

AMENDED IN SENATE APRIL 24, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1279

Introduced by Assembly Member Bloom

February 21, 2019

An act to add Section ~~65913.6~~ 65913.6.5 to the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1279, as amended, Bloom. Planning and zoning: housing development: ~~high-resource~~ *high-opportunity* areas.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element. That law allows a development proponent to submit an application for a development that is subject to a specified streamlined, ministerial approval process not subject to a conditional use permit if the development satisfies certain objective planning standards, including that the development is (1) located in a locality determined by the Department of Housing and Community Development to have not met its share of the regional housing needs for the reporting period, and (2) subject to a requirement mandating a minimum percentage of below-market rate housing, as provided.

This bill would require the department to ~~designated~~ *designate* areas in this state as ~~high-resource~~ *high-opportunity* areas, as provided, by January 1, ~~2021~~, and every 5 years thereafter. *2022, in accordance with specified requirements and to update those designations within 6 months of the adoption of new Opportunity Maps by the California Tax Credit*

Allocation Committee. The bill would authorize a city or county to appeal the designation of an area within its jurisdiction as a ~~high-resource area during that 5-year period.~~ *high-opportunity area, as provided.* In any area designated as a ~~high-resource~~ *high-opportunity* area, the bill would require that a ~~housing residential~~ development project be a use by right, upon the request of a developer, ~~in any high-resource area designated pursuant to a use by right in certain parts of the high-resource area if those projects meet~~ *the project meets* specified requirements, including specified affordability requirements. For certain *residential* development projects where the initial sales price or initial rent exceeds the affordable housing cost or affordable rent to households with incomes equal to or less than ~~100%~~ *specified percentages* of the area median income, the bill would require the applicant ~~to agree to pay a fee equal to 10% of the difference between the actual initial sales price or initial rent and the sales price or rent that would be affordable;~~ *fee in an amount that would vary based on the size of the project and whether the units are ownership or rental units,* as provided. The bill would require the city or county to deposit the fee into a separate fund reserved for the construction or preservation of housing with an affordable housing cost or affordable rent to households with a household income less than 50% of the area median income. *The bill would provide that approval as a use by right of certain residential development projects under these provisions would expire after 2 years, unless the project receives a one-time, one-year extension, as provided.*

This bill would require that the applicant agree to, and the city and county ensure, the continued affordability of *rental* units affordable to lower income and very low income households for ~~45 years, for rented units, or 55 years, for owner-occupied years.~~ *55 years and that the affordability of ownership units to the initial occupant of those units, as provided.* The bill would provide that a *residential* development ~~housing~~ project is ineligible as a use by right under these provisions ~~if if, among other things, it would require the demolition of is proposed to be located on a site that has rental housing that is currently occupied by tenants, or has been had rental housing occupied by tenants within the past 10 years, or is located in certain areas.~~ The bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the

completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA does not apply to the ministerial approval of projects.

This bill, by requiring approval of certain *residential* development projects as a use by right, would expand the exemption for ministerial approval of projects under CEQA.

By adding to the duties of local planning officials with respect to approving certain development projects, 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 ~~65913.6~~65913.6.5 is added to the
2 Government Code, *immediately following Section 65913.4* to read:
3 ~~65913.6.~~
4 65913.6.5. (a) For purposes of this section:
5 (1) *“Density increase” means the percentage increase in the*
6 *total number of dwelling units in a residential development project*
7 *as allowed under this section over the otherwise maximum*
8 *allowable number of dwelling units under the applicable local*
9 *zoning ordinances.*
10 ~~(1)~~
11 (2) *“Department” means the Department of Housing and*
12 *Community Development.*
13 ~~(2) “High-resource~~
14 ~~(3) “High-opportunity area” means an area of high opportunity~~
15 ~~and low residential density that is not currently experiencing~~
16 ~~gentrification and displacement, and that is not at a high risk of~~
17 ~~future gentrification and displacement, designated by the~~
18 ~~department pursuant to subdivision (b).~~
19 ~~(3)~~

1 (4) “Infill site” means a site in which at least 75 percent of the
 2 perimeter of the site adjoins parcels that are developed with urban
 3 uses. For the purposes of this section, parcels that are only
 4 separated by a street or highway shall be considered to be adjoined.

5 (5) “*Residential development project*” means a multifamily
 6 development project that includes two or more residential dwelling
 7 units. A residential development project may include nonresidential
 8 uses as long as two-thirds of the total square footage of the project
 9 is devoted to residential uses.

10 (4)

11 (6) (A) “Use by right” means that the local government’s review
 12 of the *residential* development project under this section may not
 13 require a conditional use permit, planned unit development permit,
 14 or other discretionary local government review or approval that
 15 would constitute a “project” for purposes of Division 13
 16 (commencing with Section 21000) of the Public Resources Code.
 17 Any subdivision of the sites shall be subject to all laws, including,
 18 but not limited to, the local government ordinance implementing
 19 the Subdivision Map Act (Division 2 (commencing with Section
 20 66410)).

21 (B) A local ordinance may provide that “use by right” does not
 22 exempt the *residential* development project from design review.
 23 However, that design review shall not constitute a “project” for
 24 purposes of Division 13 (commencing with Section 21000) of the
 25 Public Resources Code.

26 (b) (1) No later than January 1, 2021, ~~and every five years~~
 27 ~~thereafter, 2022,~~ the department shall designate areas in this state
 28 as ~~high-resource~~ *high-opportunity* areas in accordance with this
 29 ~~section.~~ *subdivision*. In designating areas of the state as
 30 ~~high-resource~~ *high-opportunity* areas, the department shall
 31 collaborate with ~~the California Fair Housing Task Force, convened~~
 32 ~~by the department and the California Tax Credit Allocation~~
 33 ~~Committee,~~ *academic experts* and shall solicit input from members
 34 of the public and ensure participation from all economic segments
 35 of the community as well as members of those classes protected
 36 pursuant to Section 12955. ~~Except as provided in paragraph (2),~~
 37 ~~the designation of an area as a high-resource area shall remain~~
 38 ~~valid for five years.~~

39 (A) *The department shall consider any area designated as*
 40 *“highest resource” or “high resource” on the most recent*

1 *Opportunity Maps adopted by the California Tax Credit Allocation*
2 *Committee as a potential high-opportunity area.*

3 (B) *The department shall not designate a potential*
4 *high-opportunity area as a high-opportunity area if either of the*
5 *following conditions apply:*

6 (i) *The area is at risk of displacement of lower income*
7 *households and households of color, or has seen significant*
8 *displacement of lower income households and households of color*
9 *within the 10 years preceding the designation of high-opportunity*
10 *areas pursuant to this subdivision.*

11 (ii) *Low wage workers in the potential high-opportunity area*
12 *do not have significantly longer commutes to work than other low*
13 *wage workers within the region.*

14 (C) *In determining potential high-opportunity areas to be*
15 *excluded from the designation of high-opportunity areas pursuant*
16 *to this subdivision, the department shall seek input from*
17 *community-based organizations with experience working with*
18 *low-income communities and communities of color.*

19 (D) *The department shall update its designations of*
20 *high-opportunity areas pursuant to this subdivision within six*
21 *months of the adoption of new Opportunity Maps by the California*
22 *Tax Credit Allocation Committee.*

23 (2) (A) *A city or county that includes within its jurisdictional*
24 *boundaries an area designated as a ~~high-resource~~ high-opportunity*
25 *area pursuant to this section may appeal to the department to*
26 *remove that designation at any point during the five-year period*
27 *specified in paragraph (1) by submitting an appeal in a form and*
28 *manner prescribed by the department.*

29 (B) *The department may remove the designation of an area*
30 *designated as a high-opportunity area within a city or county that*
31 *submits an appeal pursuant to subparagraph (A) if it finds, based*
32 *on substantial evidence, that the city or county has adopted policies*
33 *after the area was designated as a ~~high-resource~~ area that meet the*
34 *following requirements:*

35 (i) *The policies permit development of higher density housing*
36 *in the ~~high-resource~~ high-opportunity area, in a manner*
37 *substantially similar to subdivision (c), than were allowed under*
38 *the city's or county's policies in effect at the time the area was*
39 *designated as a high-resource area.*

1 (ii) The policies are sufficient to accommodate a similar number
2 of housing units within the area and at similar levels of affordability
3 as would be allowed under subdivision (c).

4 (iii) The policies are consistent with the city’s or county’s
5 obligation to affirmatively further fair housing pursuant to Section
6 8899.50.

7 ~~(C) In considering an appeal of a city or county submitted~~
8 ~~pursuant to this subparagraph (A), the~~ *The* department shall consult
9 ~~with the California Fair Housing Task Force and shall issue a final~~
10 decision within 90 days of receiving the appeal.

11 (D) The decision of the department regarding an appeal pursuant
12 to this paragraph shall be final.

13 (c) Notwithstanding any inconsistent provision of a city’s or
14 county’s general plan, specific plan, zoning ordinance, or
15 regulation, upon the request of a developer a ~~housing residential~~
16 development project shall be a use by right in any ~~high-resource~~
17 *high-opportunity* area designated pursuant to this section if the
18 development satisfies ~~any of the following criteria:~~ *following:*

19 ~~(1) If the development project is located in any portion of the~~
20 ~~high-resource area where allowable uses are limited to~~
21 ~~single-family residential development:~~

22 ~~(A) The development project consists of no more than four~~
23 ~~residential units and has a height of no more than 20 feet.~~

24 ~~(B) Either of the following apply:~~

25 ~~(i) The initial sales price or initial rent for units in the~~
26 ~~development project does not exceed the amount of affordable~~
27 ~~housing cost or affordable rent, as specified in Sections 50052.5~~
28 ~~and 50053, respectively, of the Health and Safety Code, to~~
29 ~~households with a household income equal to or less than 100~~
30 ~~percent of the area median income, as determined by the~~
31 ~~department pursuant to Section 50093 of the Health and Safety~~
32 ~~Code.~~

33 ~~(ii) If the initial sales price or initial rent exceeds the limit~~
34 ~~specified in clause (i), the developer agrees to pay a fee to the~~
35 ~~county or city equal to 10 percent of the difference between the~~
36 ~~actual initial sales price or initial rent and the sales price or rent~~
37 ~~that would be affordable to households making up to 100 percent~~
38 ~~of the area median income, as provided in this subparagraph. The~~
39 ~~city or county shall deposit any fee received pursuant to this clause~~
40 ~~into a separate fund reserved for the construction or preservation~~

1 of housing with an affordable housing cost or affordable rent, as
2 specified in Sections 50052.5 and 50053, respectively, of the Health
3 and Safety Code, to households with a household income less than
4 50 percent of the area median income, as determined by the
5 department pursuant to Section 50093 of the Health and Safety
6 Code.

7 (C) The development project complies with all objective design
8 standard of the city or county. However, the city or county shall
9 not require the development project to comply with an objective
10 design standard that would preclude the development from
11 including up to four units or impose a maximum height limitation
12 of less than 20 feet.

13 (2) If the development project is located in any portion of the
14 high-resource area where residential use is an allowable use:

15 (A)

16 (1) The residential development project consists of no more
17 than ~~40~~ 50 residential units and has a height of no more than ~~30~~
18 feet. 40 feet, or the maximum height allowed under the applicable
19 local zoning ordinances, whichever is greater, and all of the
20 following apply:

21 (A) The residential development project is located on a site on
22 which residential use is an allowable use.

23 (B) The residential development project is located on a site that
24 is one-quarter acre in size or greater and is either adjacent to an
25 arterial road or located within a central business district.

26 (C) The residential development project meets or exceeds the
27 density standards described in subparagraph (B) of paragraph
28 (3) of subdivision (c) of Section 65583.2.

29 (C) (i) For

30 (D) If the residential development projects consisting project
31 consists of 10 or fewer units, either of the following apply:

32 (F)

33 (i) The initial sales price or initial rent for units in the residential
34 development project does not exceed the amount of affordable
35 housing cost or affordable rent, as specified in Sections 50052.5
36 and 50053, respectively, of the Health and Safety Code, to
37 households with a household income equal to or less than 100
38 percent of the area median income, as determined by the
39 department pursuant to Section 50093 of the Health and Safety
40 Code.

1 ~~(H)~~
2 (ii) If the initial sales price or initial rent exceeds the limit
3 specified in ~~subclause (I), the clause (i):~~
4 (I) For ownership units, the developer agrees to pay a fee to the
5 county or city equal to 10 percent of the difference between the
6 actual initial sales price ~~or initial rent~~ and the sales price ~~or rent~~
7 that would be affordable to ~~households~~ a household making up to
8 100 percent of the area median ~~income, as provided in this~~
9 ~~subparagraph. The income calculated as a four-person household~~
10 ~~paying no more than 30 percent of its income for housing costs.~~
11 (II) For rental units, the developer agrees to pay a fee to the
12 county or city equal to two times the difference between the actual
13 initial rent for the first 12 months of occupancy and the amount
14 of rent that would be affordable to a household making up to 60
15 percent of the area median income, calculated as a four-person
16 household paying no more than 30 percent of its income for
17 housing costs.
18 (III) The city or county shall deposit any fee received pursuant
19 to this subparagraph into a separate fund reserved for the
20 construction or preservation of housing with an affordable housing
21 cost or affordable rent, as specified in Sections 50052.5 and 50053,
22 respectively, of the Health and Safety Code, to households with a
23 household income less than 50 percent of the area median income,
24 as determined by the department pursuant to Section 50093 of the
25 Health and Safety Code.
26 ~~(ii) For development projects consisting of more than 10 units,~~
27 ~~at least 10 percent of the units in the development project have an~~
28 ~~affordable housing cost or affordable rent, as specified in Sections~~
29 ~~50052.5 and 50053, respectively, of the Health and Safety Code,~~
30 ~~to lower income households and at least 5 percent have an~~
31 ~~affordable housing cost or affordable rent to very low income~~
32 ~~households. However, if the city or county requires that the~~
33 ~~development project include a greater percentage of units that are~~
34 ~~affordable to lower income and very low income households, the~~
35 ~~development project shall comply with that greater requirement.~~
36 (E) If the residential development project consists of more than
37 10 units, the residential development project complies with the
38 following, as applicable:
39 (i) If the residential development project includes a density
40 increase of up to 50 percent, the residential development project

1 includes at least 5 percent of the units for extremely low income
2 households, as defined in Section 50106 of the Health and Safety
3 Code, and either 6 percent of the units for very low income
4 households, as defined in Section 50105 of the Health and Safety
5 Code, or 9 percent of the units for lower income households, as
6 defined in Section 50079.5 of the Health and Safety Code.

7 (ii) If the residential development project includes a density
8 increase of between 51 percent and 80 percent, the residential
9 development project includes at least 5 percent of the units for
10 extremely low income households, as defined in Section 50106 of
11 the Health and Safety Code, and either 9 percent of the units for
12 very low income households, as defined in Section 50105 of the
13 Health and Safety Code, or 12 percent of the units for lower income
14 households, as defined in Section 50079.5 of the Health and Safety
15 Code.

16 (iii) If the residential development project includes a density
17 increase of greater than 81 percent, the residential development
18 project includes at least 5 percent of the units for extremely low
19 income households, as defined in Section 50106 of the Health and
20 Safety Code, and either 12 percent of the units for very low income
21 households, as defined in Section 50105 of the Health and Safety
22 Code, or 17 percent of the units for lower income households, as
23 defined in Section 50079.5 of the Health and Safety Code.

24 (iv) If the city or county requires, as a condition of the
25 development of residential units, that a residential development
26 project include a certain percentage of units affordable to, and
27 occupied by, households with incomes that do not exceed the limits
28 for moderate income, lower income, very low income, or extremely
29 low income households specified in Sections 50079.5, 50093,
30 50105, and 50106 of the Health and Safety Code, all of the
31 following shall apply:

32 (I) The residential development project shall include the total
33 percentage of affordable units required pursuant to clause (iii) or
34 the local requirement, whichever is higher.

35 (II) The residential development project shall meet the deepest
36 income targeting in either policy, including at least 5 percent of
37 units affordable to extremely low income households and at least
38 the minimum percentage of units affordable to very low income
39 households required by the city or county, if any.

1 (III) *If the total percentage of affordable units required by the*
 2 *city or county is higher than that required pursuant to clause (iii)*
 3 *and the local policy does not require the inclusion of units*
 4 *affordable to extremely low income households, then the 5 percent*
 5 *of units affordable to extremely low income households required*
 6 *pursuant to clause (iii) shall be subtracted from the percentage of*
 7 *units required by the city or county at the highest affordability*
 8 *level.*

9 (IV) *The residential development project shall comply with all*
 10 *other provisions of the local requirement intended to promote*
 11 *comparability between the affordable units and other units in the*
 12 *project and achieve fair housing goals, including, but not limited*
 13 *to, requirements for equitable distribution in the project, minimum*
 14 *unit size or bedroom count, and type or quality of appliances,*
 15 *fixtures, or finishes.*

16 (D)

17 (F) *The residential development project complies with all*
 18 *objective design standards of the city or county. However, the city*
 19 *or county shall not require the residential development project to*
 20 *comply with an objective design standard that would preclude the*
 21 *development from including up to 40 50 units or impose a*
 22 *maximum height limitation of less than 30 40 feet.*

23 ~~(3) (A) If the development project is located in any portion of~~
 24 ~~the high resource area where residential or commercial uses are~~
 25 ~~an allowable use:~~

26 (i)

27 (2) *The residential development project consists of no more*
 28 *than 100 120 residential units and has a height of no more than 55*
 29 *feet. feet, or the maximum height allowed under the applicable*
 30 *local zoning ordinances, whichever is greater, and all of the*
 31 *following apply:*

32 (A) *The residential development project is located on a site that*
 33 *allows residential or commercial uses. If the development project*
 34 *is located on a site that does not allow residential uses, any*
 35 *rezoning required in conjunction with approval of the project shall*
 36 *not require any discretionary review or approval by the city or*
 37 *county that would constitute a “project” for purposes of Division*
 38 *13 (commencing with Section 21000) of the Public Resources*
 39 *Code.*

40 (ii)

1 (B) The *residential* development project is located on a site that
2 is one-half acre in size or greater and is either adjacent to an arterial
3 road or located within a central business district.

4 (iii)

5 (C) At least 25 percent of the units in the *residential*
6 development project have an affordable housing cost or affordable
7 rent, as specified in Sections 50052.5 and 50053, respectively, of
8 the Health and Safety Code, to lower income households and at
9 least 25 percent have an affordable housing cost or affordable rent
10 to very low income households.

11 (iv)

12 (D) The *residential* development project complies with all
13 objective design standards of the city or county. However, the city
14 or county shall not require the *residential* development project to
15 comply with an objective design standard that would preclude the
16 development from including up to ~~100~~ 120 units or impose a
17 maximum height limitation of less than 55 feet.

18 (E) *The residential development project meets or exceeds the*
19 *density standards described in subparagraph (B) of paragraph*
20 *(3) of subdivision (c) of Section 65583.2.*

21 (B)

22 (F) A *residential* development project that is a use by right
23 pursuant to this paragraph shall be eligible for a density ~~bonus or~~
24 ~~other bonus~~, *provided that the total density increase does not*
25 *exceed 80 percent, incentives or concessions if it includes units*
26 *within an affordable housing cost or affordable rent, as specified*
27 *in Sections 50052.5 and 50053, respectively, of the Health and*
28 *Safety Code, to lower income and very low income households in*
29 *excess of the minimum amount required by clause (ii) of*
30 *subparagraph (A); concessions, waivers or reductions of standards,*
31 *and parking ratios pursuant to Section 65915.*

32 ~~(4) An applicant for a development project that is a use by right~~
33 ~~pursuant to paragraph (1), (2), or (3) shall agree to, and the city or~~
34 ~~county shall ensure, the continued affordability of units included~~
35 ~~in the development project that are affordable to lower income and~~
36 ~~very low income households in accordance with the applicable~~
37 ~~affordability requirement under this subdivision for at least the~~
38 ~~following periods of time:~~

39 (A) Fifty-five years for units that are rented.

40 (B) Forty-five years for units that are owner-occupied.

1 (3) (A) *An applicant for a residential development project shall*
 2 *agree to, and the city or county shall ensure, the continued*
 3 *affordability of all extremely low, very low, and lower income*
 4 *rental units included pursuant to this subdivision for at least 55*
 5 *years. Rents shall be set at an affordable rent, as defined in Section*
 6 *50053 of the Health and Safety Code.*

7 (B) *An applicant for a residential development project shall*
 8 *agree to, and the city or county shall ensure, that the initial*
 9 *occupant of all ownership units included pursuant to this*
 10 *subdivision are persons and families of extremely low, very low,*
 11 *or low income, as applicable, and that the units are offered at an*
 12 *affordable housing cost, as defined in Section 50052.5 of the Health*
 13 *and Safety Code. The city or county shall enforce an equity sharing*
 14 *agreement consistent with the requirements of Section 65915,*
 15 *unless it is in conflict with the requirements of another public*
 16 *funding source or law.*

17 (4) *Affordable housing requirements under this subdivision*
 18 *shall be calculated as a percent of the total project. Any*
 19 *calculations resulting in a fraction shall be rounded up to the next*
 20 *whole number.*

21 (d) *A residential development project shall not be eligible for*
 22 *approval as a use by right pursuant to subdivision (c) if any of the*
 23 *following apply:*

24 (1) ~~The residential development project would require the~~
 25 ~~demolition of~~ *is proposed to be located on a site that has rental*
 26 *housing that is currently occupied by tenants or has been tenants,*
 27 *or had rental housing occupied by tenants within the past 10 years.*
 28 *years, or on a site on which an owner of residential real property*
 29 *has exercised their rights under Chapter 12.75 (commencing with*
 30 *Section 7060) of Division 7 of Title 1 to withdraw accommodations*
 31 *from rent or lease within the past 15 years.*

32 (2) *The residential development project is proposed to be located*
 33 *on a site that is any of the following:*

34 (A) *A coastal zone, as defined in Division 20 (commencing*
 35 *with Section 30000) of the Public Resources Code.*

36 (B) *Either prime farmland or farmland of statewide importance,*
 37 *as defined pursuant to United States Department of Agriculture*
 38 *land inventory and monitoring criteria, as modified for California,*
 39 *and designated on the maps prepared by the Farmland Mapping*
 40 *and Monitoring Program of the Department of Conservation, or*

1 land zoned or designated for agricultural protection or preservation
2 by a local ballot measure that was approved by the voters of that
3 jurisdiction.

4 (C) Wetlands, as defined in the United States Fish and Wildlife
5 Service Manual, Part 660 FW 2 (June 21, 1993).

6 (D) ~~Within a very high fire hazard severity zone, as determined
7 by the Department of Forestry and Fire Protection pursuant to
8 Section 51178, or within a high- or very high fire hazard severity
9 zone as indicated on maps adopted by the Department of Forestry
10 and Fire Protection pursuant to Section 4202 of the Public
11 Resources Code. This subparagraph does not apply to sites
12 excluded from the specified hazard zones by a local agency,
13 pursuant to subdivision (b) of Section 51179, or sites that have
14 adopted fire hazard mitigation measures pursuant to existing
15 building standards or state fire mitigation measures applicable to
16 the development. zone.~~

17 (E) A hazardous waste site that is listed pursuant to Section
18 65962.5 or a hazardous waste site designated by the Department
19 of Toxic Substances Control pursuant to Section 25356 of the
20 Health and Safety Code, unless the Department of Toxic
21 Substances Control has cleared the site for residential use or
22 residential mixed uses.

23 (F) Within a delineated earthquake fault zone as determined by
24 the State Geologist in any official maps published by the State
25 Geologist, unless the development complies with applicable seismic
26 protection building code standards adopted by the California
27 Building Standards Commission under the California Building
28 Standards Law (Part 2.5 (commencing with Section 18901) of
29 Division 13 of the Health and Safety Code), and by any local
30 building department under Chapter 12.2 (commencing with Section
31 8875) of Division 1 of Title 2.

32 (G) Within a special flood hazard area subject to inundation by
33 the 1 percent annual chance flood (100-year flood) as determined
34 by the Federal Emergency Management Agency in any official
35 maps published by the Federal Emergency Management Agency.
36 If a development proponent is able to satisfy all applicable federal
37 qualifying criteria in order to provide that the site satisfies this
38 subparagraph and is otherwise eligible for streamlined approval
39 under this section, a local government shall not deny the application
40 on the basis that the development proponent did not comply with

1 any additional permit requirement, standard, or action adopted by
2 that local government that is applicable to that site. A development
3 may be located on a site described in this subparagraph if either
4 of the following are met:

5 (i) The site has been subject to a Letter of Map Revision
6 prepared by the Federal Emergency Management Agency and
7 issued to the local jurisdiction.

8 (ii) The site meets Federal Emergency Management Agency
9 requirements necessary to meet minimum flood plain management
10 criteria of the National Flood Insurance Program pursuant to Part
11 59 (commencing with Section 59.1) and Part 60 (commencing
12 with Section 60.1) of Subchapter B of Chapter I of Title 44 of the
13 Code of Federal Regulations.

14 (H) Within a regulatory floodway as determined by the Federal
15 Emergency Management Agency in any official maps published
16 by the Federal Emergency Management Agency, unless the
17 development has received a no-rise certification in accordance
18 with Section 60.3(d)(3) of Title 44 of the Code of Federal
19 Regulations. If a development proponent is able to satisfy all
20 applicable federal qualifying criteria in order to provide that the
21 site satisfies this subparagraph and is otherwise eligible for
22 streamlined approval under this section, a local government shall
23 not deny the application on the basis that the development
24 proponent did not comply with any additional permit requirement,
25 standard, or action adopted by that local government that is
26 applicable to that site.

27 (I) Lands identified for conservation in an adopted natural
28 community conservation plan pursuant to the Natural Community
29 Conservation Planning Act (Chapter 10 (commencing with Section
30 2800) of Division 3 of the Fish and Game Code), habitat
31 conservation plan pursuant to the federal Endangered Species Act
32 of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural
33 resource protection plan.

34 (J) Habitat for protected species identified as candidate,
35 sensitive, or species of special status by state or federal agencies,
36 fully protected species, or species protected by the federal
37 Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.),
38 the California Endangered Species Act (Chapter 1.5 (commencing
39 with Section 2050) of Division 3 of the Fish and Game Code), or

1 the Native Plant Protection Act (Chapter 10 (commencing with
2 Section 1900) of Division 2 of the Fish and Game Code).

3 (K) Lands under conservation easement.

4 (3) The *residential* development project is proposed to be located
5 on a site that is not an infill site.

6 (4) *The residential development project would require the*
7 *demolition of structure that was listed on a national, state, or local*
8 *historic register before the submittal of the development*
9 *application.*

10 (e) This section shall not be construed to prevent a developer
11 from submitting an application for a development permit in a
12 ~~high-resource~~ *high-opportunity* area under the county's or city's
13 general plan, specific plan, zoning ordinance, or regulation for a
14 project that does not meet the criteria specified in subdivisions (c)
15 and (d).

16 (f) *Any approval for a residential development project meeting*
17 *the requirements of paragraph (1) or (2) of subdivision (c) shall*
18 *expire after two years, except that a project may receive a one-time,*
19 *one-year extension if the development proponent provides*
20 *documentation that there has been significant progress toward*
21 *getting the development construction ready, including, but not*
22 *limited to, filing a building permit application.*

23 (f)

24 (g) The Legislature finds and declares that ensuring residential
25 development at greater density in ~~high-resource~~ *high-opportunity*
26 areas of this state is a matter of statewide concern and is not a
27 municipal affair as that term is used in Section 5 of Article XI of
28 the California Constitution. Therefore, this section applies to all
29 cities, including charter cities.

30 SEC. 2. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 a local agency or school district has the authority to levy service
33 charges, fees, or assessments sufficient to pay for the program or
34 level of service mandated by this act, within the meaning of Section
35 17556 of the Government Code.