

AMENDED IN SENATE APRIL 26, 2016

AMENDED IN SENATE APRIL 13, 2016

AMENDED IN SENATE APRIL 6, 2016

**SENATE BILL**

**No. 1069**

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**Introduced by Senator Wieckowski**  
(Coauthor: Assembly Member Atkins)

February 16, 2016

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An act to amend Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, as amended, Wieckowski. Land use: zoning.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. That law makes findings and declarations with respect to the value of 2nd units to California's housing supply.

This bill would replace the term "second unit" with "accessory dwelling unit" throughout the law. The bill would add to those findings and declarations ~~that~~ *that, among other things*, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock and these units are an essential component of housing supply in California.

*The Planning and Zoning Law authorizes the ordinance for the creation of 2nd units in single-family and multifamily residential zones to include specified provisions regarding areas where accessory dwelling units may be located, standards, including the imposition of*

*parking standards, and lot density. Existing law, when a local agency has not adopted an ordinance governing 2nd units as so described, requires the local agency to approve or disapprove the application ministerially, as provided.*

This bill would *instead* require ~~an~~ the ordinance for the creation of accessory dwelling units to include ~~specified provisions regarding areas where accessory dwelling units may be located, standards, and lot density.~~ the provisions described above. The bill would prohibit the imposition of parking standards under specified circumstances. The bill would revise requirements for the approval or disapproval of an accessory dwelling unit application when a local agency has not adopted an ordinance. The bill would also require the ministerial approval of an application for a building permit to create an accessory dwelling unit within the existing space of a single family residence or accessory structure, as specified. ~~By~~

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 65582.1 of the Government Code is
- 2 amended to read:
- 3 65582.1. The Legislature finds and declares that it has provided
- 4 reforms and incentives to facilitate and expedite the construction
- 5 of affordable housing. Those reforms and incentives can be found
- 6 in the following provisions:
- 7 (a) Housing element law (Article 10.6 (commencing with
- 8 Section 65580) of Chapter 3).
- 9 (b) Extension of statute of limitations in actions challenging the
- 10 housing element and brought in support of affordable housing
- 11 (subdivision (d) of Section 65009).
- 12 (c) Restrictions on disapproval of housing developments
- 13 (Section 65589.5).

1 (d) Priority for affordable housing in the allocation of water and  
2 sewer hookups (Section 65589.7).

3 (e) Least cost zoning law (Section 65913.1).

4 (f) Density bonus law (Section 65915).

5 (g) Accessory dwelling units (Sections 65852.150 and 65852.2).

6 (h) By-right housing, in which certain multifamily housing are  
7 designated a permitted use (Section 65589.4).

8 (i) No-net-loss-in zoning density law limiting downzonings and  
9 density reductions (Section 65863).

10 (j) Requiring persons who sue to halt affordable housing to pay  
11 attorney fees (Section 65914) or post a bond (Section 529.2 of the  
12 Code of Civil Procedure).

13 (k) Reduced time for action on affordable housing applications  
14 under the approval of development permits process (Article 5  
15 (commencing with Section 65950) of Chapter 4.5).

16 (l) Limiting moratoriums on multifamily housing (Section  
17 65858).

18 (m) Prohibiting discrimination against affordable housing  
19 (Section 65008).

20 (n) California Fair Employment and Housing Act (Part 2.8  
21 (commencing with Section 12900) of Division 3).

22 (o) Community redevelopment law (Part 1 (commencing with  
23 Section 33000) of Division 24 of the Health and Safety Code, and  
24 in particular Sections 33334.2 and 33413).

25 SEC. 2. Section 65583.1 of the Government Code is amended  
26 to read:

27 65583.1. (a) The Department of Housing and Community  
28 Development, in evaluating a proposed or adopted housing element  
29 for substantial compliance with this article, may allow a city or  
30 county to identify adequate sites, as required pursuant to Section  
31 65583, by a variety of methods, including, but not limited to,  
32 redesignation of property to a more intense land use category and  
33 increasing the density allowed within one or more categories. The  
34 department may also allow a city or county to identify sites for  
35 accessory dwelling units based on the number of accessory  
36 dwelling units developed in the prior housing element planning  
37 period whether or not the units are permitted by right, the need for  
38 these units in the community, the resources or incentives available  
39 for their development, and any other relevant factors, as determined  
40 by the department. Nothing in this section reduces the responsibility

1 of a city or county to identify, by income category, the total number  
2 of sites for residential development as required by this article.

3 (b) Sites that contain permanent housing units located on a  
4 military base undergoing closure or conversion as a result of action  
5 pursuant to the Defense Authorization Amendments and Base  
6 Closure and Realignment Act (Public Law 100-526), the Defense  
7 Base Closure and Realignment Act of 1990 (Public Law 101-510),  
8 or any subsequent act requiring the closure or conversion of a  
9 military base may be identified as an adequate site if the housing  
10 element demonstrates that the housing units will be available for  
11 occupancy by households within the planning period of the  
12 element. No sites containing housing units scheduled or planned  
13 for demolition or conversion to nonresidential uses shall qualify  
14 as an adequate site.

15 Any city, city and county, or county using this subdivision shall  
16 address the progress in meeting this section in the reports provided  
17 pursuant to paragraph (1) of subdivision (b) of Section 65400.

18 (c) (1) The Department of Housing and Community  
19 Development may allow a city or county to substitute the provision  
20 of units for up to 25 percent of the community's obligation to  
21 identify adequate sites for any income category in its housing  
22 element pursuant to paragraph (1) of subdivision (c) of Section  
23 65583 where the community includes in its housing element a  
24 program committing the local government to provide units in that  
25 income category within the city or county that will be made  
26 available through the provision of committed assistance during  
27 the planning period covered by the element to low- and very low  
28 income households at affordable housing costs or affordable rents,  
29 as defined in Sections 50052.5 and 50053 of the Health and Safety  
30 Code, and which meet the requirements of paragraph (2). Except  
31 as otherwise provided in this subdivision, the community may  
32 substitute one dwelling unit for one dwelling unit site in the  
33 applicable income category. The program shall do all of the  
34 following:

35 (A) Identify the specific, existing sources of committed  
36 assistance and dedicate a specific portion of the funds from those  
37 sources to the provision of housing pursuant to this subdivision.

38 (B) Indicate the number of units that will be provided to both  
39 low- and very low income households and demonstrate that the

1 amount of dedicated funds is sufficient to develop the units at  
2 affordable housing costs or affordable rents.

3 (C) Demonstrate that the units meet the requirements of  
4 paragraph (2).

5 (2) Only units that comply with subparagraph (A), (B), or (C)  
6 qualify for inclusion in the housing element program described in  
7 paragraph (1), as follows:

8 (A) Units that are to be substantially rehabilitated with  
9 committed assistance from the city or county and constitute a net  
10 increase in the community's stock of housing affordable to low-  
11 and very low income households. For purposes of this  
12 subparagraph, a unit is not eligible to be "substantially  
13 rehabilitated" unless all of the following requirements are met:

14 (i) At the time the unit is identified for substantial rehabilitation,  
15 (I) the local government has determined that the unit is at imminent  
16 risk of loss to the housing stock, (II) the local government has  
17 committed to provide relocation assistance pursuant to Chapter 16  
18 (commencing with Section 7260) of Division 7 of Title 1 to any  
19 occupants temporarily or permanently displaced by the  
20 rehabilitation or code enforcement activity, or the relocation is  
21 otherwise provided prior to displacement either as a condition of  
22 receivership, or provided by the property owner or the local  
23 government pursuant to Article 2.5 (commencing with Section  
24 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and  
25 Safety Code, or as otherwise provided by local ordinance; provided  
26 the assistance includes not less than the equivalent of four months'  
27 rent and moving expenses and comparable replacement housing  
28 consistent with the moving expenses and comparable replacement  
29 housing required pursuant to Section 7260, (III) the local  
30 government requires that any displaced occupants will have the  
31 right to reoccupy the rehabilitated units, and (IV) the unit has been  
32 found by the local government or a court to be unfit for human  
33 habitation due to the existence of at least four violations of the  
34 conditions listed in subdivisions (a) to (g), inclusive, of Section  
35 17995.3 of the Health and Safety Code.

36 (ii) The rehabilitated unit will have long-term affordability  
37 covenants and restrictions that require the unit to be available to,  
38 and occupied by, persons or families of low- or very low income  
39 at affordable housing costs for at least 20 years or the time period  
40 required by any applicable federal or state law or regulation.

1 (iii) Prior to initial occupancy after rehabilitation, the local code  
2 enforcement agency shall issue a certificate of occupancy indicating  
3 compliance with all applicable state and local building code and  
4 health and safety code requirements.

5 (B) Units that are located either on foreclosed property or in a  
6 multifamily rental or ownership housing complex of three or more  
7 units, are converted with committed assistance from the city or  
8 county from nonaffordable to affordable by acquisition of the unit  
9 or the purchase of affordability covenants and restrictions for the  
10 unit, are not acquired by eminent domain, and constitute a net  
11 increase in the community's stock of housing affordable to low-  
12 and very low income households. For purposes of this  
13 subparagraph, a unit is not converted by acquisition or the purchase  
14 of affordability covenants unless all of the following occur:

15 (i) The unit is made available for rent at a cost affordable to  
16 low- or very low income households.

17 (ii) At the time the unit is identified for acquisition, the unit is  
18 not available at an affordable housing cost to either of the  
19 following:

20 (I) Low-income households, if the unit will be made affordable  
21 to low-income households.

22 (II) Very low income households, if the unit will be made  
23 affordable to very low income households.

24 (iii) At the time the unit is identified for acquisition the unit is  
25 not occupied by low- or very low income households or if the  
26 acquired unit is occupied, the local government has committed to  
27 provide relocation assistance prior to displacement, if any, pursuant  
28 to Chapter 16 (commencing with Section 7260) of Division 7 of  
29 Title 1 to any occupants displaced by the conversion, or the  
30 relocation is otherwise provided prior to displacement; provided  
31 the assistance includes not less than the equivalent of four months'  
32 rent and moving expenses and comparable replacement housing  
33 consistent with the moving expenses and comparable replacement  
34 housing required pursuant to Section 7260.

35 (iv) The unit is in decent, safe, and sanitary condition at the  
36 time of occupancy.

37 (v) The unit has long-term affordability covenants and  
38 restrictions that require the unit to be affordable to persons of low-  
39 or very low income for not less than 55 years.

(vi) For units located in multifamily ownership housing complexes with three or more units, or on or after January 1, 2015, on foreclosed properties, at least an equal number of new-construction multifamily rental units affordable to lower income households have been constructed in the city or county within the same planning period as the number of ownership units to be converted.

(C) Units that will be preserved at affordable housing costs to persons or families of low- or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to, and reserved for occupancy by, persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is within an “assisted housing development,” as defined in paragraph (3) of subdivision (a) of Section 65863.10.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low- or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, “committed assistance” means that the city or county enters into a legally enforceable

1 agreement during the period from the beginning of the projection  
2 period until the end of the second year of the planning period that  
3 obligates sufficient available funds to provide the assistance  
4 necessary to make the identified units affordable and that requires  
5 that the units be made available for occupancy within two years  
6 of the execution of the agreement. “Committed assistance” does  
7 not include tenant-based rental assistance.

8 (5) For purposes of this subdivision, “net increase” includes  
9 only housing units provided committed assistance pursuant to  
10 subparagraph (A) or (B) of paragraph (2) in the current planning  
11 period, as defined in Section 65588, that were not provided  
12 committed assistance in the immediately prior planning period.

13 (6) For purposes of this subdivision, “the time the unit is  
14 identified” means the earliest time when any city or county agent,  
15 acting on behalf of a public entity, has proposed in writing or has  
16 proposed orally or in writing to the property owner, that the unit  
17 be considered for substantial rehabilitation, acquisition, or  
18 preservation.

19 (7) In the third year of the planning period, as defined by Section  
20 65588, in the report required pursuant to Section 65400, each city  
21 or county that has included in its housing element a program to  
22 provide units pursuant to subparagraph (A), (B), or (C) of  
23 paragraph (2) shall report in writing to the legislative body, and  
24 to the department within 30 days of making its report to the  
25 legislative body, on its progress in providing units pursuant to this  
26 subdivision. The report shall identify the specific units for which  
27 committed assistance has been provided or which have been made  
28 available to low- and very low income households, and it shall  
29 adequately document how each unit complies with this subdivision.  
30 If, by July 1 of the third year of the planning period, the city or  
31 county has not entered into an enforceable agreement of committed  
32 assistance for all units specified in the programs adopted pursuant  
33 to subparagraph (A), (B), or (C) of paragraph (2), the city or county  
34 shall, not later than July 1 of the fourth year of the planning period,  
35 adopt an amended housing element in accordance with Section  
36 65585, identifying additional adequate sites pursuant to paragraph  
37 (1) of subdivision (c) of Section 65583 sufficient to accommodate  
38 the number of units for which committed assistance was not  
39 provided. If a city or county does not amend its housing element  
40 to identify adequate sites to address any shortfall, or fails to



complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

(d) A city or county may reduce its share of the regional housing need by the number of units built between the start of the projection period and the deadline for adoption of the housing element. If the city or county reduces its share pursuant to this subdivision, the city or county shall include in the housing element a description of the methodology for assigning those housing units to an income category based on actual or projected sales price, rent levels, or other mechanisms establishing affordability.

SEC. 3. Section 65589.4 of the Government Code is amended to read:

65589.4. (a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:

(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The attached housing development meets all of the following criteria:

(A) The attached housing development is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the attached housing development under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative declaration or mitigated negative declaration for the attached housing development may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

1 (B) The attached housing development is consistent with both  
2 the jurisdiction's zoning ordinance and general plan as it existed  
3 on the date the application was deemed complete, except that an  
4 attached housing development shall not be deemed to be  
5 inconsistent with the zoning designation for the site if that zoning  
6 designation is inconsistent with the general plan only because the  
7 attached housing development site has not been rezoned to conform  
8 with the most recent adopted general plan.

9 (C) The attached housing development is located in an area that  
10 is covered by one of the following documents that has been adopted  
11 by the jurisdiction within five years of the date the application for  
12 the attached housing development was deemed complete:

13 (i) A general plan.

14 (ii) A revision or update to the general plan that includes at least  
15 the land use and circulation elements.

16 (iii) An applicable community plan.

17 (iv) An applicable specific plan.

18 (D) The attached housing development consists of not more  
19 than 100 residential units with a minimum density of not less than  
20 12 units per acre or a minimum density of not less than eight units  
21 per acre if the attached housing development consists of four or  
22 fewer units.

23 (E) The attached housing development is located in an urbanized  
24 area as defined in Section 21071 of the Public Resources Code or  
25 within a census-defined place with a population density of at least  
26 5,000 persons per square mile or, if the attached housing  
27 development consists of 50 or fewer units, within an incorporated  
28 city with a population density of at least 2,500 persons per square  
29 mile and a total population of at least 25,000 persons.

30 (F) The attached housing development is located on an infill  
31 site as defined in Section 21061.0.5 of the Public Resources Code.

32 (b) At least 10 percent of the units of the attached housing  
33 development shall be available at affordable housing cost to very  
34 low income households, as defined in Section 50105 of the Health  
35 and Safety Code, or at least 20 percent of the units of the attached  
36 housing development shall be available at affordable housing cost  
37 to lower income households, as defined in Section 50079.5 of the  
38 Health and Safety Code, or at least 50 percent of the units of the  
39 attached housing development available at affordable housing cost  
40 to moderate-income households, consistent with Section 50052.5

1 of the Health and Safety Code. The developer of the attached  
2 housing development shall provide sufficient legal commitments  
3 to the local agency to ensure the continued availability and use of  
4 the housing units for very low, low-, or moderate-income  
5 households for a period of at least 30 years.

6 (c) Nothing in this section shall prohibit a local agency from  
7 applying design and site review standards in existence on the date  
8 the application was deemed complete.

9 (d) The provisions of this section are independent of any  
10 obligation of a jurisdiction pursuant to subdivision (c) of Section  
11 65583 to identify multifamily sites developable by right.

12 (e) This section does not apply to the issuance of coastal  
13 development permits pursuant to the California Coastal Act  
14 (Division 20 (commencing with Section 30000) of the Public  
15 Resources Code).

16 (f) This section does not relieve a public agency from complying  
17 with the California Environmental Quality Act (Division 13  
18 (commencing with Section 21000) of the Public Resources Code)  
19 or relieve an applicant or public agency from complying with the  
20 Subdivision Map Act (Division 2 (commencing with Section  
21 66473)).

22 (g) This section is applicable to all cities and counties, including  
23 charter cities, because the Legislature finds that the lack of  
24 affordable housing is of vital statewide importance, and thus a  
25 matter of statewide concern.

26 (h) For purposes of this section, “attached housing development”  
27 means a newly constructed or substantially rehabilitated structure  
28 containing two or more dwelling units and consisting only of  
29 residential units, but does not include an accessory dwelling unit,  
30 as defined by paragraph (4) of subdivision (i) of Section 65852.2,  
31 or the conversion of an existing structure to condominiums.

32 SEC. 4. Section 65852.150 of the Government Code is amended  
33 to read:

34 65852.150. (a) The Legislature finds and declares all of the  
35 following:

36 (1) Accessory dwelling units are a valuable form of housing in  
37 California.

38 (2) Accessory dwelling units provide housing for family  
39 members, students, the elderly, in-home health care providers, the

1 disabled, and others, at below market prices within existing  
2 neighborhoods.

3 (3) Homeowners who create accessory dwelling units benefit  
4 from added income, and an increased sense of security.

5 (4) Allowing accessory dwelling units in single-family or  
6 multifamily residential zones provides additional rental housing  
7 stock in California.

8 (5) California faces a severe housing crisis.

9 (6) The state is falling far short of meeting current and future  
10 housing demand with serious consequences for the state's  
11 economy, our ability to build green infill consistent with state  
12 greenhouse gas reduction goals, and the well-being of our citizens,  
13 particularly lower and middle-income earners.

14 (7) Accessory dwelling units offer lower cost housing to meet  
15 the needs of existing and future residents within existing  
16 neighborhoods, while respecting architectural character.

17 (8) Accessory dwelling units are, therefore, an essential  
18 component of California's housing supply.

19 (b) It is the intent of the Legislature that an accessory dwelling  
20 unit-ordinance adopted by a local agency has the effect of providing  
21 for the creation of accessory dwelling units and that provisions in  
22 this ordinance relating to matters including unit size, parking, fees  
23 and other requirements, are not so arbitrary, excessive, or  
24 burdensome so as to unreasonably restrict the ability of  
25 homeowners to create accessory dwelling units in zones in which  
26 they are authorized by local ordinance.

27 SEC. 5. Section 65852.2 of the Government Code is amended  
28 to read:

29 65852.2. (a) (1) A local agency may, by ordinance, provide  
30 for the creation of accessory dwelling units in single-family and  
31 multifamily residential zones. The ordinance shall do all of the  
32 following:

33 (A) Designate areas within the jurisdiction of the local agency  
34 where accessory dwelling units may be permitted. The designation  
35 of areas may be based on criteria, that may include, but are not  
36 limited to, the adequacy of water and sewer services and the impact  
37 of accessory dwelling units on traffic flow and public safety.

38 (B) Impose standards on accessory dwelling units that include,  
39 but are not limited to, parking, height, setback, lot coverage,  
40 architectural review, maximum size of a unit, and standards that

1 prevent adverse impacts on any real property that is listed in the  
2 California Register of Historic Places. However, notwithstanding  
3 subdivision (d), a local agency shall not impose parking standards  
4 for an accessory dwelling unit in any of the following instances:

5 (i) The accessory dwelling unit is located within one-half mile  
6 of public transit or shopping.

7 (ii) The accessory dwelling unit is located within an  
8 architecturally and historically significant historic district.

9 (iii) The accessory dwelling unit is part of the existing primary  
10 residence.

11 (iv) When on-street parking permits are required, but not offered  
12 to the occupant of the accessory dwelling unit.

13 (v) When there is a car share vehicle located within one block  
14 of the accessory dwelling unit.

15 (C) Provide that accessory dwelling units do not exceed the  
16 allowable density for the lot upon which the accessory dwelling  
17 unit is located, and that accessory dwelling units are a residential  
18 use that is consistent with the existing general plan and zoning  
19 designation for the lot.

20 (2) The ordinance shall not be considered in the application of  
21 any local ordinance, policy, or program to limit residential growth.

22 (3) When a local agency receives its first application on or after  
23 July 1, 2003, for a permit pursuant to this subdivision, the  
24 application shall be considered ministerially without discretionary  
25 review or a hearing, notwithstanding Section 65901 or 65906 or  
26 any local ordinance regulating the issuance of variances or special  
27 use permits, within 90 days of submittal of a complete building  
28 permit application. A local agency may charge a fee to reimburse  
29 it for costs that it incurs as a result of amendments to this paragraph  
30 enacted during the 2001–02 Regular Session of the Legislature,  
31 including the costs of adopting or amending any ordinance that  
32 provides for the creation of accessory dwelling units.

33 (b) (1) When a local agency that has not adopted an ordinance  
34 governing accessory dwelling units in accordance with subdivision  
35 (a) receives its first application on or after July 1, 1983, for a permit  
36 pursuant to this subdivision, the local agency shall accept the  
37 application and approve or disapprove the application ministerially  
38 without discretionary review pursuant to this subdivision unless  
39 it adopts an ordinance in accordance with subdivision (a) within  
40 90 days after receiving the application. Notwithstanding Section

1 65901 or 65906, every local agency shall ministerially approve  
2 the creation of an accessory dwelling unit if the accessory dwelling  
3 unit complies with all of the following:

4 (A) The unit is not intended for sale separate from the primary  
5 residence and may be rented.

6 (B) The lot is zoned for single-family or multifamily use.

7 (C) The lot contains an existing single-family dwelling.

8 (D) The accessory dwelling unit is either attached to the existing  
9 dwelling and located within the living area of the existing dwelling  
10 or detached from the existing dwelling and located on the same  
11 lot as the existing dwelling.

12 (E) The increased floor area of an attached accessory dwelling  
13 unit shall not exceed 50 percent of the existing living area.

14 (F) The total area of floorspace for a detached accessory  
15 dwelling unit shall not exceed 1,200 square feet.

16 (G) Requirements relating to height, setback, lot coverage,  
17 architectural review, site plan review, fees, charges, and other  
18 zoning requirements generally applicable to residential construction  
19 in the zone in which the property is located.

20 (H) Local building code requirements that apply to detached  
21 dwellings, as appropriate.

22 (I) Approval by the local health officer where a private sewage  
23 disposal system is being used, if required.

24 (2) No other local ordinance, policy, or regulation shall be the  
25 basis for the denial of a building permit or a use permit under this  
26 subdivision.

27 (3) This subdivision establishes the maximum standards that  
28 local agencies shall use to evaluate proposed accessory dwelling  
29 units on lots zoned for residential use that contain an existing  
30 single-family dwelling. No additional standards, other than those  
31 provided in this subdivision or subdivision (a), shall be utilized or  
32 imposed, except that a local agency may require an applicant for  
33 a permit issued pursuant to this subdivision to be an  
34 ~~owner-occupant~~ *owner-occupant or that the property be used for*  
35 *rentals of terms longer than 30 days.*

36 ~~(4) No changes in zoning ordinances or other ordinances or any~~  
37 ~~changes in the general plan shall be required to implement this~~  
38 ~~subdivision.~~ A local agency may amend its zoning ordinance or  
39 general plan to incorporate the policies, procedures, or other  
40 provisions applicable to the creation of accessory dwelling units

1 if these provisions are consistent with the limitations of this  
2 subdivision.

3 (5) An accessory dwelling unit that conforms to this subdivision  
4 shall not be considered to exceed the allowable density for the lot  
5 upon which it is located, and shall be deemed to be a residential  
6 use that is consistent with the existing general plan and zoning  
7 designations for the lot. The accessory dwelling units shall not be  
8 considered in the application of any local ordinance, policy, or  
9 program to limit residential growth.

10 (c) A local agency may establish minimum and maximum unit  
11 size requirements for both attached and detached accessory  
12 dwelling units. No minimum or maximum size for an accessory  
13 dwelling unit, or size based upon a percentage of the existing  
14 dwelling, shall be established by ordinance for either attached or  
15 detached dwellings that does not otherwise permit at least a  
16 500-foot accessory dwelling unit or a 500-foot efficiency unit to  
17 be constructed in compliance with local development standards.  
18 Accessory dwelling units shall not be required to provide fire  
19 sprinklers if they are not required for the primary residence.

20 (d) Parking requirements for accessory dwelling units shall not  
21 exceed one parking space per unit or per bedroom. These spaces  
22 may be provided as tandem parking on an existing driveway.  
23 Off-street parking shall be permitted in setback areas in locations  
24 determined by the local agency or through tandem parking, unless  
25 specific findings are made that parking in setback areas or tandem  
26 parking is not feasible based upon fire and life safety conditions.  
27 This subdivision shall not apply to a unit that complies with  
28 paragraph (1) of subdivision (b).

29 (e) Notwithstanding subdivisions (a) to (d), inclusive, a local  
30 agency shall ministerially approve an application for a building  
31 permit to create within a single-family residential zone one  
32 accessory dwelling unit per single-family lot if the unit is contained  
33 within the existing space of a single-family residence or accessory  
34 structure, has independent exterior access from the existing  
35 residence, and the side and rear setbacks are sufficient for fire  
36 safety. Accessory dwelling units shall not be required to provide  
37 fire sprinklers if they are not required for the primary residence.

38 (f) Fees charged for the construction of accessory dwelling units  
39 shall be determined in accordance with Chapter 5 (commencing  
40 with Section 66000). Accessory dwelling units shall not be

1 considered new residential uses for the purposes of calculating  
2 private or public utility connection fees, including water and sewer  
3 service.

4 (g) This section does not limit the authority of local agencies  
5 to adopt less restrictive requirements for the creation of accessory  
6 dwelling units.

7 (h) Local agencies shall submit a copy of the ordinances adopted  
8 pursuant to subdivision (a) to the Department of Housing and  
9 Community Development within 60 days after adoption.

10 (i) As used in this section, the following terms mean:

11 (1) "Living area," means the interior habitable area of a dwelling  
12 unit including basements and attics but does not include a garage  
13 or any accessory structure.

14 (2) "Local agency" means a city, county, or city and county,  
15 whether general law or chartered.

16 (3) For purposes of this section, "neighborhood" has the same  
17 meaning as set forth in Section 65589.5.

18 (4) "Accessory dwelling unit" means an attached or a detached  
19 residential dwelling unit which provides complete independent  
20 living facilities for one or more persons. It shall include permanent  
21 provisions for living, sleeping, eating, cooking, and sanitation on  
22 the same parcel as the single-family dwelling is situated. An  
23 accessory dwelling unit also includes the following:

24 (A) An efficiency unit, as defined in Section 17958.1 of Health  
25 and Safety Code.

26 (B) A manufactured home, as defined in Section 18007 of the  
27 Health and Safety Code.

28 (j) Nothing in this section shall be construed to supersede or in  
29 any way alter or lessen the effect or application of the California  
30 Coastal Act (Division 20 (commencing with Section 30000) of  
31 the Public Resources Code), except that the local government shall  
32 not be required to hold public hearings for coastal development  
33 permit applications for second units.

34 SEC. 6. Section 66412.2 of the Government Code is amended  
35 to read:

36 66412.2. This division shall not apply to the construction,  
37 financing, or leasing of dwelling units pursuant to Section 65852.1  
38 or accessory dwelling units pursuant to Section 65852.2, but this  
39 division shall be applicable to the sale or transfer, but not leasing,  
40 of those units.



1     SEC. 7. No reimbursement is required by this act pursuant to  
2     Section 6 of Article XIII B of the California Constitution because  
3     a local agency or school district has the authority to levy service  
4     charges, fees, or assessments sufficient to pay for the program or  
5     level of service mandated by this act, within the meaning of Section  
6     17556 of the Government Code.

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