, and local data and
 40 knowledge to identify integration and segregation patterns and

1 trends, racially or ethnically concentrated areas of poverty and
2 affluence, disparities in access to opportunity, and disproportionate
3 housing needs, including displacement risk. The analysis shall
4 identify and examine such patterns, trends, areas, disparities, and
5 needs, both within the jurisdiction and comparing the jurisdiction
6 to the region in which it is located, based on race and other
7 characteristics protected by the California Fair Employment and
8 Housing Act (Part 2.8 (commencing with Section 12900) of
9 Division 3 of Title 2) and Section 65008.

10 (iii) An assessment of the contributing factors, including the
11 local and regional historical origins and current policies and
12 practices, for the fair housing issues identified under clauses (i)
13 and (ii).

14 (iv) An identification of the jurisdiction's fair housing priorities
15 and goals, giving highest priority to those factors identified in
16 clause (iii) that limit or deny fair housing choice or access to
17 opportunity, or negatively impact fair housing or civil rights
18 compliance, and identifying the metrics and milestones for
19 determining what fair housing results will be achieved.

20 (v) Strategies and actions to implement those priorities and
21 goals, which may include, but are not limited to, enhancing
22 mobility strategies and encouraging development of new affordable
23 housing in areas of opportunity, as well as place-based strategies
24 to encourage community revitalization, including preservation of
25 existing affordable housing, and protecting existing residents from
26 displacement.

27 (B) A jurisdiction that completes or revises an assessment of
28 fair housing pursuant to Subpart A (commencing with Section
29 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal
30 Regulations, as published in Volume 80 of the Federal Register,
31 Number 136, page 42272, dated July 16, 2015, or an analysis of
32 impediments to fair housing choice in accordance with the
33 requirements of Section 91.225 of Title 24 of the Code of Federal
34 Regulations in effect before August 17, 2015, may incorporate
35 relevant portions of that assessment or revised assessment of fair
36 housing or analysis or revised analysis of impediments to fair
37 housing into its housing element.

38 (C) (i) The requirements of this paragraph shall apply to housing
39 elements due to be revised pursuant to Section 65588 on or after
40 January 1, 2021.

- 1 (ii) The assessment required pursuant to this paragraph shall be
 2 completed before the planning agency makes its first draft revision
 3 of a housing element available for public comment pursuant to
 4 subdivision (b) of Section 65585.
- 5 (D) (i) ~~The~~ *On or before December 31, 2026, the* department
 6 shall develop a standardized reporting format for programs and
 7 actions taken pursuant to this paragraph. The standardized reporting
 8 format shall enable the reporting of all of the assessment
 9 components listed in subparagraph (A) and, at a minimum, include
 10 all of the following fields:
- 11 (I) Timelines for implementation.
 - 12 (II) Responsible party or parties.
 - 13 (III) Resources committed from the local budget to affirmatively
 14 further fair housing.
 - 15 (IV) Action areas.
 - 16 (V) Potential impacts of the program.
- 17 (ii) A local government shall utilize the standardized report
 18 format developed pursuant to this subparagraph for the seventh
 19 and each subsequent revision of the housing element.
- 20 (d) (1) A local government may satisfy all or part of its
 21 requirement to identify a zone or zones suitable for the
 22 development of emergency shelters pursuant to paragraph (4) of
 23 subdivision (a) by adopting and implementing a multijurisdictional
 24 agreement, with a maximum of two other adjacent communities,
 25 that requires the participating jurisdictions to develop at least one
 26 year-round emergency shelter within two years of the beginning
 27 of the planning period.
- 28 (2) The agreement shall allocate a portion of the new shelter
 29 capacity to each jurisdiction as credit toward its emergency shelter
 30 need, and each jurisdiction shall describe how the capacity was
 31 allocated as part of its housing element.
- 32 (3) Each member jurisdiction of a multijurisdictional agreement
 33 shall describe in its housing element all of the following:
- 34 (A) How the joint facility will meet the jurisdiction’s emergency
 35 shelter need.
 - 36 (B) The jurisdiction’s contribution to the facility for both the
 37 development and ongoing operation and management of the
 38 facility.
 - 39 (C) The amount and source of the funding that the jurisdiction
 40 contributes to the facility.

1 (4) The aggregate capacity claimed by the participating
2 jurisdictions in their housing elements shall not exceed the actual
3 capacity of the shelter.

4 (e) Except as otherwise provided in this article, amendments to
5 this article that alter the required content of a housing element
6 shall apply to both of the following:

7 (1) A housing element or housing element amendment prepared
8 pursuant to subdivision (e) of Section 65588 or Section 65584.02,
9 when a city, county, or city and county submits a draft to the
10 department for review pursuant to Section 65585 more than 90
11 days after the effective date of the amendment to this section.

12 (2) Any housing element or housing element amendment
13 prepared pursuant to subdivision (e) of Section 65588 or Section
14 65584.02, when the city, county, or city and county fails to submit
15 the first draft to the department before the due date specified in
16 Section 65588 or 65584.02.

17 (f) The deadline for completing required rezoning pursuant to
18 subparagraph (A) of paragraph (1) of subdivision (c) shall be
19 extended by one year if the local government has completed the
20 rezoning at densities sufficient to accommodate at least 75 percent
21 of the units for lower income households and if the legislative
22 body at the conclusion of a public hearing determines, based upon
23 substantial evidence, that any of the following circumstances exists:

24 (1) The local government has been unable to complete the
25 rezoning because of the action or inaction beyond the control of
26 the local government of any other state, federal, or local agency.

27 (2) The local government is unable to complete the rezoning
28 because of infrastructure deficiencies due to fiscal or regulatory
29 constraints.

30 (3) The local government must undertake a major revision to
31 its general plan in order to accommodate the housing-related
32 policies of a sustainable communities strategy or an alternative
33 planning strategy adopted pursuant to Section 65080.

34 The resolution and the findings shall be transmitted to the
35 department together with a detailed budget and schedule for
36 preparation and adoption of the required rezonings, including plans
37 for citizen participation and expected interim action. The schedule
38 shall provide for adoption of the required rezoning within one year
39 of the adoption of the resolution.

1 (g) (1) If a local government fails to complete the rezoning by
2 the deadline provided in subparagraph (A) of paragraph (1) of
3 subdivision (c), as it may be extended pursuant to subdivision (f),
4 except as provided in paragraph (2), a local government may not
5 disapprove a housing development project, nor require a
6 conditional use permit, planned unit development permit, or other
7 locally imposed discretionary permit, or impose a condition that
8 would render the project infeasible, if the housing development
9 project, (A) is proposed to be located on a site required to be
10 rezoned pursuant to the program action required by that
11 subparagraph and, (B) complies with applicable, objective general
12 plan and zoning standards and criteria, including design review
13 standards, described in the program action required by that
14 subparagraph. Any subdivision of sites shall be subject to the
15 Subdivision Map Act (Division 2 (commencing with Section
16 66410)). Design review shall not constitute a “project” for purposes
17 of Division 13 (commencing with Section 21000) of the Public
18 Resources Code.

19 (2) A local government may disapprove a housing development
20 described in paragraph (1) if it makes written findings supported
21 by substantial evidence on the record that both of the following
22 conditions exist:

23 (A) The housing development project would have a specific,
24 adverse impact upon the public health or safety unless the project
25 is disapproved or approved upon the condition that the project be
26 developed at a lower density. As used in this paragraph, a “specific,
27 adverse impact” means a significant, quantifiable, direct, and
28 unavoidable impact, based on objective, identified written public
29 health or safety standards, policies, or conditions as they existed
30 on the date the application was deemed complete.

31 (B) There is no feasible method to satisfactorily mitigate or
32 avoid the adverse impact identified pursuant to paragraph (1), other
33 than the disapproval of the housing development project or the
34 approval of the project upon the condition that it be developed at
35 a lower density.

36 (3) The applicant or any interested person may bring an action
37 to enforce this subdivision. If a court finds that the local agency
38 disapproved a project or conditioned its approval in violation of
39 this subdivision, the court shall issue an order or judgment
40 compelling compliance within 60 days. The court shall retain

1 jurisdiction to ensure that its order or judgment is carried out. If
2 the court determines that its order or judgment has not been carried
3 out within 60 days, the court may issue further orders to ensure
4 that the purposes and policies of this subdivision are fulfilled. In
5 any such action, the city, county, or city and county shall bear the
6 burden of proof.

7 (4) For purposes of this subdivision, “housing development
8 project” means a project to construct residential units for which
9 the project developer provides sufficient legal commitments to the
10 appropriate local agency to ensure the continued availability and
11 use of at least 49 percent of the housing units for very low, low-,
12 and moderate-income households with an affordable housing cost
13 or affordable rent, as defined in Section 50052.5 or 50053 of the
14 Health and Safety Code, respectively, for the period required by
15 the applicable financing.

16 (h) An action to enforce the program actions of the housing
17 element shall be brought pursuant to Section 1085 of the Code of
18 Civil Procedure.

19 (i) Notwithstanding any other law, the otherwise applicable
20 timeframe set forth in paragraph (2) of subdivision (b) and
21 subdivision (d) of Section 21080.3.1 of the Public Resources Code,
22 and paragraph (3) of subdivision (d) of Section 21082.3 of the
23 Public Resources Code, for a Native American tribe to respond to
24 a lead agency and request consultation in writing is extended by
25 30 days for any housing development project application
26 determined or deemed to be complete on or after March 4, 2020,
27 and prior to December 31, 2021.

28 (j) On or after January 1, 2024, at the discretion of the
29 department, the analysis of government constraints pursuant to
30 paragraph (5) of subdivision (a) may include an analysis of
31 constraints upon the maintenance, improvement, or development
32 of housing for persons with a characteristic identified in subdivision
33 (b) of Section 51 of the Civil Code. The implementation of this
34 subdivision is contingent upon an appropriation by the Legislature
35 in the annual Budget Act or another statute for this purpose.

36 *SEC. 2. Section 65584 of the Government Code is amended to*
37 *read:*

38 65584. (a) (1) For the fourth and subsequent revisions of the
39 housing element pursuant to Section 65588, the department shall
40 determine the existing and projected need for housing for each

1 region pursuant to this article. For purposes of subdivision (a) of
2 Section 65583, the share of a city or county of the regional housing
3 need shall include that share of the housing need of persons at all
4 income levels within the area significantly affected by the general
5 plan of the city or county.

6 (2) It is the intent of the Legislature that cities, counties, and
7 cities and counties should undertake all necessary actions to
8 encourage, promote, and facilitate the development of housing to
9 accommodate the entire regional housing need, and reasonable
10 actions should be taken by local and regional governments to
11 ensure that future housing production meets, at a minimum, the
12 regional housing need established for planning purposes. These
13 actions shall include applicable reforms and incentives in Section
14 65582.1.

15 (3) The Legislature finds and declares that insufficient housing
16 in job centers hinders the state's environmental quality and runs
17 counter to the state's environmental goals. In particular, when
18 Californians seeking affordable housing are forced to drive longer
19 distances to work, an increased amount of greenhouse gases and
20 other pollutants are released and puts in jeopardy the achievement
21 of the state's climate goals, as established pursuant to Section
22 38566 of the Health and Safety Code, and clean air goals.

23 (b) The department, in consultation with each council of
24 governments, shall determine each region's existing and projected
25 housing need pursuant to Section 65584.01 at least ~~two years~~ *30*
26 *months* prior to the scheduled revision required pursuant to Section
27 65588. The appropriate council of governments, or for cities and
28 counties without a council of governments, the department, shall
29 adopt a final regional housing need plan that allocates a share of
30 the regional housing need to each city, county, or city and county
31 at least one year prior to the scheduled revision for the region
32 required by Section 65588. The allocation plan prepared by a
33 council of governments shall be prepared pursuant to Sections
34 65584.04 and 65584.05.

35 (c) Notwithstanding any other provision of law, the due dates
36 for the determinations of the department or for the council of
37 governments, respectively, regarding the regional housing need
38 may be extended by the department by not more than 60 days if
39 the extension will enable access to more recent critical population
40 or housing data from a pending or recent release of the United

1 States Census Bureau or the Department of Finance. If the due
2 date for the determination of the department or the council of
3 governments is extended for this reason, the department shall
4 extend the corresponding housing element revision deadline
5 pursuant to Section 65588 by not more than 60 days.

6 (d) The regional housing needs allocation plan shall further all
7 of the following objectives:

8 (1) Increasing the housing supply and the mix of housing types,
9 tenure, and affordability in all cities and counties within the region
10 in an equitable manner, which shall result in each jurisdiction
11 receiving an allocation of units for low- and very low income
12 households. The regional housing needs allocation plan shall
13 allocate units for extremely low- and acutely low income
14 households in a manner that is roughly proportional to, and within
15 a range of 3 percent of, the housing need for very low income
16 households.

17 (2) Promoting infill development and socioeconomic equity,
18 the protection of environmental and agricultural resources, the
19 encouragement of efficient development patterns, and the
20 achievement of the region's greenhouse gas reductions targets
21 provided by the State Air Resources Board pursuant to Section
22 65080.

23 (3) Promoting an improved intraregional relationship between
24 jobs and housing, including an improved balance between the
25 number of low-wage jobs and the number of housing units
26 affordable to low-wage workers in each jurisdiction.

27 (4) Allocating a lower proportion of housing need to an income
28 category when a jurisdiction already has a disproportionately high
29 share of households in that income category, as compared to the
30 countywide distribution of households in that category from the
31 most recent American Community Survey.

32 (5) Affirmatively furthering fair housing.

33 (e) For purposes of this section, "affirmatively furthering fair
34 housing" means taking meaningful actions, in addition to
35 combating discrimination, that overcome patterns of segregation
36 and foster inclusive communities free from barriers that restrict
37 access to opportunity based on protected characteristics.
38 Specifically, affirmatively furthering fair housing means taking
39 meaningful actions that, taken together, address significant
40 disparities in housing needs and in access to opportunity, replacing

1 segregated living patterns with truly integrated and balanced living
2 patterns, transforming racially and ethnically concentrated areas
3 of poverty into areas of opportunity, and fostering and maintaining
4 compliance with civil rights and fair housing laws.

5 (f) (1) Subject to paragraph (2), for purposes of this section
6 with respect to revisions of the housing element through the sixth
7 revision, “household income levels” are as determined by the
8 department pursuant to the following code sections:

9 (A) Very low incomes, as defined by Section 50105 of the
10 Health and Safety Code.

11 (B) Lower incomes, as defined by Section 50079.5 of the Health
12 and Safety Code.

13 (C) Moderate incomes, as defined by Section 50093 of the
14 Health and Safety Code.

15 (D) Above moderate incomes are those exceeding the
16 moderate-income level of Section 50093 of the Health and Safety
17 Code.

18 (2) For purposes of this section with respect to the seventh and
19 subsequent revisions of the housing element, “household income
20 levels” are as determined by the department in accordance with
21 the definitions of acutely low, extremely low, very low, low,
22 moderate, and above moderate income in Section 65582.

23 (g) Notwithstanding any other provision of law, determinations
24 made by the department, a council of governments, or a city or
25 county pursuant to this section or Section 65584.01, 65584.02,
26 65584.03, 65584.04, 65584.05, 65584.06, 65584.07, or 65584.08
27 are exempt from the California Environmental Quality Act
28 (Division 13 (commencing with Section 21000) of the Public
29 Resources Code).

30 *SEC. 3. Section 65584.01 of the Government Code is amended*
31 *to read:*

32 65584.01. For the fourth and subsequent revision of the housing
33 element pursuant to Section 65588, the department, in consultation
34 with each council of governments, where applicable, shall
35 determine the existing and projected need for housing for each
36 region in the following manner:

37 (a) The department’s determination shall be based upon
38 population projections produced by the Department of Finance
39 and regional population forecasts used in preparing regional
40 transportation plans, in consultation with each council of

1 governments. If the total regional population forecast for the
2 projection year, developed by the council of governments and used
3 for the preparation of the regional transportation plan, is within a
4 range of 1.5 percent of the total regional population forecast for
5 the projection year by the Department of Finance, then the
6 population forecast developed by the council of governments shall
7 be the basis from which the department determines the existing
8 and projected need for housing in the region. If the difference
9 between the total population projected by the council of
10 governments and the total population projected for the region by
11 the Department of Finance is greater than 1.5 percent, then the
12 department and the council of governments shall meet to discuss
13 variances in methodology used for population projections and seek
14 agreement on a population projection for the region to be used as
15 a basis for determining the existing and projected housing need
16 for the region. If agreement is not reached, then the population
17 projection for the region shall be the population projection for the
18 region prepared by the Department of Finance as may be modified
19 by the department as a result of discussions with the council of
20 governments.

21 (b) (1) At least ~~26~~ 32 months prior to the scheduled revision
22 pursuant to Section 65588 and prior to developing the existing and
23 projected housing need for a region, the department shall meet and
24 consult with the council of governments regarding the assumptions
25 and methodology to be used by the department to determine the
26 region's housing needs. The council of governments shall provide
27 data assumptions from the council's projections, including, if
28 available, the following data for the region:

29 (A) Anticipated household growth associated with projected
30 population increases.

31 (B) Household size data and trends in household size.

32 (C) The percentage of households that are overcrowded and the
33 overcrowding rate for a comparable housing market. For purposes
34 of this subparagraph:

35 (i) The term "overcrowded" means more than one resident per
36 room in each room in a dwelling.

37 (ii) The term "overcrowding rate for a comparable housing
38 market" means that the overcrowding rate is no more than the
39 average overcrowding rate in comparable regions throughout the
40 nation, as determined by the council of governments.

1 (D) The rate of household formation, or headship rates, based
2 on age, gender, ethnicity, or other established demographic
3 measures.

4 (E) The vacancy rates in existing housing stock, and the vacancy
5 rates for healthy housing market functioning and regional mobility,
6 as well as housing replacement needs. For purposes of this
7 subparagraph, the vacancy rate for a healthy rental housing market
8 shall be considered no less than 5 percent.

9 (F) Other characteristics of the composition of the projected
10 population.

11 (G) The relationship between jobs and housing, including any
12 imbalance between jobs and housing.

13 (H) The percentage of households that are cost burdened and
14 the rate of housing cost burden for a healthy housing market. For
15 the purposes of this subparagraph:

16 (i) The term “cost burdened” means the share of very low, low-,
17 moderate-, and above moderate-income households that are paying
18 more than 30 percent of household income on housing costs.

19 (ii) The term “rate of housing cost burden for a healthy housing
20 market” means that the rate of households that are cost burdened
21 is no more than the average rate of households that are cost
22 burdened in comparable regions throughout the nation, as
23 determined by the council of governments.

24 (I) The loss of units during a state of emergency that was
25 declared by the Governor pursuant to the California Emergency
26 Services Act (Chapter 7 (commencing with Section 8550) of
27 Division 1 of Title 2), during the planning period immediately
28 preceding the relevant revision pursuant to Section 65588 that
29 have yet to be rebuilt or replaced at the time of the data request.

30 (J) The housing needs of individuals and families experiencing
31 homelessness.

32 (i) The data utilized by the council of governments shall align
33 with homelessness data best practices as determined by the
34 department.

35 (ii) Sources of homelessness data may include the Homeless
36 Data Integration System administered by the Interagency Council
37 on Homelessness, the homeless point-in-time count, or other
38 sources deemed appropriate by the department.

39 (2) The department may accept or reject the information
40 provided by the council of governments or modify its own

1 assumptions or methodology based on this information. After
2 consultation with the council of governments, the department shall
3 make determinations in writing on the assumptions for each of the
4 factors listed in subparagraphs (A) to (I), inclusive, of paragraph
5 (1) and the methodology it shall use and shall provide these
6 determinations to the council of governments. The methodology
7 submitted by the department may make adjustments based on the
8 region's total projected households, which includes existing
9 households as well as projected households.

10 (c) (1) After consultation with the council of governments, the
11 department shall make a determination of the region's existing
12 and projected housing need based upon the assumptions and
13 methodology determined pursuant to subdivision (b). The region's
14 existing and projected housing need shall reflect the achievement
15 of a feasible balance between jobs and housing within the region
16 using the regional employment projections in the applicable
17 regional transportation plan. Within 30 days following notice of
18 the determination from the department, the council of governments
19 may file an objection to the department's determination of the
20 region's existing and projected housing need with the department.

21 (2) The objection shall be based on and substantiate either of
22 the following:

23 (A) The department failed to base its determination on the
24 population projection for the region established pursuant to
25 subdivision (a), and shall identify the population projection which
26 the council of governments believes should instead be used for the
27 determination and explain the basis for its rationale.

28 (B) The regional housing need determined by the department
29 is not a reasonable application of the methodology and assumptions
30 determined pursuant to subdivision (b). The objection shall include
31 a proposed alternative determination of its regional housing need
32 based upon the determinations made in subdivision (b), including
33 analysis of why the proposed alternative would be a more
34 reasonable application of the methodology and assumptions
35 determined pursuant to subdivision (b).

36 (3) If a council of governments files an objection pursuant to
37 this subdivision and includes with the objection a proposed
38 alternative determination of its regional housing need, it shall also
39 include documentation of its basis for the alternative determination.
40 Within 45 days of receiving an objection filed pursuant to this

1 section, the department shall consider the objection and make a
2 final written determination of the region's existing and projected
3 housing need that includes an explanation of the information upon
4 which the determination was made.

5 (4) In regions in which the department is required to distribute
6 the regional housing need pursuant to Section 65584.06, no city
7 or county may file an objection to the regional housing need
8 determination.

9 (d) Statutory changes enacted after the date the department
10 issued a final determination pursuant to this section shall not be a
11 basis for a revision of the final determination.

12 *SEC. 4. Section 65584.04 of the Government Code is amended*
13 *to read:*

14 65584.04. (a) At least two *and one-half* years before a
15 scheduled revision required by Section 65588, each council of
16 governments, or delegate subregion as applicable, shall develop,
17 in consultation with the department, a proposed methodology for
18 distributing the existing and projected regional housing need to
19 cities, counties, and cities and counties within the region or within
20 the subregion, where applicable pursuant to this section. The
21 methodology shall further the objectives listed in subdivision (d)
22 of Section 65584.

23 (b) (1) No more than six months before the development of a
24 proposed methodology for distributing the existing and projected
25 housing need, each council of governments shall survey each of
26 its member jurisdictions to request, at a minimum, information
27 regarding the factors listed in subdivision (e) that will allow the
28 development of a methodology based upon the factors established
29 in subdivision (e).

30 (2) With respect to the objective in paragraph (5) of subdivision
31 (d) of Section 65584, the survey shall review and compile
32 information that will allow the development of a methodology
33 based upon the issues, strategies, and actions that are included, as
34 available, in an Analysis of Impediments to Fair Housing Choice
35 or an Assessment of Fair Housing completed by any city or county
36 or the department that covers communities within the area served
37 by the council of governments, and in housing elements adopted
38 pursuant to this article by cities and counties within the area served
39 by the council of governments.

1 (3) The council of governments shall seek to obtain the
2 information in a manner and format that is comparable throughout
3 the region and utilize readily available data to the extent possible.

4 (4) The information provided by a local government pursuant
5 to this section shall be used, to the extent possible, by the council
6 of governments, or delegate subregion as applicable, as source
7 information for the methodology developed pursuant to this section.
8 The survey shall state that none of the information received may
9 be used as a basis for reducing the total housing need established
10 for the region pursuant to Section 65584.01.

11 (5) If the council of governments fails to conduct a survey
12 pursuant to this subdivision, a city, county, or city and county may
13 submit information related to the items listed in subdivision (e)
14 before the public comment period provided for in subdivision (d).

15 (c) The council of governments shall electronically report the
16 results of the survey of fair housing issues, strategies, and actions
17 compiled pursuant to paragraph (2) of subdivision (b). The report
18 shall describe common themes and effective strategies employed
19 by cities and counties within the area served by the council of
20 governments, including common themes and effective strategies
21 around avoiding the displacement of lower income households.
22 The council of governments shall also identify significant barriers
23 to affirmatively furthering fair housing at the regional level and
24 may recommend strategies or actions to overcome those barriers.
25 A council of governments or metropolitan planning organization,
26 as appropriate, may use this information for any other purpose,
27 including publication within a regional transportation plan adopted
28 pursuant to Section 65080 or to inform the land use assumptions
29 that are applied in the development of a regional transportation
30 plan.

31 (d) Public participation and access shall be required in the
32 development of the methodology and in the process of drafting
33 and adoption of the allocation of the regional housing needs.
34 Participation by organizations other than local jurisdictions and
35 councils of governments shall be solicited in a diligent effort to
36 achieve public participation of all economic segments of the
37 community as well as members of protected classes under Section
38 12955 and households with special housing needs under paragraph
39 (7) of subdivision (a) of Section 65583. The proposed
40 methodology, along with any relevant underlying data and

1 assumptions, an explanation of how information about local
2 government conditions gathered pursuant to subdivision (b) has
3 been used to develop the proposed methodology, how each of the
4 factors listed in subdivision (e) is incorporated into the
5 methodology, and how the proposed methodology furthers the
6 objectives listed in subdivision (d) of Section 65584, shall be
7 distributed to all cities, counties, any subregions, and members of
8 the public who have made a written or electronic request for the
9 proposed methodology and published on the council of
10 governments', or delegate subregion's, internet website. The
11 council of governments, or delegate subregion, as applicable, shall
12 conduct at least one public hearing to receive oral and written
13 comments on the proposed methodology.

14 (e) To the extent that sufficient data is available from local
15 governments pursuant to subdivision (b) or other sources, each
16 council of governments, or delegate subregion as applicable, shall
17 consider including the following factors in developing the
18 methodology that allocates regional housing needs:

19 (1) Each member jurisdiction's existing and projected jobs and
20 housing relationship. This shall include an estimate based on
21 readily available data on the number of low-wage jobs within the
22 jurisdiction and how many housing units within the jurisdiction
23 are affordable to low-wage workers as well as an estimate based
24 on readily available data, of projected job growth and projected
25 household growth by income level within each member jurisdiction
26 during the planning period.

27 (2) The opportunities and constraints to development of
28 additional housing in each member jurisdiction, including all of
29 the following:

30 (A) Lack of capacity for sewer or water service due to federal
31 or state laws, regulations or regulatory actions, or supply and
32 distribution decisions made by a sewer or water service provider
33 other than the local jurisdiction that preclude the jurisdiction from
34 providing necessary infrastructure for additional development
35 during the planning period.

36 (B) The availability of land suitable for urban development or
37 for conversion to residential use, the availability of underutilized
38 land, and opportunities for infill development and increased
39 residential densities. The council of governments may not limit
40 its consideration of suitable housing sites or land suitable for urban

1 development to existing zoning ordinances and land use restrictions
2 of a locality, but shall consider the potential for increased
3 residential development under alternative zoning ordinances and
4 land use restrictions. The determination of available land suitable
5 for urban development may exclude lands where the Federal
6 Emergency Management Agency (FEMA) or the Department of
7 Water Resources has determined that the flood management
8 infrastructure designed to protect that land is not adequate to avoid
9 the risk of flooding.

10 (C) Lands preserved or protected from urban development under
11 existing federal or state programs, or both, designed to protect
12 open space, farmland, environmental habitats, and natural resources
13 on a long-term basis, including land zoned or designated for
14 agricultural protection or preservation that is subject to a local
15 ballot measure that was approved by the voters of that jurisdiction
16 that prohibits or restricts conversion to nonagricultural uses.

17 (D) County policies to preserve prime agricultural land, as
18 defined pursuant to Section 56064, within an unincorporated area
19 and land within an unincorporated area zoned or designated for
20 agricultural protection or preservation that is subject to a local
21 ballot measure that was approved by the voters of that jurisdiction
22 that prohibits or restricts its conversion to nonagricultural uses.

23 (E) Emergency evacuation route capacity, wildfire risk, sea
24 level rise, and other impacts caused by climate change.

25 (3) The distribution of household growth assumed for purposes
26 of a comparable period of regional transportation plans and
27 opportunities to maximize the use of public transportation and
28 existing transportation infrastructure.

29 (4) Agreements between a county and cities in a county to direct
30 growth toward incorporated areas of the county and land within
31 an unincorporated area zoned or designated for agricultural
32 protection or preservation that is subject to a local ballot measure
33 that was approved by the voters of the jurisdiction that prohibits
34 or restricts conversion to nonagricultural uses.

35 (5) The loss of units contained in assisted housing developments,
36 as defined in paragraph (9) of subdivision (a) of Section 65583,
37 that changed to non-low-income use through mortgage prepayment,
38 subsidy contract expirations, or termination of use restrictions.

39 (6) The percentage of existing households at each of the income
40 levels listed in subdivision (f) of Section 65584 that are paying

1 more than 30 percent and more than 50 percent of their income in
2 rent.

3 (7) The rate of overcrowding.

4 (8) The housing needs of farmworkers.

5 (9) The housing needs generated by the presence of a private
6 university or a campus of the California State University or the
7 University of California within any member jurisdiction.

8 (10) The housing needs of individuals and families experiencing
9 homelessness. If a council of governments has surveyed each of
10 its member jurisdictions pursuant to subdivision (b) on or before
11 January 1, 2020, this paragraph shall apply only to the development
12 of methodologies for the seventh and subsequent revisions of the
13 housing element.

14 (11) The loss of units during a state of emergency that was
15 declared by the Governor pursuant to the California Emergency
16 Services Act (Chapter 7 (commencing with Section 8550) of
17 Division 1 of Title 2), during the planning period immediately
18 preceding the relevant revision pursuant to Section 65588 that
19 have yet to be rebuilt or replaced at the time of the analysis.

20 (12) The region's greenhouse gas emissions targets provided
21 by the State Air Resources Board pursuant to Section 65080.

22 (13) Any other factors adopted by the council of governments,
23 that further the objectives listed in subdivision (d) of Section
24 65584, provided that the council of governments specifies which
25 of the objectives each additional factor is necessary to further. The
26 council of governments may include additional factors unrelated
27 to furthering the objectives listed in subdivision (d) of Section
28 65584 so long as the additional factors do not undermine the
29 objectives listed in subdivision (d) of Section 65584 and are applied
30 equally across all household income levels as described in
31 subdivision (f) of Section 65584 and the council of governments
32 makes a finding that the factor is necessary to address significant
33 health and safety conditions.

34 (f) The council of governments, or delegate subregion, as
35 applicable, shall explain in writing how each of the factors
36 described in subdivision (e) was incorporated into the methodology
37 and how the methodology furthers the objectives listed in
38 subdivision (d) of Section 65584. The methodology may include
39 numerical weighting. This information, and any other supporting
40 materials used in determining the methodology, shall be posted

1 on the council of governments', or delegate subregion's, internet
2 website.

3 (g) The following criteria shall not be a justification for a
4 determination or a reduction in a jurisdiction's share of the regional
5 housing need:

6 (1) Any ordinance, policy, voter-approved measure, or standard
7 of a city or county that directly or indirectly limits the number of
8 residential building permits issued by a city or county.

9 (2) Prior underproduction of housing in a city or county from
10 the previous regional housing need allocation, as determined by
11 each jurisdiction's annual production report submitted pursuant
12 to subparagraph (H) of paragraph (2) of subdivision (a) of Section
13 65400.

14 (3) Stable population numbers in a city or county from the
15 previous regional housing needs cycle.

16 (h) Following the conclusion of the public comment period
17 described in subdivision (d) on the proposed allocation
18 methodology, and after making any revisions deemed appropriate
19 by the council of governments, or delegate subregion, as applicable,
20 as a result of comments received during the public comment period,
21 and as a result of consultation with the department, each council
22 of governments, or delegate subregion, as applicable, shall publish
23 a draft allocation methodology on its internet website and submit
24 the draft allocation methodology, along with the information
25 required pursuant to subdivision (e), to the department.

26 (i) Within 60 days, the department shall review the draft
27 allocation methodology and report its written findings to the
28 council of governments, or delegate subregion, as applicable. In
29 its written findings the department shall determine whether the
30 methodology furthers the objectives listed in subdivision (d) of
31 Section 65584. If the department determines that the methodology
32 is not consistent with subdivision (d) of Section 65584, the council
33 of governments, or delegate subregion, as applicable, shall take
34 one of the following actions:

35 (1) Revise the methodology to further the objectives listed in
36 subdivision (d) of Section 65584 and adopt a final regional, or
37 subregional, housing need allocation methodology.

38 (2) Adopt the regional, or subregional, housing need allocation
39 methodology without revisions and include within its resolution
40 of adoption findings, supported by substantial evidence, as to why

1 the council of governments, or delegate subregion, believes that
2 the methodology furthers the objectives listed in subdivision (d)
3 of Section 65584 despite the findings of the department.

4 (j) If the department's findings are not available within the time
5 limits set by subdivision (i), the council of governments, or delegate
6 subregion, may act without them.

7 (k) Upon either action pursuant to subdivision (i), the council
8 of governments, or delegate subregion, shall provide notice of the
9 adoption of the methodology to the jurisdictions within the region,
10 or delegate subregion, as applicable, and to the department, and
11 shall publish the adopted allocation methodology, along with its
12 resolution and any adopted written findings, on its internet website.

13 (l) The department may, within 45 days, review the adopted
14 methodology and report its findings to the council of governments,
15 or delegate subregion.

16 (m) (1) It is the intent of the Legislature that housing planning
17 be coordinated and integrated with the regional transportation plan.
18 To achieve this goal, the allocation plan shall allocate housing
19 units within the region consistent with the development pattern
20 included in the sustainable communities strategy.

21 (2) (A) The final allocation plan shall ensure that the total
22 regional housing need, by income category, as determined under
23 Section 65584, is maintained, and that each jurisdiction in the
24 region receive an allocation of units for low- and very low income
25 households.

26 (B) For the seventh and subsequent revisions of the housing
27 element, the allocation to each region required under subparagraph
28 (A) shall also include an allocation of units for acutely low and
29 extremely low income households.

30 (3) The resolution approving the final housing need allocation
31 plan shall demonstrate that the plan is consistent with the
32 sustainable communities strategy in the regional transportation
33 plan and furthers the objectives listed in subdivision (d) of Section
34 65584.

35 (n) This section shall become operative on January 1, 2025.

36 (o) *For the seventh housing element cycle, the changes to this*
37 *section made by the act adding this subdivision shall not apply to*
38 *councils of governments with a housing element revision due date*
39 *during the 2027 calendar year.*

1 *SEC. 5. Section 65584.05 of the Government Code is amended*
2 *to read:*

3 65584.05. (a) At least ~~one and one-half~~ *two* years before the
4 scheduled revision required by Section 65588, each council of
5 governments and delegate subregion, as applicable, shall distribute
6 a draft allocation of regional housing needs to each local
7 government in the region or subregion, where applicable, and the
8 department, based on the methodology adopted pursuant to Section
9 65584.04 and shall publish the draft allocation on its internet
10 website. The council of governments may additionally distribute
11 the draft allocation plan upon adoption of the final methodology
12 reviewed and accepted by the department pursuant to paragraph
13 (2) of subdivision (i) of Section 65584.04. The draft allocation
14 shall include the underlying data and methodology on which the
15 allocation is based, and a statement as to how it furthers the
16 objectives listed in subdivision (d) of Section 65584. It is the intent
17 of the Legislature that the draft allocation should be distributed
18 before the completion of the update of the applicable regional
19 transportation plan. The draft allocation shall distribute to localities
20 and subregions, if any, within the region the entire regional housing
21 need determined pursuant to Section 65584.01 or within
22 subregions, as applicable, the subregion's entire share of the
23 regional housing need determined pursuant to Section 65584.03.

24 (b) Within 30 days following receipt of the draft allocation, a
25 local government within the region or the delegate subregion, as
26 applicable, or the department may appeal to the council of
27 governments or the delegate subregion for a revision of the share
28 of the regional housing need proposed to be allocated to one or
29 more local governments. Appeals shall be based upon comparable
30 data available for all affected jurisdictions and accepted planning
31 methodology, and supported by adequate documentation, and shall
32 include a statement as to why the revision is necessary to further
33 the intent of the objectives listed in subdivision (d) of Section
34 65584. An appeal pursuant to this subdivision shall be consistent
35 with, and not to the detriment of, the development pattern in an
36 applicable sustainable communities strategy developed pursuant
37 to paragraph (2) of subdivision (b) of Section 65080. Appeals shall
38 be limited to any of the following circumstances:

1 (1) The council of governments or delegate subregion, as
2 applicable, failed to adequately consider the information submitted
3 pursuant to subdivision (b) of Section 65584.04.

4 (2) The council of governments or delegate subregion, as
5 applicable, failed to determine the share of the regional housing
6 need in accordance with the information described in, and the
7 methodology established pursuant to, Section 65584.04, and in a
8 manner that furthers, and does not undermine, the intent of the
9 objectives listed in subdivision (d) of Section 65584.

10 (3) A significant and unforeseen change in circumstances has
11 occurred in the local jurisdiction or jurisdictions that merits a
12 revision of the information submitted pursuant to subdivision (b)
13 of Section 65584.04. Appeals on this basis shall only be made by
14 the jurisdiction or jurisdictions where the change in circumstances
15 has occurred.

16 (c) At the close of the period for filing appeals pursuant to
17 subdivision (b), the council of governments or delegate subregion,
18 as applicable, shall notify all other local governments within the
19 region or delegate subregion and the department of all appeals and
20 shall make all materials submitted in support of each appeal
21 available on a publicly available internet website. Local
22 governments and the department may, within 45 days, comment
23 on one or more appeals. If no appeals are filed, the draft allocation
24 may be adopted pursuant to subdivision (g).

25 (d) No later than 30 days after the close of the comment period,
26 and after providing all local governments within the region or
27 delegate subregion, as applicable, at least 10 days prior notice, the
28 council of governments or delegate subregion shall conduct one
29 public hearing to consider all appeals filed pursuant to subdivision
30 (b) and all comments received pursuant to subdivision (c).

31 (e) No later than 45 days after the public hearing pursuant to
32 subdivision (d), the council of governments or delegate subregion,
33 as applicable, shall do all of the following:

34 (1) Make a final determination that either accepts, rejects, or
35 modifies each appeal for a revised share filed pursuant to
36 subdivision (b). Final determinations shall be based upon the
37 information and methodology described in Section 65584.04 and
38 whether the revision is necessary to further the objectives listed
39 in subdivision (d) of Section 65584. The final determination shall
40 be in writing and shall include written findings as to how the

1 determination is consistent with this article. The final determination
2 on an appeal may require the council of governments or delegate
3 subregion, as applicable, to adjust the share of the regional housing
4 need allocated to one or more local governments that are not the
5 subject of an appeal.

6 (2) Issue a proposed final allocation plan.

7 (3) Submit the proposed final allocation plan to the department.

8 (4) Set a date for a public hearing to adopt a final allocation
9 plan pursuant to subdivision (g).

10 (f) In the proposed final allocation plan, the council of
11 governments or delegate subregion, as applicable, shall adjust
12 allocations to local governments based upon the results of the
13 appeals process. If the adjustments total 7 percent or less of the
14 regional housing need determined pursuant to Section 65584.01,
15 or, as applicable, total 7 percent or less of the subregion's share
16 of the regional housing need as determined pursuant to Section
17 65584.03, then the council of governments or delegate subregion,
18 as applicable, shall distribute the adjustments proportionally to all
19 local governments. If the adjustments total more than 7 percent of
20 the regional housing need, then the council of governments or
21 delegate subregion, as applicable, shall develop a methodology to
22 distribute the amount greater than the 7 percent to local
23 governments. The total distribution of housing need shall not equal
24 less than the regional housing need, as determined pursuant to
25 Section 65584.01, nor shall the subregional distribution of housing
26 need equal less than its share of the regional housing need as
27 determined pursuant to Section 65584.03.

28 (g) Within 45 days after the issuance of the proposed final
29 allocation plan by the council of governments and each delegate
30 subregion, as applicable, the council of governments shall hold a
31 public hearing to adopt a final allocation plan. To the extent that
32 the final allocation plan fully allocates the regional share of
33 statewide housing need, as determined pursuant to Section
34 65584.01 and has taken into account all appeals, the council of
35 governments shall have final authority to determine the distribution
36 of the region's existing and projected housing need as determined
37 pursuant to Section 65584.01. The council of governments shall
38 submit its final allocation plan to the department within three days
39 of adoption. Within 15 days after the department's receipt of the
40 final allocation plan adopted by the council of governments, the

1 department shall determine if the final allocation plan is consistent
 2 with the existing and projected housing need for the region, as
 3 determined pursuant to Section 65584.01. The department may
 4 revise the determination of the council of governments if necessary
 5 to obtain this consistency.

6 (h) Any authority of the council of governments to review and
 7 revise the share of a city or county of the regional housing need
 8 under this section shall not constitute authority to revise, approve,
 9 or disapprove the manner in which the share of the city or county
 10 of the regional housing need is implemented through its housing
 11 program.

12 (i) Any time period in subdivision (d) or (e) may be extended
 13 by a council of governments or delegate subregion, as applicable,
 14 for up to 30 days. Any time period in subdivision (b), (c), (d), (e),
 15 or (g) may be reduced by a council of governments or delegate
 16 subregion, as applicable, to facilitate earlier adoption of the final
 17 allocation plan. No time period shall be reduced to fewer than a
 18 minimum of 10 days.

19 (j) The San Diego Association of Governments may follow the
 20 process in this section for the draft and final allocation plan for
 21 the sixth revision of the housing element notwithstanding such
 22 actions being carried out before the adoption of an updated regional
 23 transportation plan and sustainable communities strategy.

24 (k) *For the seventh housing element cycle, the changes to this*
 25 *section made by the act adding this subdivision shall not apply to*
 26 *councils of governments with a housing element revision due date*
 27 *during the 2027 calendar year.*

28 *SEC. 6. Section 65585 of the Government Code is amended to*
 29 *read:*

30 65585. (a) In the preparation of its housing element, each city
 31 and county shall consider the guidelines adopted by the department
 32 pursuant to Section 50459 of the Health and Safety Code. Those
 33 guidelines shall be advisory to each city or county in the
 34 preparation of its housing element.

35 (b) (1) (A) At least 90 days prior to adoption of a revision of
 36 its housing element pursuant to subdivision (e) of Section 65588,
 37 or at least 60 days prior to the adoption of a subsequent amendment
 38 to this element, the planning agency shall submit a draft element
 39 revision or draft amendment to the department. The local
 40 government of the planning agency shall make the first draft

1 revision of a housing element available for public comment for at
2 least 30 days and, if any comments are received, the local
3 government shall take at least 10 business days after the 30-day
4 public comment period to consider and incorporate public
5 comments into the draft revision prior to submitting it to the
6 department. For any subsequent draft revision, the local
7 government shall post the draft revision on its internet website and
8 shall email a link to the draft revision to all individuals and
9 organizations that have previously requested notices relating to
10 the local government's housing element at least seven days before
11 submitting the draft revision to the department.

12 (B) The planning agency staff shall collect and compile the
13 public comments regarding the housing element received by the
14 city, county, or city and county and provide these comments to
15 each member of the legislative body before it adopts the housing
16 element.

17 (C) The department shall review the draft and report its written
18 findings to the planning agency within 90 days of its receipt of the
19 first draft submittal for each housing element revision pursuant to
20 subdivision (e) of Section 65588 or within 60 days of its receipt
21 of a subsequent draft amendment or an adopted revision or adopted
22 amendment to an element. The department shall not review the
23 first draft submitted for each housing element revision pursuant
24 to subdivision (e) of Section 65588 until the local government has
25 made the draft available for public comment for at least 30 days
26 and, if comments were received, has taken at least 10 business
27 days to consider and incorporate public comments pursuant to
28 paragraph (1).

29 (2) (A) At least 90 days prior to the initial adoption of a revision
30 of its housing element pursuant to subdivision (e) of Section 65588,
31 and at least 7 days prior to any subsequent adoption submittal if
32 changes have occurred to the inventory of sites, a local government
33 shall do both of the following:

34 (i) Make a draft of its inventory of sites required pursuant to
35 paragraph (3) of subdivision (a) of Section 65583 available to the
36 department and the public and post the draft inventory on its
37 internet website.

38 (ii) Send an email to all individuals and organizations that have
39 previously requested notices notifying them that the inventory has

1 been updated that includes a link to the draft inventory on its
2 website.

3 (B) The requirements of this paragraph shall apply to the seventh
4 and each subsequent revision of the housing element.

5 (c) In the preparation of its findings, the department may consult
6 with any public agency, group, or person. The department shall
7 receive and consider any written comments from any public
8 agency, group, or person regarding the draft or adopted element
9 or amendment under review.

10 (d) In its written findings, the department shall determine
11 whether the draft element or draft amendment substantially
12 complies with this article. *If the department finds that the draft*
13 *element or draft amendment does not substantially comply with*
14 *this article, the department shall in a written communication to*
15 *the planning agency do both of the following:*

16 (1) *Identify and explain the specific deficiencies in the draft*
17 *element or draft amendment, including a reference to each*
18 *subdivision of Section 65583 that the draft element or draft*
19 *amendment does not comply with.*

20 (2) *Provide the specific analysis or text that the department*
21 *expects the planning agency to include in the draft element or draft*
22 *amendment to remedy the deficiencies identified in paragraph (1).*

23 (e) Prior to the adoption of its draft element or draft amendment,
24 the legislative body shall consider the findings ~~made~~ *made, and*
25 *the specific analysis or text required,* by the department. If the
26 department's findings are not available within the time limits set
27 by this section, the legislative body may act without them.

28 (f) If the department finds that the draft element or draft
29 amendment does not substantially comply with this article, the
30 legislative body shall take one of the following actions:

31 (1) (A) ~~Change~~ *Include the specific analysis or text in the draft*
32 *element or draft amendment to substantially comply with this*
33 ~~article.~~ *article, as required by the department pursuant to*
34 *subdivision (d).*

35 (B) Any change to a draft element or draft amendment pursuant
36 to subparagraph (A) shall be completed in accordance with
37 subdivision (b). This subparagraph does not constitute a change
38 in, but is declaratory of, existing law.

39 (C) *Notwithstanding Section 65589.5, a jurisdiction shall not*
40 *be required to approve a builder's remedy project, as defined in*

1 *paragraph (11) of subdivision (h) of Section 65889.5, within the*
2 *planning agency's jurisdiction during either of the following*
3 *periods:*

4 *(i) The duration of the department's review of a draft element*
5 *or draft amendment revised pursuant to this paragraph.*

6 *(ii) Ninety days from the date the department notifies the*
7 *planning agency of additional deficiencies not previously identified*
8 *by the department in response to the prior submission of the draft*
9 *element or draft amendment.*

10 (2) ~~Adopt the draft element or draft amendment without changes.~~
11 *the specific analysis or text required by the department pursuant*
12 *to subdivision (d). The legislative body shall include in its*
13 *resolution of adoption written findings that explain the reasons the*
14 *legislative body believes that the draft element or draft amendment*
15 *substantially complies with this article despite the findings of,*
16 *and specific analysis or text required by, the department.*

17 (g) (1) Promptly following the adoption of its element or
18 amendment, the planning agency shall submit a copy of the adopted
19 element or amendment and any findings made pursuant to
20 paragraph (2) of subdivision (f) to the department.

21 (2) This subdivision shall not be construed to excuse a legislative
22 body from complying with subdivision (f). This paragraph does
23 not constitute a change in, but is declaratory of, existing law.

24 (h) The department shall, within 60 days, review adopted
25 housing elements or amendments and any findings pursuant to
26 paragraph (2) of subdivision (f), make a finding as to whether the
27 adopted element or amendment is in substantial compliance with
28 this article, and report its findings to the planning agency. *If the*
29 *department finds that the adopted element or amendment is not in*
30 *substantial compliance with this article, the department shall*
31 *identify each subdivision of Section 65583 that the housing element*
32 *does not substantially comply with and provide the specific analysis*
33 *or text to the planning agency that, if adopted, would bring the*
34 *housing element or amendment into substantial compliance.*

35 (i) (1) (A) The department shall review any action or failure
36 to act by the city, county, or city and county that it determines is
37 inconsistent with an adopted housing element or Section 65583,
38 including any failure to implement any program actions included
39 in the housing element pursuant to Section 65583. The department
40 shall issue written findings to the city, county, or city and county

1 as to whether the action or failure to act substantially complies
2 with this article, and provide a reasonable time no longer than 30
3 days for the city, county, or city and county to respond to the
4 findings before taking any other action authorized by this section,
5 including the action authorized by subparagraph (C).

6 (B) If the department finds that the city's, county's, or city and
7 county's action or failure to act does not substantially comply with
8 its adopted housing element or its obligations pursuant to Section
9 65583, there shall be a rebuttable presumption of invalidity in any
10 legal action challenging that action or failure to act.

11 (C) If the department finds that the action or failure to act by
12 the city, county, or city and county does not substantially comply
13 with this article, and if it has issued findings pursuant to this section
14 that an amendment to the housing element substantially complies
15 with this article, the department may revoke its findings until it
16 determines that the city, county, or city and county has come into
17 compliance with this article.

18 (2) The department may consult with any local government,
19 public agency, group, or person, and shall receive and consider
20 any written comments from any public agency, group, or person,
21 regarding the action or failure to act by the city, county, or city
22 and county described in paragraph (1), in determining whether the
23 housing element substantially complies with this article.

24 (j) The department shall notify the city, county, or city and
25 county and may notify the office of the Attorney General that the
26 city, county, or city and county is in violation of state law if the
27 department finds that the housing element or an amendment to this
28 element, or any action or failure to act described in subdivision
29 ~~(i)~~, (j), does not substantially comply with this article or that any
30 local government has taken an action in violation of the following:

- 31 (1) Housing Accountability Act (Section 65589.5).
- 32 (2) Section 65863.
- 33 (3) Chapter 4.3 (commencing with Section 65915).
- 34 (4) Section 65008.
- 35 (5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019,
36 Sections 65941.1, 65943, and 66300).
- 37 (6) Section 8899.50.
- 38 (7) Section 65913.4.
- 39 (8) Article 11 (commencing with Section 65650).
- 40 (9) Article 12 (commencing with Section 65660).

- 1 (10) Section 65913.11.
- 2 (11) Section 65400.
- 3 (12) Section 65863.2.
- 4 (13) Chapter 4.1 (commencing with Section 65912.100).
- 5 (14) Section 65905.5.
- 6 (15) Chapter 13 (commencing with Section 66310).
- 7 (16) Section 65852.21.
- 8 (17) Section 65852.24.
- 9 (18) Section 66411.7.
- 10 (19) Section 65913.16.
- 11 (20) Article 2 (commencing with Section 66300.5) of Chapter
- 12 12.
- 13 (21) Section 65852.28.
- 14 (22) Section 65913.4.5.
- 15 (23) Section 66499.41.
- 16 (24) Homeless Housing, Assistance, and Prevention program
- 17 (Chapter 6 (commencing with Section 50216) and Chapter 6.5
- 18 (commencing with Section 50230) of Part 1 of Division 31 of the
- 19 Health and Safety Code).
- 20 (25) Encampment Resolution Funding program (Chapter 7
- 21 (commencing with Section 50250) of Part 1 of Division 31 of the
- 22 Health and Safety Code).
- 23 (26) Family Homelessness Challenge Grants and Technical
- 24 Assistance Program (Chapter 8 (commencing with Section 50255)
- 25 of Part 1 of Division 31 of the Health and Safety Code).
- 26 (27) (A) Article 11.5 (commencing with Section 65658).
- 27 (B) This paragraph shall become operative only if Assembly
- 28 Bill 3068 of the 2023–24 Regular Session of the Legislature is
- 29 enacted and takes effect on or before January 1, 2025.
- 30 (k) Commencing July 1, 2019, prior to the Attorney General
- 31 bringing any suit for a violation of the provisions identified in
- 32 subdivision (j) related to housing element compliance and seeking
- 33 remedies available pursuant to this subdivision, the department
- 34 shall offer the jurisdiction the opportunity for two meetings in
- 35 person or via telephone to discuss the violation, and shall provide
- 36 the jurisdiction written findings regarding the violation. This
- 37 paragraph does not affect any action filed prior to the effective
- 38 date of this section. The requirements set forth in this subdivision
- 39 do not apply to any suits brought for a violation or violations of
- 40 paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

1 (l) In any action or special proceeding brought by the Attorney
2 General relating to housing element compliance pursuant to a
3 notice or referral under subdivision (j), the Attorney General may
4 request, upon a finding of the court that the housing element does
5 not substantially comply with the requirements of this article
6 pursuant to this section, that the court issue an order or judgment
7 directing the jurisdiction to bring its housing element into
8 substantial compliance with the requirements of this article. The
9 court shall retain jurisdiction to ensure that its order or judgment
10 is carried out. If a court determines that the housing element of
11 the jurisdiction substantially complies with this article, it shall
12 have the same force and effect, for purposes of eligibility for any
13 financial assistance that requires a housing element in substantial
14 compliance and for purposes of any incentives provided under
15 Section 65589.9, as a determination by the department that the
16 housing element substantially complies with this article.

17 (1) If the jurisdiction has not complied with the order or
18 judgment after 12 months, the court shall conduct a status
19 conference. Following the status conference, upon a determination
20 that the jurisdiction failed to comply with the order or judgment
21 compelling substantial compliance with the requirements of this
22 article, the court shall impose fines on the jurisdiction, which shall
23 be deposited into the Building Homes and Jobs Trust Fund. Any
24 fine levied pursuant to this paragraph shall be in a minimum
25 amount of ten thousand dollars (\$10,000) per month, but shall not
26 exceed one hundred thousand dollars (\$100,000) per month, except
27 as provided in paragraphs (2) and (3). In the event that the
28 jurisdiction fails to pay fines imposed by the court in full and on
29 time, the court may require the Controller to intercept any available
30 state and local funds and direct such funds to the Building Homes
31 and Jobs Trust Fund to correct the jurisdiction's failure to pay.
32 The intercept of the funds by the Controller for this purpose shall
33 not violate any provision of the California Constitution.

34 (2) If the jurisdiction has not complied with the order or
35 judgment after three months following the imposition of fees
36 described in paragraph (1), the court shall conduct a status
37 conference. Following the status conference, if the court finds that
38 the fees imposed pursuant to paragraph (1) are insufficient to bring
39 the jurisdiction into compliance with the order or judgment, the
40 court may multiply the fine determined pursuant to paragraph (1)

1 by a factor of three. In the event that the jurisdiction fails to pay
2 fines imposed by the court in full and on time, the court may
3 require the Controller to intercept any available state and local
4 funds and direct such funds to the Building Homes and Jobs Trust
5 Fund to correct the jurisdiction's failure to pay. The intercept of
6 the funds by the Controller for this purpose shall not violate any
7 provision of the California Constitution.

8 (3) If the jurisdiction has not complied with the order or
9 judgment six months following the imposition of fees described
10 in paragraph (1), the court shall conduct a status conference. Upon
11 a determination that the jurisdiction failed to comply with the order
12 or judgment, the court may impose the following:

13 (A) If the court finds that the fees imposed pursuant to
14 paragraphs (1) and (2) are insufficient to bring the jurisdiction into
15 compliance with the order or judgment, the court may multiply
16 the fine determined pursuant to paragraph (1) by a factor of six.
17 In the event that the jurisdiction fails to pay fines imposed by the
18 court in full and on time, the court may require the Controller to
19 intercept any available state and local funds and direct such funds
20 to the Building Homes and Jobs Trust Fund to correct the
21 jurisdiction's failure to pay. The intercept of the funds by the
22 Controller for this purpose shall not violate any provision of the
23 California Constitution.

24 (B) The court may order remedies available pursuant to Section
25 564 of the Code of Civil Procedure, under which the agent of the
26 court may take all governmental actions necessary to bring the
27 jurisdiction's housing element into substantial compliance pursuant
28 to this article in order to remedy identified deficiencies. The court
29 shall determine whether the housing element of the jurisdiction
30 substantially complies with this article and, once the court makes
31 that determination, it shall have the same force and effect, for all
32 purposes, as the department's determination that the housing
33 element substantially complies with this article. An agent appointed
34 pursuant to this paragraph shall have expertise in planning in
35 California.

36 (4) This subdivision does not limit a court's discretion to apply
37 any and all remedies in an action or special proceeding for a
38 violation of any law identified in subdivision (j).

39 (m) In determining the application of the remedies available
40 under subdivision (l), the court shall consider whether there are

1 any mitigating circumstances delaying the jurisdiction from coming
2 into compliance with state housing law. The court may consider
3 whether a city, county, or city and county is making a good faith
4 effort to come into substantial compliance or is facing substantial
5 undue hardships.

6 (n) Nothing in this section shall limit the authority of the office
7 of the Attorney General to bring a suit to enforce state law in an
8 independent capacity. The office of the Attorney General may seek
9 all remedies available under law including those set forth in this
10 section.

11 (o) Notwithstanding Sections 11040 and 11042, if the Attorney
12 General declines to represent the department in any action or
13 special proceeding brought pursuant to a notice or referral under
14 subdivision (j), the department may appoint or contract with other
15 counsel for purposes of representing the department in the action
16 or special proceeding.

17 (p) Notwithstanding any other provision of law, the statute of
18 limitations set forth in subdivision (a) of Section 338 of the Code
19 of Civil Procedure shall apply to any action or special proceeding
20 brought by the office of the Attorney General or pursuant to a
21 notice or referral under subdivision (j), or by the department
22 pursuant to subdivision (o).

23 (q) The amendments to this section made by the act adding this
24 subdivision shall not be construed to limit the department's ability
25 to enforce programmatic requirements or remedies against cities,
26 counties, and continuums of care pursuant to the Homeless
27 Housing, Assistance, and Prevention program (Chapter 6
28 (commencing with Section 50216) and Chapter 6.5 (commencing
29 with Section 50230) of Part 1 of Division 31 of the Health and
30 Safety Code), the Encampment Resolution Funding program
31 (Chapter 7 (commencing with Section 50250)), and the Family
32 Homelessness Challenge Grants and Technical Assistance Program
33 (Chapter 8 (commencing with Section 50255)).

34 *SEC. 7. Section 65589.5 of the Government Code is amended*
35 *to read:*

36 65589.5. (a) (1) The Legislature finds and declares all of the
37 following:

38 (A) The lack of housing, including emergency shelters, is a
39 critical problem that threatens the economic, environmental, and
40 social quality of life in California.

1 (B) California housing has become the most expensive in the
2 nation. The excessive cost of the state’s housing supply is partially
3 caused by activities and policies of many local governments that
4 limit the approval of housing, increase the cost of land for housing,
5 and require that high fees and exactions be paid by producers of
6 housing.

7 (C) Among the consequences of those actions are discrimination
8 against low-income and minority households, lack of housing to
9 support employment growth, imbalance in jobs and housing,
10 reduced mobility, urban sprawl, excessive commuting, and air
11 quality deterioration.

12 (D) Many local governments do not give adequate attention to
13 the economic, environmental, and social costs of decisions that
14 result in disapproval of housing development projects, reduction
15 in density of housing projects, and excessive standards for housing
16 development projects.

17 (2) In enacting the amendments made to this section by the act
18 adding this paragraph, the Legislature further finds and declares
19 the following:

20 (A) California has a housing supply and affordability crisis of
21 historic proportions. The consequences of failing to effectively
22 and aggressively confront this crisis are hurting millions of
23 Californians, robbing future generations of the chance to call
24 California home, stifling economic opportunities for workers and
25 businesses, worsening poverty and homelessness, and undermining
26 the state’s environmental and climate objectives.

27 (B) While the causes of this crisis are multiple and complex,
28 the absence of meaningful and effective policy reforms to
29 significantly enhance the approval and supply of housing affordable
30 to Californians of all income levels is a key factor.

31 (C) The crisis has grown so acute in California that supply,
32 demand, and affordability fundamentals are characterized in the
33 negative: underserved demands, constrained supply, and protracted
34 unaffordability.

35 (D) According to reports and data, California has accumulated
36 an unmet housing backlog of nearly 2,000,000 units and must
37 provide for at least 180,000 new units annually to keep pace with
38 growth through 2025.

39 (E) California’s overall home ownership rate is at its lowest
40 level since the 1940s. The state ranks 49th out of the 50 states in

1 home ownership rates as well as in the supply of housing per capita.
2 Only one-half of California's households are able to afford the
3 cost of housing in their local regions.

4 (F) Lack of supply and rising costs are compounding inequality
5 and limiting advancement opportunities for many Californians.

6 (G) The majority of California renters, more than 3,000,000
7 households, pay more than 30 percent of their income toward rent
8 and nearly one-third, more than 1,500,000 households, pay more
9 than 50 percent of their income toward rent.

10 (H) When Californians have access to safe and affordable
11 housing, they have more money for food and health care; they are
12 less likely to become homeless and in need of
13 government-subsidized services; their children do better in school;
14 and businesses have an easier time recruiting and retaining
15 employees.

16 (I) An additional consequence of the state's cumulative housing
17 shortage is a significant increase in greenhouse gas emissions
18 caused by the displacement and redirection of populations to states
19 with greater housing opportunities, particularly working- and
20 middle-class households. California's cumulative housing shortfall
21 therefore has not only national but international environmental
22 consequences.

23 (J) California's housing picture has reached a crisis of historic
24 proportions despite the fact that, for decades, the Legislature has
25 enacted numerous statutes intended to significantly increase the
26 approval, development, and affordability of housing for all income
27 levels, including this section.

28 (K) The Legislature's intent in enacting this section in 1982 and
29 in expanding its provisions since then was to significantly increase
30 the approval and construction of new housing for all economic
31 segments of California's communities by meaningfully and
32 effectively curbing the capability of local governments to deny,
33 reduce the density for, or render infeasible housing development
34 projects and emergency shelters. That intent has not been fulfilled.

35 (L) It is the policy of the state that this section be interpreted
36 and implemented in a manner to afford the fullest possible weight
37 to the interest of, and the approval and provision of, housing.

38 (3) It is the intent of the Legislature that the conditions that
39 would have a specific, adverse impact upon the public health and

1 safety, as described in paragraph (2) of subdivision (d) and
2 paragraph (1) of subdivision (j), arise infrequently.

3 (4) It is the intent of the Legislature that the amendments
4 removing provisions from subparagraphs (D) and (E) of paragraph
5 (6) of subdivision (h) and adding those provisions to Sections
6 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar
7 as they are substantially the same as existing law, shall be
8 considered restatements and continuations of existing law, and not
9 new enactments.

10 (b) It is the policy of the state that a local government not reject
11 or make infeasible housing development projects, including
12 emergency shelters, that contribute to meeting the need determined
13 pursuant to this article without a thorough analysis of the economic,
14 social, and environmental effects of the action and without
15 complying with subdivision (d).

16 (c) The Legislature also recognizes that premature and
17 unnecessary development of agricultural lands for urban uses
18 continues to have adverse effects on the availability of those lands
19 for food and fiber production and on the economy of the state.
20 Furthermore, it is the policy of the state that development should
21 be guided away from prime agricultural lands; therefore, in
22 implementing this section, local jurisdictions should encourage,
23 to the maximum extent practicable, in filling existing urban areas.

24 (d) For a housing development project for very low, low-, or
25 moderate-income households, or an emergency shelter, a local
26 agency shall not disapprove the housing development project or
27 emergency shelter, or condition approval in a manner that renders
28 the housing development project or emergency shelter infeasible,
29 including through the use of design review standards, unless it
30 makes written findings, based upon a preponderance of the
31 evidence in the record, as to one of the following:

32 (1) The jurisdiction has adopted a housing element pursuant to
33 this article that has been revised in accordance with Section 65588,
34 is in substantial compliance with this article, and the jurisdiction
35 has met or exceeded its share of the regional housing need
36 allocation pursuant to Section 65584 for the planning period for
37 the income category proposed for the housing development project,
38 provided that any disapproval or conditional approval shall not be
39 based on any of the reasons prohibited by Section 65008. If the
40 housing development project includes a mix of income categories,

1 and the jurisdiction has not met or exceeded its share of the regional
2 housing need for one or more of those categories, then this
3 paragraph shall not be used to disapprove or conditionally approve
4 the housing development project. The share of the regional housing
5 need met by the jurisdiction shall be calculated consistently with
6 the forms and definitions that may be adopted by the Department
7 of Housing and Community Development pursuant to Section
8 65400. In the case of an emergency shelter, the jurisdiction shall
9 have met or exceeded the need for emergency shelter, as identified
10 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any
11 disapproval or conditional approval pursuant to this paragraph
12 shall be in accordance with applicable law, rule, or standards.

13 (2) The housing development project or emergency shelter as
14 proposed would have a specific, adverse impact upon the public
15 health or safety, and there is no feasible method to satisfactorily
16 mitigate or avoid the specific, adverse impact without rendering
17 the development unaffordable to low- and moderate-income
18 households or rendering the development of the emergency shelter
19 financially infeasible. As used in this paragraph, a “specific,
20 adverse impact” means a significant, quantifiable, direct, and
21 unavoidable impact, based on objective, identified written public
22 health or safety standards, policies, or conditions as they existed
23 on the date the application was deemed complete. The following
24 shall not constitute a specific, adverse impact upon the public
25 health or safety:

26 (A) Inconsistency with the zoning ordinance or general plan
27 land use designation.

28 (B) The eligibility to claim a welfare exemption under
29 subdivision (g) of Section 214 of the Revenue and Taxation Code.

30 (3) The denial of the housing development project or imposition
31 of conditions is required in order to comply with specific state or
32 federal law, and there is no feasible method to comply without
33 rendering the development unaffordable to low- and
34 moderate-income households or rendering the development of the
35 emergency shelter financially infeasible.

36 (4) The housing development project or emergency shelter is
37 proposed on land zoned for agriculture or resource preservation
38 that is surrounded on at least two sides by land being used for
39 agricultural or resource preservation purposes, or which does not
40 have adequate water or wastewater facilities to serve the project.

1 (5) On the date an application for the housing development
2 project or emergency shelter was deemed complete, the jurisdiction
3 had adopted a revised housing element that was in substantial
4 compliance with this article, and the housing development project
5 or emergency shelter was inconsistent with both the jurisdiction's
6 zoning ordinance and general plan land use designation as specified
7 in any element of the general plan.

8 (A) This paragraph shall not be utilized to disapprove or
9 conditionally approve a housing development project proposed on
10 a site, including a candidate site for rezoning, that is identified as
11 suitable or available for very low, low-, or moderate-income
12 households in the jurisdiction's housing element if the housing
13 development project is consistent with the density specified in the
14 housing element, even though the housing development project
15 was inconsistent with both the jurisdiction's zoning ordinance and
16 general plan land use designation on the date the application was
17 deemed complete.

18 (B) If the local agency has failed to identify a zone or zones
19 where emergency shelters are allowed as a permitted use without
20 a conditional use or other discretionary permit, has failed to
21 demonstrate that the identified zone or zones include sufficient
22 capacity to accommodate the need for emergency shelter identified
23 in paragraph (7) of subdivision (a) of Section 65583, or has failed
24 to demonstrate that the identified zone or zones can accommodate
25 at least one emergency shelter, as required by paragraph (4) of
26 subdivision (a) of Section 65583, then this paragraph shall not be
27 utilized to disapprove or conditionally approve an emergency
28 shelter proposed for a site designated in any element of the general
29 plan for industrial, commercial, or multifamily residential uses. In
30 any action in court, the burden of proof shall be on the local agency
31 to show that its housing element does satisfy the requirements of
32 paragraph (4) of subdivision (a) of Section 65583.

33 (6) On the date an application for the housing development
34 project or emergency shelter was deemed complete, the jurisdiction
35 did not have an adopted revised housing element that was in
36 substantial compliance with this article and the housing
37 development project is not a builder's remedy project.

38 (7) *On the date an application for the housing development*
39 *project or emergency shelter was deemed complete, the jurisdiction*
40 *did not have an adopted revised housing element that was in*

1 *substantial compliance with this article, and the housing*
2 *development project is a builder's remedy project, and at least*
3 *one of the conditions described in subparagraph (C) of paragraph*
4 *(1) of subdivision (f) of Section 65585 applies.*

5 (e) Nothing in this section shall be construed to relieve the local
6 agency from complying with the congestion management program
7 required by Chapter 2.6 (commencing with Section 65088) of
8 Division 1 of Title 7 or the California Coastal Act of 1976
9 (Division 20 (commencing with Section 30000) of the Public
10 Resources Code). Neither shall anything in this section be
11 construed to relieve the local agency from making one or more of
12 the findings required pursuant to Section 21081 of the Public
13 Resources Code or otherwise complying with the California
14 Environmental Quality Act (Division 13 (commencing with Section
15 21000) of the Public Resources Code).

16 (f) (1) Except as provided in paragraphs (6) and (8) of this
17 subdivision, and subdivision (o), nothing in this section shall be
18 construed to prohibit a local agency from requiring the housing
19 development project to comply with objective, quantifiable, written
20 development standards, conditions, and policies appropriate to,
21 and consistent with, meeting the jurisdiction's share of the regional
22 housing need pursuant to Section 65584. However, the
23 development standards, conditions, and policies shall be applied
24 to facilitate and accommodate development at the density permitted
25 on the site and proposed by the development. Nothing in this
26 section shall limit a project's eligibility for a density bonus,
27 incentive, or concession, or waiver or reduction of development
28 standards and parking ratios, pursuant to Section 65915.

29 (2) Except as provided in subdivision (o), nothing in this section
30 shall be construed to prohibit a local agency from requiring an
31 emergency shelter project to comply with objective, quantifiable,
32 written development standards, conditions, and policies that are
33 consistent with paragraph (4) of subdivision (a) of Section 65583
34 and appropriate to, and consistent with, meeting the jurisdiction's
35 need for emergency shelter, as identified pursuant to paragraph
36 (7) of subdivision (a) of Section 65583. However, the development
37 standards, conditions, and policies shall be applied by the local
38 agency to facilitate and accommodate the development of the
39 emergency shelter project.

1 (3) Except as provided in subdivision (o), nothing in this section
2 shall be construed to prohibit a local agency from imposing fees
3 and other exactions otherwise authorized by law that are essential
4 to provide necessary public services and facilities to the housing
5 development project or emergency shelter.

6 (4) For purposes of this section, a housing development project
7 or emergency shelter shall be deemed consistent, compliant, and
8 in conformity with an applicable plan, program, policy, ordinance,
9 standard, requirement, or other similar provision if there is
10 substantial evidence that would allow a reasonable person to
11 conclude that the housing development project or emergency
12 shelter is consistent, compliant, or in conformity.

13 (5) For purposes of this section, a change to the zoning ordinance
14 or general plan land use designation subsequent to the date the
15 application was deemed complete shall not constitute a valid basis
16 to disapprove or condition approval of the housing development
17 project or emergency shelter.

18 (6) Notwithstanding paragraphs (1) to (5), inclusive, all of the
19 following apply to a housing development project that is a builder's
20 remedy project:

21 (A) A local agency may only require the project to comply with
22 the objective, quantifiable, written development standards,
23 conditions, and policies that would have applied to the project had
24 it been proposed on a site with a general plan designation and
25 zoning classification that allow the density and unit type proposed
26 by the applicant. If the local agency has no general plan designation
27 or zoning classification that would have allowed the density and
28 unit type proposed by the applicant, the development proponent
29 may identify any objective, quantifiable, written development
30 standards, conditions, and policies associated with a different
31 general plan designation or zoning classification within that
32 jurisdiction, that facilitate the project's density and unit type, and
33 those shall apply.

34 (B) (i) Except as authorized by paragraphs (1) to (4), inclusive,
35 of subdivision (d), a local agency shall not apply any individual
36 or combination of objective, quantifiable, written development
37 standards, conditions, and policies to the project that do any of the
38 following:

39 (I) Render the project infeasible.

1 (II) Preclude a project that meets the requirements allowed to
2 be imposed by subparagraph (A), as modified by any density bonus,
3 incentive, or concession, or waiver or reduction of development
4 standards and parking ratios, pursuant to Section 65915, from
5 being constructed as proposed by the applicant.
6 (ii) The local agency shall bear the burden of proof of complying
7 with clause (i).
8 (C) (i) A project applicant that qualifies for a density bonus
9 pursuant to Section 65915 shall receive two incentives or
10 concessions in addition to those granted pursuant to paragraph (2)
11 of subdivision (d) of Section 65915.
12 (ii) For a project seeking density bonuses, incentives,
13 concessions, or any other benefits pursuant to Section 65915, and
14 notwithstanding paragraph (6) of subdivision (o) of Section 65915,
15 for purposes of this paragraph, maximum allowable residential
16 density or base density means the density permitted for a builder's
17 remedy project pursuant to subparagraph (C) of paragraph (11) of
18 subdivision (h).
19 (iii) A local agency shall grant any density bonus pursuant to
20 Section 65915 based on the number of units proposed and
21 allowable pursuant to subparagraph (C) of paragraph (11) of
22 subdivision (h).
23 (iv) A project that dedicates units to extremely low-income
24 households pursuant to subclause (I) of clause (i) of subparagraph
25 (C) of paragraph (3) of subdivision (h) shall be eligible for the
26 same density bonus, incentives or concessions, and waivers or
27 reductions of development standards as provided to a housing
28 development project that dedicates three percentage points more
29 units to very low income households pursuant to paragraph (2) of
30 subdivision (f) of Section 65915.
31 (v) All units dedicated to extremely low-income, very low
32 income, low-income, and moderate-income households pursuant
33 to paragraph (11) of subdivision (h) shall be counted as affordable
34 units in determining whether the applicant qualifies for a density
35 bonus pursuant to Section 65915.
36 (D) (i) The project shall not be required to apply for, or receive
37 approval of, a general plan amendment, specific plan amendment,
38 rezoning, or other legislative approval.

1 (ii) The project shall not be required to apply for, or receive,
2 any approval or permit not generally required of a project of the
3 same type and density proposed by the applicant.

4 (iii) Any project that complies with this paragraph shall be
5 deemed consistent, compliant, and in conformity with an applicable
6 plan, program, policy, ordinance, standard, requirement,
7 redevelopment plan and implementing instruments, or other similar
8 provision for all purposes, and shall not be considered or treated
9 as a nonconforming lot, use, or structure for any purpose.

10 (E) A local agency shall not adopt or impose any requirement,
11 process, practice, or procedure or undertake any course of conduct,
12 including, but not limited to, increased fees or inclusionary housing
13 requirements, that applies to a project solely or partially on the
14 basis that the project is a builder's remedy project.

15 (F) (i) A builder's remedy project shall be deemed to be in
16 compliance with the residential density standards for the purposes
17 of complying with subdivision (b) of Section 65912.123.

18 (ii) A builder's remedy project shall be deemed to be in
19 compliance with the objective zoning standards, objective
20 subdivision standards, and objective design review standards for
21 the purposes of complying with paragraph (5) of subdivision (a)
22 of Section 65913.4.

23 (G) (i) (I) If the local agency had a local affordable housing
24 requirement, as defined in Section 65912.101, that on January 1,
25 2024, required a greater percentage of affordable units than
26 required under subparagraph (A) of paragraph (11) of subdivision
27 (h), or required an affordability level deeper than what is required
28 under subparagraph (A) of paragraph (11) of subdivision (h), then,
29 except as provided in subclauses (II) and (III), the local agency
30 may require a housing development for mixed-income households
31 to comply with an otherwise lawfully applicable local affordability
32 percentage or affordability level. The local agency shall not require
33 housing for mixed-income households to comply with any other
34 aspect of the local affordable housing requirement.

35 (II) Notwithstanding subclause (I), the local affordable housing
36 requirements shall not be applied to require housing for
37 mixed-income households to dedicate more than 20 percent of the
38 units to affordable units of any kind.

39 (III) Housing for mixed-income households that is required to
40 dedicate 20 percent of the units to affordable units shall not be

1 required to dedicate any of the affordable units at an income level
2 deeper than lower income households, as defined in Section
3 50079.5 of the Health and Safety Code.

4 (IV) A local agency may only require housing for mixed-income
5 households to comply with the local percentage requirement or
6 affordability level described in subclause (I) if it first makes written
7 findings, supported by a preponderance of evidence, that
8 compliance with the local percentage requirement or the
9 affordability level, or both, would not render the housing
10 development project infeasible. If a reasonable person could find
11 compliance with either requirement, either alone or in combination,
12 would render the project infeasible, the project shall not be required
13 to comply with that requirement.

14 (ii) Affordable units in the development project shall have a
15 comparable bedroom and bathroom count as the market rate units.

16 (iii) Each affordable unit dedicated pursuant to this subparagraph
17 shall count toward satisfying a local affordable housing
18 requirement. Each affordable unit dedicated pursuant to a local
19 affordable housing requirement that meets the criteria established
20 in this subparagraph shall count towards satisfying the requirements
21 of this subparagraph. This is declaratory of existing law.

22 (7) (A) For a housing development project application that is
23 deemed complete before January 1, 2025, the development
24 proponent for the project may choose to be subject to the provisions
25 of this section that were in place on the date the preliminary
26 application was submitted, or, if the project meets the definition
27 of a builder's remedy project, it may choose to be subject to any
28 or all of the provisions of this section applicable as of January 1,
29 2025.

30 (B) Notwithstanding subdivision (c) of Section 65941.1, for a
31 housing development project deemed complete before January 1,
32 2025, the development proponent may choose to revise their
33 application so that the project is a builder's remedy project, without
34 being required to resubmit a preliminary application, even if the
35 revision results in the number of residential units or square footage
36 of construction changing by 20 percent or more.

37 (8) A housing development project proposed on a site that is
38 identified as suitable or available for very low, low-, or
39 moderate-income households in the jurisdiction's housing element,
40 that is consistent with the density specified in the most recently

1 updated and adopted housing element, and that is inconsistent with
2 both the jurisdiction’s zoning ordinance and general plan land use
3 designation on the date the application was deemed complete, shall
4 be subject to the provisions of subparagraphs (A), (B), and (D) of
5 paragraph (6) and paragraph (9).

6 (9) For purposes of this subdivision, “objective, quantifiable,
7 written development standards, conditions, and policies” means
8 criteria that involve no personal or subjective judgment by a public
9 official and are uniformly verifiable by reference to an external
10 and uniform benchmark or criterion available and knowable by
11 both the development applicant or proponent and the public official
12 before submittal, including, but not limited to, any standard,
13 ordinance, or policy described in paragraph (4) of subdivision (o).
14 Nothing herein shall affect the obligation of the housing
15 development project to comply with the minimum building
16 standards approved by the California Building Standards
17 Commission as provided in Part 2.5 (commencing with Section
18 18901) of Division 13 of the Health and Safety Code. In the event
19 that applicable objective, quantifiable, written development
20 standards, conditions, and policies are mutually inconsistent, a
21 development shall be deemed consistent with the criteria that
22 permits the density and unit type closest to that of the proposed
23 project.

24 (g) This section shall be applicable to charter cities because the
25 Legislature finds that the lack of housing, including emergency
26 shelter, is a critical statewide problem.

27 (h) The following definitions apply for the purposes of this
28 section:

29 (1) “Feasible” means capable of being accomplished in a
30 successful manner within a reasonable period of time, taking into
31 account economic, environmental, social, and technological factors.

32 (2) “Housing development project” means a use consisting of
33 any of the following:

34 (A) Residential units only.

35 (B) Mixed-use developments consisting of residential and
36 nonresidential uses that meet any of the following conditions:

37 (i) At least two-thirds of the new or converted square footage
38 is designated for residential use.

1 (ii) At least 50 percent of the new or converted square footage
2 is designated for residential use and the project meets both of the
3 following:

4 (I) The project includes at least 500 net new residential units.

5 (II) No portion of the project is designated for use as a hotel,
6 motel, bed and breakfast inn, or other transient lodging, except a
7 portion of the project may be designated for use as a residential
8 hotel, as defined in Section 50519 of the Health and Safety Code.

9 (iii) At least 50 percent of the net new or converted square
10 footage is designated for residential use and the project meets all
11 of the following:

12 (I) The project includes at least 500 net new residential units.

13 (II) The project involves the demolition or conversion of at least
14 100,000 square feet of nonresidential use.

15 (III) The project demolishes at least 50 percent of the existing
16 nonresidential uses on the site.

17 (IV) No portion of the project is designated for use as a hotel,
18 motel, bed and breakfast inn, or other transient lodging, except a
19 portion of the project may be designated for use as a residential
20 hotel, as defined in Section 50519 of the Health and Safety Code.

21 (C) Transitional housing or supportive housing.

22 (D) Farmworker housing, as defined in subdivision (h) of
23 Section 50199.7 of the Health and Safety Code.

24 (3) (A) “Housing for very low, low-, or moderate-income
25 households” means housing for lower income households,
26 mixed-income households, or moderate-income households.

27 (B) “Housing for lower income households” means a housing
28 development project in which 100 percent of the units, excluding
29 managers’ units, are dedicated to lower income households, as
30 defined in Section 50079.5 of the Health and Safety Code, at an
31 affordable cost, as defined by Section 50052.5 of the Health and
32 Safety Code, or an affordable rent set in an amount consistent with
33 the rent limits established by the California Tax Credit Allocation
34 Committee. The units shall be subject to a recorded deed restriction
35 for a period of 55 years for rental units and 45 years for
36 owner-occupied units.

37 (C) (i) “Housing for mixed-income households” means any of
38 the following:

39 (I) A housing development project in which at least 7 percent
40 of the total units, as defined in subparagraph (A) of paragraph (8)

1 of subdivision (o) of Section 65915, are dedicated to extremely
2 low income households, as defined in Section 50106 of the Health
3 and Safety Code.

4 (II) A housing development project in which at least 10 percent
5 of the total units, as defined in subparagraph (A) of paragraph (8)
6 of subdivision (o) of Section 65915, are dedicated to very low
7 income households, as defined in Section 50105 of the Health and
8 Safety Code.

9 (III) A housing development project in which at least 13 percent
10 of the total units, as defined in subparagraph (A) of paragraph (8)
11 of subdivision (o) of Section 65915, are dedicated to lower income
12 households, as defined in Section 50079.5 of the Health and Safety
13 Code.

14 (IV) A housing development project in which there are 10 or
15 fewer total units, as defined in subparagraph (A) of paragraph (8)
16 of subdivision (o) of Section 65915, that is on a site that is smaller
17 than one acre, and that is proposed for development at a minimum
18 density of 10 units per acre.

19 (ii) All units dedicated to extremely low income, very low
20 income, and low-income households pursuant to clause (i) shall
21 meet both of the following:

22 (I) The units shall have an affordable housing cost, as defined
23 in Section 50052.5 of the Health and Safety Code, or an affordable
24 rent, as defined in Section 50053 of the Health and Safety Code.

25 (II) The development proponent shall agree to, and the local
26 agency shall ensure, the continued affordability of all affordable
27 rental units included pursuant to this section for 55 years and all
28 affordable ownership units included pursuant to this section for a
29 period of 45 years.

30 (D) “Housing for moderate-income households” means a
31 housing development project in which 100 percent of the units are
32 sold or rented to moderate-income households, as defined in
33 Section 50093 of the Health and Safety Code, at an affordable
34 housing cost, as defined in Section 50052.5 of the Health and
35 Safety Code, or an affordable rent, as defined in Section 50053 of
36 the Health and Safety Code. The units shall be subject to a recorded
37 deed restriction for a period of 55 years for rental units and 45
38 years for owner-occupied units.

39 (4) “Area median income” means area median income as
40 periodically established by the Department of Housing and

1 Community Development pursuant to Section 50093 of the Health
2 and Safety Code.

3 (5) Notwithstanding any other law, until January 1, 2030,
4 “deemed complete” means that the applicant has submitted a
5 preliminary application pursuant to Section 65941.1 or, if the
6 applicant has not submitted a preliminary application, has
7 submitted a complete application pursuant to Section 65943. The
8 local agency shall bear the burden of proof in establishing that the
9 application is not complete.

10 (6) “Disapprove the housing development project” includes any
11 instance in which a local agency does any of the following:

12 (A) Votes or takes final administrative action on a proposed
13 housing development project application and the application is
14 disapproved, including any required land use approvals or
15 entitlements necessary for the issuance of a building permit.

16 (B) Fails to comply with the time periods specified in
17 subdivision (a) of Section 65950. An extension of time pursuant
18 to Article 5 (commencing with Section 65950) shall be deemed to
19 be an extension of time pursuant to this paragraph.

20 (C) Fails to meet the time limits specified in Section 65913.3.

21 (D) Fails to cease a course of conduct undertaken for an
22 improper purpose, such as to harass or to cause unnecessary delay
23 or needless increases in the cost of the proposed housing
24 development project, that effectively disapproves the proposed
25 housing development without taking final administrative action if
26 all of the following conditions are met:

27 (i) The project applicant provides written notice detailing the
28 challenged conduct and why it constitutes disapproval to the local
29 agency established under Section 65100.

30 (ii) Within five working days of receiving the applicant’s written
31 notice described in clause (i), the local agency shall post the notice
32 on the local agency’s internet website, provide a copy of the notice
33 to any person who has made a written request for notices pursuant
34 to subdivision (f) of Section 21167 of the Public Resources Code,
35 and file the notice with the county clerk of each county in which
36 the project will be located. The county clerk shall post the notice
37 and make it available for public inspection in the manner set forth
38 in subdivision (c) of Section 21152 of the Public Resources Code.

39 (iii) The local agency shall consider all objections, comments,
40 evidence, and concerns about the project or the applicant’s written

1 notice and shall not make a determination until at least 60 days
2 after the applicant has given written notice to the local agency
3 pursuant to clause (i).

4 (iv) Within 90 days of receipt of the applicant's written notice
5 described in clause (i), the local agency shall issue a written
6 statement that it will immediately cease the challenged conduct or
7 issue written findings that comply with both of the following
8 requirements:

9 (I) The findings articulate an objective basis for why the
10 challenged course of conduct is necessary.

11 (II) The findings provide clear instructions on what the applicant
12 must submit or supplement so that the local agency can make a
13 final determination regarding the next necessary approval or set
14 the date and time of the next hearing.

15 (v) (I) If a local agency continues the challenged course of
16 conduct described in the applicant's written notice and fails to
17 issue the written findings described in clause (iv), the local agency
18 shall bear the burden of establishing that its course of conduct does
19 not constitute a disapproval of the housing development project
20 under this subparagraph in an action taken by the applicant.

21 (II) If an applicant challenges a local agency's course of conduct
22 as a disapproval under this subparagraph, the local agency's written
23 findings described in clause (iv) shall be incorporated into the
24 administrative record and be deemed to be the final administrative
25 action for purposes of adjudicating whether the local agency's
26 course of conduct constitutes a disapproval of the housing
27 development project under this subparagraph.

28 (vi) A local agency's action in furtherance of complying with
29 the California Environmental Quality Act (Division 13
30 commencing with Section 21000) of the Public Resources Code),
31 including, but not limited to, imposing mitigating measures, shall
32 not constitute project disapproval under this subparagraph.

33 (E) Fails to comply with Section 65905.5. For purposes of this
34 subparagraph, a builder's remedy project shall be deemed to
35 comply with the applicable, objective general plan and zoning
36 standards in effect at the time an application is deemed complete.

37 (F) (i) Determines that an application for a housing development
38 project is incomplete pursuant to subdivision (a) or (b) of Section
39 65943 and includes in the determination an item that is not required
40 on the local agency's submittal requirement checklist. The local

1 agency shall bear the burden of proof that the required item is
2 listed on the submittal requirement checklist.

3 (ii) In a subsequent review of an application pursuant to Section
4 65943, requests the applicant provide new information that was
5 not identified in the initial determination and upholds this
6 determination in the final written determination on an appeal filed
7 pursuant to subdivision (c) of Section 65943. The local agency
8 shall bear the burden of proof that the required item was identified
9 in the initial determination.

10 (iii) Determines that an application for a housing development
11 project is incomplete pursuant to subdivision (a) or (b) of Section
12 65943, a reasonable person would conclude that the applicant has
13 submitted all of the items required on the local agency's submittal
14 requirement checklist, and the local agency upholds this
15 determination in the final written determination on an appeal filed
16 pursuant to subdivision (c) of Section 65943.

17 (iv) If a local agency determines that an application is
18 incomplete under Section 65943 after two resubmittals of the
19 application by the applicant, the local agency shall bear the burden
20 of establishing that the determination is not an effective disapproval
21 of a housing development project under this section.

22 (G) Violates subparagraph (D) or (E) of paragraph (6) of
23 subdivision (f).

24 (H) Makes a written determination that a preliminary application
25 described in subdivision (a) of Section 65941.1 has expired or that
26 the applicant has otherwise lost its vested rights under the
27 preliminary application for any reason other than those described
28 in subdivisions (c) and (d) of Section 65941.1.

29 (I) (i) Fails to make a determination of whether the project is
30 exempt from the California Environmental Quality Act (Division
31 13 (commencing with Section 21000) of the Public Resources
32 Code), or commits an abuse of discretion, as defined in subdivision
33 (b) of Section 65589.5.1 if all of the conditions in Section
34 65589.5.1 are satisfied.

35 (ii) This subparagraph shall become inoperative on January 1,
36 2031.

37 (J) (i) Fails to adopt a negative declaration or addendum for
38 the project, to certify an environmental impact report for the
39 project, or to approve another comparable environmental document,
40 such as a sustainable communities environmental assessment

1 pursuant to Section 21155.2 of the Public Resources Code, as
2 required pursuant to the California Environmental Quality Act
3 (Division 13 (commencing with Section 21000) of the Public
4 Resources Code), if all of the conditions in Section 65589.5.2 are
5 satisfied.

6 (ii) This subparagraph shall become inoperative on January 1,
7 2031.

8 (7) (A) For purposes of this section and Sections 65589.5.1 and
9 65589.5.2, “lawful determination” means any final decision about
10 whether to approve or disapprove a statutory or categorical
11 exemption or a negative declaration, addendum, environmental
12 impact report, or comparable environmental review document
13 under the California Environmental Quality Act (Division 13
14 (commencing with Section 21000) of the Public Resources Code)
15 that is not an abuse of discretion, as defined in subdivision (b) of
16 Section 65589.5.1 or subdivision (b) of Section 65589.5.2.

17 (B) This paragraph shall become inoperative on January 1, 2031.

18 (8) “Lower density” includes any conditions that have the same
19 effect or impact on the ability of the project to provide housing.

20 (9) Until January 1, 2030, “objective” means involving no
21 personal or subjective judgment by a public official and being
22 uniformly verifiable by reference to an external and uniform
23 benchmark or criterion available and knowable by both the
24 development applicant or proponent and the public official.

25 (10) Notwithstanding any other law, until January 1, 2030,
26 “determined to be complete” means that the applicant has submitted
27 a complete application pursuant to Section 65943.

28 (11) “Builder’s remedy project” means a project that meets all
29 of the following criteria:

30 (A) The project is a housing development project that provides
31 housing for very low, low-, or moderate-income households.

32 (B) On or after the date an application for the housing
33 development project or emergency shelter was deemed complete,
34 the jurisdiction did not have a housing element that was in
35 substantial compliance with this article.

36 (C) The project has a density such that the number of units, as
37 calculated before the application of a density bonus pursuant to
38 Section 65915, complies with all of the following conditions:

39 (i) The density does not exceed the greatest of the following
40 densities:

1 (I) Fifty percent greater than the minimum density deemed
 2 appropriate to accommodate housing for that jurisdiction as
 3 specified in subparagraph (B) of paragraph (3) of subdivision (c)
 4 of Section 65583.2.

5 (II) Three times the density allowed by the general plan, zoning
 6 ordinance, or state law, whichever is greater.

7 (III) The density that is consistent with the density specified in
 8 the housing element.

9 (ii) Notwithstanding clause (i), the greatest allowable density
 10 shall be 35 units per acre more than the amount allowable pursuant
 11 to clause (i), if any portion of the site is located within any of the
 12 following:

13 (I) One-half mile of a major transit stop, as defined in Section
 14 21064.3 of the Public Resources Code.

15 (II) A very low vehicle travel area, as defined in subdivision
 16 (h).

17 (III) A high or highest resource census tract, as identified by
 18 the latest edition of the “CTCAC/HCD Opportunity Map”
 19 published by the California Tax Credit Allocation Committee and
 20 the Department of Housing and Community Development.

21 (D) (i) On sites that have a minimum density requirement and
 22 are located within one-half mile of a commuter rail station or a
 23 heavy rail station, the density of the project shall not be less than
 24 the minimum density required on the site.

25 (I) For purposes of this subparagraph, “commuter rail” means
 26 a railway that is not a light rail, streetcar, trolley, or tramway and
 27 that is for urban passenger train service consisting of local short
 28 distance travel operating between a central city and adjacent suburb
 29 with service operated on a regular basis by or under contract with
 30 a transit operator for the purpose of transporting passengers within
 31 urbanized areas, or between urbanized areas and outlying areas,
 32 using either locomotive-hauled or self-propelled railroad passenger
 33 cars, with multitrip tickets and specific station-to-station fares.

34 (II) For purposes of this subparagraph, “heavy rail” means an
 35 electric railway with the capacity for a heavy volume of traffic
 36 using high speed and rapid acceleration passenger rail cars
 37 operating singly or in multicar trains on fixed rails, separate
 38 rights-of-way from which all other vehicular and foot traffic are
 39 excluded, and high platform loading.

1 (ii) On all other sites with a minimum density requirement, the
2 density of the project shall not be less than the local agency's
3 minimum density or one-half of the minimum density deemed
4 appropriate to accommodate housing for that jurisdiction as
5 specified in subparagraph (B) of paragraph (3) of subdivision (c)
6 of Section 65583.2, whichever is lower.

7 (E) The project site does not abut a site where more than
8 one-third of the square footage on the site has been used, within
9 the past three years, by a heavy industrial use, or a Title V
10 industrial use, as those terms are defined in Section 65913.16.

11 (12) "Condition approval" includes imposing on the housing
12 development project, or attempting to subject it to, development
13 standards, conditions, or policies.

14 (13) "Unit type" means the form of ownership and the kind of
15 residential unit, including, but not limited to, single-family
16 detached, single-family attached, for-sale, rental, multifamily,
17 townhouse, condominium, apartment, manufactured homes and
18 mobilehomes, factory-built housing, and residential hotel.

19 (14) "Proposed by the applicant" means the plans and designs
20 as submitted by the applicant, including, but not limited to, density,
21 unit size, unit type, site plan, building massing, floor area ratio,
22 amenity areas, open space, parking, and ancillary commercial uses.

23 (i) If any city, county, or city and county denies approval or
24 imposes conditions, including design changes, lower density, or
25 a reduction of the percentage of a lot that may be occupied by a
26 building or structure under the applicable planning and zoning in
27 force at the time the housing development project's application is
28 complete, that have a substantial adverse effect on the viability or
29 affordability of a housing development for very low, low-, or
30 moderate-income households, and the denial of the development
31 or the imposition of conditions on the development is the subject
32 of a court action which challenges the denial or the imposition of
33 conditions, then the burden of proof shall be on the local legislative
34 body to show that its decision is consistent with the findings as
35 described in subdivision (d), and that the findings are supported
36 by a preponderance of the evidence in the record, and with the
37 requirements of subdivision (o).

38 (j) (1) When a proposed housing development project complies
39 with applicable, objective general plan, zoning, and subdivision
40 standards and criteria, including design review standards, in effect

1 at the time that the application was deemed complete, but the local
2 agency proposes to disapprove the project or to impose a condition
3 that the project be developed at a lower density, the local agency
4 shall base its decision regarding the proposed housing development
5 project upon written findings supported by a preponderance of the
6 evidence on the record that both of the following conditions exist:

7 (A) The housing development project would have a specific,
8 adverse impact upon the public health or safety unless the project
9 is disapproved or approved upon the condition that the project be
10 developed at a lower density. As used in this paragraph, a “specific,
11 adverse impact” means a significant, quantifiable, direct, and
12 unavoidable impact, based on objective, identified written public
13 health or safety standards, policies, or conditions as they existed
14 on the date the application was deemed complete.

15 (B) There is no feasible method to satisfactorily mitigate or
16 avoid the adverse impact identified pursuant to paragraph (1), other
17 than the disapproval of the housing development project or the
18 approval of the project upon the condition that it be developed at
19 a lower density.

20 (2) (A) If the local agency considers a proposed housing
21 development project to be inconsistent, not in compliance, or not
22 in conformity with an applicable plan, program, policy, ordinance,
23 standard, requirement, or other similar provision as specified in
24 this subdivision, it shall provide the applicant with written
25 documentation identifying the provision or provisions, and an
26 explanation of the reason or reasons it considers the housing
27 development to be inconsistent, not in compliance, or not in
28 conformity as follows:

29 (i) Within 30 days of the date that the application for the housing
30 development project is determined to be complete, if the housing
31 development project contains 150 or fewer housing units.

32 (ii) Within 60 days of the date that the application for the
33 housing development project is determined to be complete, if the
34 housing development project contains more than 150 units.

35 (B) If the local agency fails to provide the required
36 documentation pursuant to subparagraph (A), the housing
37 development project shall be deemed consistent, compliant, and
38 in conformity with the applicable plan, program, policy, ordinance,
39 standard, requirement, or other similar provision.

1 (3) For purposes of this section, the receipt of a density bonus,
2 incentive, concession, waiver, or reduction of development
3 standards pursuant to Section 65915 shall not constitute a valid
4 basis on which to find a proposed housing development project is
5 inconsistent, not in compliance, or not in conformity, with an
6 applicable plan, program, policy, ordinance, standard, requirement,
7 or other similar provision specified in this subdivision.

8 (4) For purposes of this section, a proposed housing development
9 project is not inconsistent with the applicable zoning standards
10 and criteria, and shall not require a rezoning, if the housing
11 development project is consistent with the objective general plan
12 standards and criteria but the zoning for the project site is
13 inconsistent with the general plan. If the local agency has complied
14 with paragraph (2), the local agency may require the proposed
15 housing development project to comply with the objective
16 standards and criteria of the zoning which is consistent with the
17 general plan, however, the standards and criteria shall be applied
18 to facilitate and accommodate development at the density allowed
19 on the site by the general plan and proposed by the proposed
20 housing development project.

21 (k) (1) (A) (i) The applicant, a person who would be eligible
22 to apply for residency in the housing development project or
23 emergency shelter, or a housing organization may bring an action
24 to enforce this section. If, in any action brought to enforce this
25 section, a court finds that any of the following are met, the court
26 shall issue an order pursuant to clause (ii):

27 (I) The local agency, in violation of subdivision (d), disapproved
28 a housing development project or conditioned its approval in a
29 manner rendering it infeasible for the development of an emergency
30 shelter, or housing for very low, low-, or moderate-income
31 households, including farmworker housing, without making the
32 findings required by this section.

33 (II) The local agency, in violation of subdivision (j), disapproved
34 a housing development project complying with applicable,
35 objective general plan and zoning standards and criteria, or imposed
36 a condition that the project be developed at a lower density, without
37 making the findings required by this section.

38 (III) (ia) Subject to sub-subclause (ib), the local agency, in
39 violation of subdivision (o), required or attempted to require a
40 housing development project to comply with an ordinance, policy,

1 or standard not adopted and in effect when a preliminary
2 application was submitted.

3 (ib) This subclause shall become inoperative on January 1, 2030.

4 (IV) The local agency violated a provision of this section
5 applicable to a builder's remedy project.

6 (ii) If the court finds that one of the conditions in clause (i) is
7 met, the court shall issue an order or judgment compelling
8 compliance with this section within a time period not to exceed
9 60 days, including, but not limited to, an order that the local agency
10 take action on the housing development project or emergency
11 shelter. The court may issue an order or judgment directing the
12 local agency to approve the housing development project or
13 emergency shelter if the court finds that the local agency acted in
14 bad faith when it disapproved or conditionally approved the
15 housing development or emergency shelter in violation of this
16 section. The court shall retain jurisdiction to ensure that its order
17 or judgment is carried out and shall award reasonable attorney's
18 fees and costs of suit to the plaintiff or petitioner, provided,
19 however, that the court shall not award attorney's fees in either of
20 the following instances:

21 (I) The court finds, under extraordinary circumstances, that
22 awarding fees would not further the purposes of this section.

23 (II) (ia) In a case concerning a disapproval within the meaning
24 of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the
25 court finds that the local agency acted in good faith and had
26 reasonable cause to disapprove the housing development project
27 due to the existence of a controlling question of law about the
28 application of the California Environmental Quality Act (Division
29 13 (commencing with Section 21000) of the Public Resources
30 Code) or implementing guidelines as to which there was a
31 substantial ground for difference of opinion at the time of the
32 disapproval.

33 (ib) This subclause shall become inoperative on January 1, 2031.

34 (B) Upon a determination that the local agency has failed to
35 comply with the order or judgment compelling compliance with
36 this section within the time period prescribed by the court, the
37 court shall impose fines on a local agency that has violated this
38 section and require the local agency to deposit any fine levied
39 pursuant to this subdivision into a local housing trust fund. The
40 local agency may elect to instead deposit the fine into the Building

1 Homes and Jobs Trust Fund. The fine shall be in a minimum
2 amount of ten thousand dollars (\$10,000) per housing unit in the
3 housing development project on the date the application was
4 deemed complete pursuant to Section 65943. In determining the
5 amount of the fine to impose, the court shall consider the local
6 agency's progress in attaining its target allocation of the regional
7 housing need pursuant to Section 65584 and any prior violations
8 of this section. Fines shall not be paid out of funds already
9 dedicated to affordable housing, including, but not limited to, Low
10 and Moderate Income Housing Asset Funds, funds dedicated to
11 housing for very low, low-, and moderate-income households, and
12 federal HOME Investment Partnerships Program and Community
13 Development Block Grant Program funds. The local agency shall
14 commit and expend the money in the local housing trust fund
15 within five years for the sole purpose of financing newly
16 constructed housing units affordable to extremely low, very low,
17 or low-income households. After five years, if the funds have not
18 been expended, the money shall revert to the state and be deposited
19 in the Building Homes and Jobs Trust Fund for the sole purpose
20 of financing newly constructed housing units affordable to
21 extremely low, very low, or low-income households.

22 (C) If the court determines that its order or judgment has not
23 been carried out within 60 days, the court may issue further orders
24 as provided by law to ensure that the purposes and policies of this
25 section are fulfilled, including, but not limited to, an order to vacate
26 the decision of the local agency and to approve the housing
27 development project, in which case the application for the housing
28 development project, as proposed by the applicant at the time the
29 local agency took the initial action determined to be in violation
30 of this section, along with any standard conditions determined by
31 the court to be generally imposed by the local agency on similar
32 projects, shall be deemed to be approved unless the applicant
33 consents to a different decision or action by the local agency.

34 (D) Nothing in this section shall limit the court's inherent
35 authority to make any other orders to compel the immediate
36 enforcement of any writ brought under this section, including the
37 imposition of fees and other sanctions set forth under Section 1097
38 of the Code of Civil Procedure.

39 (2) For purposes of this subdivision, "housing organization"
40 means a trade or industry group whose local members are primarily

1 engaged in the construction or management of housing units or a
2 nonprofit organization whose mission includes providing or
3 advocating for increased access to housing for low-income
4 households and have filed written or oral comments with the local
5 agency prior to action on the housing development project. A
6 housing organization may only file an action pursuant to this
7 section to challenge the disapproval of a housing development by
8 a local agency. A housing organization shall be entitled to
9 reasonable attorney's fees and costs if it is the prevailing party in
10 an action to enforce this section.

11 (l) If the court finds that the local agency (1) acted in bad faith
12 when it violated this section and (2) failed to carry out the court's
13 order or judgment within the time period prescribed by the court,
14 the court, in addition to any other remedies provided by this
15 section, shall multiply the fine determined pursuant to subparagraph
16 (B) of paragraph (1) of subdivision (k) by a factor of five. If a court
17 has previously found that the local agency violated this section
18 within the same planning period, the court shall multiply the fines
19 by an additional factor for each previous violation. For purposes
20 of this section, "bad faith" includes, but is not limited to, an action
21 or inaction that is frivolous, pretextual, intended to cause
22 unnecessary delay, or entirely without merit.

23 (m) (1) Any action brought to enforce the provisions of this
24 section shall be brought pursuant to Section 1094.5 of the Code
25 of Civil Procedure, and the local agency shall prepare and certify
26 the record of proceedings in accordance with subdivision (c) of
27 Section 1094.6 of the Code of Civil Procedure no later than 30
28 days after the petition is served, provided that the cost of
29 preparation of the record shall be borne by the local agency, unless
30 the petitioner elects to prepare the record as provided in subdivision
31 (n) of this section. A petition to enforce the provisions of this
32 section shall be filed and served no later than 90 days from the
33 later of (1) the effective date of a decision of the local agency
34 imposing conditions on, disapproving, or any other final action on
35 a housing development project or (2) the expiration of the time
36 periods specified in subparagraph (B) of paragraph (5) of
37 subdivision (h). Upon entry of the trial court's order, a party may,
38 in order to obtain appellate review of the order, file a petition
39 within 20 days after service upon it of a written notice of the entry
40 of the order, or within such further time not exceeding an additional

1 20 days as the trial court may for good cause allow, or may appeal
2 the judgment or order of the trial court under Section 904.1 of the
3 Code of Civil Procedure. If the local agency appeals the judgment
4 of the trial court, the local agency shall post a bond, in an amount
5 to be determined by the court, to the benefit of the plaintiff if the
6 plaintiff is the project applicant.

7 (2) (A) A disapproval within the meaning of subparagraph (I)
8 of paragraph (6) of subdivision (h) shall be final for purposes of
9 this subdivision, if the local agency did not make a lawful
10 determination within the time period set forth in paragraph (5) of
11 subdivision (a) of Section 65589.5.1 after the applicant's timely
12 written notice.

13 (B) This paragraph shall become inoperative on January 1, 2031.

14 (3) (A) A disapproval within the meaning of subparagraph (J)
15 of paragraph (6) of subdivision (h) shall be final for purposes of
16 this subdivision, if the local agency did not make a lawful
17 determination within 90 days of the applicant's timely written
18 notice.

19 (B) This paragraph shall become inoperative on January 1, 2031.

20 (n) In any action, the record of the proceedings before the local
21 agency shall be filed as expeditiously as possible and,
22 notwithstanding Section 1094.6 of the Code of Civil Procedure or
23 subdivision (m) of this section, all or part of the record may be
24 prepared (1) by the petitioner with the petition or petitioner's points
25 and authorities, (2) by the respondent with respondent's points and
26 authorities, (3) after payment of costs by the petitioner, or (4) as
27 otherwise directed by the court. If the expense of preparing the
28 record has been borne by the petitioner and the petitioner is the
29 prevailing party, the expense shall be taxable as costs.

30 (o) (1) Subject to paragraphs (2), (6), and (7), and subdivision
31 (d) of Section 65941.1, a housing development project shall be
32 subject only to the ordinances, policies, and standards adopted and
33 in effect when a preliminary application including all of the
34 information required by subdivision (a) of Section 65941.1 was
35 submitted.

36 (2) Paragraph (1) shall not prohibit a housing development
37 project from being subject to ordinances, policies, and standards
38 adopted after the preliminary application was submitted pursuant
39 to Section 65941.1 in the following circumstances:

1 (A) In the case of a fee, charge, or other monetary exaction, to
2 an increase resulting from an automatic annual adjustment based
3 on an independently published cost index that is referenced in the
4 ordinance or resolution establishing the fee or other monetary
5 exaction.

6 (B) A preponderance of the evidence in the record establishes
7 that subjecting the housing development project to an ordinance,
8 policy, or standard beyond those in effect when a preliminary
9 application was submitted is necessary to mitigate or avoid a
10 specific, adverse impact upon the public health or safety, as defined
11 in subparagraph (A) of paragraph (1) of subdivision (j), and there
12 is no feasible alternative method to satisfactorily mitigate or avoid
13 the adverse impact.

14 (C) Subjecting the housing development project to an ordinance,
15 policy, standard, or any other measure, beyond those in effect when
16 a preliminary application was submitted is necessary to avoid or
17 substantially lessen an impact of the project under the California
18 Environmental Quality Act (Division 13 (commencing with Section
19 21000) of the Public Resources Code).

20 (D) The housing development project has not commenced
21 construction within two and one-half years, or three and one-half
22 years for an affordable housing project, following the date that the
23 project received final approval. For purposes of this subparagraph:

24 (i) “Affordable housing project” means a housing development
25 that satisfies both of the following requirements:

26 (I) Units within the development are subject to a recorded
27 affordability restriction for at least 55 years for rental housing and
28 45 years for owner-occupied housing, or the first purchaser of each
29 unit participates in an equity sharing agreement as described in
30 subparagraph (C) of paragraph (2) of subdivision (c) of Section
31 65915.

32 (II) All of the units within the development, excluding managers’
33 units, are dedicated to lower income households, as defined by
34 Section 50079.5 of the Health and Safety Code.

35 (ii) “Final approval” means that the housing development project
36 has received all necessary approvals to be eligible to apply for,
37 and obtain, a building permit or permits and either of the following
38 is met:

39 (I) The expiration of all applicable appeal periods, petition
40 periods, reconsideration periods, or statute of limitations for

1 challenging that final approval without an appeal, petition, request
2 for reconsideration, or legal challenge having been filed.

3 (II) If a challenge is filed, that challenge is fully resolved or
4 settled in favor of the housing development project.

5 (E) The housing development project is revised following
6 submittal of a preliminary application pursuant to Section 65941.1
7 such that the number of residential units or square footage of
8 construction changes by 20 percent or more, exclusive of any
9 increase resulting from the receipt of a density bonus, incentive,
10 concession, waiver, or similar provision, including any other locally
11 authorized program that offers additional density or other
12 development bonuses when affordable housing is provided. For
13 purposes of this subdivision, “square footage of construction”
14 means the building area, as defined by the California Building
15 Standards Code (Title 24 of the California Code of Regulations).

16 (3) This subdivision does not prevent a local agency from
17 subjecting the additional units or square footage of construction
18 that result from project revisions occurring after a preliminary
19 application is submitted pursuant to Section 65941.1 to the
20 ordinances, policies, and standards adopted and in effect when the
21 preliminary application was submitted.

22 (4) For purposes of this subdivision, “ordinances, policies, and
23 standards” includes general plan, community plan, specific plan,
24 zoning, design review standards and criteria, subdivision standards
25 and criteria, and any other rules, regulations, requirements, and
26 policies of a local agency, as defined in Section 66000, including
27 those relating to development impact fees, capacity or connection
28 fees or charges, permit or processing fees, and other exactions.

29 (5) This subdivision shall not be construed in a manner that
30 would lessen the restrictions imposed on a local agency, or lessen
31 the protections afforded to a housing development project, that are
32 established by any other law, including any other part of this
33 section.

34 (6) This subdivision shall not restrict the authority of a public
35 agency or local agency to require mitigation measures to lessen
36 the impacts of a housing development project under the California
37 Environmental Quality Act (Division 13 (commencing with Section
38 21000) of the Public Resources Code).

39 (7) With respect to completed residential units for which the
40 project approval process is complete and a certificate of occupancy

1 has been issued, nothing in this subdivision shall limit the
2 application of later enacted ordinances, policies, and standards
3 that regulate the use and occupancy of those residential units, such
4 as ordinances relating to rental housing inspection, rent
5 stabilization, restrictions on short-term renting, and business
6 licensing requirements for owners of rental housing.

7 (8) (A) This subdivision shall apply to a housing development
8 project that submits a preliminary application pursuant to Section
9 65941.1 before January 1, 2030.

10 (B) This subdivision shall become inoperative on January 1,
11 2034.

12 (p) (1) Upon any motion for an award of attorney's fees
13 pursuant to Section 1021.5 of the Code of Civil Procedure, in a
14 case challenging a local agency's approval of a housing
15 development project, a court, in weighing whether a significant
16 benefit has been conferred on the general public or a large class
17 of persons and whether the necessity of private enforcement makes
18 the award appropriate, shall give due weight to the degree to which
19 the local agency's approval furthers policies of this section,
20 including, but not limited to, subdivisions (a), (b), and (c), the
21 suitability of the site for a housing development, and the
22 reasonableness of the decision of the local agency. It is the intent
23 of the Legislature that attorney's fees and costs shall rarely, if ever,
24 be awarded if a local agency, acting in good faith, approved a
25 housing development project that satisfies conditions established
26 in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1
27 or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.

28 (2) This subdivision shall become inoperative on January 1,
29 2031.

30 (q) This section shall be known, and may be cited, as the
31 Housing Accountability Act.

32 (r) The provisions of this section are severable. If any provision
33 of this section or its application is held invalid, that invalidity shall
34 not affect other provisions or applications that can be given effect
35 without the invalid provision or application.

36 *SEC. 8. No reimbursement is required by this act pursuant to*
37 *Section 6 of Article XIII B of the California Constitution because*
38 *a local agency or school district has the authority to levy service*
39 *charges, fees, or assessments sufficient to pay for the program or*

1 *level of service mandated by this act, within the meaning of Section*
2 *17556 of the Government Code.*

3 ~~SECTION 1. Section 38405 of the Government Code is~~
4 ~~amended to read:~~

5 ~~38405. The resolution described in Section 38404 shall be~~
6 ~~published once a week for at least the three weeks before the day~~
7 ~~fixed for final action, in a newspaper of general circulation~~
8 ~~published in the city, or if there is none, in a newspaper designated~~
9 ~~by the legislative body which is published in the county. Not less~~
10 ~~than four copies of the resolution shall be posted conspicuously~~
11 ~~not more than one hundred feet apart along the boundaries of the~~
12 ~~park.~~

O