

AMENDED IN SENATE APRIL 23, 2025

AMENDED IN SENATE APRIL 9, 2025

AMENDED IN SENATE MARCH 5, 2025

## **SENATE BILL**

**No. 79**

---

### **Introduced by Senator Wiener**

January 15, 2025

---

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, 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 development: transit-oriented development.

(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) 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 housing element. 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, commercial, or light industrial development, 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. 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. 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, provided that the objective standards allow for the same or greater development intensity as allowed by local standards or applicable state law.

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 permit a local government to adopt an ordinance to implement 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 adoption and 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) 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.

(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:

3 54221. As used in this article, the following definitions shall  
4 apply:

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

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

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

31 (2) “Surplus land” includes land held in the Community  
32 Redevelopment Property Trust Fund pursuant to Section 34191.4  
33 of the Health and Safety Code and land that has been designated  
34 in the long-range property management plan approved by the  
35 Department of Finance pursuant to Section 34191.5 of the Health

1 and Safety Code, either for sale or for future development, but  
2 does not include any specific disposal of land to an identified entity  
3 described in the plan.

4 (3) Nothing in this article prevents a local agency from obtaining  
5 fair market value for the disposition of surplus land consistent with  
6 Section 54226.

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

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

29 (2) (A) “Agency’s use” shall not include commercial or  
30 industrial uses or activities, including nongovernmental retail,  
31 entertainment, or office development. Property disposed of for the  
32 sole purpose of investment or generation of revenue shall not be  
33 considered necessary for the agency’s use.

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

1 (i) Directly further the express purpose of agency work or  
2 operations.

3 (ii) Be expressly authorized by a statute governing the local  
4 agency, provided the district complies with Section 54233.5 if  
5 applicable.

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

7 (A) The sale of the surplus land.

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

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

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

16 (B) The entering of a lease for surplus land on which no  
17 development or demolition will occur, regardless of the term of  
18 the lease.

19 (e) “Open-space purposes” means the use of land for public  
20 recreation, enjoyment of scenic beauty, or conservation or use of  
21 natural resources.

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

24 (A) Surplus land that is transferred pursuant to Section 25539.4  
25 or 37364.

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

30 (C) Surplus land that a local agency is exchanging for another  
31 property necessary for the agency’s use. “Property” may include  
32 easements necessary for the agency’s use.

33 (D) Surplus land that a local agency is transferring to another  
34 local, state, or federal agency, or to a third-party intermediary for  
35 future dedication for the receiving agency’s use, or to a federally  
36 recognized California Indian tribe. If the surplus land is transferred  
37 to a third-party intermediary, the receiving agency’s use must be  
38 contained in a legally binding agreement at the time of transfer to  
39 the third-party intermediary.

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

3 (F) (i) Surplus land that is to be developed for a housing  
4 development, which may have ancillary commercial ground floor  
5 uses, that restricts 100 percent of the residential units to persons  
6 and families of low or moderate income, with at least 75 percent  
7 of the residential units restricted to lower income households, as  
8 defined in Section 50079.5 of the Health and Safety Code, with  
9 an affordable sales price or an affordable rent, as defined in Section  
10 50052.5 or 50053 of the Health and Safety Code, for 55 years for  
11 rental housing, 45 years for ownership housing, and 50 years for  
12 rental or ownership housing located on tribal trust lands, unless a  
13 local ordinance or a federal, state, or local grant, tax credit, or other  
14 project financing requires a longer period of affordability, and in  
15 no event shall the maximum affordable sales price or rent level be  
16 higher than 20 percent below the median market rents or sales  
17 prices for the neighborhood in which the site is located.

18 (ii) The requirements of clause (i) shall be contained in a  
19 covenant or restriction recorded against the surplus land at the time  
20 of sale that shall run with the land and be enforceable against any  
21 owner who violates the covenant or restriction and each successor  
22 in interest who continues the violation.

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

1 (ii) The requirements of clause (i) shall be contained in a  
2 covenant or restriction recorded against the surplus land at the time  
3 of sale that shall run with the land and be enforceable against any  
4 owner who violates the covenant or restriction and each successor  
5 in interest who continues the violation.

6 (H) (i) Surplus land totaling 10 or more acres, consisting of  
7 either a single parcel, or two or more adjacent or non-adjacent  
8 parcels combined for disposition to one or more buyers pursuant  
9 to a plan or ordinance adopted by the legislative body of the local  
10 agency, or a state statute. That surplus land shall be subject to a  
11 local agency's open, competitive solicitation process or put out to  
12 open, competitive bid by a local agency, provided that all entities  
13 identified in subdivision (a) of Section 54222 will be invited to  
14 participate in the process for a housing or mixed-use development.

15 (ii) The aggregate development shall include the greater of the  
16 following:

17 (I) Not less than 300 residential units.

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

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

30 (iv) If nonresidential development is included in the  
31 development pursuant to this subparagraph, at least 25 percent of  
32 the total planned units affordable to lower income households shall  
33 be made available for lease or sale and permitted for use and  
34 occupancy before or at the same time with every 25 percent of  
35 nonresidential development made available for lease or sale and  
36 permitted for use and occupancy.

37 (v) A violation of this subparagraph is subject to the penalties  
38 described in Section 54230.5. Those penalties are in addition to  
39 any remedy a court may order for violation of this subparagraph.  
40 A local agency shall only dispose of land pursuant to this

1 subparagraph through a disposition and development agreement  
2 that includes an indemnification clause that provides that if an  
3 action occurs after disposition violates this subparagraph, the  
4 person or entity that acquired the property shall be liable for the  
5 penalties.

6 (vi) The requirements of clauses (i) to (v), inclusive, shall be  
7 contained in a covenant or restriction recorded against the surplus  
8 land at the time of sale that shall run with the land and be  
9 enforceable against any owner who violates the covenant or  
10 restriction and each successor in interest who continues the  
11 violation.

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

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

24 (ii) At least 50 percent of the square footage of the new  
25 construction associated with the development is designated for  
26 residential use.

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

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

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

1 (I) Existing constraints under ownership rights or contractual  
2 rights or obligations that prevent the use of the property for  
3 housing, if the rights or obligations were agreed to prior to  
4 September 30, 2019.

5 (II) Conservation or other easements or encumbrances that  
6 prevent housing development.

7 (III) Existing leases, or other contractual obligations or  
8 restrictions, if the terms were agreed to prior to September 30,  
9 2019.

10 (IV) Restrictions imposed by the source of funding that a local  
11 agency used to purchase a property, provided that both of the  
12 following requirements are met:

13 (ia) The restrictions limit the use of those funds to purposes  
14 other than housing.

15 (ib) The proposed disposal of surplus land meets a use consistent  
16 with that purpose.

17 (iii) Valid legal restrictions that would make housing prohibited  
18 do not include either of the following:

19 (I) An existing nonresidential land use designation on the surplus  
20 land.

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

24 (iv) Feasible methods to mitigate or avoid a valid legal  
25 restriction on the site do not include a requirement that the local  
26 agency acquire additional property rights or property interests  
27 belonging to third parties.

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

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

34 (i) Section 17388, 17515, 17536, 81192, 81397, 81399, 81420,  
35 or 81422 of the Education Code.

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

38 (M) Surplus land that is a former military base that was  
39 conveyed by the federal government to a local agency, and is  
40 subject to Article 8 (commencing with Section 33492.125) of

Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, provided that all of the following conditions are met:

(i) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base.

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

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

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

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

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

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

3 (O) Land that has been transferred before June 30, 2019, by the  
4 state to a local agency pursuant to Section 32667 of the Streets  
5 and Highways Code and has a minimum planned residential density  
6 of at least 100 dwelling units per acre, and includes 100 or more  
7 residential units that are restricted to persons and families of low  
8 or moderate income, with an affordable sales price or an affordable  
9 rent, as defined in Sections 50052.5 and 50053 of the Health and  
10 Safety 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. For purposes of this subparagraph, not  
15 more than 20 percent of the affordable units may be restricted to  
16 persons and families of moderate income and at least 80 percent  
17 of the affordable units must be restricted to lower income  
18 households as defined in Section 50079.5 of the Health and Safety  
19 Code.

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

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

23 (ia) The sectional planning area was adopted prior to January  
24 1, 2019.

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

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

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

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

33 (ib) The land was acquired through a land exchange subject to  
34 a land offer agreement that grants the land's original owner the  
35 right to repurchase the land acquired by the local agency pursuant  
36 to the agreement if the land will not be developed in a manner  
37 consistent with the agreement.

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

1 (IV) At least 25 percent of the units are dedicated to lower  
2 income households, as defined in Section 50079.5 of the Health  
3 and Safety Code, at an affordable rent, as defined by Section 50053  
4 of the Health and Safety Code, or an affordable housing cost, as  
5 defined by Section 50052.5 of the Health and Safety Code, and  
6 subject to a recorded deed restriction for a period of 55 years for  
7 rental units and 45 years for owner-occupied units, unless a local  
8 ordinance or a federal, state, or local grant, tax credit, or other  
9 project financing requires a longer period of affordability.

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

13 (VI) No more than 25 percent of the nonresidential square  
14 footage identified in the sectional planning area document receives  
15 its first certificate of occupancy before at least 25 percent of the  
16 residential square footage identified in the sectional planning area  
17 document has received its first certificate of occupancy.

18 (VII) No more than 50 percent of the nonresidential square  
19 footage identified in the sectional planning area document receives  
20 its first certificate of occupancy before at least 50 percent of the  
21 residential square footage identified in the sectional planning area  
22 document has received its first certificate of occupancy.

23 (VIII) No more than 75 percent of the nonresidential square  
24 footage identified in the sectional planning area document shall  
25 receive its first certificate of occupancy before at least 75 percent  
26 of the residential square footage identified in the sectional planning  
27 area document has received its first certificate of occupancy.

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

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

39 (iv) At least 30 days prior to disposing of land declared “exempt  
40 surplus land,” a local agency shall provide the Department of

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

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

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

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

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

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

30 (ia) An entity identified in subdivisions (a) to (e), inclusive, of  
31 Section 54222.

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

35 (ic) A housing organization, as that term is defined in Section  
36 65589.5.

37 (id) A beneficially interested person or entity.

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

39 (V) A penalty assessed pursuant to this subparagraph shall,  
40 except as otherwise provided, be deposited into a local housing

1 trust fund. The local agency may elect to instead deposit the penalty  
2 moneys into the Building Homes and Jobs Trust Fund or the  
3 Housing Rehabilitation Loan Fund. Penalties shall not be paid out  
4 of funds already dedicated to affordable housing, including, but  
5 not limited to, Low and Moderate Income Housing Asset Funds,  
6 funds dedicated to housing for very low, low-, and  
7 moderate-income households, and federal HOME Investment  
8 Partnerships Program and Community Development Block Grant  
9 Program funds. The local agency shall commit and expend the  
10 penalty moneys deposited into the local housing trust fund within  
11 five years of deposit for the sole purpose of financing newly  
12 constructed housing units that are affordable to extremely low,  
13 very low, or low-income households.

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

25 (vi) For purposes of this subparagraph, the following definitions  
26 apply:

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

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

35 (vii) This subparagraph shall become inoperative on January 1,  
36 2034.

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

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

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

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

6 (II) An owner-occupied unit in a multifamily dwelling.

7 (III) A member-occupied unit in a limited equity housing  
8 cooperative.

9 (IV) A rental housing development.

10 (ii) Improvements on the property are or will be available for  
11 use and ownership or for rent by qualified persons, as defined in  
12 paragraph (6) of subdivision (c) of Section 214.18 of the Revenue  
13 and Taxation Code.

14 (iii) (I) A deed restriction or other instrument, requiring a  
15 contract or contracts serving as an enforceable restriction on the  
16 sale or resale value of owner-occupied units or on the affordability  
17 of rental units is recorded on or before the lien date following the  
18 acquisition of the property by the community land trust.

19 (II) For the purpose of this clause, the following definitions  
20 apply:

21 (ia) “A contract or contracts serving as an enforceable restriction  
22 on the sale or resale value of owner-occupied units” means a  
23 contract described in paragraph (11) of subdivision (a) of Section  
24 402.1 of the Revenue and Taxation Code.

25 (ib) “A contract or contracts serving as an enforceable restriction  
26 on the affordability of rental units” means an enforceable and  
27 verifiable agreement with a public agency, a recorded deed  
28 restriction, or other legal document described in subparagraph (A)  
29 of paragraph (2) of subdivision (g) of Section 214 of the Revenue  
30 and Taxation Code.

31 (iv) A copy of the deed restriction or other instrument shall be  
32 provided to the assessor.

33 (S) (i) For local agencies whose primary mission or purpose is  
34 to supply the public with a transportation system, surplus land that  
35 is developed for commercial or industrial uses or activities,  
36 including nongovernmental retail, entertainment, or office  
37 development or for the sole purpose of investment or generation  
38 of revenue, if the agency meets all of the following conditions:

39 (I) The agency has an adopted land use plan or policy that  
40 designates at least 50 percent of the gross acreage covered by the

1 adopted land use plan or policy for residential purposes. The  
2 adopted land use plan or policy shall also require the development  
3 of at least 300 residential units, or at least 10 residential units per  
4 gross acre, averaged across all land covered by the land use plan  
5 or policy, whichever is greater.

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

22 (III) Land disposed of for residential purposes shall issue a  
23 competitive request for proposals subject to the local agency's  
24 open, competitive solicitation process or put out to open,  
25 competitive bid by the local agency, provided that all entities  
26 identified in subdivision (a) of Section 54222 are invited to  
27 participate.

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

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

37 (2) Notwithstanding paragraph (1), a written notice of the  
38 availability of surplus land for open-space purposes shall be sent  
39 to the entities described in subdivision (b) of Section 54222 before  
40 disposing of the surplus land, provided the land does not meet the

1 criteria in subparagraph (H) of paragraph (1), if the land is any of  
2 the following:

3 (A) Within a coastal zone.

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

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

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

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

12 SEC. 2. Chapter 4.1.5 (commencing with Section 65912.155)  
13 is added to Division 1 of Title 7 of the Government Code, to read:

14  
15 CHAPTER 4.1.5. TRANSIT-ORIENTED DEVELOPMENT

16  
17 65912.155. The Legislature finds and declares all of the  
18 following:

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

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

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

34 65912.156. For purposes of this chapter, the following  
35 definitions apply:

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

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

4 (c) “Department” means the Department of Housing and  
5 Community Development.

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

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

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

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

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

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

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

33 (k) “Rail transit” has the same meaning as defined in Section  
34 99602 of the Public Utilities Code.

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

37 (m) “Tier 1 transit-oriented development stop” means a major  
38 transit stop, as defined by Section 21155 of the Public Resources  
39 Code, served by heavy rail transit or very high frequency commuter  
40 rail.

(n) “Tier 2 transit-oriented development stop” means a major transit stop, as defined by Section 21155 of the Public Resources Code, excluding a Tier 1 transit-oriented development stop, served by 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 major transit stop, as defined by Section 21155 of the Public Resources Code, excluding a Tier 1 or Tier 2 transit-oriented development stop, served by frequent commuter rail service or by ferry service.

(p) “Transit-oriented development stop” means a major transit stop, as defined by Section 21155 of the Public Resources Code, excluding any stop served by rail transit with a frequency of fewer than 10 total trains per weekday.

(q) “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.

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, commercial, or light industrial development, 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. *If a development proposes a height under this subparagraph in excess of the local height limit, then a local government shall not be required to grant a waiver, incentive, or concession pursuant to Section 65915 for additional height beyond that specified under this subparagraph, except as provided in subparagraph (D) of paragraph (2) of subdivision (d) of Section 65915.*

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

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

1 (D) A development that otherwise meets the eligibility  
2 requirements of Section 65915, including, but not limited to,  
3 affordability requirements, shall be eligible for three additional  
4 concessions pursuant to Section 65915.

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

8 (A) A development may be built up to 65 feet high, or up to the  
9 local height limit, whichever is greater. *If a development proposes*  
10 *a height under this subparagraph in excess of the local height*  
11 *limit, then a local government shall not be required to grant a*  
12 *waiver, incentive, or concession pursuant to Section 65915 for*  
13 *additional height beyond that specified under this subparagraph,*  
14 *except as provided in subparagraph (D) of paragraph (2) of*  
15 *subdivision (d) of Section 65915.*

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

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

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

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

29 (A) A development may be built up to 65 feet high, or up to the  
30 local height limit, whichever is greater. *If a development proposes*  
31 *a height under this subparagraph in excess of the local height*  
32 *limit, then a local government shall not be required to grant a*  
33 *waiver, incentive, or concession pursuant to Section 65915 for*  
34 *additional height beyond that specified under this subparagraph,*  
35 *except as provided in subparagraph (D) of paragraph (2) of*  
36 *subdivision (d) of Section 65915.*

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

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

4 (D) A development that otherwise meets the eligibility  
5 requirements of Section 65915, including, but not limited to,  
6 affordability requirements, shall be eligible for two additional  
7 concessions pursuant to Section 65915.

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

11 (A) A development may be built up to 55 feet high, or up to the  
12 local height limit, whichever is greater. *If a development proposes*  
13 *a height under this subparagraph in excess of the local height*  
14 *limit, then a local government shall not be required to grant a*  
15 *waiver, incentive, or concession pursuant to Section 65915 for*  
16 *additional height beyond that specified under this subparagraph,*  
17 *except as provided in subparagraph (D) of paragraph (2) of*  
18 *subdivision (d) of Section 65915.*

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

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

26 (D) A development that otherwise meets the eligibility  
27 requirements of Section 65915, including, but not limited to,  
28 affordability requirements, shall be eligible for one additional  
29 concession pursuant to Section 65915.

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

32 (A) A development may be built up to 55 feet high, or up to the  
33 local height limit, whichever is greater. *If a development proposes*  
34 *a height under this subparagraph in excess of the local height*  
35 *limit, then a local government shall not be required to grant a*  
36 *waiver, incentive, or concession pursuant to Section 65915 for*  
37 *additional height beyond that specified under this subparagraph,*  
38 *except as provided in subparagraph (D) of paragraph (2) of*  
39 *subdivision (d) of Section 65915.*

1 (B) A local government shall not impose any maximum density  
2 standard of less than 80 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 2.5.

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 one additional  
11 concession pursuant to Section 65915.

12 (6) For a residential development further than one-quarter mile  
13 but within one-half mile of a Tier 3 transit-oriented development  
14 stop, all of the following apply:

15 (A) A development may be built up to 45 feet high, or up to the  
16 local height limit, whichever is greater. *If a development proposes*  
17 *a height under this subparagraph in excess of the local height*  
18 *limit, then a local government shall not be required to grant a*  
19 *waiver, incentive, or concession pursuant to Section 65915 for*  
20 *additional height beyond that specified under this subparagraph,*  
21 *except as provided in subparagraph (D) of paragraph (2) of*  
22 *subdivision (d) of Section 65915.*

23 (B) A local government shall not impose any maximum density  
24 standard of less than 60 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.

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

37 (c) A development proposed pursuant to this section shall  
38 comply with the antidisplacement requirements of Section 66300.6.  
39 This subdivision shall apply to any city or county.

1 (d) For purposes of subdivision (j) of Section 65589.5, a  
2 proposed housing development project that is consistent with the  
3 applicable standards from this chapter shall be deemed consistent,  
4 compliant, and in conformity with an applicable plan, program,  
5 policy, ordinance, standard, requirement, or other similar provision.

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

22 65912.159. A housing development project proposed pursuant  
23 to Section 65912.157 shall be eligible for streamlined ministerial  
24 approval pursuant to Section 65913.4 in accordance with all of the  
25 following:

26 (a) The proposed project shall be exempt from subparagraph  
27 (A) of paragraph (4) of, paragraph (5) of, and clause (iv) of  
28 subparagraph (A) of paragraph (6) of, subdivision (a) of Section  
29 65913.4.

30 (b) The proposed project shall comply with the affordability  
31 requirements in subclauses (I) through (III), inclusive, of clause  
32 (i) of subparagraph (B) of paragraph (4) of subdivision (a) of  
33 Section 65913.4.

34 (c) The proposed project shall comply with all other  
35 requirements of Section 65913.4, including, but not limited to, the  
36 prohibition against a site that is within a very high fire hazard  
37 severity zone, pursuant to subparagraph (D) of paragraph (6) of  
38 subdivision (a) of Section 65913.4.

39 65912.160. (a) The department shall oversee compliance with  
40 this chapter, including, but not limited to, promulgating standards

1 on how to account for capacity pursuant to this chapter in a city  
2 or county's inventory of land suitable for residential development,  
3 pursuant to Section 65583.2.

4 (b) (1) A local government may adopt an ordinance to  
5 implement the provisions of this chapter, which may include  
6 revisions to applicable zoning requirements on individual sites  
7 within a transit-oriented development zone, provided that those  
8 revisions maintain the average density allowed for the applicable  
9 tier, or up to a 100-percent increase, subject to review by the  
10 department pursuant to paragraph (3).

11 (2) An ordinance adopted to implement this section shall not  
12 be considered a project under Division 13 (commencing with  
13 Section 21000) of the Public Resources Code.

14 (3) (A) A local government shall submit a copy of any  
15 ordinance adopted pursuant to this section to the department within  
16 60 days of adoption.

17 (B) Upon receipt of an ordinance pursuant to this paragraph,  
18 the department shall review that ordinance and determine whether  
19 it complies with this section. If the department determines that the  
20 ordinance does not comply with this section, the department shall  
21 notify the local government in writing and provide the local  
22 government a reasonable time, not to exceed 30 days, to respond  
23 before taking further action as authorized by this section.

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

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

28 (ii) Adopt the ordinance without changes. The local government  
29 shall include findings in its resolution adopting the ordinance that  
30 explain the reasons the local government believes that the  
31 ordinance complies with this section despite the findings of the  
32 department.

33 (D) If the local government does not amend its ordinance in  
34 response to the department's findings or does not adopt a resolution  
35 with findings explaining the reason the ordinance complies with  
36 this chapter and addressing the department's findings, the  
37 department shall notify the local government and may notify the  
38 Attorney General that the local government is in violation of this  
39 section.

1     65912.161. The Legislature finds and declares that the state  
2 faces a housing crisis of availability and affordability, in large part  
3 due to a severe shortage of housing, and solving the housing crisis  
4 therefore requires a multifaceted, statewide approach, including,  
5 but not limited to, encouraging an increase in the overall supply  
6 of housing, encouraging the development of housing that is  
7 affordable to households at all income levels, removing barriers  
8 to housing production, expanding homeownership opportunities,  
9 and expanding the availability of rental housing, and is a matter  
10 of statewide concern and is not a municipal affair as that term is  
11 used in Section 5 of Article XI of the California Constitution.  
12 Therefore, this chapter applies to all cities, including charter cities.

13     SEC. 3. Section 21080.26.5 is added to the Public Resources  
14 Code, to read:

15     21080.26.5. (a) For the purposes of this section, “public  
16 project” means a project constructed by either a public agency or  
17 private entity, that, upon the completion of the construction, will  
18 be operated by a public agency.

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

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

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

37     (3) An agreement between the project applicant and public  
38 transit agency that owns the land or has the permanent operating  
39 easement to finance transit capital infrastructure, transit  
40 maintenance, or transit operations, including through a proposed

1 public financing district, community financing district, or tax  
2 increment generated by the project.

3 (c) If a project described in subdivision (b) requires the  
4 construction of new passenger rail storage and maintenance  
5 facilities at a publicly or privately owned offsite location distinct  
6 from the principal project site, then that project shall be considered  
7 a wholly separate project from the project described in subdivision  
8 (b) and shall not be exempt from this division. Any required  
9 environmental review shall not affect or render invalid the  
10 exemption provided in subdivision (b), regardless of whether the  
11 project described in subdivision (b) cannot proceed unless the  
12 offsite facilities are constructed.

13 SEC. 4. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 a local government or school district has the authority to levy  
16 service charges, fees, or assessments sufficient to pay for the  
17 program or level of service mandated by this act, within the  
18 meaning of Section 17556 of the Government Code.