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AB-529 Adaptive reuse projects. (2023-2024)

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Assembly Bill No. 529

CHAPTER 743

An act to amend Section 65589.9 of the Government Code, and to add Section 17921.9 to the Health and Safety Code, relating to adaptive reuse.

[Approved by Governor October 11, 2023. Filed with Secretary of State October 11, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 529, Gabriel. Adaptive reuse projects.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that includes, among other specified mandatory elements, a housing element. That law requires the Department of Housing and Community Development to determine whether the housing element is in substantial compliance with specified provisions of that law.

Existing law, for award cycles commenced after July 1, 2021, awards a city, county, or city and county that has adopted a housing element determined by the department to be in substantial compliance with specified provisions of the Planning and Zoning Law and that has been designated by the department as prohousing based upon their adoption of prohousing local policies, as specified, additional points in the scoring of program applications for housing and infrastructure programs pursuant to regulations adopted by the department, as provided. Existing law defines "prohousing local policies" as policies that facilitate the planning, approval, or construction of housing, including, but not limited to, local financial incentives for housing, reduced parking requirements for sites that are zoned for residential development, and the adoption of zoning allowing for use by right for residential and mixed-use development.

This bill would add the facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse, as defined, ordinances or other mechanisms that reduce barriers for these conversions, to the list of specified prohousing local policies.

Existing law, the California Building Standards Law, establishes the California Building Standards Commission within the Department of General Services. Existing law requires the commission to approve and adopt building standards and to codify those standards in the California Building Standards Code, which is required to be published once every 3 years.

This bill would require the Department of Housing and Community Development to convene a working group no later than December 31, 2024, to identify challenges to, and opportunities that help support, the creation and promotion of adaptive reuse residential projects, as specified, including identifying and recommending amendments to state building standards. The bill would require the Department of Housing and Community Development to report its findings to the Legislature no later than December 31, 2025. The bill would require, if the report identifies and recommends amendments to building standards, that the Department of Housing and Community Development and the other state agencies in the working group research, develop, and consider proposing adaptive reuse building standards for adoption by the California Building Standards Commission, as specified.

This bill would incorporate additional changes to Section 65589.9 of the Government Code proposed by SB 341 to be operative only if this bill and SB 341 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65589.9 of the Government Code is amended to read:

65589.9. (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the Legislature that, in adopting regulations related to prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

(b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated prohousing pursuant to subdivision (c) based upon their adoption of prohousing local policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

(1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(3) The Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

(4) Additional bonus points may be awarded to other state programs when already allowable under state law.

(c) The department shall designate jurisdictions as prohousing pursuant to the emergency regulations adopted pursuant to subdivision (d) and report these designations to the Office of Planning and Research, and any other applicable agency or department, annually and upon request.

(d) (1) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.

(2) Notwithstanding Section 11346.1, the emergency regulations adopted pursuant to this subdivision shall remain in effect until the date that permanent regulations to implement this section become effective.

(e) On or before January 1, 2021, and annually thereafter, the department shall publish on its internet website the list of programs included under subdivision (b).

(f) For purposes of this section, the following definitions shall apply:

(1) "Adaptive reuse" shall have the same meaning as in Section 53559.1 of the Health and Safety Code.

(2) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.

(3) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

(A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.

(B) Reduced parking requirements for sites that are zoned for residential development.

(C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Section 65852.2, as determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

(J) Preservation of affordable housing units through the extension of existing project-based rental assistance covenants to avoid the displacement of affected tenants and a reduction in available affordable housing units.

(K) Facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions.

SEC. 1.5. Section 65589.9 of the Government Code is amended to read:

65589.9. (a) It is the intent of the Legislature to create incentives for jurisdictions that are compliant with housing element requirements and have enacted prohousing local policies. It is the intent of the Legislature that these incentives be in the form of additional points or other preference in the scoring of competitive housing and infrastructure programs. It is the intent of the Legislature that, in adopting regulations related to prohousing local policy criteria, the department shall create criteria that consider the needs of rural, suburban, and urban jurisdictions and how those criteria may differ in those areas.

(b) For award cycles commenced after July 1, 2021, jurisdictions that have adopted a housing element that has been found by the department to be in substantial compliance with the requirements of this article pursuant to Section 65585, and that have been designated prohousing pursuant to subdivision (c) based upon their adoption of prohousing local policies, shall be awarded additional points or preference in the scoring of program applications for the following programs:

(1) The Affordable Housing and Sustainable Communities Program established by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(2) The Transformative Climate Communities Program established by Part 4 (commencing with Section 75240) of Division 44 of the Public Resources Code.

(3) The qualifying infill area portion of the Infill Incentive Grant Program of 2007 established by Section 53545.13 of the Health and Safety Code.

(4) The qualifying infill area and catalytic qualifying infill area portions of the Infill Infrastructure Grant Program of 2019 established by Section 53559 of the Health and Safety Code.

(5) Additional bonus points may be awarded to other state programs when already allowable under state law.

(c) The department shall designate jurisdictions as prohousing pursuant to the emergency regulations adopted pursuant to subdivision (d) and report these designations to the Office of Planning and Research, and any other applicable agency or department, annually and upon request.

(d) (1) By July 1, 2021, the department, in collaboration with stakeholders, shall adopt emergency regulations to implement this section.

(2) Notwithstanding Section 11346.1, the emergency regulations adopted pursuant to this subdivision shall remain in effect until the date that permanent regulations to implement this section become effective.

(e) On or before January 1, 2021, and annually thereafter, the department shall publish on its internet website the list of programs included under subdivision (b).

(f) For purposes of this section, the following definitions shall apply:

(1) "Adaptive reuse" shall have the same meaning as in Section 53559.1 of the Health and Safety Code.

(2) "Compliant housing element" means an adopted housing element that has been found to be in substantial compliance with the requirements of this article by the department pursuant to Section 65585.

(3) "Prohousing local policies" means policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:

(A) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund.

(B) Reduced parking requirements for sites that are zoned for residential development.

(C) Adoption of zoning allowing for use by right for residential and mixed-use development.

(D) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle.

(E) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units beyond the requirements outlined in Section 65852.2, as determined by the department.

(F) Reduction of permit processing time.

(G) Creation of objective development standards.

(H) Reduction of development impact fees.

(I) Establishment of a Workforce Housing Opportunity Zone, as defined in Section 65620, or a housing sustainability district, as defined in Section 66200.

(J) Preservation of affordable housing units through the extension of existing project-based rental assistance covenants to avoid the displacement of affected tenants and a reduction in available affordable housing units.

(K) Facilitation of the conversion or redevelopment of commercial properties into housing, including the adoption of adaptive reuse ordinances or other mechanisms that reduce barriers for these conversions.

SEC. 2. Section 17921.9 is added to the Health and Safety Code, to read:

17921.9. (a) No later than December 31, 2024, the Department of Housing and Community Development shall convene a working group, including, but not limited to, the California Building Standards Commission, Energy Commission, State Fire Marshal, Public Utilities Commission, local government representatives, and stakeholders, to identify challenges to, and opportunities that help support, the creation and promotion of adaptive reuse residential projects statewide while not reducing minimum health and safety standards, including identifying and recommending amendments to state building standards. Each entity shall provide input relative to its area of expertise and oversight.

(b) The working group may consider the following issues:

(1) Energy and insulation upgrades.

(2) Fire-rated assemblies.

(3) Water and sewer piping.

(4) Energy infrastructure, including individual utility meter upgrades.

(5) Habitability.

(6) Any other local or state building requirement that may render the conversion or reuse of an existing building financially infeasible for residential uses.

(c) No later than December 31, 2025, the Department of Housing and Community Development shall provide a one-time report of its findings to the Legislature in the annual report required by Section 50408.

(d) If the working group identifies and recommends amendments to building standards in the report described in subdivision (c), the Department of Housing and Community Development and other state agencies within the working group with authority to propose adoption of building standards shall research, develop, and consider proposing for adoption by the California Building Standards Commission adaptive reuse building standards within each agency's respective authority for the next triennial update of the California Building Standards Code that occurs on or after January 1, 2026, and, if available, the next intervening code adoption cycle that commences on or after January 1, 2025.

(e) For purposes of this section, "adaptive reuse" shall have the same meaning as in Section 53559.1.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 65589.9 of the Government Code proposed by both this bill and Senate Bill 341. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 65589.9 of the Government Code, and (3) this bill is enacted after Senate Bill 341, in which case Section 1 of this bill shall not become operative.