

AMENDED IN SENATE APRIL 13, 2016

AMENDED IN SENATE APRIL 6, 2016

**SENATE BILL**

**No. 1069**

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**Introduced by Senator Wieckowski**  
(*Coauthor: Assembly Member Atkins*)

February 16, 2016

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An act to amend Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, as amended, Wieckowski. Land use: zoning.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. That law makes findings and declarations with respect to the value of 2nd units to California's housing supply.

This bill would replace the term "second unit" with "accessory dwelling unit" throughout the law. The bill would add to those findings and declarations that allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock and *these units* are an essential component of housing supply in California.

This bill would require an ordinance for the creation of accessory dwelling units to include specified provisions regarding areas where accessory dwelling units may be located, standards, and lot density. ~~This~~ *The* bill would revise requirements for the approval or disapproval of an accessory dwelling unit application when a local agency has not adopted an ordinance. *The bill would also require the ministerial*

*approval of an application for a building permit to create an accessory dwelling unit within the existing space of a single family residence or accessory structure, as specified.* 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 65582.1 of the Government Code is
- 2 amended to read:
- 3 65582.1. The Legislature finds and declares that it has provided
- 4 reforms and incentives to facilitate and expedite the construction
- 5 of affordable housing. Those reforms and incentives can be found
- 6 in the following provisions:
- 7 (a) Housing element law (Article 10.6 (commencing with
- 8 Section 65580) of Chapter 3).
- 9 (b) Extension of statute of limitations in actions challenging the
- 10 housing element and brought in support of affordable housing
- 11 (subdivision (d) of Section 65009).
- 12 (c) Restrictions on disapproval of housing developments
- 13 (Section 65589.5).
- 14 (d) Priority for affordable housing in the allocation of water and
- 15 sewer hookups (Section 65589.7).
- 16 (e) Least cost zoning law (Section 65913.1).
- 17 (f) Density bonus law (Section 65915).
- 18 (g) Accessory dwelling units (Sections 65852.150 and 65852.2).
- 19 (h) By-right housing, in which certain multifamily housing are
- 20 designated a permitted use (Section 65589.4).
- 21 (i) No-net-loss-in zoning density law limiting downzonings and
- 22 density reductions (Section 65863).
- 23 (j) Requiring persons who sue to halt affordable housing to pay
- 24 attorney fees (Section 65914) or post a bond (Section 529.2 of the
- 25 Code of Civil Procedure).

1 (k) Reduced time for action on affordable housing applications  
2 under the approval of development permits process (Article 5  
3 (commencing with Section 65950) of Chapter 4.5).

4 (l) Limiting moratoriums on multifamily housing (Section  
5 65858).

6 (m) Prohibiting discrimination against affordable housing  
7 (Section 65008).

8 (n) California Fair Employment and Housing Act (Part 2.8  
9 (commencing with Section 12900) of Division 3).

10 (o) Community redevelopment law (Part 1 (commencing with  
11 Section 33000) of Division 24 of the Health and Safety Code, and  
12 in particular Sections 33334.2 and 33413).

13 SEC. 2. Section 65583.1 of the Government Code is amended  
14 to read:

15 65583.1. (a) The Department of Housing and Community  
16 Development, in evaluating a proposed or adopted housing element  
17 for substantial compliance with this article, may allow a city or  
18 county to identify adequate sites, as required pursuant to Section  
19 65583, by a variety of methods, including, but not limited to,  
20 redesignation of property to a more intense land use category and  
21 increasing the density allowed within one or more categories. The  
22 department may also allow a city or county to identify sites for  
23 accessory dwelling units based on the number of accessory  
24 dwelling units developed in the prior housing element planning  
25 period whether or not the units are permitted by right, the need for  
26 these units in the community, the resources or incentives available  
27 for their development, and any other relevant factors, as determined  
28 by the department. Nothing in this section reduces the responsibility  
29 of a city or county to identify, by income category, the total number  
30 of sites for residential development as required by this article.

31 (b) Sites that contain permanent housing units located on a  
32 military base undergoing closure or conversion as a result of action  
33 pursuant to the Defense Authorization Amendments and Base  
34 Closure and Realignment Act (Public Law 100-526), the Defense  
35 Base Closure and Realignment Act of 1990 (Public Law 101-510),  
36 or any subsequent act requiring the closure or conversion of a  
37 military base may be identified as an adequate site if the housing  
38 element demonstrates that the housing units will be available for  
39 occupancy by households within the planning period of the  
40 element. No sites containing housing units scheduled or planned

1 for demolition or conversion to nonresidential uses shall qualify  
2 as an adequate site.

3 Any city, city and county, or county using this subdivision shall  
4 address the progress in meeting this section in the reports provided  
5 pursuant to paragraph (1) of subdivision (b) of Section 65400.

6 (c) (1) The Department of Housing and Community  
7 Development may allow a city or county to substitute the provision  
8 of units for up to 25 percent of the community's obligation to  
9 identify adequate sites for any income category in its housing  
10 element pursuant to paragraph (1) of subdivision (c) of Section  
11 65583 where the community includes in its housing element a  
12 program committing the local government to provide units in that  
13 income category within the city or county that will be made  
14 available through the provision of committed assistance during  
15 the planning period covered by the element to low- and very low  
16 income households at affordable housing costs or affordable rents,  
17 as defined in Sections 50052.5 and 50053 of the Health and Safety  
18 Code, and which meet the requirements of paragraph (2). Except  
19 as otherwise provided in this subdivision, the community may  
20 substitute one dwelling unit for one dwelling unit site in the  
21 applicable income category. The program shall do all of the  
22 following:

23 (A) Identify the specific, existing sources of committed  
24 assistance and dedicate a specific portion of the funds from those  
25 sources to the provision of housing pursuant to this subdivision.

26 (B) Indicate the number of units that will be provided to both  
27 low- and very low income households and demonstrate that the  
28 amount of dedicated funds is sufficient to develop the units at  
29 affordable housing costs or affordable rents.

30 (C) Demonstrate that the units meet the requirements of  
31 paragraph (2).

32 (2) Only units that comply with subparagraph (A), (B), or (C)  
33 qualify for inclusion in the housing element program described in  
34 paragraph (1), as follows:

35 (A) Units that are to be substantially rehabilitated with  
36 committed assistance from the city or county and constitute a net  
37 increase in the community's stock of housing affordable to low-  
38 and very low income households. For purposes of this  
39 subparagraph, a unit is not eligible to be "substantially  
40 rehabilitated" unless all of the following requirements are met:

1 (i) At the time the unit is identified for substantial rehabilitation,  
2 (I) the local government has determined that the unit is at imminent  
3 risk of loss to the housing stock, (II) the local government has  
4 committed to provide relocation assistance pursuant to Chapter 16  
5 (commencing with Section 7260) of Division 7 of Title 1 to any  
6 occupants temporarily or permanently displaced by the  
7 rehabilitation or code enforcement activity, or the relocation is  
8 otherwise provided prior to displacement either as a condition of  
9 receivership, or provided by the property owner or the local  
10 government pursuant to Article 2.5 (commencing with Section  
11 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and  
12 Safety Code, or as otherwise provided by local ordinance; provided  
13 the assistance includes not less than the equivalent of four months'  
14 rent and moving expenses and comparable replacement housing  
15 consistent with the moving expenses and comparable replacement  
16 housing required pursuant to Section 7260, (III) the local  
17 government requires that any displaced occupants will have the  
18 right to reoccupy the rehabilitated units, and (IV) the unit has been  
19 found by the local government or a court to be unfit for human  
20 habitation due to the existence of at least four violations of the  
21 conditions listed in subdivisions (a) to (g), inclusive, of Section  
22 17995.3 of the Health and Safety Code.

23 (ii) The rehabilitated unit will have long-term affordability  
24 covenants and restrictions that require the unit to be available to,  
25 and occupied by, persons or families of low- or very low income  
26 at affordable housing costs for at least 20 years or the time period  
27 required by any applicable federal or state law or regulation.

28 (iii) Prior to initial occupancy after rehabilitation, the local code  
29 enforcement agency shall issue a certificate of occupancy indicating  
30 compliance with all applicable state and local building code and  
31 health and safety code requirements.

32 (B) Units that are located either on foreclosed property or in a  
33 multifamily rental or ownership housing complex of three or more  
34 units, are converted with committed assistance from the city or  
35 county from nonaffordable to affordable by acquisition of the unit  
36 or the purchase of affordability covenants and restrictions for the  
37 unit, are not acquired by eminent domain, and constitute a net  
38 increase in the community's stock of housing affordable to low-  
39 and very low income households. For purposes of this

1 subparagraph, a unit is not converted by acquisition or the purchase  
2 of affordability covenants unless all of the following occur:

3 (i) The unit is made available for rent at a cost affordable to  
4 low- or very low income households.

5 (ii) At the time the unit is identified for acquisition, the unit is  
6 not available at an affordable housing cost to either of the  
7 following:

8 (I) Low-income households, if the unit will be made affordable  
9 to low-income households.

10 (II) Very low income households, if the unit will be made  
11 affordable to very low income households.

12 (iii) At the time the unit is identified for acquisition the unit is  
13 not occupied by low- or very low income households or if the  
14 acquired unit is occupied, the local government has committed to  
15 provide relocation assistance prior to displacement, if any, pursuant  
16 to Chapter 16 (commencing with Section 7260) of Division 7 of  
17 Title 1 to any occupants displaced by the conversion, or the  
18 relocation is otherwise provided prior to displacement; provided  
19 the assistance includes not less than the equivalent of four months'  
20 rent and moving expenses and comparable replacement housing  
21 consistent with the moving expenses and comparable replacement  
22 housing required pursuant to Section 7260.

23 (iv) The unit is in decent, safe, and sanitary condition at the  
24 time of occupancy.

25 (v) The unit has long-term affordability covenants and  
26 restrictions that require the unit to be affordable to persons of low-  
27 or very low income for not less than 55 years.

28 (vi) For units located in multifamily ownership housing  
29 complexes with three or more units, or on or after January 1, 2015,  
30 on foreclosed properties, at least an equal number of  
31 new-construction multifamily rental units affordable to lower  
32 income households have been constructed in the city or county  
33 within the same planning period as the number of ownership units  
34 to be converted.

35 (C) Units that will be preserved at affordable housing costs to  
36 persons or families of low- or very low incomes with committed  
37 assistance from the city or county by acquisition of the unit or the  
38 purchase of affordability covenants for the unit. For purposes of  
39 this subparagraph, a unit shall not be deemed preserved unless all  
40 of the following occur:

1 (i) The unit has long-term affordability covenants and  
2 restrictions that require the unit to be affordable to, and reserved  
3 for occupancy by, persons of the same or lower income group as  
4 the current occupants for a period of at least 40 years.

5 (ii) The unit is within an “assisted housing development,” as  
6 defined in paragraph (3) of subdivision (a) of Section 65863.10.

7 (iii) The city or county finds, after a public hearing, that the unit  
8 is eligible, and is reasonably expected, to change from housing  
9 affordable to low- and very low income households to any other  
10 use during the next five years due to termination of subsidy  
11 contracts, mortgage prepayment, or expiration of restrictions on  
12 use.

13 (iv) The unit is in decent, safe, and sanitary condition at the  
14 time of occupancy.

15 (v) At the time the unit is identified for preservation it is  
16 available at affordable cost to persons or families of low- or very  
17 low income.

18 (3) This subdivision does not apply to any city or county that,  
19 during the current or immediately prior planning period, as defined  
20 by Section 65588, has not met any of its share of the regional need  
21 for affordable housing, as defined in Section 65584, for low- and  
22 very low income households. A city or county shall document for  
23 any housing unit that a building permit has been issued and all  
24 development and permit fees have been paid or the unit is eligible  
25 to be lawfully occupied.

26 (4) For purposes of this subdivision, “committed assistance”  
27 means that the city or county enters into a legally enforceable  
28 agreement during the period from the beginning of the projection  
29 period until the end of the second year of the planning period that  
30 obligates sufficient available funds to provide the assistance  
31 necessary to make the identified units affordable and that requires  
32 that the units be made available for occupancy within two years  
33 of the execution of the agreement. “Committed assistance” does  
34 not include tenant-based rental assistance.

35 (5) For purposes of this subdivision, “net increase” includes  
36 only housing units provided committed assistance pursuant to  
37 subparagraph (A) or (B) of paragraph (2) in the current planning  
38 period, as defined in Section 65588, that were not provided  
39 committed assistance in the immediately prior planning period.

1 (6) For purposes of this subdivision, “the time the unit is  
2 identified” means the earliest time when any city or county agent,  
3 acting on behalf of a public entity, has proposed in writing or has  
4 proposed orally or in writing to the property owner, that the unit  
5 be considered for substantial rehabilitation, acquisition, or  
6 preservation.

7 (7) In the third year of the planning period, as defined by Section  
8 65588, in the report required pursuant to Section 65400, each city  
9 or county that has included in its housing element a program to  
10 provide units pursuant to subparagraph (A), (B), or (C) of  
11 paragraph (2) shall report in writing to the legislative body, and  
12 to the department within 30 days of making its report to the  
13 legislative body, on its progress in providing units pursuant to this  
14 subdivision. The report shall identify the specific units for which  
15 committed assistance has been provided or which have been made  
16 available to low- and very low income households, and it shall  
17 adequately document how each unit complies with this subdivision.  
18 If, by July 1 of the third year of the planning period, the city or  
19 county has not entered into an enforceable agreement of committed  
20 assistance for all units specified in the programs adopted pursuant  
21 to subparagraph (A), (B), or (C) of paragraph (2), the city or county  
22 shall, not later than July 1 of the fourth year of the planning period,  
23 adopt an amended housing element in accordance with Section  
24 65585, identifying additional adequate sites pursuant to paragraph  
25 (1) of subdivision (c) of Section 65583 sufficient to accommodate  
26 the number of units for which committed assistance was not  
27 provided. If a city or county does not amend its housing element  
28 to identify adequate sites to address any shortfall, or fails to  
29 complete the rehabilitation, acquisition, purchase of affordability  
30 covenants, or the preservation of any housing unit within two years  
31 after committed assistance was provided to that unit, it shall be  
32 prohibited from identifying units pursuant to subparagraph (A),  
33 (B), or (C) of paragraph (2) in the housing element that it adopts  
34 for the next planning period, as defined in Section 65588, above  
35 the number of units actually provided or preserved due to  
36 committed assistance.

37 (d) A city or county may reduce its share of the regional housing  
38 need by the number of units built between the start of the projection  
39 period and the deadline for adoption of the housing element. If the  
40 city or county reduces its share pursuant to this subdivision, the

1 city or county shall include in the housing element a description  
2 of the methodology for assigning those housing units to an income  
3 category based on actual or projected sales price, rent levels, or  
4 other mechanisms establishing affordability.

5 SEC. 3. Section 65589.4 of the Government Code is amended  
6 to read:

7 65589.4. (a) An attached housing development shall be a  
8 permitted use not subject to a conditional use permit on any parcel  
9 zoned for an attached housing development if local law so provides  
10 or if it satisfies the requirements of subdivision (b) and either of  
11 the following:

12 (1) The attached housing development satisfies the criteria of  
13 Section 21159.22, 21159.23, or 21159.24 of the Public Resources  
14 Code.

15 (2) The attached housing development meets all of the following  
16 criteria:

17 (A) The attached housing development is subject to a  
18 discretionary decision other than a conditional use permit and a  
19 negative declaration or mitigated negative declaration has been  
20 adopted for the attached housing development under the California  
21 Environmental Quality Act (Division 13 (commencing with Section  
22 21000) of the Public Resources Code). If no public hearing is held  
23 with respect to the discretionary decision, then the negative  
24 declaration or mitigated negative declaration for the attached  
25 housing development may be adopted only after a public hearing  
26 to receive comments on the negative declaration or mitigated  
27 negative declaration.

28 (B) The attached housing development is consistent with both  
29 the jurisdiction's zoning ordinance and general plan as it existed  
30 on the date the application was deemed complete, except that an  
31 attached housing development shall not be deemed to be  
32 inconsistent with the zoning designation for the site if that zoning  
33 designation is inconsistent with the general plan only because the  
34 attached housing development site has not been rezoned to conform  
35 with the most recent adopted general plan.

36 (C) The attached housing development is located in an area that  
37 is covered by one of the following documents that has been adopted  
38 by the jurisdiction within five years of the date the application for  
39 the attached housing development was deemed complete:

40 (i) A general plan.

- 1 (ii) A revision or update to the general plan that includes at least  
2 the land use and circulation elements.
- 3 (iii) An applicable community plan.
- 4 (iv) An applicable specific plan.
- 5 (D) The attached housing development consists of not more  
6 than 100 residential units with a minimum density of not less than  
7 12 units per acre or a minimum density of not less than eight units  
8 per acre if the attached housing development consists of four or  
9 fewer units.
- 10 (E) The attached housing development is located in an urbanized  
11 area as defined in Section 21071 of the Public Resources Code or  
12 within a census-defined place with a population density of at least  
13 5,000 persons per square mile or, if the attached housing  
14 development consists of 50 or fewer units, within an incorporated  
15 city with a population density of at least 2,500 persons per square  
16 mile and a total population of at least 25,000 persons.
- 17 (F) The attached housing development is located on an infill  
18 site as defined in Section 21061.0.5 of the Public Resources Code.
- 19 (b) At least 10 percent of the units of the attached housing  
20 development shall be available at affordable housing cost to very  
21 low income households, as defined in Section 50105 of the Health  
22 and Safety Code, or at least 20 percent of the units of the attached  
23 housing development shall be available at affordable housing cost  
24 to lower income households, as defined in Section 50079.5 of the  
25 Health and Safety Code, or at least 50 percent of the units of the  
26 attached housing development available at affordable housing cost  
27 to moderate-income households, consistent with Section 50052.5  
28 of the Health and Safety Code. The developer of the attached  
29 housing development shall provide sufficient legal commitments  
30 to the local agency to ensure the continued availability and use of  
31 the housing units for very low, low-, or moderate-income  
32 households for a period of at least 30 years.
- 33 (c) Nothing in this section shall prohibit a local agency from  
34 applying design and site review standards in existence on the date  
35 the application was deemed complete.
- 36 (d) The provisions of this section are independent of any  
37 obligation of a jurisdiction pursuant to subdivision (c) of Section  
38 65583 to identify multifamily sites developable by right.
- 39 (e) This section does not apply to the issuance of coastal  
40 development permits pursuant to the California Coastal Act

1 (Division 20 (commencing with Section 30000) of the Public  
2 Resources Code).

3 (f) This section does not relieve a public agency from complying  
4 with the California Environmental Quality Act (Division 13  
5 (commencing with Section 21000) of the Public Resources Code)  
6 or relieve an applicant or public agency from complying with the  
7 Subdivision Map Act (Division 2 (commencing with Section  
8 66473)).

9 (g) This section is applicable to all cities and counties, including  
10 charter cities, because the Legislature finds that the lack of  
11 affordable housing is of vital statewide importance, and thus a  
12 matter of statewide concern.

13 (h) For purposes of this section, “attached housing development”  
14 means a newly constructed or substantially rehabilitated structure  
15 containing two or more dwelling units and consisting only of  
16 residential units, but does not include an accessory dwelling unit,  
17 as defined by paragraph (4) of subdivision ~~(h)~~ (i) of Section  
18 65852.2, or the conversion of an existing structure to  
19 condominiums.

20 SEC. 4. Section 65852.150 of the Government Code is amended  
21 to read:

22 65852.150. (a) The Legislature finds and declares all of the  
23 following:

24 (1) Accessory dwelling units are a valuable form of housing in  
25 California.

26 (2) Accessory dwelling units provide housing for family  
27 members, students, the elderly, in-home health care providers, the  
28 disabled, and others, at below market prices within existing  
29 neighborhoods.

30 (3) Homeowners who create accessory dwelling units benefit  
31 from added income, and an increased sense of security.

32 (4) Allowing accessory dwelling units in single-family or  
33 multifamily residential zones provides additional rental housing  
34 stock in California.

35 (5) California faces a severe housing crisis.

36 (6) The state is falling far short of meeting current and future  
37 housing demand with serious consequences for the state’s  
38 economy, our ability to build green infill consistent with state  
39 greenhouse gas reduction goals, and the well-being of our citizens,  
40 particularly lower and middle-income earners.

1 (7) Accessory dwelling units offer lower cost housing to meet  
2 the needs of existing and future residents within existing  
3 neighborhoods, while respecting architectural character.

4 (8) Accessory dwelling units are, therefore, an essential  
5 component of California’s housing supply.

6 (b) It is the intent of the Legislature that an accessory dwelling  
7 unit-ordinance adopted by a local agency has the effect of providing  
8 for the creation of accessory dwelling units and that provisions in  
9 this ordinance relating to matters including unit size, parking, fees  
10 and other requirements, are not so arbitrary, excessive, or  
11 burdensome so as to unreasonably restrict the ability of  
12 homeowners to create accessory dwelling units in zones in which  
13 they are authorized by local ordinance.

14 SEC. 5. Section 65852.2 of the Government Code is amended  
15 to read:

16 65852.2. (a) (1) A local agency may, by ordinance, provide  
17 for the creation of accessory dwelling units in single-family and  
18 multifamily residential zones. The ordinance shall do all of the  
19 following:

20 (A) Designate areas within the jurisdiction of the local agency  
21 where accessory dwelling units may be permitted. The designation  
22 of areas may be based on criteria, that may include, but are not  
23 limited to, the adequacy of water and sewer services and the impact  
24 of accessory dwelling units on traffic flow and public safety.

25 (B) Impose standards on accessory dwelling units that include,  
26 but are not limited to, parking, height, setback, lot coverage,  
27 architectural review, maximum size of a unit, and standards that  
28 prevent adverse impacts on any real property that is listed in the  
29 California Register of Historic Places. However, notwithstanding  
30 subdivision (d), a local agency shall not impose parking standards  
31 for an accessory dwelling unit in any of the following instances:

32 (i) The accessory dwelling unit is located within one-half mile  
33 of public transit or shopping.

34 (ii) The accessory dwelling unit is located within an  
35 architecturally and historically significant historic district.

36 (iii) The accessory dwelling unit is part of the existing primary  
37 residence.

38 (iv) When on-street parking permits are required, but not offered  
39 to the occupant of the accessory dwelling unit.

1 (v) When there is a car share vehicle located within one block  
2 of the accessory dwelling unit.

3 (C) Provide that accessory dwelling units do not exceed the  
4 allowable density for the lot upon which the accessory dwelling  
5 unit is located, and that accessory dwelling units are a residential  
6 use that is consistent with the existing general plan and zoning  
7 designation for the lot.

8 (2) The ordinance shall not be considered in the application of  
9 any local ordinance, policy, or program to limit residential growth.

10 (3) When a local agency receives its first application on or after  
11 July 1, 2003, for a permit pursuant to this subdivision, the  
12 application shall be considered ministerially without discretionary  
13 review or a hearing, notwithstanding Section 65901 or 65906 or  
14 any local ordinance regulating the issuance of variances or special  
15 use permits, within 90 days of submittal of a complete building  
16 permit application. A local agency may charge a fee to reimburse  
17 it for costs that it incurs as a result of amendments to this paragraph  
18 enacted during the 2001–02 Regular Session of the Legislature,  
19 including the costs of adopting or amending any ordinance that  
20 provides for the creation of accessory dwelling units.

21 (b) (1) When a local agency that has not adopted an ordinance  
22 governing accessory dwelling units in accordance with subdivision  
23 (a) receives its first application on or after July 1, 1983, for a permit  
24 pursuant to this subdivision, the local agency shall accept the  
25 application and approve or disapprove the application ministerially  
26 without discretionary review pursuant to this subdivision unless  
27 it adopts an ordinance in accordance with subdivision (a) within  
28 90 days after receiving the application. Notwithstanding Section  
29 65901 or 65906, every local agency shall ministerially approve  
30 the creation of an accessory dwelling unit if the accessory dwelling  
31 unit complies with all of the following:

32 (A) The unit is not intended for sale separate from the primary  
33 residence and may be rented.

34 (B) The lot is zoned for single-family or multifamily use.

35 (C) The lot contains an existing single-family dwelling.

36 (D) The accessory dwelling unit is either attached to the existing  
37 dwelling and located within the living area of the existing dwelling  
38 or detached from the existing dwelling and located on the same  
39 lot as the existing dwelling.

- 1 (E) The increased floor area of an attached accessory dwelling  
2 unit shall not exceed 50 percent of the existing living area.
- 3 (F) The total area of floorspace for a detached accessory  
4 dwelling unit shall not exceed 1,200 square feet.
- 5 (G) Requirements relating to height, setback, lot coverage,  
6 architectural review, site plan review, fees, charges, and other  
7 zoning requirements generally applicable to residential construction  
8 in the zone in which the property is located.
- 9 (H) Local building code requirements that apply to detached  
10 dwellings, as appropriate.
- 11 (I) Approval by the local health officer where a private sewage  
12 disposal system is being used, if required.
- 13 (2) No other local ordinance, policy, or regulation shall be the  
14 basis for the denial of a building permit or a use permit under this  
15 subdivision.
- 16 (3) This subdivision establishes the maximum standards that  
17 local agencies shall use to evaluate proposed accessory dwelling  
18 units on lots zoned for residential use that contain an existing  
19 single-family dwelling. No additional standards, other than those  
20 provided in this subdivision or subdivision (a), shall be utilized or  
21 imposed, except that a local agency may require an applicant for  
22 a permit issued pursuant to this subdivision to be an  
23 owner-occupant.
- 24 (4) No changes in zoning ordinances or other ordinances or any  
25 changes in the general plan shall be required to implement this  
26 subdivision. A local agency may amend its zoning ordinance or  
27 general plan to incorporate the policies, procedures, or other  
28 provisions applicable to the creation of accessory dwelling units  
29 if these provisions are consistent with the limitations of this  
30 subdivision.
- 31 (5) An accessory dwelling unit that conforms to this subdivision  
32 shall not be considered to exceed the allowable density for the lot  
33 upon which it is located, and shall be deemed to be a residential  
34 use that is consistent with the existing general plan and zoning  
35 designations for the lot. The accessory dwelling units shall not be  
36 considered in the application of any local ordinance, policy, or  
37 program to limit residential growth.
- 38 (c) A local agency may establish minimum and maximum unit  
39 size requirements for both attached and detached accessory  
40 dwelling units. No minimum or maximum size for an accessory

1 dwelling unit, or size based upon a percentage of the existing  
2 dwelling, shall be established by ordinance for either attached or  
3 detached dwellings that does not *otherwise* permit at least a  
4 500-foot accessory dwelling unit or a 500-foot efficiency unit to  
5 be constructed in compliance with local development standards.  
6 *Accessory dwelling units shall not be required to provide fire*  
7 *sprinklers if they are not required for the primary residence.*

8 (d) Parking requirements for accessory dwelling units shall not  
9 exceed one parking space per unit or per bedroom. These spaces  
10 may be provided as tandem parking on an existing driveway.  
11 Off-street parking shall be permitted in setback areas in locations  
12 determined by the local agency or through tandem parking, unless  
13 specific findings are made that parking in setback areas or tandem  
14 parking is not feasible based upon fire and life safety conditions.  
15 This subdivision shall not apply to a unit that complies with  
16 paragraph (1) of subdivision (b).

17 (e) *Notwithstanding subdivisions (a) to (d), inclusive, a local*  
18 *agency shall ministerially approve an application for a building*  
19 *permit to create within a single-family residential zone one*  
20 *accessory dwelling unit per single-family lot if the unit is contained*  
21 *within the existing space of a single-family residence or accessory*  
22 *structure, has independent exterior access from the existing*  
23 *residence, and the side and rear setbacks are sufficient for fire*  
24 *safety. Accessory dwelling units shall not be required to provide*  
25 *fire sprinklers if they are not required for the primary residence.*

26 (~~e~~)

27 (f) Fees charged for the construction of accessory dwelling units  
28 shall be determined in accordance with Chapter 5 (commencing  
29 with Section 66000). Accessory dwelling units shall not be  
30 considered new residential uses for the purposes of calculating  
31 private or public utility connection fees, including water and sewer  
32 service.

33 (~~f~~)

34 (g) This section does not limit the authority of local agencies  
35 to adopt less restrictive requirements for the creation of accessory  
36 dwelling units.

37 (~~g~~)

38 (h) Local agencies shall submit a copy of the ordinances adopted  
39 pursuant to subdivision (a) to the Department of Housing and  
40 Community Development within 60 days after adoption.

1     ~~(h)~~

2     *(i)* As used in this section, the following terms mean:

3     (1) “Living area,” means the interior habitable area of a dwelling  
4 unit including basements and attics but does not include a garage  
5 or any accessory structure.

6     (2) “Local agency” means a city, county, or city and county,  
7 whether general law or chartered.

8     (3) For purposes of this section, “neighborhood” has the same  
9 meaning as set forth in Section 65589.5.

10    (4) “Accessory dwelling unit” means an attached or a detached  
11 residential dwelling unit which provides complete independent  
12 living facilities for one or more persons. It shall include permanent  
13 provisions for living, sleeping, eating, cooking, and sanitation on  
14 the same parcel as the single-family dwelling is situated. An  
15 accessory dwelling unit also includes the following:

16    (A) An efficiency unit, as defined in Section 17958.1 of Health  
17 and Safety Code.

18    (B) A manufactured home, as defined in Section 18007 of the  
19 Health and Safety Code.

20     ~~(i)~~

21     *(j)* Nothing in this section shall be construed to supersede or in  
22 any way alter or lessen the effect or application of the California  
23 Coastal Act (Division 20 (commencing with Section 30000) of  
24 the Public Resources Code), except that the local government shall  
25 not be required to hold public hearings for coastal development  
26 permit applications for second units.

27    SEC. 6. Section 66412.2 of the Government Code is amended  
28 to read:

29    66412.2. This division shall not apply to the construction,  
30 financing, or leasing of dwelling units pursuant to Section 65852.1  
31 or accessory dwelling units pursuant to Section 65852.2, but this  
32 division shall be applicable to the sale or transfer, but not leasing,  
33 of those units.

34    SEC. 7. No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 a local agency or school district has the authority to levy service  
37 charges, fees, or assessments sufficient to pay for the program or

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

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