

AMENDED IN SENATE MAY 28, 2025

AMENDED IN SENATE MAY 13, 2025

AMENDED IN SENATE APRIL 23, 2025

AMENDED IN SENATE APRIL 9, 2025

AMENDED IN SENATE MARCH 5, 2025

## SENATE BILL

**No. 79**

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### Introduced by Senator Wiener

January 15, 2025

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An act to amend Section 54221 of, and to add Chapter 4.1.5 (commencing with Section 65912.155) to Division 1 of Title 7 of, of the Government Code, and to add Section 21080.26.5 to the Public Resources Code, relating to land use.

#### LEGISLATIVE COUNSEL'S DIGEST

SB 79, as amended, Wiener. ~~Local government land: public transit use: housing~~ *Housing* development: transit-oriented development. *development: California Environmental Quality Act: public transit agency land.*

(1) ~~Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines "surplus land" for these purposes to mean land owned in fee simple by any local agency for which the local agency's governing body takes formal action declaring that the land is surplus and is not necessary for the agency's use. Existing law defines "agency's use" for these purposes to include land that is being used for agency work or operations, as provided. Existing law exempts from this definition of "agency's use" certain commercial or industrial uses, except that in the case of a local agency that is a district,~~

~~except a local agency whose primary purpose or mission is to supply the public with a transportation system, “agency’s use” may include commercial or industrial uses or activities, as specified.~~

~~This bill would additionally include land leased to support public transit operations in the definition of “agency’s use,” as described above. The bill would also revise the definition of “agency’s use” with respect to commercial or industrial uses to instead provide that a district or a public transit operator may use land for commercial or industrial uses or activities, as described above.~~

(2)

(1) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a land use element and a housing element. Existing law requires that the land use element designate the proposed general distribution and general location and extent of the uses of the land, as specified. Existing law requires that the housing element consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing, as specified. Existing law requires that the housing element include, among other things, an assessment of housing needs and an inventory of resources and constraints that are relevant to the meeting of these needs, including an inventory of land suitable for residential development, as provided. Existing law, for the 4th and subsequent revisions of the housing element, requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as specified, and requires the appropriate council of local governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each locality in the region.

Existing law, the Housing Accountability Act, among other things, requires a local agency that proposes to disapprove a housing development project, as defined, or to impose a condition that the project be developed at a lower density to base its decision on written findings supported by a preponderance of the evidence that specified conditions exist if that project complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that

the application was deemed complete. The act authorizes the applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization to bring an action to enforce the act's provisions, as provided, and provides for penalties if the court finds that the local agency is in violation of specified provisions of the act.

This bill would require that a housing development project, as defined, proposed within a specified distance of a transit-oriented development (TOD) stop, as defined, be an allowed use on any site zoned for residential, mixed, or commercial development, ~~or a qualified light industrial site, as defined,~~ if the development complies with applicable requirements, as specified. The bill would establish requirements concerning height limits, density, and floor area ratio in accordance with a development's proximity to specified tiers of TOD stops, as provided. The bill would provide that, for the purposes of the Housing Accountability Act, a proposed development consistent with the applicable standards of these provisions shall be deemed consistent, compliant, and in conformity with prescribed requirements, as specified. The bill would provide that a local government that denies a project meeting the requirements of these provisions located in a high-resource area, as defined, would be presumed in violation of the Housing Accountability Act, as specified, and immediately liable for penalties, as provided. The bill would specify that a development proposed pursuant to these provisions is eligible for streamlined, ministerial approval pursuant to specified law, except that the bill would exempt a project under these provisions from specified requirements, and would specify that the project is required to comply with certain affordability requirements, under that law.

This bill would require a proposed development to comply with specified requirements under existing law relating to the demolition of existing residential units and to include housing for lower income households, as specified. The bill would also authorize a transit agency to adopt objective standards for both residential and commercial development proposed pursuant to these provisions if the development would be constructed on land owned by the transit agency or on which the transit agency has a permanent operating easement, if the land is within  $\frac{1}{2}$  mile of a TOD stop and the objective standards allow for the same or greater development intensity as allowed by local standards or applicable state law.

This bill would authorize a local government to enact a local TOD alternative plan as an amendment to the housing element and land use element, and would exempt a local government that has enacted a local TOD alternative plan from the above-specified provisions. The bill would require the plan to maintain at least the same total increase in feasible zoned capacity, in terms of both total units and residential floor area, as provided by these provisions across all TOD zones, as defined. The bill would require a local government, except as provided, to submit the draft plan to the department and would require the department to assess the plan and recommend changes to remove unnecessary constraints on housing.

This bill would require the Department of Housing and Community Development to oversee compliance with the bill's provisions, including, but not limited to, promulgating specified standards relating to the inventory of land included within a county's or city's housing element. The bill would authorize the regional council of governments or metropolitan planning organization to create a map of designated TOD stops and zones, which would have a rebuttable presumption of validity. The bill would authorize a local government to enact an ordinance to make its zoning code consistent with these provisions, as provided. The bill would require the local government to submit a copy of this ordinance to the department within 60 days of enactment and would require the department to review the ordinance for compliance, as specified. If the department finds an ordinance is out of compliance, and the local government does not take specified steps to address compliance, the bill would require the department to notify the local government in writing and authorize the department to notify the Attorney General, as provided.

This bill would define various terms for its purposes and make related findings and declarations.

This bill would include findings that 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.

(3)

(2) Existing law, 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 also requires

a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA, until January 1, 2030, exempts from its requirements certain transportation-related projects if specified requirements are met, as provided. CEQA includes within these exempt transportation-related projects a public project for the institution or increase of bus rapid transit, bus, or light rail service, or other passenger rail service, that will be exclusively used by low-emission or zero-emission vehicles, on existing public rights-of-way or existing highway rights-of-way.

This bill would exempt from CEQA a public or private residential, commercial, or mixed-used project that, at the time the project application is filed, is located entirely or principally on land owned by a public transit agency, or fully or partially encumbered by an existing operating easement in favor of a public transit agency, and meets specified requirements. The bill would provide that, for a project that requires the construction of new passenger rail storage and maintenance facilities at a publicly or privately owned offsite location distinct from the principal project site, that project would be considered a wholly separate project from the project described in these provisions and shall not be exempt from CEQA.

(3) *This bill would provide that the provisions of this bill are severable.*

(4) 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 54221 of the Government Code is~~  
2     ~~amended to read:~~

1     ~~54221. As used in this article, the following definitions shall~~  
2     ~~apply:~~

3     ~~(a) (1) “Local agency” means every city, whether organized~~  
4     ~~under general law or by charter, county, city and county, district,~~  
5     ~~including school, sewer, water, utility, and local and regional park~~  
6     ~~districts of any kind or class, joint powers authority, successor~~  
7     ~~agency to a former redevelopment agency, housing authority, or~~  
8     ~~other political subdivision of this state and any instrumentality~~  
9     ~~thereof that is empowered to acquire and hold real property.~~

10    ~~(2) The Legislature finds and declares that the term “district”~~  
11    ~~as used in this article includes all districts within the state,~~  
12    ~~including, but not limited to, all special districts, sewer, water,~~  
13    ~~utility, and local and regional park districts, and any other political~~  
14    ~~subdivision of this state that is a district, and therefore the changes~~  
15    ~~in paragraph (1) made by the act adding this paragraph that specify~~  
16    ~~that the provisions of this article apply to all districts, including~~  
17    ~~school, sewer, water, utility, and local and regional park districts~~  
18    ~~of any kind or class, are declaratory of, and not a change in,~~  
19    ~~existing law.~~

20    ~~(b) (1) “Surplus land” means land owned in fee simple by any~~  
21    ~~local agency for which the local agency’s governing body takes~~  
22    ~~formal action in a regular public meeting declaring that the land~~  
23    ~~is surplus and is not necessary for the agency’s use. Land shall be~~  
24    ~~declared either “surplus land” or “exempt surplus land,” as~~  
25    ~~supported by written findings, before a local agency may take any~~  
26    ~~action to dispose of it consistent with an agency’s policies or~~  
27    ~~procedures. A local agency, on an annual basis, may declare~~  
28    ~~multiple parcels as “surplus land” or “exempt surplus land.”~~

29    ~~(2) “Surplus land” includes land held in the Community~~  
30    ~~Redevelopment Property Trust Fund pursuant to Section 34191.4~~  
31    ~~of the Health and Safety Code and land that has been designated~~  
32    ~~in the long-range property management plan approved by the~~  
33    ~~Department of Finance pursuant to Section 34191.5 of the Health~~  
34    ~~and Safety Code, either for sale or for future development, but~~  
35    ~~does not include any specific disposal of land to an identified entity~~  
36    ~~described in the plan.~~

37    ~~(3) Nothing in this article prevents a local agency from obtaining~~  
38    ~~fair market value for the disposition of surplus land consistent with~~  
39    ~~Section 54226.~~

1     ~~(4) Notwithstanding paragraph (1), a local agency is not required~~  
2     ~~to make a declaration at a public meeting for land that is “exempt~~  
3     ~~surplus land” pursuant to subparagraph (A), (B), (E), (K), (L), or~~  
4     ~~(Q) of paragraph (1) of subdivision (f) if the local agency identifies~~  
5     ~~the land in a notice that is published and available for public~~  
6     ~~comment, including notice to the entities identified in subdivision~~  
7     ~~(a) of Section 54222, at least 30 days before the exemption takes~~  
8     ~~effect.~~

9     ~~(e) (1) Except as provided in paragraph (2), “agency’s use”~~  
10    ~~shall include, but not be limited to, land that is being used, or is~~  
11    ~~planned to be used pursuant to a written plan adopted by the local~~  
12    ~~agency’s governing board, for agency work or operations,~~  
13    ~~including, but not limited to, utility sites, property owned by a port~~  
14    ~~that is used to support logistics uses, watershed property, land~~  
15    ~~being used for conservation purposes, land for demonstration,~~  
16    ~~exhibition, or educational purposes related to greenhouse gas~~  
17    ~~emissions, sites for broadband equipment or wireless facilities,~~  
18    ~~land leased to support public transit operations, and buffer sites~~  
19    ~~near sensitive governmental uses, including, but not limited to,~~  
20    ~~waste disposal sites, and wastewater treatment plants. “Agency’s~~  
21    ~~use” by a local agency that is a district shall also include land~~  
22    ~~disposed for uses described in subparagraph (B) of paragraph (2).~~

23    ~~(2) (A) “Agency’s use” shall not include commercial or~~  
24    ~~industrial uses or activities, including nongovernmental retail,~~  
25    ~~entertainment, or office development. Property disposed of for the~~  
26    ~~sole purpose of investment or generation of revenue shall not be~~  
27    ~~considered necessary for the agency’s use.~~

28    ~~(B) In the case of a local agency that is a district or a public~~  
29    ~~transit operator, “agency’s use” may include commercial or~~  
30    ~~industrial uses or activities, including nongovernmental retail,~~  
31    ~~entertainment, or office development or be for the sole purpose of~~  
32    ~~investment or generation of revenue if the agency’s governing~~  
33    ~~body takes action in a public meeting declaring that the use of the~~  
34    ~~site will do one of the following:~~

35    ~~(i) Directly further the express purpose of agency work or~~  
36    ~~operations.~~

37    ~~(ii) Be expressly authorized by a statute governing the local~~  
38    ~~agency, provided the district complies with Section 54233.5 if~~  
39    ~~applicable.~~

40    ~~(d) (1) “Dispose” means either of the following:~~

1     ~~(A) The sale of the surplus land.~~

2     ~~(B) The entering of a lease for surplus land, which is for a term~~  
3 ~~longer than 15 years, inclusive of any extension or renewal options~~  
4 ~~included in the terms of the initial lease, entered into on or after~~  
5 ~~January 1, 2024.~~

6     ~~(2) “Dispose” shall not mean either of the following:~~

7     ~~(A) The entering of a lease for surplus land, which is for a term~~  
8 ~~of 15 years or less, inclusive of any extension or renewal options~~  
9 ~~included in the terms of the initial lease.~~

10    ~~(B) The entering of a lease for surplus land on which no~~  
11 ~~development or demolition will occur, regardless of the term of~~  
12 ~~the lease.~~

13    ~~(c) “Open-space purposes” means the use of land for public~~  
14 ~~recreation, enjoyment of scenic beauty, or conservation or use of~~  
15 ~~natural resources.~~

16    ~~(f) (1) Except as provided in paragraph (2), “exempt surplus~~  
17 ~~land” means any of the following:~~

18    ~~(A) Surplus land that is transferred pursuant to Section 25539.4~~  
19 ~~or 37364.~~

20    ~~(B) Surplus land that is less than one-half acre in area and is~~  
21 ~~not contiguous to land owned by a state or local agency that is~~  
22 ~~used for open-space or low- and moderate-income housing~~  
23 ~~purposes.~~

24    ~~(C) Surplus land that a local agency is exchanging for another~~  
25 ~~property necessary for the agency’s use. “Property” may include~~  
26 ~~easements necessary for the agency’s use.~~

27    ~~(D) Surplus land that a local agency is transferring to another~~  
28 ~~local, state, or federal agency, or to a third-party intermediary for~~  
29 ~~future dedication for the receiving agency’s use, or to a federally~~  
30 ~~recognized California Indian tribe. If the surplus land is transferred~~  
31 ~~to a third-party intermediary, the receiving agency’s use must be~~  
32 ~~contained in a legally binding agreement at the time of transfer to~~  
33 ~~the third-party intermediary.~~

34    ~~(E) Surplus land that is a former street, right-of-way, or~~  
35 ~~easement, and is conveyed to an owner of an adjacent property.~~

36    ~~(F) (i) Surplus land that is to be developed for a housing~~  
37 ~~development, which may have ancillary commercial ground floor~~  
38 ~~uses, that restricts 100 percent of the residential units to persons~~  
39 ~~and families of low or moderate income, with at least 75 percent~~  
40 ~~of the residential units restricted to lower income households, as~~



1 defined in Section 50079.5 of the Health and Safety Code, with  
2 an affordable sales price or an affordable rent, as defined in Section  
3 50052.5 or 50053 of the Health and Safety Code, for 55 years for  
4 rental housing, 45 years for ownership housing, and 50 years for  
5 rental or ownership housing located on tribal trust lands, unless a  
6 local ordinance or a federal, state, or local grant, tax credit, or other  
7 project financing requires a longer period of affordability, and in  
8 no event shall the maximum affordable sales price or rent level be  
9 higher than 20 percent below the median market rents or sales  
10 prices for the neighborhood in which the site is located.

11 (ii) The requirements of clause (i) shall be contained in a  
12 covenant or restriction recorded against the surplus land at the time  
13 of sale that shall run with the land and be enforceable against any  
14 owner who violates the covenant or restriction and each successor  
15 in interest who continues the violation.

16 (G) (i) Surplus land that is subject to a local agency's open,  
17 competitive solicitation or that is put to open, competitive bid by  
18 a local agency, provided that all entities identified in subdivision  
19 (a) of Section 54222 will be invited to participate in the process,  
20 for a housing or a mixed-use development that is more than one  
21 acre and less than 10 acres in area, consisting of either a single  
22 parcel, or two or more adjacent or non-adjacent parcels combined,  
23 that includes not less than 300 residential units, and that restricts  
24 at least 25 percent of the residential units to lower income  
25 households, as defined in Section 50079.5 of the Health and Safety  
26 Code, with an affordable sales price or an affordable rent, as  
27 defined in Sections 50052.5 and 50053 of the Health and Safety  
28 Code, for 55 years for rental housing, 45 years for ownership  
29 housing, and 50 years for rental or ownership housing located on  
30 tribal trust lands, unless a local ordinance or a federal, state, or  
31 local grant, tax credit, or other project financing requires a longer  
32 period of affordability.

33 (ii) The requirements of clause (i) shall be contained in a  
34 covenant or restriction recorded against the surplus land at the time  
35 of sale that shall run with the land and be enforceable against any  
36 owner who violates the covenant or restriction and each successor  
37 in interest who continues the violation.

38 (H) (i) Surplus land totaling 10 or more acres, consisting of  
39 either a single parcel, or two or more adjacent or non-adjacent  
40 parcels combined for disposition to one or more buyers pursuant

1 to a plan or ordinance adopted by the legislative body of the local  
2 agency, or a state statute. That surplus land shall be subject to a  
3 local agency's open, competitive solicitation process or put out to  
4 open, competitive bid by a local agency, provided that all entities  
5 identified in subdivision (a) of Section 54222 will be invited to  
6 participate in the process for a housing or mixed-use development.

7 (ii) The aggregate development shall include the greater of the  
8 following:

9 (I) Not less than 300 residential units.

10 (II) A number of residential units equal to 10 times the number  
11 of acres of the surplus land or 10,000 residential units, whichever  
12 is less.

13 (iii) At least 25 percent of the residential units shall be restricted  
14 to lower income households, as defined in Section 50079.5 of the  
15 Health and Safety Code, with an affordable sales price or an  
16 affordable rent pursuant to Sections 50052.5 and 50053 of the  
17 Health and Safety Code, for a minimum of 55 years for rental  
18 housing, 45 years for ownership housing, and 50 years for rental  
19 or ownership housing located on tribal trust lands, unless a local  
20 ordinance or a federal, state, or local grant, tax credit, or other  
21 project financing requires a longer period of affordability.

22 (iv) If nonresidential development is included in the  
23 development pursuant to this subparagraph, at least 25 percent of  
24 the total planned units affordable to lower income households shall  
25 be made available for lease or sale and permitted for use and  
26 occupancy before or at the same time with every 25 percent of  
27 nonresidential development made available for lease or sale and  
28 permitted for use and occupancy.

29 (v) A violation of this subparagraph is subject to the penalties  
30 described in Section 54230.5. Those penalties are in addition to  
31 any remedy a court may order for violation of this subparagraph.  
32 A local agency shall only dispose of land pursuant to this  
33 subparagraph through a disposition and development agreement  
34 that includes an indemnification clause that provides that if an  
35 action occurs after disposition violates this subparagraph, the  
36 person or entity that acquired the property shall be liable for the  
37 penalties.

38 (vi) The requirements of clauses (i) to (v), inclusive, shall be  
39 contained in a covenant or restriction recorded against the surplus  
40 land at the time of sale that shall run with the land and be

1 enforceable against any owner who violates the covenant or  
2 restriction and each successor in interest who continues the  
3 violation.

4 (I) A mixed-use development, which may include more than  
5 one publicly owned parcel, that meets all of the following  
6 conditions:

7 (i) The development restricts at least 25 percent of the residential  
8 units to lower income households, as defined in Section 50079.5  
9 of the Health and Safety Code, with an affordable sales price or  
10 an affordable rent, as defined in Sections 50052.5 and 50053 of  
11 the Health and Safety Code, for 55 years for rental housing, 45  
12 years for ownership housing, and 50 years for rental or ownership  
13 housing located on tribal trust lands, unless a local ordinance or a  
14 federal, state, or local grant, tax credit, or other project financing  
15 requires a longer period of affordability.

16 (ii) At least 50 percent of the square footage of the new  
17 construction associated with the development is designated for  
18 residential use.

19 (iii) The development is not located in an urbanized area, as  
20 defined in Section 21094.5 of the Public Resources Code.

21 (J) (i) Surplus land that is subject to a valid legal restriction  
22 that is not imposed by the local agency and that makes housing  
23 prohibited, unless there is a feasible method to satisfactorily  
24 mitigate or avoid the prohibition on the site. A declaration of  
25 exemption pursuant to this subparagraph shall be supported by  
26 documentary evidence establishing the valid legal restriction. For  
27 the purposes of this section, “documentary evidence” includes,  
28 but is not limited to, a contract, agreement, deed restriction, statute,  
29 regulation, or other writing that documents the valid legal  
30 restriction.

31 (ii) Valid legal restrictions include, but are not limited to, all of  
32 the following:

33 (I) Existing constraints under ownership rights or contractual  
34 rights or obligations that prevent the use of the property for  
35 housing, if the rights or obligations were agreed to prior to  
36 September 30, 2019.

37 (II) Conservation or other easements or encumbrances that  
38 prevent housing development.

1     ~~(III) Existing leases, or other contractual obligations or~~  
2     ~~restrictions, if the terms were agreed to prior to September 30,~~  
3     ~~2019.~~

4     ~~(IV) Restrictions imposed by the source of funding that a local~~  
5     ~~agency used to purchase a property, provided that both of the~~  
6     ~~following requirements are met:~~

7         ~~(ia) The restrictions limit the use of those funds to purposes~~  
8         ~~other than housing.~~

9         ~~(ib) The proposed disposal of surplus land meets a use consistent~~  
10        ~~with that purpose.~~

11        ~~(iii) Valid legal restrictions that would make housing prohibited~~  
12        ~~do not include either of the following:~~

13            ~~(I) An existing nonresidential land use designation on the surplus~~  
14            ~~land.~~

15            ~~(II) Covenants, restrictions, or other conditions on the property~~  
16            ~~rendered void and unenforceable by any other law, including, but~~  
17            ~~not limited to, Section 714.6 of the Civil Code.~~

18            ~~(iv) Feasible methods to mitigate or avoid a valid legal~~  
19            ~~restriction on the site do not include a requirement that the local~~  
20            ~~agency acquire additional property rights or property interests~~  
21            ~~belonging to third parties.~~

22     ~~(K) Surplus land that was granted by the state in trust to a local~~  
23     ~~agency or that was acquired by the local agency for trust purposes~~  
24     ~~by purchase or exchange, and for which disposal of the land is~~  
25     ~~authorized or required subject to conditions established by statute.~~

26     ~~(L) Land that is subject to either of the following, unless~~  
27     ~~compliance with this article is expressly required:~~

28         ~~(i) Section 17388, 17515, 17536, 81192, 81397, 81399, 81420,~~  
29         ~~or 81422 of the Education Code.~~

30         ~~(ii) Part 14 (commencing with Section 53570) of Division 31~~  
31         ~~of the Health and Safety Code.~~

32     ~~(M) Surplus land that is a former military base that was~~  
33     ~~conveyed by the federal government to a local agency, and is~~  
34     ~~subject to Article 8 (commencing with Section 33492.125) of~~  
35     ~~Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code,~~  
36     ~~provided that all of the following conditions are met:~~

37         ~~(i) The former military base has an aggregate area greater than~~  
38         ~~five acres, is expected to include a mix of residential and~~  
39         ~~nonresidential uses, and is expected to include no fewer than 1,400~~

1 residential units upon completion of development or redevelopment  
2 of the former military base.

3 (ii) ~~The affordability requirements for residential units shall be~~  
4 ~~governed by a settlement agreement entered into prior to September~~  
5 ~~1, 2020. Furthermore, at least 25 percent of the initial 1,400~~  
6 ~~residential units developed shall be restricted to lower income~~  
7 ~~households, as defined in Section 50079.5 of the Health and Safety~~  
8 ~~Code, with an affordable sales price or an affordable rent, as~~  
9 ~~defined in Sections 50052.5 and 50053 of the Health and Safety~~  
10 ~~Code, for 55 years for rental housing, 45 years for ownership~~  
11 ~~housing, and 50 years for rental or ownership housing located on~~  
12 ~~tribal trust lands, unless a local ordinance or a federal, state, or~~  
13 ~~local grant, tax credit, or other project financing requires a longer~~  
14 ~~period of affordability.~~

15 (iii) ~~Before disposition of the surplus land, the agency adopts~~  
16 ~~written findings that the land is exempt surplus land pursuant to~~  
17 ~~this subparagraph.~~

18 (iv) ~~Before disposition of the surplus land, the recipient has~~  
19 ~~negotiated a project labor agreement consistent with the local~~  
20 ~~agency's project stabilization agreement resolution, as adopted on~~  
21 ~~February 2, 2021, and any succeeding ordinance, resolution, or~~  
22 ~~policy, regardless of the length of the agreement between the local~~  
23 ~~agency and the recipient.~~

24 (v) ~~The agency includes in the annual report required by~~  
25 ~~paragraph (2) of subdivision (a) of Section 65400 the status of~~  
26 ~~development of residential units on the former military base,~~  
27 ~~including the total number of residential units that have been~~  
28 ~~permitted and what percentage of those residential units are~~  
29 ~~restricted for persons and families of low or moderate income, or~~  
30 ~~lower income households, as defined in Section 50079.5 of the~~  
31 ~~Health and Safety Code.~~

32 ~~A violation of this subparagraph is subject to the penalties~~  
33 ~~described in Section 54230.5. Those penalties are in addition to~~  
34 ~~any remedy a court may order for violation of this subparagraph~~  
35 ~~or the settlement agreement.~~

36 (N) ~~Real property that is used by a district for an agency's use~~  
37 ~~expressly authorized in subdivision (c).~~

38 (O) ~~Land that has been transferred before June 30, 2019, by the~~  
39 ~~state to a local agency pursuant to Section 32667 of the Streets~~  
40 ~~and Highways Code and has a minimum planned residential density~~

1 of at least 100 dwelling units per acre, and includes 100 or more  
2 residential units that are restricted to persons and families of low  
3 or moderate income, with an affordable sales price or an affordable  
4 rent, as defined in Sections 50052.5 and 50053 of the Health and  
5 Safety Code, for 55 years for rental housing, 45 years for ownership  
6 housing, and 50 years for rental or ownership housing located on  
7 tribal trust lands, unless a local ordinance or a federal, state, or  
8 local grant, tax credit, or other project financing requires a longer  
9 period of affordability. For purposes of this subparagraph, not  
10 more than 20 percent of the affordable units may be restricted to  
11 persons and families of moderate income and at least 80 percent  
12 of the affordable units must be restricted to lower income  
13 households as defined in Section 50079.5 of the Health and Safety  
14 Code.

15 (P) (i) Land that meets the following conditions:

16 (I) Land that is subject to a sectional planning area document  
17 that meets both of the following:

18 (ia) The sectional planning area was adopted prior to January  
19 1, 2019.

20 (ib) The sectional planning area document is consistent with  
21 county and city general plans applicable to the land.

22 (II) The land identified in the adopted sectional planning area  
23 document was dedicated prior to January 1, 2019.

24 (III) On January 1, 2019, the parcels on the land met at least  
25 one of the following conditions:

26 (ia) The land was subject to an irrevocable offer of dedication  
27 of fee interest requiring the land to be used for a specified purpose.

28 (ib) The land was acquired through a land exchange subject to  
29 a land offer agreement that grants the land's original owner the  
30 right to repurchase the land acquired by the local agency pursuant  
31 to the agreement if the land will not be developed in a manner  
32 consistent with the agreement.

33 (ic) The land was subject to a grant deed specifying that the  
34 property shall be used for educational uses and limiting other types  
35 of uses allowed on the property.

36 (IV) At least 25 percent of the units are dedicated to lower  
37 income households, as defined in Section 50079.5 of the Health  
38 and Safety Code, at an affordable rent, as defined by Section 50053  
39 of the Health and Safety Code, or an affordable housing cost, as  
40 defined by Section 50052.5 of the Health and Safety Code, and

1 subject to a recorded deed restriction for a period of 55 years for  
2 rental units and 45 years for owner-occupied units, unless a local  
3 ordinance or a federal, state, or local grant, tax credit, or other  
4 project financing requires a longer period of affordability.

5 (V) The land is developed at an average density of at least 10  
6 units per acre, calculated with respect to the entire sectional  
7 planning area.

8 (VI) No more than 25 percent of the nonresidential square  
9 footage identified in the sectional planning area document receives  
10 its first certificate of occupancy before at least 25 percent of the  
11 residential square footage identified in the sectional planning area  
12 document has received its first certificate of occupancy.

13 (VII) No more than 50 percent of the nonresidential square  
14 footage identified in the sectional planning area document receives  
15 its first certificate of occupancy before at least 50 percent of the  
16 residential square footage identified in the sectional planning area  
17 document has received its first certificate of occupancy.

18 (VIII) No more than 75 percent of the nonresidential square  
19 footage identified in the sectional planning area document shall  
20 receive its first certificate of occupancy before at least 75 percent  
21 of the residential square footage identified in the sectional planning  
22 area document has received its first certificate of occupancy.

23 (ii) The local agency includes in the annual report required by  
24 paragraph (2) of subdivision (a) of Section 65400 the status of  
25 development, including the total square footage of the residential  
26 and nonresidential development, the number of residential units  
27 that have been permitted, and what percentage of those residential  
28 units are restricted for persons and families of low or moderate  
29 income, or lower income households, as defined in Section 50079.5  
30 of the Health and Safety Code.

31 (iii) The Department of Housing and Community Development  
32 may request additional information from the agency regarding  
33 land disposed of pursuant to this subparagraph.

34 (iv) At least 30 days prior to disposing of land declared “exempt  
35 surplus land,” a local agency shall provide the Department of  
36 Housing and Community Development a written notification of  
37 its declaration and findings in a form prescribed by the Department  
38 of Housing and Community Development. Within 30 days of  
39 receipt of the written notification and findings, the department  
40 shall notify the local agency if the department has determined that

1 the local agency is in violation of this article. A local agency that  
2 fails to submit the written notification and findings shall be liable  
3 for a civil penalty pursuant to this subparagraph. A local agency  
4 shall not be liable for the civil penalty if the Department of Housing  
5 and Community Development does not notify the agency that the  
6 agency is in violation of this article within 30 days of receiving  
7 the written notification and findings. Once the department  
8 determines that the declarations and findings comply with  
9 subclauses (I) to (IV), inclusive, of clause (i), the local agency  
10 may proceed with disposal of land pursuant to this subparagraph.  
11 This clause is declaratory of, and not a change in, existing law.

12 (v) If the local agency disposes of land in violation of this  
13 subparagraph, the local agency shall be liable for a civil penalty  
14 calculated as follows:

15 (I) For a first violation, 30 percent of the greater of the final  
16 sale price or the fair market value of the land at the time of  
17 disposition.

18 (II) For a second or subsequent violation, 50 percent of the  
19 greater of the final sale price or the fair market value of the land  
20 at the time of disposition.

21 (III) For purposes of this subparagraph, fair market value shall  
22 be determined by an independent appraisal of the land.

23 (IV) An action to enforce this subparagraph may be brought by  
24 any of the following:

25 (ia) An entity identified in subdivisions (a) to (c), inclusive, of  
26 Section 54222.

27 (ib) A person who would have been eligible to apply for  
28 residency in affordable housing had the agency not violated this  
29 section.

30 (ic) A housing organization, as that term is defined in Section  
31 65589.5.

32 (id) A beneficially interested person or entity.

33 (ie) The Department of Housing and Community Development.

34 (V) A penalty assessed pursuant to this subparagraph shall,  
35 except as otherwise provided, be deposited into a local housing  
36 trust fund. The local agency may elect to instead deposit the penalty  
37 moneys into the Building Homes and Jobs Trust Fund or the  
38 Housing Rehabilitation Loan Fund. Penalties shall not be paid out  
39 of funds already dedicated to affordable housing, including, but  
40 not limited to, Low and Moderate Income Housing Asset Funds,



1 funds dedicated to housing for very low, low, and  
2 moderate-income households, and federal HOME Investment  
3 Partnerships Program and Community Development Block Grant  
4 Program funds. The local agency shall commit and expend the  
5 penalty moneys deposited into the local housing trust fund within  
6 five years of deposit for the sole purpose of financing newly  
7 constructed housing units that are affordable to extremely low,  
8 very low, or low-income households.

9 (VI) Five years after deposit of the penalty moneys into the  
10 local housing trust fund, if the funds have not been expended, the  
11 funds shall revert to the state and be deposited in the Building  
12 Homes and Jobs Trust Fund or the Housing Rehabilitation Loan  
13 Fund for the sole purpose of financing newly constructed housing  
14 units located in the same jurisdiction as the surplus land and that  
15 are affordable to extremely low, very low, or low-income  
16 households. Expenditure of any penalty moneys deposited into the  
17 Building Homes and Jobs Trust Fund or the Housing Rehabilitation  
18 Loan Fund pursuant to this subdivision shall be subject to  
19 appropriation by the Legislature.

20 (vi) For purposes of this subparagraph, the following definitions  
21 apply:

22 (I) “Sectional planning area” means an area composed of  
23 identifiable planning units, within which common services and  
24 facilities, a strong internal unity, and an integrated pattern of land  
25 use, circulation, and townscape planning are readily achievable.

26 (II) “Sectional planning area document” means a document or  
27 plan that sets forth, at minimum, a site utilization plan of the  
28 sectional planning area and development standards for each land  
29 use area and designation.

30 (vii) This subparagraph shall become inoperative on January 1,  
31 2034.

32 (Q) Land that is owned by a California public-use airport on  
33 which residential uses are prohibited pursuant to Federal Aviation  
34 Administration Order 5190.6B, Airport Compliance Program,  
35 Chapter 20 – Compatible Land Use and Airspace Protection.

36 (R) Land that is transferred to a community land trust, and all  
37 of the following conditions are met:

38 (i) The property is being or will be developed or rehabilitated  
39 as any of the following:

40 (I) An owner-occupied single-family dwelling.

1     ~~(II) An owner-occupied unit in a multifamily dwelling.~~  
2     ~~(III) A member-occupied unit in a limited equity housing~~  
3     ~~cooperative.~~  
4     ~~(IV) A rental housing development.~~  
5     ~~(ii) Improvements on the property are or will be available for~~  
6     ~~use and ownership or for rent by qualified persons, as defined in~~  
7     ~~paragraph (6) of subdivision (c) of Section 214.18 of the Revenue~~  
8     ~~and Taxation Code.~~  
9     ~~(iii) (I) A deed restriction or other instrument, requiring a~~  
10    ~~contract or contracts serving as an enforceable restriction on the~~  
11    ~~sale or resale value of owner-occupied units or on the affordability~~  
12    ~~of rental units is recorded on or before the lien date following the~~  
13    ~~acquisition of the property by the community land trust.~~  
14    ~~(II) For the purpose of this clause, the following definitions~~  
15    ~~apply:~~  
16    ~~(ia) "A contract or contracts serving as an enforceable restriction~~  
17    ~~on the sale or resale value of owner-occupied units" means a~~  
18    ~~contract described in paragraph (11) of subdivision (a) of Section~~  
19    ~~402.1 of the Revenue and Taxation Code.~~  
20    ~~(ib) "A contract or contracts serving as an enforceable restriction~~  
21    ~~on the affordability of rental units" means an enforceable and~~  
22    ~~verifiable agreement with a public agency, a recorded deed~~  
23    ~~restriction, or other legal document described in subparagraph (A)~~  
24    ~~of paragraph (2) of subdivision (g) of Section 214 of the Revenue~~  
25    ~~and Taxation Code.~~  
26    ~~(iv) A copy of the deed restriction or other instrument shall be~~  
27    ~~provided to the assessor.~~  
28    ~~(S) (i) For local agencies whose primary mission or purpose is~~  
29    ~~to supply the public with a transportation system, surplus land that~~  
30    ~~is developed for commercial or industrial uses or activities,~~  
31    ~~including nongovernmental retail, entertainment, or office~~  
32    ~~development or for the sole purpose of investment or generation~~  
33    ~~of revenue, if the agency meets all of the following conditions:~~  
34    ~~(I) The agency has an adopted land use plan or policy that~~  
35    ~~designates at least 50 percent of the gross acreage covered by the~~  
36    ~~adopted land use plan or policy for residential purposes. The~~  
37    ~~adopted land use plan or policy shall also require the development~~  
38    ~~of at least 300 residential units, or at least 10 residential units per~~  
39    ~~gross acre, averaged across all land covered by the land use plan~~  
40    ~~or policy, whichever is greater.~~

1     ~~(H) The agency has an adopted land use plan or policy that~~  
2     ~~requires at least 25 percent of all residential units to be developed~~  
3     ~~on the parcels covered by the adopted land use plan or policy made~~  
4     ~~available to lower income households, as defined in Section 50079~~  
5     ~~of the Health and Safety Code, at an affordable sales price or rented~~  
6     ~~at an affordable rent, as defined in Sections 50052.5 and 50053 of~~  
7     ~~the Health and Safety Code, for 55 years for rental housing and~~  
8     ~~45 years for ownership housing, unless a local ordinance or the~~  
9     ~~terms of a federal, state, or local grant, tax credit, or other project~~  
10    ~~financing requires a longer period of affordability. These terms~~  
11    ~~shall be included in the land use plan or policy and dictate that~~  
12    ~~they will be contained in a covenant or restriction recorded against~~  
13    ~~the surplus land at the time of disposition that shall run with the~~  
14    ~~land and be enforceable against any owner or lessee who violates~~  
15    ~~the covenant or restriction and each successor in interest who~~  
16    ~~continues the violation.~~

17    ~~(HH) Land disposed of for residential purposes shall issue a~~  
18    ~~competitive request for proposals subject to the local agency's~~  
19    ~~open, competitive solicitation process or put out to open,~~  
20    ~~competitive bid by the local agency, provided that all entities~~  
21    ~~identified in subdivision (a) of Section 54222 are invited to~~  
22    ~~participate.~~

23    ~~(IV) Prior to entering into an agreement to dispose of a parcel~~  
24    ~~for nonresidential development on land designated for the purposes~~  
25    ~~authorized pursuant to this subparagraph in an agency's adopted~~  
26    ~~land use plan or policy, the agency, since January 1, 2020, must~~  
27    ~~have entered into an agreement to dispose of a minimum of 25~~  
28    ~~percent of the land designated for affordable housing pursuant to~~  
29    ~~subclause (H).~~

30    ~~(ii) The agency may exempt at one time all parcels covered by~~  
31    ~~the adopted land use plan or policy pursuant to this subparagraph.~~

32    ~~(2) Notwithstanding paragraph (1), a written notice of the~~  
33    ~~availability of surplus land for open-space purposes shall be sent~~  
34    ~~to the entities described in subdivision (b) of Section 54222 before~~  
35    ~~disposing of the surplus land, provided the land does not meet the~~  
36    ~~criteria in subparagraph (H) of paragraph (1), if the land is any of~~  
37    ~~the following:~~

38    ~~(A) Within a coastal zone.~~

39    ~~(B) Adjacent to a historical unit of the State Parks System.~~

~~(C) Listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.~~

~~(D) Within the Lake Tahoe region as defined in Section 66905.5.~~

~~(g) “Persons and families of low or moderate income” has the same meaning as provided in Section 50093 of the Health and Safety Code.~~

~~SEC. 2.~~

*SECTION 1.* Chapter 4.1.5 (commencing with Section 65912.155) is added to Division 1 of Title 7 of the Government Code, to read:

CHAPTER 4.1.5. TRANSIT-ORIENTED DEVELOPMENT

65912.155. The Legislature finds and declares all of the following:

(a) California faces a housing shortage both acute and chronic, particularly in areas with access to robust public transit infrastructure.

(b) Building more homes near transit access reduces housing and transportation costs for California families, and promotes environmental sustainability, economic growth, and reduced traffic congestion.

(c) Public transit systems require sustainable funding to provide reliable service, especially in areas experiencing increased density and ridership. The state does not invest in public transit service to the same degree as it does in roads, and the state funds a smaller proportion of the state’s major transit agencies’ operations costs than other states with comparable systems. Transit systems in other countries derive significant revenue from transit-oriented development at and near their stations.

65912.156. For purposes of this chapter, the following definitions apply:

(a) “Adjacent” means sharing a property line with a transit stop, including any parcels that serve a parking or circulation purpose related to the stop.

(b) “Commuter rail” means a rail transit service not meeting the standards for heavy rail or light rail, excluding California High-Speed Rail and Amtrak Long Distance Service.

1 (c) “Department” means the Department of Housing and  
2 Community Development.

3 (d) “Frequent commuter rail” means a commuter rail service  
4 with a total of at least 24 daily trains per weekday across both  
5 directions and not meeting the standard for very high or  
6 high-frequency commuter rail at any point in the past three years.

7 (e) “Heavy rail transit” means an electric railway with the  
8 capacity for a heavy volume of traffic using high-speed and rapid  
9 acceleration passenger rail cars operating singly or in multicar  
10 trains on fixed rails, separate rights-of-way from which all other  
11 vehicular and foot traffic are excluded, and high platform loading.

12 (f) “High-frequency commuter rail” means a commuter rail  
13 service operating a total of at least 48 trains per day across both  
14 directions at any point in the past three years.

15 (g) “High-resource area” means a highest resource or  
16 high-resource neighborhood opportunity area, as used in the  
17 opportunity area maps published annually by the California Tax  
18 Credit Allocation Committee and the department.

19 (h) “Housing development project” has the same meaning as  
20 defined in Section 65589.5.

21 (i) “Light rail transit” includes streetcar, trolley, and tramway  
22 service.

23 (j) “Net habitable square footage” means the finished and heated  
24 floor area fully enclosed by the inside surface of walls, windows,  
25 doors, and partitions, and having a headroom of at least six and  
26 one-half feet, including working, living, eating, cooking, sleeping,  
27 stair, hall, service, and storage areas, but excluding garages,  
28 carports, parking spaces, cellars, half-stories, and unfinished attics  
29 and basements.

30 (k) “Rail transit” has the same meaning as defined in Section  
31 99602 of the Public Utilities Code.

32 (l) “Residential floor area ratio” means the ratio of net habitable  
33 square footage dedicated to residential use to the area of the lot.

34 (m) “Tier 1 transit-oriented development stop” means a  
35 transit-oriented development stop within an urban transit county  
36 served by heavy rail transit or very high frequency commuter rail.

37 (n) “Tier 2 transit-oriented development stop” means a  
38 transit-oriented development stop within an urban transit county,  
39 excluding a Tier 1 transit-oriented development stop, served by  
40 light rail transit, by high-frequency commuter rail, or by bus service

meeting the standards of paragraph (1) of subdivision (a) of Section 21060.2 of the Public Resources Code.

(o) “Tier 3 transit-oriented development stop” means a transit-oriented development stop within an urban transit county, excluding a Tier 1 or Tier 2 transit-oriented development stop, served by frequent commuter rail service or by ferry service; or any transit-oriented development stop not within an urban transit county; or any major transit stop otherwise so designated by the applicable authority.

(p) “Transit-oriented development stop” means a major transit stop, as defined by Section 21155 of the Public Resources Code, served by heavy rail transit, very high frequency commuter rail, high frequency commuter rail, light rail transit, bus service meeting the standards of paragraph (1) of subdivision (a) of Section 21060.2 of the Public Resources Code, frequent commuter rail service, or ferry service, or otherwise so designated by the applicable authority.

(q) “Urban transit county” means a county with *more than 15* ~~or more~~ rail-transit stations.

(r) “Very high frequency commuter rail” means a commuter rail service with a total of at least 72 trains per day across both directions at any point in the past three years.

~~(s) “Qualified light industrial site” means a site zoned for light industrial use, but not heavy industrial use or Title V industrial use and that has not been not been exempted through the local implementing ordinance or local transit-oriented development alternative plan. “Light industrial use,” “heavy industrial use,” and “Title V industrial use” have the same meanings as defined in Section 65913.16.~~

65912.157. (a) A housing development project within one-half or one-quarter mile of a transit-oriented development stop shall be an allowed use on any site zoned for residential, mixed, or commercial development, ~~or a qualified light industrial site~~, if the development complies with the applicable of all of the following requirements:

(1) For a residential development within one-quarter mile of a Tier 1 transit-oriented development stop, all of the following apply:

(A) A development may be built up to 75 feet high, or up to the local height limit, whichever is greater.

1 (B) A local government shall not impose any maximum density  
2 of less than 120 dwelling units per acre. The development  
3 proponent may seek a further increased density in accordance with  
4 applicable density bonus law.

5 (C) A local government shall not enforce any other local  
6 development standard or combination of standards that would  
7 prevent achieving a residential floor area ratio of up to 3.5.

8 (D) A development that otherwise meets the eligibility  
9 requirements of Section 65915, including, but not limited to,  
10 affordability requirements, shall be eligible for three additional  
11 concessions pursuant to Section 65915.

12 (2) For a residential development further than one-quarter mile  
13 but within one-half mile of a Tier 1 transit-oriented development  
14 stop, all of the following apply:

15 (A) A development may be built up to 65 feet high, or up to the  
16 local height limit, whichever is greater.

17 (B) A local government shall not impose any maximum density  
18 standard of less than 100 dwelling units per acre. The development  
19 proponent may seek a further increased density in accordance with  
20 applicable density bonus law.

21 (C) A local government shall not enforce any other local  
22 development standard or combination of standards that would  
23 prevent achieving a residential floor area ratio of up to 3.

24 (D) A development that otherwise meets the eligibility  
25 requirements of Section 65915, including, but not limited to,  
26 affordability requirements, shall be eligible for two additional  
27 concessions pursuant to Section 65915.

28 (3) For a residential development within one-quarter mile of a  
29 Tier 2 transit-oriented development stop, all of the following apply:

30 (A) A development may be built up to 65 feet high, or up to the  
31 local height limit, whichever is greater.

32 (B) A local government shall not impose any maximum density  
33 standard of less than 100 dwelling units per acre. The development  
34 proponent may seek a further increased density in accordance with  
35 applicable density bonus law.

36 (C) A local government shall not enforce any other local  
37 development standard or combination of standards that would  
38 prevent achieving a residential floor area ratio of up to 3.

39 (D) A development that otherwise meets the eligibility  
40 requirements of Section 65915, including, but not limited to,

1 affordability requirements, shall be eligible for two additional  
2 concessions pursuant to Section 65915.

3 (4) For a residential development further than one-quarter mile  
4 but within one-half mile of a Tier 2 transit-oriented development  
5 stop, all of the following apply:

6 (A) A development may be built up to 55 feet high, or up to the  
7 local height limit, whichever is greater.

8 (B) A local government shall not impose any maximum density  
9 standard of less than 80 dwelling units per acre. The development  
10 proponent may seek a further increased density in accordance with  
11 applicable density bonus law.

12 (C) A local government shall not enforce any other local  
13 development standard or combination of standards that would  
14 prevent achieving a residential floor area ratio of up to 2.5.

15 (D) A development that otherwise meets the eligibility  
16 requirements of Section 65915, including, but not limited to,  
17 affordability requirements, shall be eligible for one additional  
18 concession pursuant to Section 65915.

19 (5) For a residential development within one-quarter mile of a  
20 Tier 3 transit-oriented development stop, all of the following apply:

21 (A) A development may be built up to 55 feet high, or up to the  
22 local height limit, whichever is greater.

23 (B) A local government shall not impose any maximum density  
24 standard of less than 80 dwelling units per acre. The development  
25 proponent may seek a further increased density in accordance with  
26 applicable density bonus law.

27 (C) A local government shall not enforce any other local  
28 development standard or combination of standards that would  
29 prevent achieving a residential floor area ratio of up to 2.5.

30 (D) A development that otherwise meets the eligibility  
31 requirements of Section 65915, including, but not limited to,  
32 affordability requirements, shall be eligible for one additional  
33 concession pursuant to Section 65915.

34 (6) For a residential development further than one-quarter mile  
35 but within one-half mile of a Tier 3 transit-oriented development  
36 stop within an urban transit county, all of the following apply:

37 (A) A development may be built up to 45 feet high, or up to the  
38 local height limit, whichever is greater.

39 (B) A local government shall not impose any maximum density  
40 standard of less than 60 dwelling units per acre. The development



1 proponent may seek a further increased density in accordance with  
2 applicable density bonus law.

3 (C) A local government shall not enforce any other local  
4 development standard or combination of standards that would  
5 prevent achieving a residential floor area ratio of up to 2.

6 (b) A local government may still enact and enforce standards,  
7 including an inclusionary zoning requirement that applies generally  
8 within the jurisdiction, that do not, alone or in concert, prevent  
9 achieving the applicable development standards of subdivision  
10 (a).

11 (c) If a development proposes a height under this section in  
12 excess of the local height limit, then a local government shall not  
13 be required to grant a waiver, incentive, or concession pursuant to  
14 Section 65915 for additional height beyond that specified in this  
15 section, except as provided in subparagraph (D) of paragraph (2)  
16 of subdivision (d) of Section 65915.

17 (d) Notwithstanding any other law, a housing development  
18 project that meets any of the eligibility criteria under subdivision  
19 (a) and is immediately adjacent to a Tier 1, Tier 2, or Tier 3  
20 transit-oriented development stop shall be eligible for an adjacency  
21 intensifier to increase the height limit by an additional 20 feet, the  
22 maximum density standard by an additional 40 dwelling units per  
23 acre, and the residential floor area ratio by 1.

24 (e) A development proposed pursuant to this section shall  
25 comply with the antidisplacement requirements of Section 66300.6.  
26 This subdivision shall apply to any city or county.

27 (f) A development proposed pursuant to this section shall include  
28 housing for lower income households in one of the following ways:

29 (1) If there is a local inclusionary zoning ordinance or affordable  
30 housing fee, it shall comply with the requirements of that ordinance  
31 or fee.

32 (2) (A) If there is no local inclusionary ordinance or affordable  
33 housing fee, a development of more than 10 units shall meet the  
34 requirements to qualify for a density bonus pursuant to subdivision  
35 (b) of Section 65915 or a local ordinance.

36 (B) This paragraph shall not apply to any development of 10  
37 units or less.

38 (g) For purposes of subdivision (j) of Section 65589.5, a  
39 proposed housing development project that is consistent with the  
40 applicable standards from this chapter shall be deemed consistent,

1 compliant, and in conformity with an applicable plan, program,  
2 policy, ordinance, standard, requirement, or other similar provision.  
3 This subdivision shall not require a ministerial approval process  
4 or modify the requirements of Division 13 (commencing with  
5 Section 21000) of the Public Resources Code.

6 (h) A local government that denies a housing development  
7 project meeting the requirements of this section that is located in  
8 a high-resource area shall be presumed to be in violation of the  
9 Housing Accountability Act (Section 65589.5) and immediately  
10 liable for penalties pursuant to subparagraph (B) of paragraph (1)  
11 of subdivision (k) of Section 65589.5, unless the local government  
12 demonstrates, pursuant to the standards in subdivisions (j) and (o)  
13 of Section 65589.5, that it has a health, life, or safety reason for  
14 denying the project.

15 65912.158. (a) Notwithstanding any other provision of this  
16 chapter, a transit agency may adopt objective standards for both  
17 residential and commercial developments proposed to be  
18 constructed on land owned by the transit agency or on which the  
19 transit agency has a permanent operating easement, if the land is  
20 within one-half mile of a transit-oriented development stop and  
21 the objective standards allow for the same or greater development  
22 intensity as that allowed by local standards or applicable state law.

23 (b) The board of a transit agency may vote to designate a major  
24 transit stop served by the agency as a Tier 3 transit-oriented  
25 development stop for the purposes of this section.

26 65912.159. (a) A housing development project proposed  
27 pursuant to Section 65912.157 shall be eligible for streamlined  
28 ministerial approval pursuant to Section 65913.4 in accordance  
29 with all of the following:

30 (1) The proposed project shall be exempt from subparagraph  
31 (A) of paragraph (4) of, paragraph (5) of, and clause (iv) of  
32 subparagraph (A) of paragraph (6) of, subdivision (a) of Section  
33 65913.4.

34 (2) The proposed project shall comply with the affordability  
35 requirements in subclauses (I) to (III), inclusive, of clause (i) of  
36 subparagraph (B) of paragraph (4) of subdivision (a) of Section  
37 65913.4.

38 (3) The proposed project shall comply with all other  
39 requirements of Section 65913.4, including, but not limited to, the  
40 prohibition against a site that is within a very high fire hazard

1 severity zone, pursuant to subparagraph (D) of paragraph (6) of  
2 subdivision (a) of Section 65913.4.

3 (b) Any housing development proposed pursuant to Section  
4 65912.157 not seeking streamlined approval under Section 65913.4  
5 shall be reviewed according to the jurisdiction's development  
6 review process and Section 65589.5, except that any local zoning  
7 standard conflicting with the requirements of this chapter shall not  
8 apply.

9 65912.160. (a) The department shall oversee compliance with  
10 this chapter, including, but not limited to, promulgating standards  
11 on how to account for capacity pursuant to this chapter in a city  
12 or county's inventory of land suitable for residential development,  
13 pursuant to Section 65583.2.

14 (b) The regional council of governments or metropolitan  
15 planning organization may create a map of transit-oriented  
16 development stops and zones designated under this chapter. This  
17 map shall have a rebuttable presumption of validity for use by  
18 project applicants and local governments.

19 (c) (1) A local government may enact an ordinance to make its  
20 zoning code consistent with the provisions of this chapter, subject  
21 to review by the department pursuant to paragraph (3).

22 ~~(2) The ordinance may select qualified light industrial sites to~~  
23 ~~designate as exempt from the requirements of this chapter, so long~~  
24 ~~as residential uses were not permitted prior to January 1, 2025.~~

25 ~~(3)~~

26 ~~(2)~~ The ordinance described in paragraph ~~(2)~~ (1) shall not be  
27 considered a project under Division 13 (commencing with Section  
28 21000) of the Public Resources Code.

29 ~~(4)~~

30 (3) (A) A local government shall submit a copy of any  
31 ordinance enacted pursuant to this section to the department within  
32 60 days of enactment.

33 (B) Upon receipt of an ordinance pursuant to this paragraph,  
34 the department shall review that ordinance and determine whether  
35 it complies with this section. If the department determines that the  
36 ordinance does not comply with this section, the department shall  
37 notify the local government in writing and provide the local  
38 government a reasonable time, not to exceed 30 days, to respond  
39 before taking further action as authorized by this section.

1 (C) The local government shall consider any findings made by  
2 the department pursuant to subparagraph (B) and shall do one of  
3 the following:

4 (i) Amend the ordinance to comply with this section.

5 (ii) Enact the ordinance without changes. The local government  
6 shall include findings in its resolution adopting the ordinance that  
7 explain the reasons the local government believes that the  
8 ordinance complies with this section despite the findings of the  
9 department.

10 (D) If the local government does not amend its ordinance in  
11 response to the department's findings or does not adopt a resolution  
12 with findings explaining the reason the ordinance complies with  
13 this ~~chapter~~ *section* and addressing the department's findings, the  
14 department shall notify the local government and may notify the  
15 Attorney General that the local government is in violation of this  
16 section.

17 65912.161. (a) A local government may enact a local  
18 transit-oriented development alternative plan as an amendment to  
19 the housing element and land use element of its general plan,  
20 subject to review by the department.

21 (1) (A) A local transit-oriented development alternative plan  
22 shall maintain at least the same total increase in feasible zoned  
23 capacity, in terms of both total units and residential floor area, as  
24 provided for in this chapter across all transit-oriented development  
25 zones within the jurisdiction.

26 ~~(i) The plan may select qualified light industrial sites to~~  
27 ~~designate as exempt from the requirements of this chapter, so long~~  
28 ~~as residential uses were not permitted on those sites prior to January~~  
29 ~~1, 2025.~~

30 ~~(ii)~~

31 (i) The plan shall not reduce the capacity in any station area, in  
32 total units or residential floor area, by more than 50 percent.

33 ~~(iii)~~

34 (ii) The plan shall not reduce the allowed density for any  
35 individual site allowing residential use by more than 50 percent  
36 below that permitted under this chapter.

37 ~~(iv)~~

38 (iii) A site's maximum feasible capacity counted toward the  
39 plan shall be not more than 200 percent of the maximum density  
40 established under this chapter.

1 (B) For the purposes of this paragraph, both of the following  
2 definitions apply:

3 (i) “Feasible” means capable of being accomplished in a  
4 successful manner within a reasonable period of time, taking into  
5 account economic, environmental, social, and technological factors.

6 (ii) “Transit-oriented development zone” means the eligible  
7 area around a qualifying transit-oriented development stop.

8 (2) A local transit-oriented development alternative plan may  
9 designate any other major transit stop or stop along a high-quality  
10 transit corridor that is not already identified as a transit-oriented  
11 development stop as a Tier 3 transit-oriented development stop.  
12 A local transit-oriented development plan consisting solely of  
13 adding additional major transit stops as transit-oriented  
14 development stops shall be exempt from the requirements of  
15 paragraph (4).

16 (3) A local transit-oriented development alternative plan may  
17 consist of an existing local transit-oriented zoning ordinance,  
18 overlay zone, specific plan, or zoning incentive ordinance, provided  
19 that it applies to all residential properties within the transit-oriented  
20 development area and provides at least the same total feasible  
21 capacity for units and floor area as Section 65912.157.

22 (4) Prior to enacting a local transit-oriented development  
23 alternative plan, the local government shall submit the draft plan  
24 to the department for review. The submission shall include any  
25 amendments to the local zoning ordinances, any applicable  
26 objective design standards that would apply to transit-oriented  
27 developments, and assessments of the plan’s impact on  
28 development feasibility and fair housing. The department shall  
29 assess whether the plan maintains at least an equal feasible  
30 developable housing capacity as the baseline established under  
31 this section as well as the plan’s effects on fair housing relative to  
32 the baseline established under this section, and shall recommend  
33 changes to remove unnecessary constraints on housing from the  
34 plan.

35 (b) Section 65912.157 shall not apply within a jurisdiction that  
36 has a local transit-oriented alternative plan that has been approved  
37 by the department as satisfying the requirements of this section in  
38 effect. The department’s approval pursuant to this subdivision  
39 shall be valid through the jurisdiction’s next amendment to the  
40 housing element of its general plan.

65912.162. The Legislature finds and declares that the state faces a housing crisis of availability and affordability, in large part due to a severe shortage of housing, and solving the housing crisis therefore requires a multifaceted, statewide approach, including, but not limited to, encouraging an increase in the overall supply of housing, encouraging the development of housing that is affordable to households at all income levels, removing barriers to housing production, expanding homeownership opportunities, and expanding the availability of rental housing, and is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

~~SEC. 3.~~

SEC. 2. Section 21080.26.5 is added to the Public Resources Code, to read:

21080.26.5. (a) For the purposes of this section, “public project” means a project constructed by either a public agency or private entity, that, upon the completion of the construction, will be operated by a public agency.

(b) This division shall not apply to a public or private residential, commercial, or mixed-use project that, at the time the project application is filed, is located entirely or principally on land owned by a public transit agency, or fully or partially encumbered by an existing operating easement in favor of a public transit agency, and that includes at least one of the following:

(1) A project component identified in paragraphs (1) to (5), inclusive, or paragraph (7) of subdivision (b) of Section 21080.25.

(2) A public project for passenger rail service facilities, other than light rail service eligible under paragraph (5) of subdivision (b) of Section 21080.25, including the construction, reconfiguration, or rehabilitation of stations, terminals, rails, platforms, or existing operations facilities, which will be exclusively used by zero-emission or electric trains. The project shall be located on land owned by a public transit agency, or land fully or partially encumbered by an existing operating easement in favor of a public transit agency, at the time the project application is filed.

(3) An agreement between the project applicant and public transit agency that owns the land or has the permanent operating easement to finance transit capital infrastructure, transit

1 maintenance, or transit operations, including through a proposed  
2 public financing district, community financing district, or tax  
3 increment generated by the project.

4 (c) If the project described in paragraph (1) of subdivision (b)  
5 is located on land fully or partially encumbered by an existing  
6 operating easement in favor of a public transit agency at the time  
7 the project application is filed, the transit agency, the grantor of  
8 the easement, and all fee owners of the property encumbered by  
9 the easement must sponsor or consent to the application. Nothing  
10 in this section shall be interpreted to authorize a transit agency to  
11 construct a project described in paragraph (1) of subdivision (b)  
12 unless permitted by its operating easement or unless the easement  
13 is terminated, in each case prior to the commencement of  
14 construction.

15 (d) If a project described in subdivision (b) requires the  
16 construction of new passenger rail storage and maintenance  
17 facilities at a publicly or privately owned offsite location distinct  
18 from the principal project site, then that project shall be considered  
19 a wholly separate project from the project described in subdivision  
20 (b) and shall not be exempt from this division. Any required  
21 environmental review shall not affect or render invalid the  
22 exemption provided in subdivision (b), regardless of whether the  
23 project described in subdivision (b) cannot proceed unless the  
24 offsite facilities are constructed.

25 *SEC. 3. The provisions of this act are severable. If any*  
26 *provision of this act or its application is held invalid, that invalidity*  
27 *shall not affect other provisions or applications that can be given*  
28 *effect without the invalid provision or application.*

29 SEC. 4. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 a local government or school district has the authority to levy  
32 service charges, fees, or assessments sufficient to pay for the  
33 program or level of service mandated by this act, within the  
34 meaning of Section 17556 of the Government Code.