

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY APRIL 5, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2556**

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**Introduced by Assembly Member Nazarian**

February 19, 2016

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An act to amend Section 65915 of the Government Code, relating to housing.

### LEGISLATIVE COUNSEL’S DIGEST

AB 2556, as amended, Nazarian. Density bonuses.

The Planning and Zoning Law requires, when an applicant proposes a housing development within the jurisdiction of a 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 for 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. That law makes an applicant ineligible for a density bonus if the housing development is proposed on property with existing or certain former dwelling units subject to specific affordability requirements, including a form of rent or price control through a public entity’s valid exercise of its police power, or on property with existing units occupied by lower or very low income households, unless the proposed housing development replaces those units as prescribed. That law defines “replace” for those purposes.

This bill would revise the definition of “replace” to require a city, county, or city and county to adopt a rebuttable presumption regarding the proportion of lower income households that occupy existing units if the income category of the households in occupancy is not known. ~~The bill would also include in that definition, bill, if the property for the proposed housing development is subject to a form of rent or price control through a local government’s valid exercise of its police power and is or was occupied by a person or family with an income above lower income, authorization for a~~ *would authorize* the city, county, or city and county, *county either* to require replacement units to be made available at affordable rent or affordable housing cost to, and occupied by, ~~a low-income person or family,~~ *persons or families*, as specified, or *to* require the replacement units to be replaced in compliance with the rent or price control ordinance of the city, county, or city and county. *jurisdiction*. By increasing the duties of local officials, this bill would impose 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.  
State-mandated local program: yes.

*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. A city, county, or city and  
9     county shall adopt an ordinance that specifies how compliance  
10    with this section will be implemented. Failure to adopt an ordinance  
11    shall not relieve a city, county, or city and county from complying  
12    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

1 (f), and incentives or concessions, as described in subdivision (d),  
2 when an applicant for a housing development seeks and agrees to  
3 construct a housing development, excluding any units permitted  
4 by the density bonus awarded pursuant to this section, that will  
5 contain at least any one of the following:

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

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

12 (C) A senior citizen housing development, as defined in Sections  
13 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits  
14 residency based on age requirements for housing for older persons  
15 pursuant to Section 798.76 or 799.5 of the Civil Code.

16 (D) Ten percent of the total dwelling units in a common interest  
17 development, as defined in Section 4100 of the Civil Code, for  
18 persons and families of moderate income, as defined in Section  
19 50093 of the Health and Safety Code, provided that all units in the  
20 development are offered to the public for purchase.

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

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

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

39 (2) An applicant shall agree to, and the city, county, or city and  
40 county shall ensure that, the initial occupant of all for-sale units

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

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

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

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

28 (3) (A) An applicant shall be ineligible for a density bonus or  
29 any other incentives or concessions under this section if the housing  
30 development is proposed on any property that includes a parcel or  
31 parcels on which rental dwelling units are or, if the dwelling units  
32 have been vacated or demolished in the five-year period preceding  
33 the application, have been subject to a recorded covenant,  
34 ordinance, or law that restricts rents to levels affordable to persons  
35 and families of lower or very low income; subject to any other  
36 form of rent or price control through a public entity's valid exercise  
37 of its police power; or occupied by lower or very low income  
38 households, unless the proposed housing development replaces  
39 those units, and either of the following applies:

1 (i) The proposed housing development, inclusive of the units  
2 replaced pursuant to this paragraph, contains affordable units at  
3 the percentages set forth in subdivision (b).

4 (ii) Each unit in the development, exclusive of a manager's unit  
5 or units, is affordable to, and occupied by, either a lower or very  
6 low income household.

7 (B) For the purposes of this paragraph, "replace" shall mean  
8 ~~any~~ *either* of the following:

9 (i) If any dwelling units described in subparagraph (A) are  
10 occupied on the date of application, the proposed housing  
11 development shall provide at least the same number of units of  
12 equivalent size or type, or both, to be made available at affordable  
13 rent or affordable housing cost to, and occupied by, persons and  
14 families in the same or lower income category as those households  
15 in occupancy. If the income category of the household in occupancy  
16 is not known, the city, county, or city and county shall adopt a  
17 rebuttable presumption that lower income households occupied  
18 these units in the same proportion of lower income households to  
19 all households within the census tract in which the development  
20 is located as determined from the last decennial census. For  
21 unoccupied dwelling units described in subparagraph (A) in a  
22 development with occupied units, the proposed housing  
23 development shall provide units of equivalent size or type, or both,  
24 to be made available at affordable rent or affordable housing cost  
25 to, and occupied by, persons and families in the same or lower  
26 income category in the same proportion of affordability as the  
27 occupied units. All replacement calculations resulting in fractional  
28 units shall be rounded up to the next whole number. If the  
29 replacement units will be rental dwelling units, these units shall  
30 be subject to a recorded affordability restriction for at least 55  
31 years. If the proposed development is for-sale units, the units  
32 replaced shall be subject to paragraph (2).

33 (ii) If all dwelling units described in subparagraph (A) have  
34 been vacated or demolished within the five-year period preceding  
35 the application, the proposed housing development shall provide  
36 at least the same number of units of equivalent size or type, or  
37 both, as existed at the highpoint of those units in the five-year  
38 period preceding the application to be made available at affordable  
39 rent or affordable housing cost to, and occupied by, persons and  
40 families in the same or lower income category as those persons

1 and families in occupancy at that time, if known. If the incomes  
2 of the persons and families in occupancy at the highpoint is not  
3 known, the city, county, or city and county shall adopt a rebuttable  
4 presumption that lower income households occupied these units  
5 in the same proportion of lower income households to all  
6 households within the census tract in which the development is  
7 located, as determined from the last decennial census and one-half  
8 of the required units shall be made available at affordable rent or  
9 affordable housing cost to, and occupied by, very low income  
10 persons and families and one-half of the required units shall be  
11 made available for rent at affordable housing costs to, and occupied  
12 by, low-income persons and families. All replacement calculations  
13 resulting in fractional units shall be rounded up to the next whole  
14 number. If the replacement units will be rental dwelling units,  
15 these units shall be subject to a recorded affordability restriction  
16 for at least 55 years. If the proposed development is for-sale units,  
17 the units replaced shall be subject to paragraph (2).

18 ~~(iii) If the property described in subparagraph (A) is or was~~  
19 ~~subject to a form of rent or price control through a local~~  
20 ~~government's valid exercise of its police power and is or was~~  
21 ~~occupied by a person or family with an income above lower~~  
22 ~~income, the city, county, or city and county may require the~~  
23 ~~replacement unit to be made available at affordable rent or~~  
24 ~~affordable housing cost to, and occupied by, a low income person~~  
25 ~~or family or require the replacement unit to be replaced in~~  
26 ~~compliance with the rent or price control ordinance of the city,~~  
27 ~~county, or city and county. If the replacement unit is required to~~  
28 ~~be made available at affordable rent, the unit shall be subject to a~~  
29 ~~recorded affordability restriction for at least 55 years. If the~~  
30 ~~replacement unit is required to be made available at affordable~~  
31 ~~housing cost and the proposed development consists of for-sale~~  
32 ~~units, each unit shall be subject to paragraph (2).~~

33 *(C) Notwithstanding subparagraph (B), for any dwelling unit*  
34 *described in subparagraph (A) that is or was subject to a form of*  
35 *rent or price control through a local government's valid exercise*  
36 *of its police power and that is or was occupied by persons or*  
37 *families above lower income, the city, county, or city and county*  
38 *may do either of the following:*

39 *(i) Require that the replacement units be made available at*  
40 *affordable rent or affordable housing cost to, and occupied by,*

1 *low-income persons or families. If the replacement units will be*  
2 *rental dwelling units, these units shall be subject to a recorded*  
3 *affordability restriction for at least 55 years. If the proposed*  
4 *development is for-sale units, the units replaced shall be subject*  
5 *to paragraph (2).*

6 *(ii) Require that the units be replaced in compliance with the*  
7 *jurisdiction's rent or price control ordinance.*

8 ~~(C)~~

9 *(D) Subparagraph (A) does not apply to an applicant seeking a*  
10 *density bonus for a proposed housing development if his or her*  
11 *application was submitted to, or processed by, a city, county, or*  
12 *city and county before January 1, 2015.*

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

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

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

33 *(C) The concession or incentive would be contrary to state or*  
34 *federal law.*

35 *(2) The applicant shall receive the following number of*  
36 *incentives or concessions:*

37 *(A) One incentive or concession for projects that include at least*  
38 *10 percent of the total units for lower income households, at least*  
39 *5 percent for very low income households, or at least 10 percent*

1 for persons and families of moderate income in a common interest  
2 development.

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

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

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

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



request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney’s fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

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

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

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

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5

1	17	30.5
2	18	32
3	19	33.5
4	20	35

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

9		
10	Percentage Very Low Income Units	Percentage Density Bonus
11	5	20
12	6	22.5
13	7	25
14	8	27.5
15	9	30
16	10	32.5
17	11	35

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

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

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

1	24	19
2	25	20
3	26	21
4	27	22
5	28	23
6	29	24
7	30	25
8	31	26
9	32	27
10	33	28
11	34	29
12	35	30
13	36	31
14	37	32
15	38	33
16	39	34
17	40	35

18

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

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

30

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

1	19	24
2	20	25
3	21	26
4	22	27
5	23	28
6	24	29
7	25	30
8	26	31
9	27	32
10	28	33
11	29	34
12	30	35

13

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

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

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

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

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.

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

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

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

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

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

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

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

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

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during

1 which the density bonus units are required to remain affordable  
2 pursuant to subdivision (c).

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

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

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

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

36 (j) (1) The granting of a concession or incentive shall not be  
37 interpreted, in and of itself, to require a general plan amendment,  
38 local coastal plan amendment, zoning change, or other discretionary  
39 approval. This provision is declaratory of existing law.

1 (2) Except as provided in subdivisions (d) and (e), the granting  
2 of a density bonus shall not be interpreted to require the waiver of  
3 a local ordinance or provisions of a local ordinance unrelated to  
4 development standards.

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

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

17 (2) Approval of mixed-use zoning in conjunction with the  
18 housing project if commercial, office, industrial, or other land uses  
19 will reduce the cost of the housing development and if the  
20 commercial, office, industrial, or other land uses are compatible  
21 with the housing project and the existing or planned development  
22 in the area where the proposed housing project will be located.

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

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

30 (m) This section does not supersede or in any way alter or lessen  
31 the effect or application of the California Coastal Act of 1976  
32 (Division 20 (commencing with Section 30000) of the Public  
33 Resources Code).

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

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

(1) “Development standard” includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

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

(p) (1) Except as provided in paragraphs (2) and (3), upon the request of the developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivisions (b) and (c), that exceeds the following ratios:

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

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

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

(2) Notwithstanding paragraph (1), if a development includes the maximum percentage of low- or very low income units provided for in paragraphs (1) and (2) of subdivision (f) and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development, then, upon the request of the developer, a city, county, or city and county shall not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. For purposes of this subdivision, a development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.

(3) Notwithstanding paragraph (1), if a development consists solely of rental units, exclusive of a manager’s unit or units, with



1 an affordable housing cost to lower income families, as provided  
2 in Section 50052.5 of the Health and Safety Code, then, upon the  
3 request of the developer, a city, county, or city and county shall  
4 not impose a vehicular parking ratio, inclusive of handicapped and  
5 guest parking, that exceeds the following ratios:

6 (A) If the development is located within one-half mile of a major  
7 transit stop, as defined in subdivision (b) of Section 21155 of the  
8 Public Resources Code, and there is unobstructed access to the  
9 major transit stop from the development, the ratio shall not exceed  
10 0.5 spaces per unit.

11 (B) If the development is a for-rent housing development for  
12 individuals who are 62 years of age or older that complies with  
13 Sections 51.2 and 51.3 of the Civil Code, the ratio shall not exceed  
14 0.5 spaces per unit. The development shall have either paratransit  
15 service or unobstructed access, within one-half mile, to fixed bus  
16 route service that operates at least eight times per day.

17 (C) If the development is a special needs housing development,  
18 as defined in Section 51312 of the Health and Safety Code, the  
19 ratio shall not exceed 0.3 spaces per unit. The development shall  
20 have either paratransit service or unobstructed access, within  
21 one-half mile, to fixed bus route service that operates at least eight  
22 times per day.

23 (4) If the total number of parking spaces required for a  
24 development is other than a whole number, the number shall be  
25 rounded up to the next whole number. For purposes of this  
26 subdivision, a development may provide on-site parking through  
27 tandem parking or uncovered parking, but not through on-street  
28 parking.

29 (5) This subdivision shall apply to a development that meets  
30 the requirements of subdivisions (b) and (c), but only at the request  
31 of the applicant. An applicant may request parking incentives or  
32 concessions beyond those provided in this subdivision pursuant  
33 to subdivision (d).

34 (6) This subdivision does not preclude a city, county, or city  
35 and county from reducing or eliminating a parking requirement  
36 for development projects of any type in any location.

37 (7) Notwithstanding paragraphs (2) and (3), if a city, county,  
38 city and county, or an independent consultant has conducted an  
39 areawide or jurisdictionwide parking study in the last seven years,  
40 then the city, county, or city and county may impose a higher

1 vehicular parking ratio not to exceed the ratio described in  
2 paragraph (1), based upon substantial evidence found in the parking  
3 study, that includes, but is not limited to, an analysis of parking  
4 availability, differing levels of transit access, walkability access  
5 to transit services, the potential for shared parking, the effect of  
6 parking requirements on the cost of market-rate and subsidized  
7 developments, and the lower rates of car ownership for low- and  
8 very low income individuals, including seniors and special needs  
9 individuals. The city, county, or city and county shall pay the costs  
10 of any new study. The city, county, or city and county shall make  
11 findings, based on a parking study completed in conformity with  
12 this paragraph, supporting the need for the higher parking ratio.

13 SEC. 2. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 a local agency or school district has the authority to levy service  
16 charges, fees, or assessments sufficient to pay for the program or  
17 level of service mandated by this act, within the meaning of Section  
18 17556 of the Government Code.