



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-2117 Development permit expirations: actions or proceedings. (2023-2024)

SHARE THIS:  

Date Published: 09/20/2024 02:00 PM

Assembly Bill No. 2117

CHAPTER 270

An act to amend Section 65009 of the Government Code, relating to land use.

[Approved by Governor September 19, 2024. Filed with Secretary of State September 19, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2117, Joe Patterson. Development permit expirations: actions or proceedings.

Existing law, the Planning and Zoning law, generally requires that an action or proceeding challenging a public agency's decision on a variance, conditional use permit, or any other permit, among other decisions, be commenced, and service made on the legislative body of the agency, within 90 days after the legislative body's decision.

This bill, for purposes of determining the period of time before a variance, conditional use permit, or any other development permit or project approval issued by a city, county, or state agency expires, would exclude the period of time during which an action or proceeding involving the approval or conditional approval of the permit or project approval is or was pending, except as specified. By extending the expiration date of local development permits and project approvals, 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 Local Program: yes

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

SECTION 1. Section 65009 of the Government Code is amended to read:

65009. (a) (1) The Legislature finds and declares that there currently is a housing crisis in California and it is essential to reduce delays and restraints upon expeditiously completing housing projects.

(2) The Legislature further finds and declares that a legal action or proceeding challenging a decision of a city, county, or city and county has a chilling effect on the confidence with which property owners and local governments can proceed with projects. Legal actions or proceedings filed to attack, review, set aside, void, or annul a decision of a city, county, or city and county pursuant to this division, including, but not limited to, the implementation of general plan goals and policies that provide incentives for affordable housing, open-space and recreational opportunities, and other related public benefits, can prevent the completion of needed developments even though the projects have received required governmental approvals.

(3) The purpose of this section is to provide certainty for property owners and local governments regarding decisions made pursuant to this division.

(b) (1) In an action or proceeding to attack, review, set aside, void, or annul a finding, determination, or decision of a public agency made pursuant to this title at a properly noticed public hearing, the issues raised shall be limited to those raised in the public hearing or in written correspondence delivered to the public agency prior to, or at, the public hearing, except where the court finds either of the following:

(A) The issue could not have been raised at the public hearing by persons exercising reasonable diligence.

(B) The body conducting the public hearing prevented the issue from being raised at the public hearing.

(2) If a public agency desires the provisions of this subdivision to apply to a matter, it shall include in any public notice issued pursuant to this title a notice substantially stating all of the following: "If you challenge the (nature of the proposed action) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the (public entity conducting the hearing) at, or prior to, the public hearing."

(3) The application of this subdivision to causes of action brought pursuant to subdivision (d) applies only to the final action taken in response to the notice to the city or clerk of the board of supervisors. If no final action is taken, then the issue raised in the cause of action brought pursuant to subdivision (d) shall be limited to those matters presented at a properly noticed public hearing or to those matters specified in the notice given to the city or clerk of the board of supervisors pursuant to subdivision (d), or both.

(c) (1) Except as provided in subdivision (d), no action or proceeding shall be maintained in any of the following cases by any person unless the action or proceeding is commenced and service is made on the legislative body within 90 days after the legislative body's decision:

(A) To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a general or specific plan. This paragraph does not apply where an action is brought based upon the complete absence of a general plan or a mandatory element thereof, but does apply to an action attacking a general plan or mandatory element thereof on the basis that it is inadequate.

(B) To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a zoning ordinance.

(C) To determine the reasonableness, legality, or validity of any decision to adopt or amend any regulation attached to a specific plan.

(D) To attack, review, set aside, void, or annul the decision of a legislative body to adopt, amend, or modify a development agreement. An action or proceeding to attack, review, set aside, void, or annul the decisions of a legislative body to adopt, amend, or modify a development agreement shall only extend to the specific portion of the development agreement that is the subject of the adoption, amendment, or modification. This paragraph applies to development agreements, amendments, and modifications adopted on or after January 1, 1996.

(E) To attack, review, set aside, void, or annul any decision on the matters listed in Sections 65901 and 65903, or to determine the reasonableness, legality, or validity of any condition attached to a variance, conditional use permit, or any other permit.

(F) Concerning any of the proceedings, acts, or determinations taken, done, or made prior to any of the decisions listed in subparagraphs (A), (B), (C), (D), and (E).

(2) In the case of an action or proceeding challenging the adoption or revision of a housing element pursuant to this subdivision, the action or proceeding may, in addition, be maintained if it is commenced and service is made on the legislative body within 60 days following the date that the Department of Housing and Community Development reports its findings pursuant to subdivision (h) of Section 65585.

(d) (1) An action or proceeding shall be commenced and the legislative body served after the accrual of the cause of action as provided in this subdivision, if the action or proceeding meets both of the following requirements:

(A) It is brought in support of or to encourage or facilitate the development of housing that would increase the community's supply of housing affordable to persons and families with low or moderate incomes, as defined in Section 50079.5 of the Health and Safety Code, or with very low incomes, as defined in Section 50105 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. This subdivision is not intended to require that the action or proceeding be brought in support of or to encourage or facilitate a specific housing development project.

(B) It is brought with respect to the adoption or revision of a housing element pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3, actions taken pursuant to Section 65863.6, or Chapter 4.2 (commencing with Section 65913), or to challenge the adequacy of an ordinance adopted pursuant to Section 65915.

(2) (A) An action or proceeding challenging the adoption or revision of a housing element that the Department of Housing and Community Development has found to substantially comply with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 shall be commenced, and the legislative body shall be served, within six months after the accrual of the cause of action as provided in this subdivision.

(B) An action or proceeding challenging the adoption or revision of a housing element that the Department of Housing and Community Development has found does not substantially comply with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3, where the legislative body has failed to change the draft element or amendment to substantially comply with the requirements of Article 10.6 or has adopted the draft element or amendment without change and made findings pursuant to subdivision (f) of Section 65585, shall be commenced, and the legislative body shall be served, within one year after the accrual of the cause of action as provided in this subdivision.

(C) An action or proceeding challenging an action taken pursuant to Section 65863.6, or Chapter 4.2 (commencing with Section 65913), or to challenge the adequacy of an ordinance adopted pursuant to Section 65915 shall be served within 180 days after the accrual of the cause of action as provided in this subdivision.

(3) (A) A cause of action brought pursuant to this subdivision shall not be maintained until 60 days have expired following notice to the city or clerk of the board of supervisors by the party bringing the cause of action, or the party's representative, specifying the deficiencies of the general plan, specific plan, zoning ordinance, or other action described in subparagraph (B) of paragraph (1). A cause of action brought pursuant to this subdivision shall accrue 60 days after notice is filed or the legislative body takes a final action in response to the notice, whichever occurs first.

(B) This notice may be filed at any time within 270 days after an action described in subparagraph (A) of paragraph (2), two years after an action described in subparagraph (B) of paragraph (2), or 180 days after an action described in subparagraph (C) of paragraph (2).

(4) A notice or cause of action brought by one party pursuant to this subdivision shall not bar filing of a notice and initiation of a cause of action by any other party.

(5) After the adoption of a housing element covering the current planning period, no action shall be filed pursuant to this subdivision to challenge a housing element covering a prior planning period.

(e) Upon the expiration of the time limits provided for in this section, all persons are barred from any further action or proceeding.

(f) (1) The period of time before a permit or project approval issued by a city, county, or state agency expires shall not include the period of time during which an action or proceeding involving the approval or conditional approval of the permit or project approval is or was pending.

(2) For purposes of this subdivision:

(A) "Pending" means the same as described in Section 1049 of the Code of Civil Procedure.

(B) "Permit" means a variance, conditional use permit, or any other development permit, but does not include any of the following:

(i) A building permit or other permit issued under the California Building Standards Code (Title 24 of the California Code of Regulations) or any applicable local building code for the construction, demolition, or alteration of buildings, whether discretionary or nondiscretionary.

(ii) A permit for minor or standard excavation and grading.

(iii) A permit for demolition.

(iv) A permit for minor or standard excavation and grading.

(v) Any nondiscretionary permit or review that is required or issued by the local agency after the entitlement process has been completed to begin construction.

(g) Notwithstanding Sections 65700 and 65803, or any other provision of law, this section shall apply to charter cities.

(h) Except as provided in subdivision (d), this section shall not affect any law prescribing or authorizing a shorter period of limitation than that specified herein.

(i) Except as provided in subparagraph (D) of paragraph (1) of subdivision (c), this section shall be applicable to those decisions of the legislative body of a city, county, or city and county made pursuant to this division on or after January 1, 1984.

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