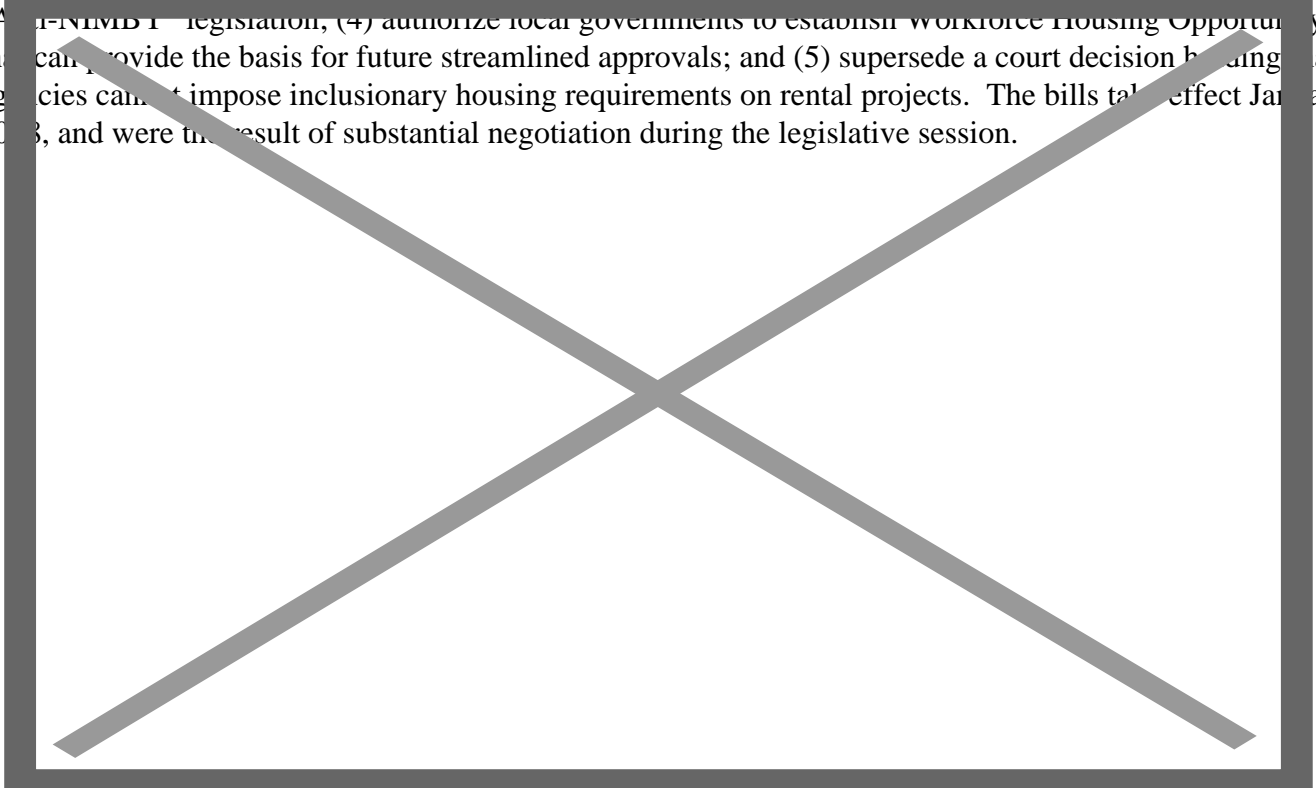


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Governor Signs Housing Legislation, Including Streamlining Bill

Governor Brown has signed 15 bills designed to address the State's severe shortage of affordable housing. Among its other effects, the legislation will (1) generate funds for affordable housing developments; (2) require cities and counties, as they approve new development, to maintain a supply of adequate housing sites for all levels of income; (3) tighten several provisions in the Housing Accountability Act, known popularly as the "Anti-NIMBY" legislation, (4) authorize local governments to establish workforce Housing Opportunity Zones that can provide the basis for future streamlined approvals; and (5) supersede a court decision holding that local agencies cannot impose inclusionary housing requirements on rental projects. The bills take effect January 1, 2018, and were the result of substantial negotiation during the legislative session.



This

post focuses on another bill in the housing package that, in limited circumstances, will provide a streamlined, ministerial approval process for multifamily residential developments that include affordable housing. SB 35, shepherded through the Legislature by first-year Senator Scott Wiener, will apply to certain urban infill projects located in jurisdictions the California Department of Housing and Community Development determines are not meeting their share of regional housing needs by income category. For eligible projects, no conditional use permit can be required, and parking standards will be limited. SB 35 also will require that any design review or public oversight be "objective" and "strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards" of broad applicability adopted by the jurisdiction before a development application was submitted. This review will need to be completed within 90 days for a project of 150 housing units or fewer, and within 180 days for larger projects. To be eligible for streamlining under SB 35, projects will need to include units reserved for low-income households as follows:

- At least 10 percent of total units, if the local agency is not approving enough units for above moderate-income households; or
- At least 50 percent of project units, if the locality is out of compliance in its provision of low-income housing.

If the city or county is out of compliance with both requirements, the developer may satisfy the lower

percentage. However, if a local inclusionary housing ordinance requires dedication of a greater percentage of units to low-income households, that ordinance will control. In addition to the requirements identified above and others, projects will need to meet the following standards to qualify under SB 35:

- The development, excluding any elements authorized by the Density Bonus Law, is consistent with objective zoning standards and objective design review standards;
- At least two-thirds of square footage is designated for residential use;
- All construction workers will be paid prevailing wages, unless a project is a public work or has 10 units or fewer; and
- For certain projects, a "skilled and trained workforce" will be used.

Projects may be excluded from streamlining under SB 35 if located on any one of several types of sites. Ineligibility may be triggered if a site is (1) within the coastal zone; (2) prime farmland, farmland of statewide importance, or land designated for agricultural protection; (3) wetlands; (4) within certain fire hazard severity zones; (5) a hazardous waste site; (6) within a delineated earthquake fault zone; (7) within a flood plain or floodway; or (8) identified for conservation, habitat for protected species, or under conservation easement. A development also may be excluded if demolition of a historic structure or of certain types of housing is involved, or if specified unit sales or subdivision occurs. SB 35 is scheduled to expire on January 1, 2026.

Authors