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SB-393 Civil actions: housing development projects. (2023-2024)

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Senate Bill No. 393

CHAPTER 285

An act to amend Section 529.2 of the Code of Civil Procedure, relating to civil actions.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 393, Glazer. Civil actions: housing development projects.

Existing law provides that in a civil action brought by a plaintiff to challenge a housing development project that meets or exceeds the requirements for low- or moderate-income housing, a defendant may seek an order requiring the plaintiff to furnish an undertaking as security for costs and damages that may be incurred by the defendant if the bringing of the action or seeking by the plaintiff of particular relief, including injunctive relief, would result in a delay in carrying out the development project. Existing law requires this motion to be made on the grounds that (1) the action was brought in bad faith, vexatiously, to delay or thwart the low- or moderate-income nature of the housing development project and (2) the plaintiff will not suffer undue economic hardship by filing the undertaking. If the court determines, after hearing, that the grounds for the motion have been established, existing law requires the court to order the plaintiff to file an undertaking that may not exceed \$500,000 as security for the defendant's costs and damages.

This bill would require the motion described above to be made on the grounds that the action is without merit and that the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the low- or moderate-income nature of the housing development project. The bill would permit the plaintiff, in responding to the motion, to seek to limit the amount of the undertaking by presenting evidence that filing the undertaking will cause the plaintiff to suffer undue economic hardship. The bill would require the court, in ordering the plaintiff to file such an undertaking, to take into consideration admitted evidence of the plaintiff's economic hardship and to avoid causing the plaintiff to suffer such hardship. The bill would authorize the court to decline to impose a bond on the plaintiff if the court determines that, based on the evidence, the bond would cause the plaintiff to suffer undue economic hardship.

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

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

SECTION 1. Section 529.2 of the Code of Civil Procedure is amended to read:

529.2. (a) In all civil actions, including, but not limited to, actions brought pursuant to Section 21167 of the Public Resources Code, brought by any plaintiff to challenge a housing project which is a development project, as defined by Section 65928 of the Government Code, and which meets or exceeds the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, a defendant may, if the bringing of the action or the seeking by the plaintiff of particular relief

including, but not limited to, injunctions, has the effect of preventing or delaying the project from being carried out, apply to the court by noticed motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in carrying out the development project. The motion shall be made on the grounds that the action is without merit and that the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the low- or moderate-income nature of the housing development project.

(b) In responding to a motion for undertaking, the plaintiff may seek to limit the amount of the undertaking by presenting admissible evidence that filing an undertaking will cause it, and in cases where the plaintiff is an unincorporated association, its members, to suffer undue economic hardship. If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff file the undertaking in an amount specified in the court's order, taking into consideration any admitted evidence of plaintiff's economic hardship and avoiding causing the plaintiff to suffer undue economic hardship, as security for costs and damages of the defendant. The liability of the plaintiff pursuant to this section for the costs and damages of the defendant shall not exceed five hundred thousand dollars (\$500,000). If the court concludes, based on all of the admissible evidence presented, that a bond in any amount would cause the plaintiff undue economic hardship, the court is authorized in its discretion to decline to impose a bond.

(c) If at any time after the plaintiff has filed an undertaking the housing development plan is changed by the developer in bad faith so that it fails to meet or exceed the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, the developer shall be liable to the plaintiff for the cost of obtaining the undertaking.