



News & Publications

Legislation Update: New Land Use Bills Introduced in the 2023 California Legislative Session

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Over 2,600 bills were introduced in the California legislature at the beginning of the 2023 session, and this year promises to be a very busy year for the legislature and everyone tracking the new proposals. This is the first of a three-part Client Alert highlighting the bills in the 2023 session affecting land use regulation and development.

In this update, we focus on the proposed legislation that would affect (a) the Density Bonus Law, (b) adaptive reuse projects, (c) parking requirements, (d) accessory dwelling units (ADUs), and (d) the Surplus Land Act. Subsequent updates will focus on other land use and development-related topics, including, new infill incentives, proposed changes to the California Environmental Quality Act, modifications to SB 35, and other important bills.

The state's housing crisis has been the primary focus of recent California land use legislation, with over 100 housing-related bills enacted since 2016. This legislative session is no exception, with numerous consequential bills intended to streamline and incentivize the production of housing, including, a new entitlement pathway to promote the conversion of commercial buildings to residential use. Other bills would also make important refinements or modifications to existing state law.

A. Density Bonus Law


[AB 1287 \(Alvarez\): Amendment to Density Bonus Law Allowing for Additional Density, Concessions and Incentives and Superseding the Coastal Act.](#)

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AB 1287 requires a local agency to grant an additional density bonus for projects that conform to specified requirements and are already providing the maximum percentage of affordable units; i.e., the project is providing 24% of the base density units to lower income households; or 15% of the base density units to very low-income households; or 44% of the total units to moderate-income units. The additional density bonus would apply to additional very low-income units (with the bonus scaling from a 20% bonus for an additional 5% of very low units to a 38.75% bonus for an additional 10% very-low income units) and moderate-income units (ranging from a 20% bonus for an additional 5% of moderate units increasing to a 50% bonus for an additional 15% of moderate units). AB 1287 would require local agencies to grant additional concessions or incentives for projects meeting these requirements.

Importantly, AB 1287 would further amend the Density Bonus Law to state that any density bonus, concessions, incentives, waivers or reductions of development standards, or reduced parking ratios shall be permitted notwithstanding the California Coastal Act.

AB 323 (Holden): [Sale of Density Bonus Units to a Nonprofit Housing Organization.](#)

AB 323 would impose additional requirements on the developer of for-sale housing that used the Density Bonus Law, including a requirement that a nonprofit developer retain a repurchase option pursuant to an equity sharing agreement. The bill would also prohibit a developer from offering a unit constructed pursuant to a local inclusionary zoning ordinance that is intended for owner-occupancy to a purchaser that intends to rent the unit to extremely low, very low, low-, and moderate-income families, unless the developer can prove that none of the applicants for owner-occupancy can qualify for the unit as an owner-occupant.

SB 713 (Padilla): [Density Bonus Law Preempts Any Local Ordinance Enacted by Initiative.](#)

SB 713 would affirm that the Density Bonus Law supersedes an ordinance, regulation or other local law enacted by a voter initiative that conflicts with the Density Bonus Law.

AB 637 (Low): [Limits on Density Bonus Projects Affecting Inclusionary Programs.](#)

AB 637 would amend the Density Bonus Law by allowing a jurisdiction to deny the granting of a concession, incentive, or waiver of development standard if the jurisdiction makes a written finding based upon substantial evidence that the concession, incentive, or waiver of development standard would alter the requirements of a local inclusionary housing program, policy, or ordinance. As an example of what might alter the requirements of an inclusionary housing program, the bill analysis cited a project in Mountain View that requested a waiver of a requirement that affordable housing units be equitably distributed throughout the development and of comparable size to the market-rate units.

B. [Adaptive Reuse Projects](#)

AB 1532 (Haney): [Office Conversion Projects.](#)

AB 1532 would make an office conversion project that meets certain requirements a use by right in all zones regardless of zoning. "Office conversion project" is defined under AB 1532 to mean the conversion of a building used for office purposes or a vacant office building into residential dwelling units. Office conversion projects must dedicate at least 10



percent of the housing units created by the project to low- or moderate-income households. “Use by right” is defined under AB 1532 to mean that the city or county’s review of the office conversion may not require a conditional use permit, planned unit development permit, or other discretionary city or county review or approval that would constitute a “project” for purposes of CEQA. AB 1532 would also prohibit the local government from imposing any parking or open space requirements beyond those that were imposed on the original office project.

AB 1490 (Lee): Adaptive Reuse for Affordable Housing.

AB 1490 would require a local government to provide an affordable housing project that is an adaptive reuse project with specified benefits and exemptions by local government agencies, including, among other things, approval of all entitlements and permits applicable to the project in 30 days or less, exemption from any minimum floor area ratio, and waiver of local building and permit fees. The project would need to include 100% of the units for lower income households, of which at least 50% must be for very low-income households. AB 1490 would define adaptive reuse as the retrofitting and repurposing of an existing building to create new residential units.

C. Parking

AB 1317 (Carrillo): Unbundled Parking.

AB 1317 would require the owner of a qualifying residential property that provides parking with a residential unit to unbundle the parking from the rent. AB 1317 would apply to residential properties of 16 units or more, which receive a certificate of occupancy after January 1, 2025, and are located in the Counties of Alameda, Fresno, Los Angeles, Riverside, Sacramento, San Bernardino, San Joaquin, Santa Clara, Shasta, or Ventura. AB 1317 would require the landlord to establish separate amounts for the rent of the residential unit and the use of the parking space. The bill provides a methodology for determining the “market rate cost of parking.” AB 1317 would also provide tenants with a right of first refusal to parking spaces built for their units. Residential properties with individual garages that are functionally a part of the property, such as a townhouse, would be exempt from AB 1317.

D. ADUs

AB 976 (Ting): Prohibition on Owner-Occupancy Requirements for ADUs.

Under existing law, local agencies are permitted, beginning on January 1, 2025, to impose owner-occupancy requirements on an ADU if the ADU was not permitted between January 1, 2020 and January 1, 2025. AB 976 would prohibit a local agency from imposing an owner-occupancy requirement on *any* ADU regardless of when that ADU was permitted. AB 976 would continue to allow local agencies to require that the ADU be used for rental terms greater than 30 days.

AB 1332 (Carillo): Pre-Approved Plans for ADUs.

AB 1332 would require local agencies, by April 2025, to develop a program for the pre-approval and posting of ADU plans. The plans may be submitted for approval by members of the public. In addition, the local agency may develop its own plans or use plans approved by other local agencies.



AB 1661 (Bonta): No Separate Electrical Meters for ADUs.

AB 1661 would amend the Public Utilities Code to exempt ADUs from the requirement for individually metered electrical and gas service.

E. Surplus Lands

SB 240 (Ochoa Bough): [Surplus State Property and Transitional Housing](#).

Existing law requires the state Department of General Services to first offer surplus state land to certain priority purchasers, such as local agencies and nonprofits, and for specified uses, including parks, open space, and affordable housing, prior to offering the land for sale to private entities. SB 240 would additionally prioritize a sale to a local agency or nonprofit that will use the land for transitional housing for formerly incarcerated individuals. The bill would also specify that the use of surplus state land by a local agency or nonprofit for affordable housing or such transitional housing is a use “by right” that is exempt from CEQA.

SB 747 (Caballero): [Economic Development and Surplus Land](#).

SB 747 would make various amendments to the Economic Opportunity Law, Gov. Code § 52200 et seq., and the Surplus Land Act, Gov. Code § 54220 et seq. SB 747 would provide that the Economic Opportunity Law is an alternative to any other authority or procedures for cities and counties to acquire, sell, lease, or otherwise transfer owned real property and, further, that the Surplus Land Act does not apply to land disposed of under the Economic Opportunity Law. Among other things, SB 747 also would redefine the term “agency’s use” under the Surplus Land Act to include use for transit or transit-oriented development and create an exception from the Surplus Land Act’s notice requirement for affordable housing projects that will restrict at least 25% of their units to lower income households.

AB 1734 (Jones-Sawyer): [Surplus Land and Exempt Surplus Land](#).

AB 1734 would expand the definition of “exempt surplus land” under the Surplus Land Act to include land disposed of for emergency shelters, supportive housing, transitional housing, and affordable housing projects in which 100 percent of all units in the development, exclusive of a manager’s unit or units, sold or rented to lower income households (except that up to 20 percent of the units in the development may be for moderate-income households). However, the local agency must have a compliant housing element, among other requirements. SB 1734 also would clarify that land used for by a local agency or district for the agency’s use qualifies as exempt surplus land.

If you would like to know more about these bills or how they may affect you, please contact any of our experienced land use attorneys.