

ASSEMBLY BILL

No. 2560

Introduced by Assembly Member Alvarez
(Coauthor: Senator Wiener)

February 14, 2024

An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2560, as introduced, Alvarez. Density Bonus Law: California Coastal Act of 1976.

Existing law, referred to as the Density Bonus Law, requires a city or county to provide a developer that proposes a housing development within the city or county with a density bonus and other incentives or concessions, as specified, if the developer agrees to construct specified percentages of units for lower income households or very low income households, and meets other requirements. Existing law, the California Coastal Act of 1976 (act), regulates development, as defined, in the coastal zone, as defined, and requires a new development to comply with specified requirements. The Density Bonus Law provides that its provisions do not supersede or in any way alter or lessen the effect or application of the act, and requires that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under the Density Bonus Law be permitted in a manner consistent with the act.

This bill would provide that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under the Density Bonus Law be permitted notwithstanding the act.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65915 of the Government Code is
2 amended to read:
3 65915. (a) (1) When an applicant seeks a density bonus for
4 a housing development within, or for the donation of land for
5 housing within, the jurisdiction of a city, county, or city and county,
6 that local government shall comply with this section. A city,
7 county, or city and county shall adopt an ordinance that specifies
8 how compliance with this section will be implemented. Except as
9 otherwise provided in subdivision (s), failure to adopt an ordinance
10 shall not relieve a city, county, or city and county from complying
11 with this section.
12 (2) A local government shall not condition the submission,
13 review, or approval of an application pursuant to this chapter on
14 the preparation of an additional report or study that is not otherwise
15 required by state law, including this section. This subdivision does
16 not prohibit a local government from requiring an applicant to
17 provide reasonable documentation to establish eligibility for a
18 requested density bonus, as described in subdivision (b), and
19 parking ratios, as described in subdivision (p).
20 (3) In order to provide for the expeditious processing of a density
21 bonus application, the local government shall do all of the
22 following:
23 (A) Adopt procedures and timelines for processing a density
24 bonus application.
25 (B) Provide a list of all documents and information required to
26 be submitted with the density bonus application in order for the
27 density bonus application to be deemed complete. This list shall
28 be consistent with this chapter.
29 (C) Notify the applicant for a density bonus whether the
30 application is complete in a manner consistent with the timelines
31 specified in Section 65943.
32 (D) (i) If the local government notifies the applicant that the
33 application is deemed complete pursuant to subparagraph (C),
34 provide the applicant with a determination as to the following
35 matters:

1 (I) The amount of density bonus, calculated pursuant to
2 subdivision (f), for which the applicant is eligible.

3 (II) If the applicant requests a parking ratio pursuant to
4 subdivision (p), the parking ratio for which the applicant is eligible.

5 (III) If the applicant requests incentives or concessions pursuant
6 to subdivision (d) or waivers or reductions of development
7 standards pursuant to subdivision (e), whether the applicant has
8 provided adequate information for the local government to make
9 a determination as to those incentives, concessions, waivers, or
10 reductions of development standards.

11 (ii) Any determination required by this subparagraph shall be
12 based on the development project at the time the application is
13 deemed complete. The local government shall adjust the amount
14 of density bonus and parking ratios awarded pursuant to this section
15 based on any changes to the project during the course of
16 development.

17 (b) (1) A city, county, or city and county shall grant one density
18 bonus, the amount of which shall be as specified in subdivision
19 (f), and, if requested by the applicant and consistent with the
20 applicable requirements of this section, incentives or concessions,
21 as described in subdivision (d), waivers or reductions of
22 development standards, as described in subdivision (e), and parking
23 ratios, as described in subdivision (p), if an applicant for a housing
24 development seeks and agrees to construct a housing development,
25 excluding any units permitted by the density bonus awarded
26 pursuant to this section, that will contain at least any one of the
27 following:

28 (A) Ten percent of the total units of a housing development,
29 including a shared housing building development, for rental or
30 sale to lower income households, as defined in Section 50079.5
31 of the Health and Safety Code.

32 (B) Five percent of the total units of a housing development,
33 including a shared housing building development, for rental or
34 sale to very low income households, as defined in Section 50105
35 of the Health and Safety Code.

36 (C) A senior citizen housing development, as defined in Sections
37 51.3 and 51.12 of the Civil Code, or a mobilehome park that limits
38 residency based on age requirements for housing for older persons
39 pursuant to Section 798.76 or 799.5 of the Civil Code. For purposes

1 of this subparagraph, “development” includes a shared housing
2 building development.

3 (D) Ten percent of the total dwelling units of a housing
4 development are sold to persons and families of moderate income,
5 as defined in Section 50093 of the Health and Safety Code,
6 provided that all units in the development are offered to the public
7 for purchase.

8 (E) Ten percent of the total units of a housing development for
9 transitional foster youth, as defined in Section 66025.9 of the
10 Education Code, disabled veterans, as defined in Section 18541,
11 or homeless persons, as defined in the federal McKinney-Vento
12 Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.). The units
13 described in this subparagraph are subject to a recorded
14 affordability restriction of 55 years and shall be provided at the
15 same affordability level as very low income units.

16 (F) (i) Twenty percent of the total units for lower income
17 students in a student housing development that meets the following
18 requirements:

19 (I) All units in the student housing development shall be used
20 exclusively for undergraduate, graduate, or professional students
21 enrolled full time at an institution of higher education accredited
22 by the Western Association of Schools and Colleges or the
23 Accrediting Commission for Community and Junior Colleges. In
24 order to be eligible under this subclause, the developer shall, as a
25 condition of receiving a certificate of occupancy, provide evidence
26 to the city, county, or city and county that the developer has entered
27 into an operating agreement or master lease with one or more
28 institutions of higher education for the institution or institutions
29 to occupy all units of the student housing development with
30 students from that institution or institutions. An operating
31 agreement or master lease entered into pursuant to this subclause
32 is not violated or breached if, in any subsequent year, there are
33 insufficient students enrolled in an institution of higher education
34 to fill all units in the student housing development.

35 (II) The applicable 20-percent units shall be used for lower
36 income students.

37 (III) The rent provided in the applicable units of the development
38 for lower income students shall be calculated at 30 percent of 65
39 percent of the area median income for a single-room occupancy
40 unit type.

1 (IV) The development shall provide priority for the applicable
2 affordable units for lower income students experiencing
3 homelessness. A homeless service provider, as defined in paragraph
4 (3) of subdivision (e) of Section 103577 of the Health and Safety
5 Code, or institution of higher education that has knowledge of a
6 person's homeless status may verify a person's status as homeless
7 for purposes of this subclause.

8 (ii) For purposes of calculating a density bonus granted pursuant
9 to this subparagraph, the term "unit" as used in this section means
10 one rental bed and its pro rata share of associated common area
11 facilities. The units described in this subparagraph are subject to
12 a recorded affordability restriction of 55 years.

13 (G) One hundred percent of all units in the development,
14 including total units and density bonus units, but exclusive of a
15 manager's unit or units, are for lower income households, as
16 defined by Section 50079.5 of the Health and Safety Code, except
17 that up to 20 percent of the units in the development, including
18 total units and density bonus units, may be for moderate-income
19 households, as defined in Section 50053 of the Health and Safety
20 Code. For purposes of this subparagraph, "development" includes
21 a shared housing building development.

22 (2) For purposes of calculating the amount of the density bonus
23 pursuant to subdivision (f), an applicant who requests a density
24 bonus pursuant to this subdivision shall elect whether the bonus
25 shall be awarded on the basis of subparagraph (A), (B), (C), (D),
26 (E), (F), or (G) of paragraph (1).

27 (c) (1) (A) An applicant shall agree to, and the city, county,
28 or city and county shall ensure, the continued affordability of all
29 very low and low-income rental units that qualified the applicant
30 for the award of the density bonus for 55 years or a longer period
31 of time if required by the construction or mortgage financing
32 assistance program, mortgage insurance program, or rental subsidy
33 program.

34 (B) (i) Except as otherwise provided in clause (ii), rents for the
35 lower income density bonus units shall be set at an affordable rent,
36 as defined in Section 50053 of the Health and Safety Code.

37 (ii) For housing developments meeting the criteria of
38 subparagraph (G) of paragraph (1) of subdivision (b), rents for all
39 units in the development, including both base density and density
40 bonus units, shall be as follows:

1 (I) The rent for at least 20 percent of the units in the
2 development shall be set at an affordable rent, as defined in Section
3 50053 of the Health and Safety Code.

4 (II) The rent for the remaining units in the development shall
5 be set at an amount consistent with the maximum rent levels for
6 lower income households, as those rents and incomes are
7 determined by the California Tax Credit Allocation Committee.

8 (2) (A) An applicant shall agree to ensure, and the city, county,
9 or city and county shall ensure, that a for-sale unit that qualified
10 the applicant for the award of the density bonus meets one of the
11 following conditions:

12 (i) The unit is initially sold to and occupied by a person or family
13 of very low, low, or moderate income, as required, and it is offered
14 at an affordable housing cost, as that cost is defined in Section
15 50052.5 of the Health and Safety Code and is subject to an equity
16 sharing agreement.

17 (ii) If the unit is not purchased by an income-qualified person
18 or family within 180 days after the issuance of the certificate of
19 occupancy, the unit is purchased by a qualified nonprofit housing
20 corporation that meets all of the following requirements pursuant
21 to a recorded contract that satisfies all of the requirements specified
22 in paragraph (10) of subdivision (a) of Section 402.1 of the
23 Revenue and Taxation Code:

24 (I) The nonprofit corporation has a determination letter from
25 the Internal Revenue Service affirming its tax-exempt status
26 pursuant to Section 501(c)(3) of the Internal Revenue Code and
27 is not a private foundation as that term is defined in Section 509
28 of the Internal Revenue Code.

29 (II) The nonprofit corporation is based in California.

30 (III) All of the board members of the nonprofit corporation have
31 their primary residence in California.

32 (IV) The primary activity of the nonprofit corporation is the
33 development and preservation of affordable home ownership
34 housing in California that incorporates within their contracts for
35 initial purchase a repurchase option that requires a subsequent
36 purchaser of the property that desires to resell or convey the
37 property to offer the qualified nonprofit corporation the right to
38 repurchase the property prior to selling or conveying that property
39 to any other purchaser pursuant to an equity sharing agreement or
40 affordability restrictions on the sale and conveyance of the property

1 that ensure that the property will be preserved for lower income
2 housing for at least 45 years for owner-occupied housing units and
3 will be sold or resold only to persons or families of very low, low,
4 or moderate income, as defined in Section 50052.5 of the Health
5 and Safety Code.

6 (B) For purposes of this paragraph, a “qualified nonprofit
7 housing corporation” is a nonprofit housing corporation organized
8 pursuant to Section 501(c)(3) of the Internal Revenue Code that
9 has received a welfare exemption under Section 214.15 of the
10 Revenue and Taxation Code for properties intended to be sold to
11 low-income families who participate in a special no-interest loan
12 program.

13 (C) The local government shall enforce an equity sharing
14 agreement required pursuant to clause (i) or (ii) of subparagraph
15 (A), unless it is in conflict with the requirements of another public
16 funding source or law or may defer to the recapture provisions of
17 the public funding source. The following apply to the equity
18 sharing agreement:

19 (i) Upon resale, the seller of the unit shall retain the value of
20 any improvements, the downpayment, and the seller’s proportionate
21 share of appreciation.

22 (ii) Except as provided in clause (v), the local government shall
23 recapture any initial subsidy, as defined in clause (iii), and its
24 proportionate share of appreciation, as defined in clause (iv), which
25 amount shall be used within five years for any of the purposes
26 described in subdivision (e) of Section 33334.2 of the Health and
27 Safety Code that promote homeownership.

28 (iii) For purposes of this subdivision, the local government’s
29 initial subsidy shall be equal to the fair market value of the home
30 at the time of initial sale minus the initial sale price to the
31 moderate-income household, plus the amount of any downpayment
32 assistance or mortgage assistance. If upon resale the market value
33 is lower than the initial market value, then the value at the time of
34 the resale shall be used as the initial market value.

35 (iv) For purposes of this subdivision, the local government’s
36 proportionate share of appreciation shall be equal to the ratio of
37 the local government’s initial subsidy to the fair market value of
38 the home at the time of initial sale.

39 (v) If the unit is purchased or developed by a qualified nonprofit
40 housing corporation pursuant to clause (ii) of subparagraph (A)

1 the local government may enter into a contract with the qualified
2 nonprofit housing corporation under which the qualified nonprofit
3 housing corporation would recapture any initial subsidy and its
4 proportionate share of appreciation if the qualified nonprofit
5 housing corporation is required to use 100 percent of the proceeds
6 to promote homeownership for lower income households as defined
7 by Section 50079.5 of the Health and Safety Code within the
8 jurisdiction of the local government.

9 (3) (A) An applicant shall be ineligible for a density bonus or
10 any other incentives or concessions under this section if the housing
11 development is proposed on any property that includes a parcel or
12 parcels on which rental dwelling units are located or, if the dwelling
13 units have been vacated or demolished in the five-year period
14 preceding the application, have been subject to a recorded covenant,
15 ordinance, or law that restricts rents to levels affordable to persons
16 and families of lower or very low income; subject to any other
17 form of rent or price control through a public entity's valid exercise
18 of its police power; or occupied by lower or very low income
19 households, unless the proposed housing development replaces
20 those units, and either of the following applies:

21 (i) The proposed housing development, inclusive of the units
22 replaced pursuant to this paragraph, contains affordable units at
23 the percentages set forth in subdivision (b).

24 (ii) Each unit in the development, exclusive of a manager's unit
25 or units, is affordable to, and occupied by, either a lower or very
26 low income household.

27 (B) For the purposes of this paragraph, "replace" shall mean
28 either of the following:

29 (i) If any dwelling units described in subparagraph (A) are
30 occupied on the date of application, the proposed housing
31 development shall provide at least the same number of units of
32 equivalent size to be made available at affordable rent or affordable
33 housing cost to, and occupied by, persons and families in the same
34 or lower income category as those households in occupancy. If
35 the income category of the household in occupancy is not known,
36 it shall be rebuttably presumed that lower income renter households
37 occupied these units in the same proportion of lower income renter
38 households to all renter households within the jurisdiction, as
39 determined by the most recently available data from the United
40 States Department of Housing and Urban Development's

1 Comprehensive Housing Affordability Strategy database. For
2 unoccupied dwelling units described in subparagraph (A) in a
3 development with occupied units, the proposed housing
4 development shall provide units of equivalent size to be made
5 available at affordable rent or affordable housing cost to, and
6 occupied by, persons and families in the same or lower income
7 category as the last household in occupancy. If the income category
8 of the last household in occupancy is not known, it shall be
9 rebuttably presumed that lower income renter households occupied
10 these units in the same proportion of lower income renter
11 households to all renter households within the jurisdiction, as
12 determined by the most recently available data from the United
13 States Department of Housing and Urban Development's
14 Comprehensive Housing Affordability Strategy database. All
15 replacement calculations resulting in fractional units shall be
16 rounded up to the next whole number. If the replacement units will
17 be rental dwelling units, these units shall be subject to a recorded
18 affordability restriction for at least 55 years. If the proposed
19 development is for-sale units, the units replaced shall be subject
20 to paragraph (2).

21 (ii) If all dwelling units described in subparagraph (A) have
22 been vacated or demolished within the five-year period preceding
23 the application, the proposed housing development shall provide
24 at least the same number of units of equivalent size as existed at
25 the highpoint of those units in the five-year period preceding the
26 application to be made available at affordable rent or affordable
27 housing cost to, and occupied by, persons and families in the same
28 or lower income category as those persons and families in
29 occupancy at that time, if known. If the incomes of the persons
30 and families in occupancy at the highpoint is not known, it shall
31 be rebuttably presumed that low-income and very low income
32 renter households occupied these units in the same proportion of
33 low-income and very low income renter households to all renter
34 households within the jurisdiction, as determined by the most
35 recently available data from the United States Department of
36 Housing and Urban Development's Comprehensive Housing
37 Affordability Strategy database. All replacement calculations
38 resulting in fractional units shall be rounded up to the next whole
39 number. If the replacement units will be rental dwelling units,
40 these units shall be subject to a recorded affordability restriction

1 for at least 55 years. If the proposed development is for-sale units,
2 the units replaced shall be subject to paragraph (2).

3 (C) Notwithstanding subparagraph (B), for any dwelling unit
4 described in subparagraph (A) that is or was, within the five-year
5 period preceding the application, subject to a form of rent or price
6 control through a local government's valid exercise of its police
7 power and that is or was occupied by persons or families above
8 lower income, the city, county, or city and county may do either
9 of the following:

10 (i) Require that the replacement units be made available at
11 affordable rent or affordable housing cost to, and occupied by,
12 low-income persons or families. If the replacement units will be
13 rental dwelling units, these units shall be subject to a recorded
14 affordability restriction for at least 55 years. If the proposed
15 development is for-sale units, the units replaced shall be subject
16 to paragraph (2).

17 (ii) Require that the units be replaced in compliance with the
18 jurisdiction's rent or price control ordinance, provided that each
19 unit described in subparagraph (A) is replaced. Unless otherwise
20 required by the jurisdiction's rent or price control ordinance, these
21 units shall not be subject to a recorded affordability restriction.

22 (D) For purposes of this paragraph, "equivalent size" means
23 that the replacement units contain at least the same total number
24 of bedrooms as the units being replaced.

25 (E) Subparagraph (A) does not apply to an applicant seeking a
26 density bonus for a proposed housing development if the
27 applicant's application was submitted to, or processed by, a city,
28 county, or city and county before January 1, 2015.

29 (d) (1) An applicant for a density bonus pursuant to subdivision
30 (b) may submit to a city, county, or city and county a proposal for
31 the specific incentives or concessions that the applicant requests
32 pursuant to this section, and may request a meeting with the city,
33 county, or city and county. The city, county, or city and county
34 shall grant the concession or incentive requested by the applicant
35 unless the city, county, or city and county makes a written finding,
36 based upon substantial evidence, of any of the following:

37 (A) The concession or incentive does not result in identifiable
38 and actual cost reductions, consistent with subdivision (k), to
39 provide for affordable housing costs, as defined in Section 50052.5

1 of the Health and Safety Code, or for rents for the targeted units
2 to be set as specified in subdivision (c).

3 (B) The concession or incentive would have a specific, adverse
4 impact, as defined in paragraph (2) of subdivision (d) of Section
5 65589.5, upon public health and safety or on any real property that
6 is listed in the California Register of Historical Resources and for
7 which there is no feasible method to satisfactorily mitigate or avoid
8 the specific, adverse impact without rendering the development
9 unaffordable to low-income and moderate-income households.

10 (C) The concession or incentive would be contrary to state or
11 federal law.

12 (2) The applicant shall receive the following number of
13 incentives or concessions:

14 (A) One incentive or concession for projects that include at least
15 10 percent of the total units for lower income households, at least
16 5 percent for very low income households, or at least 10 percent
17 for persons and families of moderate income in a development in
18 which the units are for sale.

19 (B) Two incentives or concessions for projects that include at
20 least 17 percent of the total units for lower income households, at
21 least 10 percent for very low income households, or at least 20
22 percent for persons and families of moderate income in a
23 development in which the units are for sale.

24 (C) Three incentives or concessions for projects that include at
25 least 24 percent of the total units for lower income households, at
26 least 15 percent for very low income households, or at least 30
27 percent for persons and families of moderate income in a
28 development in which the units are for sale.

29 (D) Five incentives or concessions for a project meeting the
30 criteria of subparagraph (G) of paragraph (1) of subdivision (b).
31 If the project is located within one-half mile of a major transit stop
32 or is located in a very low vehicle travel area in a designated
33 county, the applicant shall also receive a height increase of up to
34 three additional stories, or 33 feet.

35 (E) One incentive or concession for projects that include at least
36 20 percent of the total units for lower income students in a student
37 housing development.

38 (F) Four incentives or concessions for projects that include at
39 least 16 percent of the units for very low income households or at

1 least 45 percent for persons and families of moderate income in a
2 development in which the units are for sale.

3 (3) The applicant may initiate judicial proceedings if the city,
4 county, or city and county refuses to grant a requested density
5 bonus, incentive, or concession. If a court finds that the refusal to
6 grant a requested density bonus, incentive, or concession is in
7 violation of this section, the court shall award the plaintiff
8 reasonable attorney's fees and costs of suit. This subdivision shall
9 not be interpreted to require a local government to grant an
10 incentive or concession that has a specific, adverse impact, as
11 defined in paragraph (2) of subdivision (d) of Section 65589.5,
12 upon health or safety, and for which there is no feasible method
13 to satisfactorily mitigate or avoid the specific, adverse impact.
14 This subdivision shall not be interpreted to require a local
15 government to grant an incentive or concession that would have
16 an adverse impact on any real property that is listed in the
17 California Register of Historical Resources. The city, county, or
18 city and county shall establish procedures for carrying out this
19 section that shall include legislative body approval of the means
20 of compliance with this section.

21 (4) The city, county, or city and county shall bear the burden
22 of proof for the denial of a requested concession or incentive.

23 (e) (1) In no case may a city, county, or city and county apply
24 any development standard that will have the effect of physically
25 precluding the construction of a development meeting the criteria
26 of subdivision (b) at the densities or with the concessions or
27 incentives permitted by this section. Subject to paragraph (3), an
28 applicant may submit to a city, county, or city and county a
29 proposal for the waiver or reduction of development standards that
30 will have the effect of physically precluding the construction of a
31 development meeting the criteria of subdivision (b) at the densities
32 or with the concessions or incentives permitted under this section,
33 and may request a meeting with the city, county, or city and county.
34 If a court finds that the refusal to grant a waiver or reduction of
35 development standards is in violation of this section, the court
36 shall award the plaintiff reasonable attorney's fees and costs of
37 suit. This subdivision shall not be interpreted to require a local
38 government to waive or reduce development standards if the waiver
39 or reduction would have a specific, adverse impact, as defined in
40 paragraph (2) of subdivision (d) of Section 65589.5, upon health

or safety, and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. This subdivision shall not be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(3) A housing development that receives a waiver from any maximum controls on density pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f) shall only be eligible for a waiver or reduction of development standards as provided in subparagraph (D) of paragraph (2) of subdivision (d) and clause (ii) of subparagraph (D) of paragraph (3) of subdivision (f), unless the city, county, or city and county agrees to additional waivers or reductions of development standards.

(f) For the purposes of this chapter, “density bonus” means a density increase over the otherwise maximum allowable gross residential density as of the date of application by the applicant to the city, county, or city and county, or, if elected by the applicant, a lesser percentage of density increase, including, but not limited to, no increase in density. The amount of density increase to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5

1	16	29
2	17	30.5
3	18	32
4	19	33.5
5	20	35
6	21	38.75
7	22	42.5
8	23	46.25
9	24	50

10

11 (2) For housing developments meeting the criteria of
 12 subparagraph (B) of paragraph (1) of subdivision (b), the density
 13 bonus shall be calculated as follows:

14

15	Percentage Very Low Income Units	Percentage Density Bonus
16	5	20
17	6	22.5
18	7	25
19	8	27.5
20	9	30
21	10	32.5
22	11	35
23	12	38.75
24	13	42.5
25	14	46.25
26	15	50

27

28 (3) (A) For housing developments meeting the criteria of
 29 subparagraph (C) of paragraph (1) of subdivision (b), the density
 30 bonus shall be 20 percent of the number of senior housing units.

31 (B) For housing developments meeting the criteria of
 32 subparagraph (E) of paragraph (1) of subdivision (b), the density
 33 bonus shall be 20 percent of the number of the type of units giving
 34 rise to a density bonus under that subparagraph.

35 (C) For housing developments meeting the criteria of
 36 subparagraph (F) of paragraph (1) of subdivision (b), the density
 37 bonus shall be 35 percent of the student housing units.

38 (D) For housing developments meeting the criteria of
 39 subparagraph (G) of paragraph (1) of subdivision (b), the following
 40 shall apply:

(i) Except as otherwise provided in clauses (ii) and (iii), the density bonus shall be 80 percent of the number of units for lower income households.

(ii) If the housing development is located within one-half mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density.

(iii) If the housing development is located in a very low vehicle travel area within a designated county, the city, county, or city and county shall not impose any maximum controls on density.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29
35	30

1	36	31
2	37	32
3	38	33
4	39	34
5	40	35
6	41	38.75
7	42	42.5
8	43	46.25
9	44	50

10

11 (5) All density calculations resulting in fractional units shall be
 12 rounded up to the next whole number. The granting of a density
 13 bonus shall not require, or be interpreted, in and of itself, to require
 14 a general plan amendment, local coastal plan amendment, zoning
 15 change, or other discretionary approval.

16 (g) (1) When an applicant for a tentative subdivision map,
 17 parcel map, or other residential development approval donates
 18 land to a city, county, or city and county in accordance with this
 19 subdivision, the applicant shall be entitled to a 15-percent increase
 20 above the otherwise maximum allowable residential density for
 21 the entire development, as follows:

22

23	Percentage Very Low Income	Percentage Density Bonus
24	10	15
25	11	16
26	12	17
27	13	18
28	14	19
29	15	20
30	16	21
31	17	22
32	18	23
33	19	24
34	20	25
35	21	26
36	22	27
37	23	28
38	24	29
39	25	30
40	26	31

1	27	32
2	28	33
3	29	34
4	30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

(A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.

(B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.

(C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.

(D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government before the time of transfer.

1 (E) The transferred land and the affordable units shall be subject
2 to a deed restriction ensuring continued affordability of the units
3 consistent with paragraphs (1) and (2) of subdivision (c), which
4 shall be recorded on the property at the time of the transfer.

5 (F) The land is transferred to the local agency or to a housing
6 developer approved by the local agency. The local agency may
7 require the applicant to identify and transfer the land to the
8 developer.

9 (G) The transferred land shall be within the boundary of the
10 proposed development or, if the local agency agrees, within
11 one-quarter mile of the boundary of the proposed development.

12 (H) A proposed source of funding for the very low income units
13 shall be identified not later than the date of approval of the final
14 subdivision map, parcel map, or residential development
15 application.

16 (h) (1) When an applicant proposes to construct a housing
17 development that conforms to the requirements of subdivision (b)
18 and includes a childcare facility that will be located on the premises
19 of, as part of, or adjacent to, the project, the city, county, or city
20 and county shall grant either of the following:

21 (A) An additional density bonus that is an amount of square
22 feet of residential space that is equal to or greater than the amount
23 of square feet in the childcare facility.

24 (B) An additional concession or incentive that contributes
25 significantly to the economic feasibility of the construction of the
26 childcare facility.

27 (2) The city, county, or city and county shall require, as a
28 condition of approving the housing development, that the following
29 occur:

30 (A) The childcare facility shall remain in operation for a period
31 of time that is as long as or longer than the period of time during
32 which the density bonus units are required to remain affordable
33 pursuant to subdivision (c).

34 (B) Of the children who attend the childcare facility, the children
35 of very low income households, lower income households, or
36 families of moderate income shall equal a percentage that is equal
37 to or greater than the percentage of dwelling units that are required
38 for very low income households, lower income households, or
39 families of moderate income pursuant to subdivision (b).

1 (3) Notwithstanding any requirement of this subdivision, a city,
2 county, or city and county shall not be required to provide a density
3 bonus or concession for a childcare facility if it finds, based upon
4 substantial evidence, that the community has adequate childcare
5 facilities.

6 (4) “Childcare facility,” as used in this section, means a child
7 daycare facility other than a family daycare home, including, but
8 not limited to, infant centers, preschools, extended daycare
9 facilities, and schoolage childcare centers.

10 (i) “Housing development,” as used in this section, means a
11 development project for five or more residential units, including
12 mixed-use developments. For the purposes of this section, “housing
13 development” also includes a subdivision or common interest
14 development, as defined in Section 4100 of the Civil Code,
15 approved by a city, county, or city and county and consists of
16 residential units or unimproved residential lots and either a project
17 to substantially rehabilitate and convert an existing commercial
18 building to residential use or the substantial rehabilitation of an
19 existing multifamily dwelling, as defined in subdivision (d) of
20 Section 65863.4, where the result of the rehabilitation would be a
21 net increase in available residential units. For the purpose of
22 calculating a density bonus, the residential units shall be on
23 contiguous sites that are the subject of one development
24 application, but do not have to be based upon individual
25 subdivision maps or parcels. The density bonus shall be permitted
26 in geographic areas of the housing development other than the
27 areas where the units for the lower income households are located.

28 (j) (1) The granting of a concession or incentive shall not require
29 or be interpreted, in and of itself, to require a general plan
30 amendment, local coastal plan amendment, zoning change, study,
31 or other discretionary approval. For purposes of this subdivision,
32 “study” does not include reasonable documentation to establish
33 eligibility for the concession or incentive or to demonstrate that
34 the incentive or concession meets the definition set forth in
35 subdivision (k). This provision is declaratory of existing law.

36 (2) Except as provided in subdivisions (d) and (e), the granting
37 of a density bonus shall not require or be interpreted to require the
38 waiver of a local ordinance or provisions of a local ordinance
39 unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

~~(m) This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which the an applicant is entitled under this section shall be permitted in a manner that is consistent with this section and Division notwithstanding the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code. Code).~~

1 (n) If permitted by local ordinance, nothing in this section shall
2 be construed to prohibit a city, county, or city and county from
3 granting a density bonus greater than what is described in this
4 section for a development that meets the requirements of this
5 section or from granting a proportionately lower density bonus
6 than what is required by this section for developments that do not
7 meet the requirements of this section.

8 (o) For purposes of this section, the following definitions shall
9 apply:

10 (1) “Designated county” includes the Counties of Alameda,
11 Contra Costa, Los Angeles, Marin, Napa, Orange, Riverside,
12 Sacramento, San Bernardino, San Diego, San Mateo, Santa
13 Barbara, Santa Clara, Solano, Sonoma, and Ventura, and the City
14 and County of San Francisco.

15 (2) “Development standard” includes a site or construction
16 condition, including, but not limited to, a height limitation, a
17 setback requirement, a floor area ratio, an onsite open-space
18 requirement, a minimum lot area per unit requirement, or a parking
19 ratio that applies to a residential development pursuant to any
20 ordinance, general plan element, specific plan, charter, or other
21 local condition, law, policy, resolution, or regulation that is adopted
22 by the local government or that is enacted by the local
23 government’s electorate exercising its local initiative or referendum
24 power, whether that power is derived from the California
25 Constitution, statute, or the charter or ordinances of the local
26 government.

27 (3) “Located within one-half mile of a major transit stop” means
28 that any point on a proposed development, for which an applicant
29 seeks a density bonus, other incentives or concessions, waivers or
30 reductions of development standards, or a vehicular parking ratio
31 pursuant to this section, is within one-half mile of any point on
32 the property on which a major transit stop is located, including
33 any parking lot owned by the transit authority or other local agency
34 operating the major transit stop.

35 (4) “Lower income student” means a student who has a
36 household income and asset level that does not exceed the level
37 for Cal Grant A or Cal Grant B award recipients as set forth in
38 paragraph (1) of subdivision (k) of Section 69432.7 of the
39 Education Code. The eligibility of a student to occupy a unit for
40 lower income students under this section shall be verified by an

1 affidavit, award letter, or letter of eligibility provided by the
2 institution of higher education in which the student is enrolled or
3 by the California Student Aid Commission that the student receives
4 or is eligible for financial aid, including an institutional grant or
5 fee waiver from the college or university, the California Student
6 Aid Commission, or the federal government.

7 (5) “Major transit stop” has the same meaning as defined in
8 subdivision (b) of Section 21155 of the Public Resources Code.

9 (6) “Maximum allowable residential density” or “base density”
10 means the greatest number of units allowed under the zoning
11 ordinance, specific plan, or land use element of the general plan,
12 or, if a range of density is permitted, means the greatest number
13 of units allowed by the specific zoning range, specific plan, or land
14 use element of the general plan applicable to the project. Density
15 shall be determined using dwelling units per acre. However, if the
16 applicable zoning ordinance, specific plan, or land use element of
17 the general plan does not provide a dwelling-units-per-acre standard
18 for density, then the local agency shall calculate the number of
19 units by:

20 (A) Estimating the realistic development capacity of the site
21 based on the objective development standards applicable to the
22 project, including, but not limited to, floor area ratio, site coverage,
23 maximum building height and number of stories, building setbacks
24 and stepbacks, public and private open-space requirements,
25 minimum percentage or square footage of any nonresidential
26 component, and parking requirements, unless not required for the
27 base project. Parking requirements shall include considerations
28 regarding number of spaces, location, design, type, and circulation.
29 A developer may provide a base density study and the local agency
30 shall accept it, provided that it includes all applicable objective
31 development standards.

32 (B) Maintaining the same average unit size and other project
33 details relevant to the base density study, excepting those that may
34 be modified by waiver or concession to accommodate the bonus
35 units, in the proposed project as in the study.

36 (7) (A) (i) “Shared housing building” means a residential or
37 mixed-use structure, with five or more shared housing units and
38 one or more common kitchens and dining areas designed for
39 permanent residence of more than 30 days by its tenants. The
40 kitchens and dining areas within the shared housing building shall

1 be able to adequately accommodate all residents. If a local
2 ordinance further restricts the attributes of a shared housing
3 building beyond the requirements established in this section, the
4 local definition shall apply to the extent that it does not conflict
5 with the requirements of this section.

6 (ii) A “shared housing building” may include other dwelling
7 units that are not shared housing units, provided that those dwelling
8 units do not occupy more than 25 percent of the floor area of the
9 shared housing building. A shared housing building may include
10 100 percent shared housing units.

11 (B) “Shared housing unit” means one or more habitable rooms,
12 not within another dwelling unit, that includes a bathroom, sink,
13 refrigerator, and microwave, is used for permanent residence, that
14 meets the “minimum room area” specified in Section R304 of the
15 California Residential Code (Part 2.5 of Title 24 of the California
16 Code of Regulations), and complies with the definition of
17 “guestroom” in Section R202 of the California Residential Code.
18 If a local ordinance further restricts the attributes of a shared
19 housing building beyond the requirements established in this
20 section, the local definition shall apply to the extent that it does
21 not conflict with the requirements of this section.

22 (8) (A) “Total units” or “total dwelling units” means a
23 calculation of the number of units that:

24 (i) Excludes a unit added by a density bonus awarded pursuant
25 to this section or any local law granting a greater density bonus.

26 (ii) Includes a unit designated to satisfy an inclusionary zoning
27 requirement of a city, county, or city and county.

28 (B) For purposes of calculating a density bonus granted pursuant
29 to this section for a shared housing building, “unit” means one
30 shared housing unit and its pro rata share of associated common
31 area facilities.

32 (9) “Very low vehicle travel area” means an urbanized area, as
33 designated by the United States Census Bureau, where the existing
34 residential development generates vehicle miles traveled per capita
35 that is below 85 percent of either regional vehicle miles traveled
36 per capita or city vehicle miles traveled per capita. For purposes
37 of this paragraph, “area” may include a travel analysis zone,
38 hexagon, or grid. For the purposes of determining “regional vehicle
39 miles traveled per capita” pursuant to this paragraph, a “region”
40 is the entirety of incorporated and unincorporated areas governed

1 by a multicounty or single-county metropolitan planning
2 organization, or the entirety of the incorporated and unincorporated
3 areas of an individual county that is not part of a metropolitan
4 planning organization.

5 (p) (1) Except as provided in paragraphs (2), (3), and (4), upon
6 the request of the developer, a city, county, or city and county shall
7 not require a vehicular parking ratio, inclusive of parking for
8 persons with a disability and guests, of a development meeting the
9 criteria of subdivisions (b) and (c), that exceeds the following
10 ratios:

11 (A) Zero to one bedroom: one onsite parking space.

12 (B) Two to three bedrooms: one and one-half onsite parking
13 spaces.

14 (C) Four and more bedrooms: two and one-half parking spaces.

15 (2) (A) Notwithstanding paragraph (1), if a development
16 includes at least 20 percent low-income units for housing
17 developments meeting the criteria of subparagraph (A) of paragraph
18 (1) of subdivision (b) or at least 11 percent very low income units
19 for housing developments meeting the criteria of subparagraph
20 (B) of paragraph (1) of subdivision (b), is located within one-half
21 mile of a major transit stop, and there is unobstructed access to
22 the major transit stop from the development, then, upon the request
23 of the developer, a city, county, or city and county shall not impose
24 a vehicular parking ratio, inclusive of parking for persons with a
25 disability and guests, that exceeds 0.5 spaces per unit.
26 Notwithstanding paragraph (1), if a development includes at least
27 40 percent moderate-income units for housing developments
28 meeting the criteria of subparagraph (D) of paragraph (1) of
29 subdivision (b), is located within one-half mile of a major transit
30 stop, as defined in subdivision (b) of Section 21155 of the Public
31 Resources Code, and the residents of the development have
32 unobstructed access to the major transit stop from the development
33 then, upon the request of the developer, a city, county, or city and
34 county shall not impose a vehicular parking ratio, inclusive of
35 parking for persons with a disability and guests, that exceeds 0.5
36 spaces per bedroom.

37 (B) For purposes of this subdivision, “unobstructed access to
38 the major transit stop” means a resident is able to access the major
39 transit stop without encountering natural or constructed
40 impediments. For purposes of this subparagraph, “natural or

constructed impediments” includes, but is not limited to, freeways, rivers, mountains, and bodies of water, but does not include residential structures, shopping centers, parking lots, or rails used for transit.

(3) Notwithstanding paragraph (1), if a development meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b), then, upon the request of the developer, a city, county, or city and county shall not impose vehicular parking standards if the development meets any of the following criteria:

(A) The development is located within one-half mile of a major transit stop and there is unobstructed access to the major transit stop from the development.

(B) The development is a for-rent housing development for individuals who are 55 years of age or older that complies with Sections 51.2 and 51.3 of the Civil Code and the development has either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(C) The development is either a special needs housing development, as defined in Section 51312 of the Health and Safety Code, or a supportive housing development, as defined in Section 50675.14 of the Health and Safety Code. A development that is a special needs housing development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

(4) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide onsite parking through tandem parking or uncovered parking, but not through onstreet parking.

(5) This subdivision shall apply to a development that meets the requirements of subdivisions (b) and (c), but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

(6) This subdivision does not preclude a city, county, or city and county from reducing or eliminating a parking requirement for development projects of any type in any location.

1 (7) Notwithstanding paragraphs (2) and (3), if a city, county,
2 city and county, or an independent consultant has conducted an
3 areawide or jurisdictionwide parking study in the last seven years,
4 then the city, county, or city and county may impose a higher
5 vehicular parking ratio not to exceed the ratio described in
6 paragraph (1), based upon substantial evidence found in the parking
7 study, that includes, but is not limited to, an analysis of parking
8 availability, differing levels of transit access, walkability access
9 to transit services, the potential for shared parking, the effect of
10 parking requirements on the cost of market-rate and subsidized
11 developments, and the lower rates of car ownership for low-income
12 and very low income individuals, including seniors and special
13 needs individuals. The city, county, or city and county shall pay
14 the costs of any new study. The city, county, or city and county
15 shall make findings, based on a parking study completed in
16 conformity with this paragraph, supporting the need for the higher
17 parking ratio.

18 (8) A request pursuant to this subdivision shall neither reduce
19 nor increase the number of incentives or concessions to which the
20 applicant is entitled pursuant to subdivision (d).

21 (q) Each component of any density calculation, including base
22 density and bonus density, resulting in fractional units shall be
23 separately rounded up to the next whole number. The Legislature
24 finds and declares that this provision is declaratory of existing law.

25 (r) This chapter shall be interpreted liberally in favor of
26 producing the maximum number of total housing units.

27 (s) Notwithstanding any other law, if a city, including a charter
28 city, county, or city and county has adopted an ordinance or a
29 housing program, or both an ordinance and a housing program,
30 that incentivizes the development of affordable housing that allows
31 for density bonuses that exceed the density bonuses required by
32 the version of this section effective through December 31, 2020,
33 that city, county, or city and county is not required to amend or
34 otherwise update its ordinance or corresponding affordable housing
35 incentive program to comply with the amendments made to this
36 section by the act adding this subdivision, and is exempt from
37 complying with the incentive and concession calculation
38 amendments made to this section by the act adding this subdivision
39 as set forth in subdivision (d), particularly subparagraphs (B) and

1 (C) of paragraph (2) of that subdivision, and the amendments made
2 to the density tables under subdivision (f).

3 (t) When an applicant proposes to construct a housing
4 development that conforms to the requirements of subparagraph
5 (A) or (B) of paragraph (1) of subdivision (b) that is a shared
6 housing building, the city, county, or city and county shall not
7 require any minimum unit size requirements or minimum bedroom
8 requirements that are in conflict with paragraph (7) of subdivision
9 (o).

10 (u) (1) The Legislature finds and declares that the intent behind
11 the Density Bonus Law is to allow public entities to reduce or even
12 eliminate subsidies for a particular project by allowing a developer
13 to include more total units in a project than would otherwise be
14 allowed by the local zoning ordinance in exchange for affordable
15 units. It further reaffirms that the intent is to cover at least some
16 of the financing gap of affordable housing with regulatory
17 incentives, rather than additional public subsidy.

18 (2) It is therefore the intent of the Legislature to make
19 modifications to the Density Bonus Law by the act adding this
20 subdivision to further incentivize the construction of very low,
21 low-, and moderate-income housing units. It is further the intent
22 of the Legislature in making these modifications to the Density
23 Bonus Law to ensure that any additional benefits conferred upon
24 a developer are balanced with the receipt of a public benefit in the
25 form of adequate levels of affordable housing. The Legislature
26 further intends that these modifications will ensure that the Density
27 Bonus Law creates incentives for the construction of more housing
28 across all areas of the state.

29 (v) (1) Provided that the resulting housing development would
30 not restrict more than 50 percent of the total units to
31 moderate-income, lower income, or very low income households,
32 a city, county, or city and county shall grant an additional density
33 bonus calculated pursuant to paragraph (2) when an applicant
34 proposes to construct a housing development that conforms to the
35 requirements of paragraph (1) of subdivision (b), agrees to include
36 additional rental or for-sale units affordable to very low income
37 households or moderate income households, and meets any of the
38 following requirements:

(A) The housing development conforms to the requirements of subparagraph (A) of paragraph (1) of subdivision (b) and provides 24 percent of the total units to lower income households.

(B) The housing development conforms to the requirements of subparagraph (B) of paragraph (1) of subdivision (b) and provides 15 percent of the total units to very low income households.

(C) The housing development conforms to the requirements of subparagraph (D) of paragraph (1) of subdivision (b) and provides 44 percent of the total units to moderate-income households.

(2) A city, county, or city and county shall grant an additional density bonus for a housing development that meets the requirements of paragraph (1), calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	23.75
7	27.5
8	31.25
9	35
10	38.75

Percentage Moderate-Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5
11	35
12	38.75
13	42.5
14	46.25
15	50

(3) The increase required by paragraphs (1) and (2) shall be in addition to any increase in density granted by subdivision (b).

- 1 (4) The additional density bonus required under this subdivision
- 2 shall be calculated using the number of units excluding any density
- 3 bonus awarded by this section.

O