

# Daily Journal

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## Inside California's new housing package

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**MARGO BRADISH**

Partner, Cox, Castle & Nicholson LLP

[See more...](#)



**OFER ELITZUR**

Partner, Cox, Castle & Nicholson LLP

[See more...](#)



**ASHLEY WEINSTEIN-CARNES**

Associate, Cox, Castle & Nicholson LLP

[See more...](#)



**STEPHANIE STRAKA**

Associate, Cox, Castle & Nicholson LLP

[See more...](#)

### 2017 LEGISLATIVE SESSION

Gov. Jerry Brown recently signed a long-anticipated package of 15 housing-related bills. These bills, signed Sept. 29, constitute the Legislature's farthest-reaching action in years to address California's ongoing housing crisis. Though the bills are expected to make only a dent in California's annual shortage of new housing stock, they are, at the very least, a resounding acknowledgment that the state's housing crisis requires action at the highest level.

The core bills are Senate Bill 35, which provides a streamlined entitlement process for qualifying projects, and Senate Bills 2 and 3, both of which are intended to provide much-needed funding for affordable housing.

## **SB 35: Streamlined Approval Process for Qualifying Housing Developments**

SB 35 creates a streamlined, ministerial entitlement process for qualifying multi-family, urban infill projects in jurisdictions that have failed to approve housing projects sufficient to meet their state-mandated Regional Housing Needs Allocation. SB 35 allows the Department of Housing and Community Development to adopt guidelines to implement its terms that, when available, should provide additional insight as to how SB 35 will be implemented.

HCD will determine which jurisdictions are subject to SB 35 by requiring each local government to report to HCD in its annual report the number of housing units that have been issued completed entitlements, broken down by income category □ information that has been long sought by HCD to assess local progress against RHNA. SB 35 will apply to jurisdictions that have not issued building permits sufficient to meet RHNA.

To qualify for entitlement streamlining under SB 35, projects must: (i) be consistent with objective zoning and design review standards; (ii) be located on a site in an urban area that is zoned or designated for residential use or residential mixed-use, with at least two-thirds of the project square footage designed for residential use; (iii) dedicate a minimum percentage of units as affordable to households earning less than 80 percent of the area median income (10 percent of units in jurisdictions that have not approved sufficient housing to meet their RHNA for above-moderate income housing (if the project contains more than 10 units) and 50 percent of units in jurisdictions that have not approved sufficient housing to meet their RHNA for below-moderate income housing); and (iv) require payment of prevailing wages if the project contains more than 10 units. SB 35 does not apply to projects that are located in certain "protected" areas, such as within a coastal zone or on sites that would require demolition of affordable housing to make way for a new project.

In jurisdictions subject to SB 35, the streamlined review process commences when a development proponent submits an application for a qualified development. Each local government must (i) notify the applicant of any conflicts between the proposed project and applicable objective development standards, and (ii) conduct design review. If the local government determines that the proposed project is inconsistent with objective planning standards, the locality will have 60 or 90 days from submittal of a development application (depending on the size of the project) to provide the applicant a written explanation of the reason(s) the project conflicts with the standards. If the locality fails to comply with this timeline, the project is deemed to satisfy the objective planning standards. Additionally, the local government will have 90 or 180 days (depending on the size of the project) to conduct any applicable design review or public oversight of the project, which similarly must be objective and based on the project's consistency with the criteria for streamlined projects and "shall not in any way inhibit, chill, or preclude the ministerial approval" of the project.

SB 35 provides a number of other potential benefits and limitations for project applicants to consider. For example, SB 35 restricts local governments' ability to impose certain parking requirements on qualifying projects. The new legislation also prohibits a local government from adopting any requirement that applies to a streamlined project on the basis that the project is eligible for ministerial or streamlined approval pursuant to SB 35. Streamlined review under SB 35 will expire on Jan. 1, 2026.

## **SB 2: Permanent Funding Source**

Known as the Building Homes and Jobs Act, SB 2 will establish a permanent, ongoing funding source dedicated to affordable housing. The funding is intended to fill the void left by the elimination of redevelopment agencies in 2012 and the exhaustion of previous funding sources. Beginning Jan. 1, 2018, SB 2 imposes a \$75 document recording fee, per transaction per parcel (with a maximum fee of \$225), for every real estate document that is required by law to be recorded, excluding transfers that are subject to documentary transfer tax (i.e., taxable real estate sales) and transfers of residential dwellings to owner-occupiers. SB 2 is expected to primarily affect mortgage financings, among other transactions. Legislative estimates calculate that SB 2 could generate more than \$200 million per year for affordable housing.

Monies in the Building Homes and Jobs Trust Fund must be used to improve local permitting processes for housing and to provide much-needed subsidies, mostly to projects serving persons experiencing or at risk of homelessness. It is unclear what volume of additional affordable housing will be generated by virtue of SB 2 funding.

Between Jan. 1 and Dec. 31, 2018, monies in the fund will be allocated as follows: (i) 50 percent to local governments upon request for the purpose of updating planning documents, zoning ordinances, and local processes in order to streamline housing production, and for new environmental analyses that eliminate the need for project-specific review; and (ii) 50 percent to HCD to assist persons experiencing or at risk of homelessness, including providing rapid rehousing, rental assistance, navigation centers, and the new construction, rehabilitation, and preservation of permanent and transitional rental housing.

After 2018, the funds will be used as follows: (i) 20 percent by HCD for the development of affordable owner-occupied workforce housing, (ii) 70 percent by HCD for a competitive grant program for local governments to assist persons experiencing or at risk of homelessness and to develop affordable housing, prioritizing less populated and rural areas; and (iii) the remainder for the development of farm worker and other affordable housing.

### **SB 3: General Obligation Bond for Housing**

SB 3, the Veterans and Affordable Housing Bond Act of 2018, will put a \$4 billion general obligation bond on the Nov. 6, 2018, ballot to subsidize affordable housing and home loan programs for veterans. Supporters argue that these bond proceeds will provide California with a critical funding source to produce more affordable housing. Critics argue that SB 3 will merely throw money at a complicated problem.

If approved by the voters, proceeds from SB 3 bonds would be allocated as follows: \$3 billion to finance the following housing, infrastructure financing, and housing matching grant programs: (i) \$1.5 billion into the Housing Rehabilitation Loan Fund for new construction, rehabilitation and preservation of permanent and transitional rental housing for persons with incomes of up to 60 percent of the area median income; and (ii) \$150 million into the Transit-Oriented Development Implementation Fund to provide assistance to local governments, transit agencies, and project applicants to develop higher density uses proximate to transit stations that will increase public transit ridership; (iii) \$300 million into the Regional Planning, Housing, and Infill Incentive Account for infill grants for new construction and rehabilitation of infrastructure that supports high-density affordable and mixed-income housing in locations designated as infill; (iv) \$150 million into the Self-Help Housing Fund for the home purchase assistance program; (v) \$300 million to the Joe Serna, Jr. Farmworker Housing Grant Fund to fund grants and/or loans for construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing; (vi) \$300 million into the Affordable Housing Innovation Fund to fund competitive grants or loans to local housing trust funds that develop, own, lend, or invest in affordable housing and used to create pilot programs to demonstrate innovative approaches to creating or preserving affordable housing; (vii) \$300 million into the Self-Help Housing Fund to provide direct, forgivable loans to assist projects involving multiple home ownership units.

The remaining \$1 billion will be allocated for farm and home loans for veterans through the Multifamily Housing Program, Joe Serna, Jr. Farmworker Housing Grant Program, and California Department of Veteran Affairs CalHome Program.