Updates
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California Enacts New Legislation to Accelerate Housing Production

California Governor Gavin Newsom recently signed into law several bills intended to accelerate local approval of housing projects and increase housing production. This update summarizes the contents of three key bills:

- Senate Bill (SB) 8 extends operation of the Housing Crisis Act of 2019 (SB 330) by five years, from 2025 to 2030, and makes limited additional amendments to the law.
- SB 9 requires cities and counties, under certain circumstances, to approve ministerially, within urban single-family residential zoning districts, (1) development of up to two units on a parcel and (2) a parcel map for an urban lot split.
- SB 10 authorizes local governments to rezone for up to 10 residential units, without California Environmental Quality Act (CEQA) review, specified urban infill parcels and lots near transit.

Together, this legislation both compels many cities and counties to allow for more housing in single-family neighborhoods and empowers local governments to permit more residential development by reducing regulatory hurdles.

**SB 8: Extension and Clarification of the Housing Crisis Act of 2019**

The Housing Crisis Act of 2019, often referred to as SB 330, was enacted to prevent local agencies from putting up new barriers to housing production during a "statewide housing emergency" that the legislature declared was in effect until January 1, 2025. SB 8 extends operation of the Housing Crisis Act by five years, to January 1, 2030. For a summary of the original law's provisions, please see our update from October 2019.

Under the Housing Crisis Act, residential projects statewide generally are subject only to the ordinances, policies, development standards, and fees that are in effect when the developer submits a "preliminary application." SB 8 clarifies that eligible housing development projects include those that involve (1) no discretionary approvals, (2) both discretionary and nondiscretionary approvals, and (3) a single dwelling unit.

The Housing Crisis Act also prohibits downzoning or otherwise reducing allowable intensity of land use on parcels where housing is an allowable use, except where a city or county subject to this provision "concurrently" changes land use designations or zoning elsewhere to ensure no net loss in residential capacity. SB 8 clarifies that the term "concurrently" means that actions generally must be approved at the same public hearing.

SB 8 makes several additional amendments to the Housing Crisis Act. Among them are changes to provisions governing existing occupants' rights to return after they are required to leave a unit due to a housing project.

**SB 9: By-Right Duplex Development and Urban Lot Splits on Certain Single-Family Parcels**

In many areas, SB 9 brings an end to exclusively single-family residential zoning districts. Subject to numerous exceptions and restrictions, the bill provides for the ministerial approval, within urban single-family residential zones, of (1) development of up to two units on a parcel and (2) a parcel map for an urban lot split. Where this ministerial process applies, local governments lack discretion to deny compliant housing project applications.

To qualify for ministerial approval to build two residential units on one parcel, the following requirements, among others, must be met:

- Unless certain standards are met, the parcel is not in an environmentally sensitive or hazardous area, including (1) prime farmland, farmland of statewide importance, or land designated for agricultural protection; (2) wetlands; (3) certain fire hazard severity zones; (4) an uncleared hazardous waste site; (5) a delineated earthquake fault zone; (6) a specified special flood hazard area; (7) a regulatory floodway; (8) lands identified for conservation in certain adopted plans; (9) habitat for protected species; or (10) lands under conservation easement.
- The site is not located within a historic district or on certain historic property.
- The proposed development would not require:
    - Demolition or alteration of deed-restricted affordable or rent-controlled housing;
    - Demolition or alteration of housing that has been occupied by a tenant in the last three years; or
    - Demolition of more than 25% of existing exterior structural walls, unless allowed by local ordinance or unless the site has not been occupied by a tenant in the last three years.

In addition to meeting all the requirements listed above, aside from the last, the following requirements, among others, must be met to qualify for ministerial approval of an urban lot split:

- The parcel map subdivides an existing parcel to create no more than two new parcels of approximately equal lot area, where neither parcel may be smaller than 40% of the original parcel area.
- Both new parcels must be at least 1,200 square feet unless the city or county allows for smaller lots.
- The parcel has not been established through prior exercise of an urban lot split; sequential urban lot splits are prohibited.
- The applicant must sign an affidavit expressing an intent to occupy one of the housing units as their principal residence for at least three years after the urban lot split is approved, unless the applicant is a community land trust or a specific type of nonprofit corporation.

Cities and counties are prohibited from imposing development standards that would physically preclude construction of up to two units of at least 800 square feet each on an eligible parcel, including each of the two parcels resulting from an urban lot split. Off-street parking of up to one space per unit generally may be required.

**SB 10: Streamlined Rezoning Process for Up to 10 Residential Units Near Transit or as Urban Infill**

SB 10 offers local governments a streamlined process for rezoning certain lots for increased residential density. The new law authorizes, but does not require, cities and counties to rezone a parcel for development of up to 10 residential units, without triggering CEQA review, provided the parcel is either (1) within a half-mile of a major transit stop or on a high-quality bus corridor, or (2) an "urban infill site." To qualify as an urban infill site, a parcel must be in a specified type of urban area; must be surrounded by at least 75% by parcels developed with urban uses; and must be designated for residential or residential mixed-use development. Parcels located within certain fire hazard severity zones or designated as open space or for park or recreational purposes may not be rezoned under the bill.

SB 10 provides that, with a two-thirds vote by the city council or board of supervisors, a rezoning ordinance may supersede a zoning restriction established by local initiative.

The rezoning authority granted to local agencies under SB 10 will expire on January 1, 2029.

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