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### AB-650 Planning and zoning: housing element: regional housing needs allocation. (2025-2026)

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

## ASSEMBLY BILL

## NO. 650

Introduced by Assembly Member Papan  
*(Coauthors: Assembly Members Pacheco, Haney, and Wicks)*

February 13, 2025

An act to amend Sections 65583, 65584, 65584.01, [65584.03](#), 65584.04, 65584.05, ~~65585~~, and ~~65589.5~~ and [65585](#) of the Government Code, relating to land use.

### LEGISLATIVE COUNSEL'S DIGEST

AB 650, as amended, Papan. 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~~ *bill, except as specified*, 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~~ *3 years* 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~~ *38* months prior to the scheduled revision of the housing element, respectively.

*(3) Existing law authorizes at least 2 or more cities and a county, or counties, and at least 28 months prior to the scheduled housing element revision, to form a subregional entity to allocate the subregion's existing and projected housing need among its members. If the council of governments does not receive a notification of this formation at least 28 months prior to the update, existing law requires the council of governments to implement specified requirements regarding the regional housing need process. Existing law requires the council of governments to determine the share of regional housing need assigned to each delegate subregion at least 25 months prior to the scheduled revision.*

*This bill would extend the above-described timeline for cities and counties to form a subregional entity to allocate the subregion's housing need, as provided, from 28 months to 34 months, and the above-described timeline for the council of governments to determine the share of regional housing need assigned to each subregion from 25 months to 31 months, respectively.*

~~(3)~~

(4) 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 <sup>1</sup>/<sub>2</sub> 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 <sup>1</sup>/<sub>2</sub> 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)~~

(5) 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)

(6) 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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

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

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

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

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

(4) (A) The identification of one or more zoning designations that allow residential uses, including mixed uses, where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit and that are suitable for residential uses. The identified zoning designations shall include sufficient sites meeting the requirements of subparagraph (H) with sufficient capacity, as described in subparagraph (I), to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zoning designation or designations that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zoning designation or designations with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zoning designations where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards that apply to emergency shelters are objective and encourage and facilitate the development of, or conversion to, emergency shelters.

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

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

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

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

(iv) The provision of onsite management.

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

(vi) The length of stay.

(vii) Lighting.

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

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

(D) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

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

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

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

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

(i) Vacant sites zoned for residential use.

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

(iii) Nonvacant sites zoned for residential use or for nonresidential use that allow residential development that are suitable for use as a shelter in the current planning period, or which can be redeveloped for use as a shelter in the current planning period. A nonvacant site with an existing use shall be presumed to impede emergency shelter development absent an analysis based on substantial evidence that the use is likely to be discontinued during the planning period. The analysis shall consider current market demand for the current uses, market conditions, and incentives or standards to encourage shelter development.

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

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

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees, and other exactions required of developers, local processing and permit procedures, historic preservation practices and policies and an assessment of how existing and proposed historic designations affect the locality's ability to meet its share of the housing need pursuant to paragraph (1), and any locally adopted ordinances that directly impact the cost and supply of residential development. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7).

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

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

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

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

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

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use, and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in

each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

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

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

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

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

(c) A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

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

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

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

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

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

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

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

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

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

(B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in Section 65583.2.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty and affluence, disparities in access to opportunity, and disproportionate housing needs, including displacement risk. The analysis shall identify and examine such patterns, trends, areas, disparities, and needs, both within the jurisdiction and comparing the jurisdiction to the region in which it is located, based on race and other characteristics protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2) and Section 65008.

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

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

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

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

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



(ii) The assessment required pursuant to this paragraph shall be completed before the planning agency makes its first draft revision of a housing element available for public comment pursuant to subdivision (b) of Section 65585.

(D) (i) On or before December 31, 2026, the department shall develop a standardized reporting format for programs and actions taken pursuant to this paragraph. The standardized reporting format shall enable the reporting of all of the assessment components listed in subparagraph (A) and, at a minimum, include all of the following fields:

(I) Timelines for implementation.

(II) Responsible party or parties.

(III) Resources committed from the local budget to affirmatively further fair housing.

(IV) Action areas.

(V) Potential impacts of the program.

(ii) A local government shall utilize the standardized report format developed pursuant to this subparagraph for the seventh and each subsequent revision of the housing element.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit toward its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

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

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

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

(j) On or after January 1, 2024, at the discretion of the department, the analysis of government constraints pursuant to paragraph (5) of subdivision (a) may include an analysis of constraints upon the maintenance, improvement, or development of housing for persons with a characteristic identified in subdivision (b) of Section

51 of the Civil Code. The implementation of this subdivision is contingent upon an appropriation by the Legislature in the annual Budget Act or another statute for this purpose.

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

**65584.** (a) (1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

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

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

(b) (1) (A) The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least ~~30 months~~ *three years* prior to the scheduled revision required pursuant to Section ~~65588~~ *the 65588, except in the following circumstances:*

*(i) For regions with a scheduled housing element revision due date in the 2027 calendar year, the department shall determine the region's housing need at least two years before the scheduled revision.*

*(ii) For regions with a scheduled housing element revision due date in the 2028 calendar year or the first six months of the 2029 calendar year, the department shall determine the region's housing need at least 32 months before the scheduled revision.*

*(B) For cities and counties without a council of governments, the department shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least 30 months before the scheduled revision required pursuant to Section 65588, except for cities and counties with a scheduled housing element revision due date in the 2027 calendar year or the first six months of the 2028 calendar year, the department shall determine their existing and projected housing need at least two years before the scheduled revision.*

(2) *The* appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the council of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

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

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

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

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

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

(5) Affirmatively furthering fair housing.

(e) For purposes of this section, "affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

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

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

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

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

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

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

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

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

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

(a) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If agreement is not reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.

(b) (1) At least ~~32~~ **38** months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing ~~needs~~. *needs, except for the seventh housing element cycle, for which the department shall meet and consult with the council of governments at least two months prior to developing the existing and projected housing need for a region pursuant to the timelines in subparagraph (A) of paragraph (1) of subdivision (b) of Section 65584.* The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

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

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

**SEC. 4. Section 65584.03 of the Government Code is amended to read:**

**65584.03.** (a) At least ~~28~~ <sup>34</sup> months prior to the scheduled housing element update required by Section 65588, at least two or more cities and a county, or counties, may form a subregional entity for the purpose of allocation of the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to Section 65584.04. The purpose of establishing a subregion shall be to recognize the community of interest and mutual challenges and opportunities for providing housing within a subregion. A subregion formed pursuant to this section may include a single county and each of the cities in that county or any other combination of geographically contiguous local governments and shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by the council of governments. All decisions of the subregion shall be approved by vote as provided for in rules adopted by the local governments comprising the subregion or shall be approved by vote of the county or counties, if any, and the majority of the cities with the majority of population within a county or counties.

(b) Upon formation of the subregional entity, the entity shall notify the council of governments of this formation. If the council of governments has not received notification from an eligible subregional entity at least ~~28~~ <sup>34</sup> months prior to the scheduled housing element update required by Section 65588, the council of governments shall implement the provisions of Sections 65584 and 65584.04. The delegate subregion and the council of governments shall enter into an agreement that sets forth the process, timing, and other terms and conditions of the delegation of responsibility by the council of governments to the subregion.

(c) At least ~~25~~ <sup>31</sup> months prior to the scheduled revision, the council of governments shall determine the share of regional housing need assigned to each delegate subregion. The share or shares allocated to the delegate subregion or subregions by a council of governments shall be in a proportion consistent with the distribution of households assumed for the comparable time period of the applicable regional transportation plan. Prior to allocating the regional housing needs to any delegate subregion or subregions, the council of governments shall hold at least one public hearing, and may consider requests for revision of the proposed allocation to a subregion. If a proposed revision is rejected, the council of governments shall respond with a written explanation of why the proposed revised share has not been accepted.

(d) Each delegate subregion shall fully allocate its share of the regional housing need to local governments within its subregion. If a delegate subregion fails to complete the regional housing need allocation process among its member jurisdictions in a manner consistent with this article and with the delegation agreement between the subregion and the council of governments, the allocations to member jurisdictions shall be made by the council of governments.

~~SEC. 4.~~ **SEC. 5.** Section 65584.04 of the Government Code is amended to read:

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

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

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

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

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

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

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

(d) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community as well as members of protected classes under Section 12955 and households with special housing needs under paragraph (7) of subdivision (a) of Section 65583. The proposed methodology, along with any relevant underlying data and assumptions, an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, how each of the factors listed in subdivision (e) is incorporated into the methodology, and how the proposed methodology furthers the objectives listed in subdivision (d) of Section 65584, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written or electronic request for the proposed methodology and published on the council of governments', or delegate subregion's, internet website. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

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

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

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

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

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

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

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

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

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

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

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

(6) The percentage of existing households at each of the income levels listed in subdivision (f) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.

(7) The rate of overcrowding.

(8) The housing needs of farmworkers.

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



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

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

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

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

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

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

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

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

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

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

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

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

(2) Adopt the regional, or subregional, housing need allocation methodology without revisions and include within its resolution of adoption findings, supported by substantial evidence, as to why the council of governments, or delegate subregion, believes that the methodology furthers the objectives listed in subdivision (d) of Section 65584 despite the findings of the department.

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

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

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

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

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

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

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

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

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

**SEC. 5. SEC. 6.** Section 65584.05 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

(1) Make a final determination that either accepts, rejects, or modifies each appeal for a revised share filed pursuant to subdivision (b). Final determinations shall be based upon the information and methodology described in Section 65584.04 and whether the revision is necessary to further the objectives listed in subdivision (d) of Section 65584. The final determination shall be in writing and shall include written findings as to how the determination is consistent with this article. The final determination on an appeal may require the council of governments or delegate subregion, as applicable, to adjust the share of the regional housing need allocated to one or more local governments that are not the subject of an appeal.

(2) Issue a proposed final allocation plan.

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

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

(f) In the proposed final allocation plan, the council of governments or delegate subregion, as applicable, shall adjust allocations to local governments based upon the results of the appeals process. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section 65584.01, or, as applicable, total 7 percent or less of the subregion's share of the regional housing need as determined pursuant to Section 65584.03, then the council of governments or delegate subregion, as applicable, shall distribute the adjustments proportionally to all local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments or delegate subregion, as applicable, shall develop a methodology to distribute the amount greater than the 7 percent to local governments. The total distribution of housing need shall not equal less than the regional housing need, as determined pursuant to Section 65584.01, nor shall the subregional distribution of housing need equal less than its share of the regional housing need as determined pursuant to Section 65584.03.

(g) Within 45 days after the issuance of the proposed final allocation plan by the council of governments and each delegate subregion, as applicable, the council of governments shall hold a public hearing to adopt a final allocation plan. To the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01 and has taken into account all appeals, the council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section 65584.01. The council of governments shall submit its final allocation plan to the department within three days of adoption. Within 15 days after the department's receipt of the final allocation plan adopted by the council of governments, the department shall determine if the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section 65584.01. The department may revise the determination of the council of governments if necessary to obtain this consistency.

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

(i) Any time period in subdivision (d) or (e) may be extended by a council of governments or delegate subregion, as applicable, for up to 30 days. Any time period in subdivision (b), (c), (d), (e), or (g) may be reduced by a

council of governments or delegate subregion, as applicable, to facilitate earlier adoption of the final allocation plan. No time period shall be reduced to fewer than a minimum of 10 days.

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

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

~~SEC. 6.~~ **SEC. 7.** Section 65585 of the Government Code is amended to read:

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

(b) (1) (A) At least 90 days prior to adoption of a revision of its housing element pursuant to subdivision (e) of Section 65588, or at least 60 days prior to the adoption of a subsequent amendment to this element, the planning agency shall submit a draft element revision or draft amendment to the department. The local government of the planning agency shall make the first draft revision of a housing element available for public comment for at least 30 days and, if any comments are received, the local government shall take at least 10 business days after the 30-day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to the department. For any subsequent draft revision, the local government shall post the draft revision on its internet website and shall email a link to the draft revision to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting the draft revision to the department.

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

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

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

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

(ii) Send an email to all individuals and organizations that have previously requested notices notifying them that the inventory has been updated that includes a link to the draft inventory on its website.

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

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

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

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

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

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

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

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

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

~~(C) Notwithstanding Section 65589.5, a jurisdiction shall not be required to approve a builder's remedy project, as defined in paragraph (11) of subdivision (h) of Section 65889.5, within the planning agency's jurisdiction during either of the following periods:~~

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

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

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

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

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

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

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (C).

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

(C) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an

amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

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

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

(1) Housing Accountability Act (Section 65589.5).

(2) Section 65863.

(3) Chapter 4.3 (commencing with Section 65915).

(4) Section 65008.

(5) Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019, Sections 65941.1, 65943, and 66300).

(6) Section 8899.50.

(7) Section 65913.4.

(8) Article 11 (commencing with Section 65650).

(9) Article 12 (commencing with Section 65660).

(10) Section 65913.11.

(11) Section 65400.

(12) Section 65863.2.

(13) Chapter 4.1 (commencing with Section 65912.100).

(14) Section 65905.5.

(15) Chapter 13 (commencing with Section 66310).

(16) Section 65852.21.

(17) Section 65852.24.

(18) Section 66411.7.

(19) Section 65913.16.

(20) Article 2 (commencing with Section 66300.5) of Chapter 12.

(21) Section 65852.28.

(22) Section 65913.4.5.

(23) Section 66499.41.

(24) Homeless Housing, Assistance, and Prevention program (Chapter 6 (commencing with Section 50216) and Chapter 6.5 (commencing with Section 50230) of Part 1 of Division 31 of the Health and Safety Code).

(25) Encampment Resolution Funding program (Chapter 7 (commencing with Section 50250) of Part 1 of Division 31 of the Health and Safety Code).

(26) Family Homelessness Challenge Grants and Technical Assistance Program (Chapter 8 (commencing with Section 50255) of Part 1 of Division 31 of the Health and Safety Code).

(27) (A) Article 11.5 (commencing with Section 65658).

(B) This paragraph shall become operative only if Assembly Bill 3068 of the 2023–24 Regular Session of the Legislature is enacted and takes effect on or before January 1, 2025.

(k) Commencing July 1, 2019, prior to the Attorney General bringing any suit for a violation of the provisions identified in subdivision (j) related to housing element compliance and seeking remedies available pursuant to this subdivision, the department shall offer the jurisdiction the opportunity for two meetings in person or via telephone to discuss the violation, and shall provide the jurisdiction written findings regarding the violation. This paragraph does not affect any action filed prior to the effective date of this section. The requirements set forth in this subdivision do not apply to any suits brought for a violation or violations of paragraphs (1) and (3) to (9), inclusive, of subdivision (j).

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

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

(2) If the jurisdiction has not complied with the order or judgment after three months following the imposition of fees described in paragraph (1), the court shall conduct a status conference. Following the status conference, if the court finds that the fees imposed pursuant to paragraph (1) are insufficient to bring the jurisdiction into compliance with the order or judgment, the court may multiply the fine determined pursuant to paragraph (1) by a factor of three. In the event that the jurisdiction fails to pay fines imposed by the court in full and on time, the court may require the Controller to intercept any available state and local funds and direct such funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay. The intercept of the funds by the Controller for this purpose shall not violate any provision of the California Constitution.

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

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

(B) The court may order remedies available pursuant to Section 564 of the Code of Civil Procedure, under which the agent of the court may take all governmental actions necessary to bring the jurisdiction's housing element into substantial compliance pursuant to this article in order to remedy identified deficiencies. The court shall determine whether the housing element of the jurisdiction substantially complies with this article and, once the court makes that determination, it shall have the same force and effect, for all purposes, as

the department's determination that the housing element substantially complies with this article. An agent appointed pursuant to this paragraph shall have expertise in planning in California.

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

(m) In determining the application of the remedies available under subdivision (l), the court shall consider whether there are any mitigating circumstances delaying the jurisdiction from coming into compliance with state housing law. The court may consider whether a city, county, or city and county is making a good faith effort to come into substantial compliance or is facing substantial undue hardships.

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

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

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

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

~~SEC. 7. Section 65589.5 of the Government Code is amended to read:~~

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

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

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

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

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

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

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



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

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

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

~~(E)California's overall home ownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in home ownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.~~

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

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

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

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

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

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

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

~~(3)It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.~~

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

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

~~(c)The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the~~

economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas:

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

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

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

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

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

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

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

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

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

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

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

~~(7)On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction did not have an adopted revised housing element that was in substantial compliance with this article, and the housing development project is a builder's remedy project, and at least one of the conditions described in subparagraph (C) of paragraph (1) of subdivision (f) of Section 65585 applies:~~

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

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

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

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

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

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

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

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

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

~~(I)Render the project infeasible;~~

~~(II)Preclude a project that meets the requirements allowed to be imposed by subparagraph (A), as modified by any density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915, from being constructed as proposed by the applicant.~~

~~(iii)The local agency shall bear the burden of proof of complying with clause (i):~~

~~(C)(i)A project applicant that qualifies for a density bonus pursuant to Section 65915 shall receive two incentives or concessions in addition to those granted pursuant to paragraph (2) of subdivision (d) of Section 65915.~~

~~(ii)For a project seeking density bonuses, incentives, concessions, or any other benefits pursuant to Section 65915, and notwithstanding paragraph (6) of subdivision (o) of Section 65915, for purposes of this paragraph, maximum allowable residential density or base density means the density permitted for a builder's remedy project pursuant to subparagraph (C) of paragraph (11) of subdivision (h):~~

~~(iii)A local agency shall grant any density bonus pursuant to Section 65915 based on the number of units proposed and allowable pursuant to subparagraph (C) of paragraph (11) of subdivision (h):~~

~~(iv)A project that dedicates units to extremely low-income households pursuant to subclause (I) of clause (i) of subparagraph (C) of paragraph (3) of subdivision (h) shall be eligible for the same density bonus, incentives or concessions, and waivers or reductions of development standards as provided to a housing development project that dedicates three percentage points more units to very low income households pursuant to paragraph (2) of subdivision (f) of Section 65915:~~

~~(v)All units dedicated to extremely low-income, very low income, low-income, and moderate-income households pursuant to paragraph (11) of subdivision (h) shall be counted as affordable units in determining whether the applicant qualifies for a density bonus pursuant to Section 65915:~~

~~(D)(i)The project shall not be required to apply for, or receive approval of, a general plan amendment, specific plan amendment, rezoning, or other legislative approval:~~

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

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

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

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

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

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

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

~~(III)Housing for mixed-income households that is required to dedicate 20 percent of the units to affordable units shall not be required to dedicate any of the affordable units at an income level deeper than lower income households, as defined in Section 50079.5 of the Health and Safety Code.~~

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

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

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

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

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

~~(8)A housing development project proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, that is consistent with the density specified in the most recently updated and adopted housing element, and that is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation on the date the application was deemed complete, shall be subject to the provisions of subparagraphs (A), (B), and (D) of paragraph (6) and paragraph (9).~~

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

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

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

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

~~(2) "Housing development project" means a use consisting of any of the following:~~

~~(A) Residential units only.~~

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

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

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

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

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

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

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

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

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

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

~~(C) Transitional housing or supportive housing.~~

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

~~(3)(A) "Housing for very low, low-, or moderate-income households" means housing for lower income households, mixed-income households, or moderate-income households.~~

~~(B) "Housing for lower income households" means a housing development project in which 100 percent of the units, excluding managers' units, are dedicated to lower income households, as defined in Section~~

~~50079.5 of the Health and Safety Code, at an affordable cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.~~

~~(C)(i)"Housing for mixed-income households" means any of the following:~~

~~(I)A housing development project in which at least 7 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to extremely low income households, as defined in Section 50106 of the Health and Safety Code.~~

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

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

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

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

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

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

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

~~(4)"Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code.~~

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

~~(6)"Disapprove the housing development project" includes any instance in which a local agency does any of the following:~~

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

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

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



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

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

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

~~(iii)The local agency shall consider all objections, comments, evidence, and concerns about the project or the applicant's written notice and shall not make a determination until at least 60 days after the applicant has given written notice to the local agency pursuant to clause (i).~~

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

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

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

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

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

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

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

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

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

~~(iii)Determines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943, a reasonable person would conclude that the applicant has~~



~~submitted all of the items required on the local agency's submittal requirement checklist, and the local agency upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943.~~

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

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

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

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

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

~~(J)(i) Fails to adopt a negative declaration or addendum for the project, to certify an environmental impact report for the project, or to approve another comparable environmental document, such as a sustainable communities environmental assessment pursuant to Section 21155.2 of the Public Resources Code, as required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if all of the conditions in Section 65589.5.2 are satisfied.~~

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

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

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

~~(8) "Lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.~~

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

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

~~(11) "Builder's remedy project" means a project that meets all of the following criteria:~~

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

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

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

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

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

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

~~(III)The density that is consistent with the density specified in the housing element;~~

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

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

~~(II)A very low vehicle travel area, as defined in subdivision (h);~~

~~(III)A high or highest resource census tract, as identified by the latest edition of the "CTCAC/HCD Opportunity Map" published by the California Tax Credit Allocation Committee and the Department of Housing and Community Development;~~

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

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

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

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

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

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

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

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

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

~~(j)(1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:~~

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

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

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

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

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

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

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

~~(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project:~~

~~(k)(1)(A)(i) The applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any~~

~~action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):~~

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

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

~~(III)(ia)Subject to sub-subclause (ib), the local agency, in violation of subdivision (o), required or attempted to require a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted:~~

~~(ib)This subclause shall become inoperative on January 1, 2030:~~

~~(IV)The local agency violated a provision of this section applicable to a builder's remedy project:~~

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

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

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

~~(ib)This subclause shall become inoperative on January 1, 2031:~~

~~(B)Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within the time period prescribed by the court, the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Trust Fund. The fine shall be in a minimum amount of ten thousand dollars (\$10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of the fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Trust Fund for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.~~

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

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

~~(2)For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section.~~

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

~~(m)(1)Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.~~

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

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

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

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

~~(n)In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as~~

otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

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

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

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

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

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

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

~~(i) "Affordable housing project" means a housing development that satisfies both of the following requirements:~~

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

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

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

~~(I) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.~~

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

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

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

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

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

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

~~(7) With respect to completed residential units for which the project approval process is complete and a certificate of occupancy has been issued, nothing in this subdivision shall limit the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.~~

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

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

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

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

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

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

**SEC. 8.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

REVISIONS:

Heading—Line 2.