



NEW CALIFORNIA LAWS

2022 REAL ESTATE UPDATE

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Highlights

- Although California Senate Bill (SB) 9 (by-right duplexes) and SB 10 (upzonings up to 10 units) received the most attention, other important laws promoting increased density were enacted, such as SB 290, which reforms the State Density Bonus Law (SDBL), and SB 478, which limits floor area ratio (FAR) and lot coverage standards that limit multifamily housing.
- SB 8 extends important provisions of SB 330, the Housing Crisis Act of 2019 (HCA), but the Legislature otherwise took little action to streamline the housing approval process.
- The newest significant trend is a series of laws that take aim at recorded Covenants, Conditions and Restrictions (CC&Rs), including Assembly Bill (AB) 721, which makes any CC&Rs that limit residential development unenforceable against the developer of a 100 percent Below Market Rate (BMR) development.
- The Legislature also focused particular attention on issues of fair housing and equity, including a new law that requires all BMR homes within a development to be integrated and have the same access to common areas and amenities as non-BMR homes – with apparent retroactive effect. (AB 491)

All new laws reflected here are effective as of January 1, 2022, unless otherwise noted.

Senate Bill 9

Senate Bill (SB) 9 provides for the ministerial approval of converting existing homes occupied by a homeowner into a duplex if certain eligibility restrictions are satisfied. It also allows a single-family home lot to be split into two lots, and a duplex to be built on each lot, provided that the initial home is occupied by an owner who attests that the owner will continue to live in a unit on the property as their primary residence for at least three years.

Senate Bill 10

SB 10 provides that if local agencies choose to adopt an ordinance to allow up to 10 dwelling units on any parcel within a transit-rich area or urban infill site, the rezoning will be exempt from environmental review pursuant to the California Environmental Quality Act (CEQA), but subsequent project approvals are not necessarily exempt, unless the local agency adopts a ministerial approval process or there is another exemption or local law that exempts the project.

Senate Bill 290

The State Density Bonus Law (SDBL) grants bonuses, concessions, waivers and parking reductions to projects with qualifying affordable housing. The SDBL continues to be the most commonly used tool to increase housing density and production.

Senate Bill 728

In connection with for-sale density bonus units that qualified a developer for an award of a density bonus under the SDBL, SB 728 requires that such unit be either 1) initially occupied by a person or family of the required income, offered at an affordable housing cost and subject to an equity sharing agreement, or 2) purchased by a qualified nonprofit housing organization receiving a property tax welfare exemption.

Senate Bill 478

Sets minimum FAR/lot coverage standards and prohibition on CC&R restrictions of FAR for missing middle multifamily housing. FAR (floor area ratio) is a common mechanism in local zoning codes that limits the total floor area of a building in relation to the square footage of a lot.

Assembly Bill 345

AB 345 further facilitates ADUs by removing the requirement for a local agency to first pass an ordinance allowing the conveyance of an ADU separately from a primary residence (which can be an extended process) before such conveyance occurs and permits an ADU to be sold or conveyed separately from the primary residence to a qualified buyer.

Senate Bill 8

Extends the provisions of the Housing Crisis Act of 2019 through 2030. The Housing Crisis Act of 2019, which was scheduled to expire in 2025, accelerates the approval process for housing projects, curtails local governments' ability to downzone and limits fee increases on housing applications, among other key accountability provisions.

Assembly Bill 1174

An urgency measure that makes changes to the existing streamlined, ministerial approval process for housing development in jurisdictions that have not yet made enough progress towards their allocation of their regional housing needs.

Assembly Bill 1398

If a city cannot identify sufficient sites adequate to accommodate its regional housing need, the Housing Element must commit to rezone properties within 3 years to allow "by right" development of 20% BMR projects.

Assembly Bill 721

Makes recorded covenants that limit residential development unenforceable against qualifying affordable housing developments.

Assembly Bill 1584

Establishes a restriction on contractual development controls that mirrors AB 721 by declaring unenforceable any CC&R contained within a deed, contract, security instrument or other instrument that prohibits, effectively prohibits or restricts the construction or use of an ADU on a lot zoned for single-family use.

Assembly Bill 1043

Adding "Acutely Low Income" Households to Affordable Housing Law

Senate Bill 791

Establishes within HCD the California Surplus Land Unit to provide technical assistance to local agencies and developers to "facilitate the development and construction of residential housing on local surplus land."

Senate Bill 591

Authorizes the establishment of intergenerational housing developments that would include senior citizens, caregivers and transition-age youth in order to permit developers who receive local or state funds or tax credits designated for affordable rental housing to prioritize and restrict occupancy of certain developments to senior citizens, caregivers and transition-age youth.

For full details on any current or past legislation, please visit the California Legislative Information Website:

<https://leginfo.legislature.ca.gov>

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