

AMENDED IN ASSEMBLY MAY 5, 2014
AMENDED IN ASSEMBLY APRIL 22, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2222

Introduced by Assembly Member Nazarian

February 20, 2014

An act to amend Sections 65915 and 65915.5 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2222, as amended, Nazarian. Housing density bonus.

The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

Existing law requires continued affordability for 30 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus.

This bill instead would require continued affordability for 55 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus. This bill also would prohibit an applicant from receiving a density bonus unless the proposed housing development would replace the existing affordable units with at least

the same number of affordable units of equivalent size or type, or both, and *the proposed development* would *either* include the additional required set aside of affordable units according to specified percentages *or consist in its entirety of affordable units*.

Existing law also requires a city, county, or city and county to grant a density bonus or other incentives, as specified, when an applicant for approval to convert apartments to a condominium project agrees, among other things, to provide a specified percentage of units for low or moderate income persons and families or for lower income households, as defined.

This bill also would prohibit an applicant from receiving a density bonus unless the proposed condominium project would replace the existing affordable units with at least the same number of affordable units of equivalent size or type, or both, and *the proposed development* would *either* include the additional required set aside of affordable units according to specified percentages *or consist entirely of affordable units*.

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

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

1 SECTION 1. Section 65915 of the Government Code is
2 amended to read:
3 65915. (a) When an applicant seeks a density bonus for a
4 housing development within, or for the donation of land for housing
5 within, the jurisdiction of a city, county, or city and county, that
6 local government shall provide the applicant with incentives or
7 concessions for the production of housing units and child care
8 facilities as prescribed in this section. All cities, counties, or cities
9 and counties shall adopt an ordinance that specifies how
10 compliance with this section will be implemented. Failure to adopt
11 an ordinance shall not relieve a city, county, or city and county
12 from complying with this section.
13 (b) (1) A city, county, or city and county shall grant one density
14 bonus, the amount of which shall be as specified in subdivision
15 (f), and incentives or concessions, as described in subdivision (d),
16 when an applicant for a housing development seeks and agrees to
17 construct a housing development, excluding any units permitted

1 by the density bonus awarded pursuant to this section, that will
2 contain at least any one of the following:

3 (A) Ten percent of the total units of a housing development for
4 lower income households, as defined in Section 50079.5 of the
5 Health and Safety Code.

6 (B) Five percent of the total units of a housing development for
7 very low income households, as defined in Section 50105 of the
8 Health and Safety Code.

9 (C) A senior citizen housing development, as defined in Sections
10 51.3 and 51.12 of the Civil Code, or mobilehome park that limits
11 residency based on age requirements for housing for older persons
12 pursuant to Section 798.76 or 799.5 of the Civil Code.

13 (D) Ten percent of the total dwelling units in a common interest
14 development as defined in Section 4100 of the Civil Code for
15 persons and families of moderate income, as defined in Section
16 50093 of the Health and Safety Code, provided that all units in the
17 development are offered to the public for purchase.

18 (2) For purposes of calculating the amount of the density bonus
19 pursuant to subdivision (f), the applicant who requests a density
20 bonus pursuant to this subdivision shall elect whether the bonus
21 shall be awarded on the basis of subparagraph (A), (B), (C), or (D)
22 of paragraph (1).

23 (3) For the purposes of this section, “total units” or “total
24 dwelling units” does not include units added by a density bonus
25 awarded pursuant to this section or any local law granting a greater
26 density bonus.

27 (c) (1) An applicant shall agree to, and the city, county, or city
28 and county shall ensure, continued affordability of all low- and
29 very low income units that qualified the applicant for the award
30 of the density bonus for 55 years or a longer period of time if
31 required by the construction or mortgage financing assistance
32 program, mortgage insurance program, or rental subsidy program.
33 Rents for the lower income density bonus units shall be set at an
34 affordable rent as defined in Section 50053 of the Health and Safety
35 Code. Owner-occupied units shall be available at an affordable
36 housing cost as defined in Section 50052.5 of the Health and Safety
37 Code.

38 (2) An applicant shall agree to, and the city, county, or city and
39 county shall ensure that, the initial occupant of the
40 moderate-income units that are directly related to the receipt of

1 the density bonus in the common interest development, as defined
 2 in Section 4100 of the Civil Code, are persons and families of
 3 moderate income, as defined in Section 50093 of the Health and
 4 Safety Code, and that the units are offered at an affordable housing
 5 cost, as that cost is defined in Section 50052.5 of the Health and
 6 Safety Code. The local government shall enforce an equity sharing
 7 agreement, unless it is in conflict with the requirements of another
 8 public funding source or law. The following apply to the equity
 9 sharing agreement:

10 (A) Upon resale, the seller of the unit shall retain the value of
 11 any improvements, the downpayment, and the seller’s proportionate
 12 share of appreciation. The local government shall recapture any
 13 initial subsidy, as defined in subparagraph (B), and its proportionate
 14 share of appreciation, as defined in subparagraph (C), which
 15 amount shall be used within five years for any of the purposes
 16 described in subdivision (e) of Section 33334.2 of the Health and
 17 Safety Code that promote home ownership.

18 (B) For purposes of this subdivision, the local government’s
 19 initial subsidy shall be equal to the fair market value of the home
 20 at the time of initial sale minus the initial sale price to the
 21 moderate-income household, plus the amount of any downpayment
 22 assistance or mortgage assistance. If upon resale the market value
 23 is lower than the initial market value, then the value at the time of
 24 the resale shall be used as the initial market value.

25 (C) For purposes of this subdivision, the local government’s
 26 proportionate share of appreciation shall be equal to the ratio of
 27 the local government’s initial subsidy to the fair market value of
 28 the home at the time of initial sale.

29 (3) An applicant shall be ineligible for a density bonus or any
 30 other incentives or concessions under this section if the housing
 31 development is proposed on any property that includes a parcel or
 32 parcels on which dwelling units have, at any time in the five-year
 33 period preceding the application, been occupied by lower or very
 34 low income households, been subject to a recorded covenant,
 35 ordinance, or law that restricts rents to levels affordable to persons
 36 and families of lower or very low income, or been subject to any
 37 other form of rent or price control through a public entity’s valid
 38 exercise of its police power, unless the proposed housing
 39 development replaces the existing units with at least the same
 40 number of units of equivalent size or type, or both, to be made

1 available for rent at affordable housing costs to, and occupied by,
2 persons and families in the same or lower income category in the
3 same proportion as the existing affordable units, and ~~the~~ *either of*
4 *the following applies:*

5 (A) *The proposed housing development includes the additional*
6 *required*

7 *set aside of affordable units at the percentages set forth in*
8 *subdivision (b).*

9 (B) *Each unit in the development is affordable to, and occupied*
10 *by, either a lower or very low income household.*

11 (d) (1) An applicant for a density bonus pursuant to subdivision
12 (b) may submit to a city, county, or city and county a proposal for
13 the specific incentives or concessions that the applicant requests
14 pursuant to this section, and may request a meeting with the city,
15 county, or city and county. The city, county, or city and county
16 shall grant the concession or incentive requested by the applicant
17 unless the city, county, or city and county makes a written finding,
18 based upon substantial evidence, of any of the following:

19 (A) The concession or incentive is not required in order to
20 provide for affordable housing costs, as defined in Section 50052.5
21 of the Health and Safety Code, or for rents for the targeted units
22 to be set as specified in subdivision (c).

23 (B) The concession or incentive would have a specific adverse
24 impact, as defined in paragraph (2) of subdivision (d) of Section
25 65589.5, upon public health and safety or the physical environment
26 or on any real property that is listed in the California Register of
27 Historical Resources and for which there is no feasible method to
28 satisfactorily mitigate or avoid the specific adverse impact without
29 rendering the development unaffordable to low- and
30 moderate-income households.

31 (C) The concession or incentive would be contrary to state or
32 federal law.

33 (2) The applicant shall receive the following number of
34 incentives or concessions:

35 (A) One incentive or concession for projects that include at least
36 10 percent of the total units for lower income households, at least
37 5 percent for very low income households, or at least 10 percent
38 for persons and families of moderate income in a common interest
39 development.

1 (B) Two incentives or concessions for projects that include at
2 least 20 percent of the total units for lower income households, at
3 least 10 percent for very low income households, or at least 20
4 percent for persons and families of moderate income in a common
5 interest development.

6 (C) Three incentives or concessions for projects that include at
7 least 30 percent of the total units for lower income households, at
8 least 15 percent for very low income households, or at least 30
9 percent for persons and families of moderate income in a common
10 interest development.

11 (3) The applicant may initiate judicial proceedings if the city,
12 county, or city and county refuses to grant a requested density
13 bonus, incentive, or concession. If a court finds that the refusal to
14 grant a requested density bonus, incentive, or concession is in
15 violation of this section, the court shall award the plaintiff
16 reasonable attorney's fees and costs of suit. Nothing in this
17 subdivision shall be interpreted to require a local government to
18 grant an incentive or concession that has a specific, adverse impact,
19 as defined in paragraph (2) of subdivision (d) of Section 65589.5,
20 upon health, safety, or the physical environment, and for which
21 there is no feasible method to satisfactorily mitigate or avoid the
22 specific adverse impact. Nothing in this subdivision shall be
23 interpreted to require a local government to grant an incentive or
24 concession that would have an adverse impact on any real property
25 that is listed in the California Register of Historical Resources.
26 The city, county, or city and county shall establish procedures for
27 carrying out this section, that shall include legislative body
28 approval of the means of compliance with this section.

29 (e) (1) In no case may a city, county, or city and county apply
30 any development standard that will have the effect of physically
31 precluding the construction of a development meeting the criteria
32 of subdivision (b) at the densities or with the concessions or
33 incentives permitted by this section. An applicant may submit to
34 a city, county, or city and county a proposal for the waiver or
35 reduction of development standards that will have the effect of
36 physically precluding the construction of a development meeting
37 the criteria of subdivision (b) at the densities or with the
38 concessions or incentives permitted under this section, and may
39 request a meeting with the city, county, or city and county. If a
40 court finds that the refusal to grant a waiver or reduction of

1 development standards is in violation of this section, the court
 2 shall award the plaintiff reasonable attorney’s fees and costs of
 3 suit. Nothing in this subdivision shall be interpreted to require a
 4 local government to waive or reduce development standards if the
 5 waiver or reduction would have a specific, adverse impact, as
 6 defined in paragraph (2) of subdivision (d) of Section 65589.5,
 7 upon health, safety, or the physical environment, and for which
 8 there is no feasible method to satisfactorily mitigate or avoid the
 9 specific adverse impact. Nothing in this subdivision shall be
 10 interpreted to require a local government to waive or reduce
 11 development standards that would have an adverse impact on any
 12 real property that is listed in the California Register of Historical
 13 Resources, or to grant any waiver or reduction that would be
 14 contrary to state or federal law.

15 (2) A proposal for the waiver or reduction of development
 16 standards pursuant to this subdivision shall neither reduce nor
 17 increase the number of incentives or concessions to which the
 18 applicant is entitled pursuant to subdivision (d).

19 (f) For the purposes of this chapter, “density bonus” means a
 20 density increase over the otherwise maximum allowable residential
 21 density as of the date of application by the applicant to the city,
 22 county, or city and county. The applicant may elect to accept a
 23 lesser percentage of density bonus. The amount of density bonus
 24 to which the applicant is entitled shall vary according to the amount
 25 by which the percentage of affordable housing units exceeds the
 26 percentage established in subdivision (b).

27 (1) For housing developments meeting the criteria of
 28 subparagraph (A) of paragraph (1) of subdivision (b), the density
 29 bonus shall be calculated as follows:

30	Percentage Low-Income Units	Percentage Density
31		Bonus
32	10	20
33	11	21.5
34	12	23
35	13	24.5
36	14	26
37	15	27.5
38	17	30.5
39	18	32
40		

1	19	33.5
2	20	35

3

4 (2) For housing developments meeting the criteria of
 5 subparagraph (B) of paragraph (1) of subdivision (b), the density
 6 bonus shall be calculated as follows:

7

8	Percentage Very Low Income Units	Percentage Density Bonus
9	5	20
10	6	22.5
11	7	25
12	8	27.5
13	9	30
14	10	32.5
15	11	35

16

17 (3) For housing developments meeting the criteria of
 18 subparagraph (C) of paragraph (1) of subdivision (b), the density
 19 bonus shall be 20 percent of the number of senior housing units.

20 (4) For housing developments meeting the criteria of
 21 subparagraph (D) of paragraph (1) of subdivision (b), the density
 22 bonus shall be calculated as follows:

23

24	Percentage Moderate-Income Units	Percentage Density Bonus
25	10	5
26	11	6
27	12	7
28	13	8
29	14	9
30	15	10
31	16	11
32	17	12
33	18	13
34	19	14
35	20	15
36	21	16
37	22	17
38	23	18
39	24	19
40	25	20

1	26	21
2	27	22
3	28	23
4	29	24
5	30	25
6	31	26
7	32	27
8	33	28
9	34	29
10	35	30
11	36	31
12	37	32
13	38	33
14	39	34
15	40	35

17 (5) All density calculations resulting in fractional units shall be
 18 rounded up to the next whole number. The granting of a density
 19 bonus shall not be interpreted, in and of itself, to require a general
 20 plan amendment, local coastal plan amendment, zoning change,
 21 or other discretionary approval.

22 (g) (1) When an applicant for a tentative subdivision map,
 23 parcel map, or other residential development approval donates
 24 land to a city, county, or city and county in accordance with this
 25 subdivision, the applicant shall be entitled to a 15-percent increase
 26 above the otherwise maximum allowable residential density for
 27 the entire development, as follows:

29	Percentage Very Low Income	Percentage Density Bonus
30	10	15
31	11	16
32	12	17
33	13	18
34	14	19
35	15	20
36	16	21
37	17	22
38	18	23
39	19	24
40	20	25

1	21	26
2	22	27
3	23	28
4	24	29
5	25	30
6	26	31
7	27	32
8	28	33
9	29	34
10	30	35

11
 12 (2) This increase shall be in addition to any increase in density
 13 mandated by subdivision (b), up to a maximum combined mandated
 14 density increase of 35 percent if an applicant seeks an increase
 15 pursuant to both this subdivision and subdivision (b). All density
 16 calculations resulting in fractional units shall be rounded up to the
 17 next whole number. Nothing in this subdivision shall be construed
 18 to enlarge or diminish the authority of a city, county, or city and
 19 county to require a developer to donate land as a condition of
 20 development. An applicant shall be eligible for the increased
 21 density bonus described in this subdivision if all of the following
 22 conditions are met:

23 (A) The applicant donates and transfers the land no later than
 24 the date of approval of the final subdivision map, parcel map, or
 25 residential development application.

26 (B) The developable acreage and zoning classification of the
 27 land being transferred are sufficient to permit construction of units
 28 affordable to very low income households in an amount not less
 29 than 10 percent of the number of residential units of the proposed
 30 development.

31 (C) The transferred land is at least one acre in size or of
 32 sufficient size to permit development of at least 40 units, has the
 33 appropriate general plan designation, is appropriately zoned with
 34 appropriate development standards for development at the density
 35 described in paragraph (3) of subdivision (c) of Section 65583.2,
 36 and is or will be served by adequate public facilities and
 37 infrastructure.

38 (D) The transferred land shall have all of the permits and
 39 approvals, other than building permits, necessary for the
 40 development of the very low income housing units on the

1 transferred land, not later than the date of approval of the final
2 subdivision map, parcel map, or residential development
3 application, except that the local government may subject the
4 proposed development to subsequent design review to the extent
5 authorized by subdivision (i) of Section 65583.2 if the design is
6 not reviewed by the local government prior to the time of transfer.

7 (E) The transferred land and the affordable units shall be subject
8 to a deed restriction ensuring continued affordability of the units
9 consistent with paragraphs (1) and (2) of subdivision (c), which
10 shall be recorded on the property at the time of the transfer.

11 (F) The land is transferred to the local agency or to a housing
12 developer approved by the local agency. The local agency may
13 require the applicant to identify and transfer the land to the
14 developer.

15 (G) The transferred land shall be within the boundary of the
16 proposed development or, if the local agency agrees, within
17 one-quarter mile of the boundary of the proposed development.

18 (H) A proposed source of funding for the very low income units
19 shall be identified not later than the date of approval of the final
20 subdivision map, parcel map, or residential development
21 application.

22 (h) (1) When an applicant proposes to construct a housing
23 development that conforms to the requirements of subdivision (b)
24 and includes a child care facility that will be located on the
25 premises of, as part of, or adjacent to, the project, the city, county,
26 or city and county shall grant either of the following:

27 (A) An additional density bonus that is an amount of square
28 feet of residential space that is equal to or greater than the amount
29 of square feet in the child care facility.

30 (B) An additional concession or incentive that contributes
31 significantly to the economic feasibility of the construction of the
32 child care facility.

33 (2) The city, county, or city and county shall require, as a
34 condition of approving the housing development, that the following
35 occur:

36 (A) The child care facility shall remain in operation for a period
37 of time that is as long as or longer than the period of time during
38 which the density bonus units are required to remain affordable
39 pursuant to subdivision (c).

1 (B) Of the children who attend the child care facility, the
2 children of very low income households, lower income households,
3 or families of moderate income shall equal a percentage that is
4 equal to or greater than the percentage of dwelling units that are
5 required for very low income households, lower income
6 households, or families of moderate income pursuant to subdivision
7 (b).

8 (3) Notwithstanding any requirement of this subdivision, a city,
9 county, or city and county shall not be required to provide a density
10 bonus or concession for a child care facility if it finds, based upon
11 substantial evidence, that the community has adequate child care
12 facilities.

13 (4) “Child care facility,” as used in this section, means a child
14 day care facility other than a family day care home, including, but
15 not limited to, infant centers, preschools, extended day care
16 facilities, and schoolage child care centers.

17 (i) “Housing development,” as used in this section, means a
18 development project for five or more residential units. For the
19 purposes of this section, “housing development” also includes a
20 subdivision or common interest development, as defined in Section
21 4100 of the Civil Code, approved by a city, county, or city and
22 county and consists of residential units or unimproved residential
23 lots and either a project to substantially rehabilitate and convert
24 an existing commercial building to residential use or the substantial
25 rehabilitation of an existing multifamily dwelling, as defined in
26 subdivision (d) of Section 65863.4, where the result of the
27 rehabilitation would be a net increase in available residential units.
28 For the purpose of calculating a density bonus, the residential units
29 shall be on contiguous sites that are the subject of one development
30 application, but do not have to be based upon individual
31 subdivision maps or parcels. The density bonus shall be permitted
32 in geographic areas of the housing development other than the
33 areas where the units for the lower income households are located.

34 (j) The granting of a concession or incentive shall not be
35 interpreted, in and of itself, to require a general plan amendment,
36 local coastal plan amendment, zoning change, or other discretionary
37 approval. This provision is declaratory of existing law.

38 (k) For the purposes of this chapter, concession or incentive
39 means any of the following:

1 (1) A reduction in site development standards or a modification
2 of zoning code requirements or architectural design requirements
3 that exceed the minimum building standards approved by the
4 California Building Standards Commission as provided in Part 2.5
5 (commencing with Section 18901) of Division 13 of the Health
6 and Safety Code, including, but not limited to, a reduction in
7 setback and square footage requirements and in the ratio of
8 vehicular parking spaces that would otherwise be required that
9 results in identifiable, financially sufficient, and actual cost
10 reductions.

11 (2) Approval of mixed-use zoning in conjunction with the
12 housing project if commercial, office, industrial, or other land uses
13 will reduce the cost of the housing development and if the
14 commercial, office, industrial, or other land uses are compatible
15 with the housing project and the existing or planned development
16 in the area where the proposed housing project will be located.

17 (3) Other regulatory incentives or concessions proposed by the
18 developer or the city, county, or city and county that result in
19 identifiable, financially sufficient, and actual cost reductions.

20 (l) Subdivision (k) does not limit or require the provision of
21 direct financial incentives for the housing development, including
22 the provision of publicly owned land, by the city, county, or city
23 and county, or the waiver of fees or dedication requirements.

24 (m) This section shall not be construed to supersede or in any
25 way alter or lessen the effect or application of the California
26 Coastal Act of 1976 (Division 20 (commencing with Section
27 30000) of the Public Resources Code).

28 (n) If permitted by local ordinance, nothing in this section shall
29 be construed to prohibit a city, county, or city and county from
30 granting a density bonus greater than what is described in this
31 section for a development that meets the requirements of this
32 section or from granting a proportionately lower density bonus
33 than what is required by this section for developments that do not
34 meet the requirements of this section.

35 (o) For purposes of this section, the following definitions shall
36 apply:

37 (1) “Development standard” includes a site or construction
38 condition, including, but not limited to, a height limitation, a
39 setback requirement, a floor area ratio, an onsite open-space
40 requirement, or a parking ratio that applies to a residential

1 development pursuant to any ordinance, general plan element,
2 specific plan, charter, or other local condition, law, policy,
3 resolution, or regulation.

4 (2) “Maximum allowable residential density” means the density
5 allowed under the zoning ordinance and land use element of the
6 general plan, or if a range of density is permitted, means the
7 maximum allowable density for the specific zoning range and land
8 use element of the general plan applicable to the project. Where
9 the density allowed under the zoning ordinance is inconsistent
10 with the density allowed under the land use element of the general
11 plan, the general plan density shall prevail.

12 (p) (1) Upon the request of the developer, no city, county, or
13 city and county shall require a vehicular parking ratio, inclusive
14 of handicapped and guest parking, of a development meeting the
15 criteria of subdivision (b), that exceeds the following ratios:

16 (A) Zero to one bedroom: one onsite parking space.

17 (B) Two to three bedrooms: two onsite parking spaces.

18 (C) Four and more bedrooms: two and one-half parking spaces.

19 (2) If the total number of parking spaces required for a
20 development is other than a whole number, the number shall be
21 rounded up to the next whole number. For purposes of this
22 subdivision, a development may provide “onsite parking” through
23 tandem parking or uncovered parking, but not through onstreet
24 parking.

25 (3) This subdivision shall apply to a development that meets
26 the requirements of subdivision (b) but only at the request of the
27 applicant. An applicant may request parking incentives or
28 concessions beyond those provided in this subdivision pursuant
29 to subdivision (d).

30 SEC. 2. Section 65915.5 of the Government Code is amended
31 to read:

32 65915.5. (a) When an applicant for approval to convert
33 apartments to a condominium project agrees to provide at least 33
34 percent of the total units of the proposed condominium project to
35 persons and families of low or moderate income as defined in
36 Section 50093 of the Health and Safety Code, or 15 percent of the
37 total units of the proposed condominium project to lower income
38 households as defined in Section 50079.5 of the Health and Safety
39 Code, and agrees to pay for the reasonably necessary administrative
40 costs incurred by a city, county, or city and county pursuant to this

1 section, the city, county, or city and county shall either (1) grant
2 a density bonus or (2) provide other incentives of equivalent
3 financial value. A city, county, or city and county may place such
4 reasonable conditions on the granting of a density bonus or other
5 incentives of equivalent financial value as it finds appropriate,
6 including, but not limited to, conditions which assure continued
7 affordability of units to subsequent purchasers who are persons
8 and families of low and moderate income or lower income
9 households.

10 (b) For purposes of this section, “density bonus” means an
11 increase in units of 25 percent over the number of apartments, to
12 be provided within the existing structure or structures proposed
13 for conversion.

14 (c) For purposes of this section, “other incentives of equivalent
15 financial value” shall not be construed to require a city, county,
16 or city and county to provide cash transfer payments or other
17 monetary compensation but may include the reduction or waiver
18 of requirements which the city, county, or city and county might
19 otherwise apply as conditions of conversion approval.

20 (d) An applicant for approval to convert apartments to a
21 condominium project may submit to a city, county, or city and
22 county a preliminary proposal pursuant to this section prior to the
23 submittal of any formal requests for subdivision map approvals.
24 The city, county, or city and county shall, within 90 days of receipt
25 of a written proposal, notify the applicant in writing of the manner
26 in which it will comply with this section. The city, county, or city
27 and county shall establish procedures for carrying out this section,
28 which shall include legislative body approval of the means of
29 compliance with this section.

30 (e) Nothing in this section shall be construed to require a city,
31 county, or city and county to approve a proposal to convert
32 apartments to condominiums.

33 (f) An applicant shall be ineligible for a density bonus or other
34 incentives under this section if the apartments proposed for
35 conversion constitute a housing development for which a density
36 bonus or other incentives were provided under Section 65915.

37 (g) An applicant shall be ineligible for a density bonus or any
38 other incentives or concessions under this section if the
39 condominium project is proposed on any property that includes a
40 parcel or parcels on which dwelling units have, at any time in the

1 five-year period preceding the application, been occupied by lower
2 or very low income households, been subject to a recorded
3 covenant, ordinance, or law that restricts rents to levels affordable
4 to persons and families of lower or very low income, or been
5 subject to any other form of rent or price control through a public
6 entity's valid exercise of its police power, unless the proposed
7 condominium project replaces the existing units with at least the
8 same number of units of equivalent size or type, or both, to be
9 made available for sale at affordable housing costs to, and occupied
10 by, persons and families in the same or lower income category in
11 the same proportion as the existing affordable units, and ~~the~~ *either*
12 *of the following applies:*

13 (1) *The proposed condominium project includes the additional*
14 *required set aside of affordable units at the percentages set forth*
15 *in subdivision (a).*

16 (2) *Each unit in the development is affordable to, and occupied*
17 *by, either a lower or very low income household.*