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AB-2430 Planning and zoning: density bonuses: monitoring fees. (2023-2024)

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Assembly Bill No. 2430

CHAPTER 273

An act to add Section 65915.3 to 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 2430, Alvarez. Planning and zoning: density bonuses: monitoring fees.

Existing law, commonly referred to as the Density Bonus Law, requires a city, county, or city and county to provide a developer that proposes a housing development within the city or county with a density bonus, waivers or reductions of development standards and parking ratios, and other incentives or concessions, as specified, if the developer agrees to construct certain types of housing, including a housing development in which 100% of the units are for lower income households, except that up to 20% of the units in the development may be for moderate-income households, as specified.

This bill would prohibit a city, county, or city and county from charging a monitoring fee, as defined, on those types of housing developments if certain conditions are met, except as specified. The bill would provide that, beginning on January 1, 2025, any housing development that is currently placed in service, is subject to a monitoring fee, and meets those conditions shall no longer be subject to that fee. By imposing new duties on local governments, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Section 65915.3 is added to the Government Code, to read:

65915.3. (a) As used in this section, the following terms have the following meanings:

- (1) "Housing development" has the same meaning as defined in subdivision (i) of Section 65915.
- (2) "Monitoring fee" means a fee charged by a city, county, or city and county on a recurring basis to oversee and ensure the continued affordability of a housing development pursuant to either of the following:

(A) Section 65915.

(B) Any applicable local inclusionary housing ordinance.

(b) Except as provided in subdivision (d), a city, county, or city and county shall not charge a monitoring fee on a housing development if all of the following conditions are met:

(1) The housing development meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b) of Section 65915.

(2) The applicant received a density bonus pursuant to Section 65915 for the housing development.

(3) The housing development is subject to a recorded regulatory agreement with the California Tax Credit Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development that requires compliance with subparagraph (G) of paragraph (1) of subdivision (b) of Section 65915.

(4) Prior to receiving a building permit, the applicant provides to the local government a fully executed Tax Credit Reservation Letter indicating that the applicant accepted the award.

(5) The applicant provides to the local government a copy of a recorded regulatory agreement with the California Tax Credit Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development.

(6) The applicant agreed to provide to the local government the compliance monitoring document required pursuant to the California Tax Credit Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development regulations.

(c) Beginning on January 1, 2025, a housing development that is currently placed in service, is subject to a monitoring fee, and meets the requirements of subdivision (b) shall no longer be subject to that fee.

(d) Notwithstanding subdivisions (b) and (c), a city, county, or city and county may charge a monitoring fee on a housing development that meets the criteria of subparagraph (G) of paragraph (1) of subdivision (b) of Section 65915 if any of the following conditions are met:

(1) The applicant utilizes a local incentive program that results in the development of units with deeper affordability, including a higher number of affordable units than what is monitored for by the California Tax Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development.

(2) The applicant uses a local incentive program that results in the development of units that are affordable to and occupied by moderate income households.

(3) The applicant accepts a local funding source that results in the development of units with different affordability, measured through higher or lower area median income or through higher or lower rents, than what is monitored for by the California Tax Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development.

(4) The applicant accepts funding from a regional, state, or federal agency other than the California Tax Credit Allocation Committee, the California Debt Limit Allocation Committee, the California Housing Finance Agency, or the Department of Housing and Community Development that requires local monitoring activities that would not otherwise be conducted by the California Tax Allocation Committee, the Department of Housing and Community Development, or the public agency issuing the funding.

(e) A city, county, or city and county that is not collecting a monitoring fee pursuant to this section shall not have any obligation to monitor a housing development for compliance with Section 65915.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.