

AMENDED IN SENATE APRIL 6, 2016

**SENATE BILL**

**No. 1069**

---

---

**Introduced by Senator Wieckowski**

February 16, 2016

---

---

An act to amend ~~Section 65852.150~~ *Sections 65582.1, 65583.1, 65589.4, 65852.150, 65852.2, and 66412.2* of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1069, as amended, Wieckowski. Land use: zoning.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified. That law makes findings and declarations with respect to the value of 2nd units to California's housing supply.

This bill would *replace the term "second unit" with "accessory dwelling unit" throughout the law. The bill would add to those findings and declarations that allowing ~~2nd~~ accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock and are an essential component of housing supply in California.*

*This bill would require an ordinance for the creation of accessory dwelling units to include specified provisions regarding areas where accessory dwelling units may be located, standards, and lot density. This bill would revise requirements for the approval or disapproval of an accessory dwelling unit application when a local agency has not adopted an ordinance. By increasing the duties of local officials, 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: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 65582.1 of the Government Code is
- 2 amended to read:
- 3 65582.1. The Legislature finds and declares that it has provided
- 4 reforms and incentives to facilitate and expedite the construction
- 5 of affordable housing. Those reforms and incentives can be found
- 6 in the following provisions:
- 7 (a) Housing element law (Article 10.6 (commencing with
- 8 Section 65580) of Chapter 3).
- 9 (b) Extension of statute of limitations in actions challenging the
- 10 housing element and brought in support of affordable housing
- 11 (subdivision (d) of Section 65009).
- 12 (c) Restrictions on disapproval of housing developments
- 13 (Section 65589.5).
- 14 (d) Priority for affordable housing in the allocation of water and
- 15 sewer hookups (Section 65589.7).
- 16 (e) Least cost zoning law (Section 65913.1).
- 17 (f) Density bonus law (Section 65915).
- 18 (g) ~~Second dwelling~~ *Accessory dwelling* units (Sections
- 19 65852.150 and 65852.2).
- 20 (h) By-right housing, in which certain multifamily housing are
- 21 designated a permitted use (Section 65589.4).
- 22 (i) No-net-loss-in zoning density law limiting downzonings and
- 23 density reductions (Section 65863).
- 24 (j) Requiring persons who sue to halt affordable housing to pay
- 25 attorney fees (Section 65914) or post a bond (Section 529.2 of the
- 26 Code of Civil Procedure).
- 27 (k) Reduced time for action on affordable housing applications
- 28 under the approval of development permits process (Article 5
- 29 (commencing with Section 65950) of Chapter 4.5).

1 (l) Limiting moratoriums on multifamily housing (Section  
2 65858).

3 (m) Prohibiting discrimination against affordable housing  
4 (Section 65008).

5 (n) California Fair Employment and Housing Act (Part 2.8  
6 commencing with Section 12900) of Division 3).

7 (o) Community redevelopment law (Part 1 (commencing with  
8 Section 33000) of Division 24 of the Health and Safety Code, and  
9 in particular Sections 33334.2 and 33413).

10 *SEC. 2. Section 65583.1 of the Government Code is amended*  
11 *to read:*

12 65583.1. (a) The Department of Housing and Community  
13 Development, in evaluating a proposed or adopted housing element  
14 for substantial compliance with this article, may allow a city or  
15 county to identify adequate sites, as required pursuant to Section  
16 65583, by a variety of methods, including, but not limited to,  
17 redesignation of property to a more intense land use category and  
18 increasing the density allowed within one or more categories. The  
19 department may also allow a city or county to identify sites for  
20 ~~second~~ *accessory dwelling* units based on the number of ~~second~~  
21 *accessory dwelling* units developed in the prior housing element  
22 planning period whether or not the units are permitted by right,  
23 the need for these units in the community, the resources or  
24 incentives available for their development, and any other relevant  
25 factors, as determined by the department. Nothing in this section  
26 reduces the responsibility of a city or county to identify, by income  
27 category, the total number of sites for residential development as  
28 required by this article.

29 (b) Sites that contain permanent housing units located on a  
30 military base undergoing closure or conversion as a result of action  
31 pursuant to the Defense Authorization Amendments and Base  
32 Closure and Realignment Act (Public Law 100-526), the Defense  
33 Base Closure and Realignment Act of 1990 (Public Law 101-510),  
34 or any subsequent act requiring the closure or conversion of a  
35 military base may be identified as an adequate site if the housing  
36 element demonstrates that the housing units will be available for  
37 occupancy by households within the planning period of the  
38 element. No sites containing housing units scheduled or planned  
39 for demolition or conversion to nonresidential uses shall qualify  
40 as an adequate site.

1 Any city, city and county, or county using this subdivision shall  
2 address the progress in meeting this section in the reports provided  
3 pursuant to paragraph (1) of subdivision (b) of Section 65400.

4 (c) (1) The Department of Housing and Community  
5 Development may allow a city or county to substitute the provision  
6 of units for up to 25 percent of the community’s obligation to  
7 identify adequate sites for any income category in its housing  
8 element pursuant to paragraph (1) of subdivision (c) of Section  
9 65583 where the community includes in its housing element a  
10 program committing the local government to provide units in that  
11 income category within the city or county that will be made  
12 available through the provision of committed assistance during  
13 the planning period covered by the element to low- and very low  
14 income households at affordable housing costs or affordable rents,  
15 as defined in Sections 50052.5 and 50053 of the Health and Safety  
16 Code, and which meet the requirements of paragraph (2). Except  
17 as otherwise provided in this subdivision, the community may  
18 substitute one dwelling unit for one dwelling unit site in the  
19 applicable income category. The program shall do all of the  
20 following:

21 (A) Identify the specific, existing sources of committed  
22 assistance and dedicate a specific portion of the funds from those  
23 sources to the provision of housing pursuant to this subdivision.

24 (B) Indicate the number of units that will be provided to both  
25 low- and very low income households and demonstrate that the  
26 amount of dedicated funds is sufficient to develop the units at  
27 affordable housing costs or affordable rents.

28 (C) Demonstrate that the units meet the requirements of  
29 paragraph (2).

30 (2) Only units that comply with subparagraph (A), (B), or (C)  
31 qualify for inclusion in the housing element program described in  
32 paragraph (1), as follows:

33 (A) Units that are to be substantially rehabilitated with  
34 committed assistance from the city or county and constitute a net  
35 increase in the community’s stock of housing affordable to low-  
36 and very low income households. For purposes of this  
37 subparagraph, a unit is not eligible to be “substantially  
38 rehabilitated” unless all of the following requirements are met:

39 (i) At the time the unit is identified for substantial rehabilitation,  
40 (I) the local government has determined that the unit is at imminent

1 risk of loss to the housing stock, (II) the local government has  
2 committed to provide relocation assistance pursuant to Chapter 16  
3 (commencing with Section 7260) of Division 7 of Title 1 to any  
4 occupants temporarily or permanently displaced by the  
5 rehabilitation or code enforcement activity, or the relocation is  
6 otherwise provided prior to displacement either as a condition of  
7 receivership, or provided by the property owner or the local  
8 government pursuant to Article 2.5 (commencing with Section  
9 17975) of Chapter 5 of Part 1.5 of Division 13 of the Health and  
10 Safety Code, or as otherwise provided by local ordinance; provided  
11 the assistance includes not less than the equivalent of four months’  
12 rent and moving expenses and comparable replacement housing  
13 consistent with the moving expenses and comparable replacement  
14 housing required pursuant to Section 7260, (III) the local  
15 government requires that any displaced occupants will have the  
16 right to reoccupy the rehabilitated units, and (IV) the unit has been  
17 found by the local government or a court to be unfit for human  
18 habitation due to the existence of at least four violations of the  
19 conditions listed in subdivisions (a) to (g), inclusive, of Section  
20 17995.3 of the Health and Safety Code.

21 (ii) The rehabilitated unit will have long-term affordability  
22 covenants and restrictions that require the unit to be available to,  
23 and occupied by, persons or families of low- or very low income  
24 at affordable housing costs for at least 20 years or the time period  
25 required by any applicable federal or state law or regulation.

26 (iii) Prior to initial occupancy after rehabilitation, the local code  
27 enforcement agency shall issue a certificate of occupancy indicating  
28 compliance with all applicable state and local building code and  
29 health and safety code requirements.

30 (B) Units that are located either on foreclosed property or in a  
31 multifamily rental or ownership housing complex of three or more  
32 units, are converted with committed assistance from the city or  
33 county from nonaffordable to affordable by acquisition of the unit  
34 or the purchase of affordability covenants and restrictions for the  
35 unit, are not acquired by eminent domain, and constitute a net  
36 increase in the community’s stock of housing affordable to low-  
37 and very low income households. For purposes of this  
38 subparagraph, a unit is not converted by acquisition or the purchase  
39 of affordability covenants unless all of the following occur:

- 1 (i) The unit is made available for rent at a cost affordable to  
2 low- or very low income households.
- 3 (ii) At the time the unit is identified for acquisition, the unit is  
4 not available at an affordable housing cost to either of the  
5 following:
- 6 (I) Low-income households, if the unit will be made affordable  
7 to low-income households.
- 8 (II) Very low income households, if the unit will be made  
9 affordable to very low income households.
- 10 (iii) At the time the unit is identified for acquisition the unit is  
11 not occupied by low- or very low income households or if the  
12 acquired unit is occupied, the local government has committed to  
13 provide relocation assistance prior to displacement, if any, pursuant  
14 to Chapter 16 (commencing with Section 7260) of Division 7 of  
15 Title 1 to any occupants displaced by the conversion, or the  
16 relocation is otherwise provided prior to displacement; provided  
17 the assistance includes not less than the equivalent of four months'  
18 rent and moving expenses and comparable replacement housing  
19 consistent with the moving expenses and comparable replacement  
20 housing required pursuant to Section 7260.
- 21 (iv) The unit is in decent, safe, and sanitary condition at the  
22 time of occupancy.
- 23 (v) The unit has long-term affordability covenants and  
24 restrictions that require the unit to be affordable to persons of low-  
25 or very low income for not less than 55 years.
- 26 (vi) For units located in multifamily ownership housing  
27 complexes with three or more units, or on or after January 1, 2015,  
28 on foreclosed properties, at least an equal number of  
29 new-construction multifamily rental units affordable to lower  
30 income households have been constructed in the city or county  
31 within the same planning period as the number of ownership units  
32 to be converted.
- 33 (C) Units that will be preserved at affordable housing costs to  
34 persons or families of low- or very low incomes with committed  
35 assistance from the city or county by acquisition of the unit or the  
36 purchase of affordability covenants for the unit. For purposes of  
37 this subparagraph, a unit shall not be deemed preserved unless all  
38 of the following occur:
- 39 (i) The unit has long-term affordability covenants and  
40 restrictions that require the unit to be affordable to, and reserved

1 for occupancy by, persons of the same or lower income group as  
2 the current occupants for a period of at least 40 years.

3 (ii) The unit is within an “assisted housing development,” as  
4 defined in paragraph (3) of subdivision (a) of Section 65863.10.

5 (iii) The city or county finds, after a public hearing, that the unit  
6 is eligible, and is reasonably expected, to change from housing  
7 affordable to low- and very low income households to any other  
8 use during the next five years due to termination of subsidy  
9 contracts, mortgage prepayment, or expiration of restrictions on  
10 use.

11 (iv) The unit is in decent, safe, and sanitary condition at the  
12 time of occupancy.

13 (v) At the time the unit is identified for preservation it is  
14 available at affordable cost to persons or families of low- or very  
15 low income.

16 (3) This subdivision does not apply to any city or county that,  
17 during the current or immediately prior planning period, as defined  
18 by Section 65588, has not met any of its share of the regional need  
19 for affordable housing, as defined in Section 65584, for low- and  
20 very low income households. A city or county shall document for  
21 any housing unit that a building permit has been issued and all  
22 development and permit fees have been paid or the unit is eligible  
23 to be lawfully occupied.

24 (4) For purposes of this subdivision, “committed assistance”  
25 means that the city or county enters into a legally enforceable  
26 agreement during the period from the beginning of the projection  
27 period until the end of the second year of the planning period that  
28 obligates sufficient available funds to provide the assistance  
29 necessary to make the identified units affordable and that requires  
30 that the units be made available for occupancy within two years  
31 of the execution of the agreement. “Committed assistance” does  
32 not include tenant-based rental assistance.

33 (5) For purposes of this subdivision, “net increase” includes  
34 only housing units provided committed assistance pursuant to  
35 subparagraph (A) or (B) of paragraph (2) in the current planning  
36 period, as defined in Section 65588, that were not provided  
37 committed assistance in the immediately prior planning period.

38 (6) For purposes of this subdivision, “the time the unit is  
39 identified” means the earliest time when any city or county agent,  
40 acting on behalf of a public entity, has proposed in writing or has

1 proposed orally or in writing to the property owner, that the unit  
2 be considered for substantial rehabilitation, acquisition, or  
3 preservation.

4 (7) In the third year of the planning period, as defined by Section  
5 65588, in the report required pursuant to Section 65400, each city  
6 or county that has included in its housing element a program to  
7 provide units pursuant to subparagraph (A), (B), or (C) of  
8 paragraph (2) shall report in writing to the legislative body, and  
9 to the department within 30 days of making its report to the  
10 legislative body, on its progress in providing units pursuant to this  
11 subdivision. The report shall identify the specific units for which  
12 committed assistance has been provided or which have been made  
13 available to low- and very low income households, and it shall  
14 adequately document how each unit complies with this subdivision.  
15 If, by July 1 of the third year of the planning period, the city or  
16 county has not entered into an enforceable agreement of committed  
17 assistance for all units specified in the programs adopted pursuant  
18 to subparagraph (A), (B), or (C) of paragraph (2), the city or county  
19 shall, not later than July 1 of the fourth year of the planning period,  
20 adopt an amended housing element in accordance with Section  
21 65585, identifying additional adequate sites pursuant to paragraph  
22 (1) of subdivision (c) of Section 65583 sufficient to accommodate  
23 the number of units for which committed assistance was not  
24 provided. If a city or county does not amend its housing element  
25 to identify adequate sites to address any shortfall, or fails to  
26 complete the rehabilitation, acquisition, purchase of affordability  
27 covenants, or the preservation of any housing unit within two years  
28 after committed assistance was provided to that unit, it shall be  
29 prohibited from identifying units pursuant to subparagraph (A),  
30 (B), or (C) of paragraph (2) in the housing element that it adopts  
31 for the next planning period, as defined in Section 65588, above  
32 the number of units actually provided or preserved due to  
33 committed assistance.

34 (d) A city or county may reduce its share of the regional housing  
35 need by the number of units built between the start of the projection  
36 period and the deadline for adoption of the housing element. If the  
37 city or county reduces its share pursuant to this subdivision, the  
38 city or county shall include in the housing element a description  
39 of the methodology for assigning those housing units to an income

1 category based on actual or projected sales price, rent levels, or  
2 other mechanisms establishing affordability.

3 *SEC. 3. Section 65589.4 of the Government Code is amended*  
4 *to read:*

5 65589.4. (a) An attached housing development shall be a  
6 permitted use not subject to a conditional use permit on any parcel  
7 zoned for an attached housing development if local law so provides  
8 or if it satisfies the requirements of subdivision (b) and either of  
9 the following:

10 (1) The attached housing development satisfies the criteria of  
11 Section 21159.22, 21159.23, or 21159.24 of the Public Resources  
12 Code.

13 (2) The attached housing development meets all of the following  
14 criteria:

15 (A) The attached housing development is subject to a  
16 discretionary decision other than a conditional use permit and a  
17 negative declaration or mitigated negative declaration has been  
18 adopted for the attached housing development under the California  
19 Environmental Quality Act (Division 13 (commencing with Section  
20 21000) of the Public Resources Code). If no public hearing is held  
21 with respect to the discretionary decision, then the negative  
22 declaration or mitigated negative declaration for the attached  
23 housing development may be adopted only after a public hearing  
24 to receive comments on the negative declaration or mitigated  
25 negative declaration.

26 (B) The attached housing development is consistent with both  
27 the jurisdiction's zoning ordinance and general plan as it existed  
28 on the date the application was deemed complete, except that an  
29 attached housing development shall not be deemed to be  
30 inconsistent with the zoning designation for the site if that zoning  
31 designation is inconsistent with the general plan only because the  
32 attached housing development site has not been rezoned to conform  
33 with the most recent adopted general plan.

34 (C) The attached housing development is located in an area that  
35 is covered by one of the following documents that has been adopted  
36 by the jurisdiction within five years of the date the application for  
37 the attached housing development was deemed complete:

38 (i) A general plan.

39 (ii) A revision or update to the general plan that includes at least  
40 the land use and circulation elements.

1 (iii) An applicable community plan.

2 (iv) An applicable specific plan.

3 (D) The attached housing development consists of not more  
4 than 100 residential units with a minimum density of not less than  
5 12 units per acre or a minimum density of not less than eight units  
6 per acre if the attached housing development consists of four or  
7 fewer units.

8 (E) The attached housing development is located in an urbanized  
9 area as defined in Section 21071 of the Public Resources Code or  
10 within a census-defined place with a population density of at least  
11 5,000 persons per square mile or, if the attached housing  
12 development consists of 50 or fewer units, within an incorporated  
13 city with a population density of at least 2,500 persons per square  
14 mile and a total population of at least 25,000 persons.

15 (F) The attached housing development is located on an infill  
16 site as defined in Section 21061.0.5 of the Public Resources Code.

17 (b) At least 10 percent of the units of the attached housing  
18 development shall be available at affordable housing cost to very  
19 low income households, as defined in Section 50105 of the Health  
20 and Safety Code, or at least 20 percent of the units of the attached  
21 housing development shall be available at affordable housing cost  
22 to lower income households, as defined in Section 50079.5 of the  
23 Health and Safety Code, or at least 50 percent of the units of the  
24 attached housing development available at affordable housing cost  
25 to moderate-income households, consistent with Section 50052.5  
26 of the Health and Safety Code. The developer of the attached  
27 housing development shall provide sufficient legal commitments  
28 to the local agency to ensure the continued availability and use of  
29 the housing units for very low, low-, or moderate-income  
30 households for a period of at least 30 years.

31 (c) Nothing in this section shall prohibit a local agency from  
32 applying design and site review standards in existence on the date  
33 the application was deemed complete.

34 (d) The provisions of this section are independent of any  
35 obligation of a jurisdiction pursuant to subdivision (c) of Section  
36 65583 to identify multifamily sites developable by right.

37 (e) This section does not apply to the issuance of coastal  
38 development permits pursuant to the California Coastal Act  
39 (Division 20 (commencing with Section 30000) of the Public  
40 Resources Code).

1 (f) This section does not relieve a public agency from complying  
2 with the California Environmental Quality Act (Division 13  
3 (commencing with Section 21000) of the Public Resources Code)  
4 or relieve an applicant or public agency from complying with the  
5 Subdivision Map Act (Division 2 (commencing with Section  
6 66473)).

7 (g) This section is applicable to all cities and counties, including  
8 charter cities, because the Legislature finds that the lack of  
9 affordable housing is of vital statewide importance, and thus a  
10 matter of statewide concern.

11 (h) For purposes of this section, “attached housing development”  
12 means a newly constructed or substantially rehabilitated structure  
13 containing two or more dwelling units and consisting only of  
14 residential units, but does not include ~~a second~~ *an accessory*  
15 *dwelling* unit, as defined by paragraph (4) of subdivision (h) of  
16 Section 65852.2, or the conversion of an existing structure to  
17 condominiums.

18 ~~SECTION 4.~~

19 *SEC. 4.* Section 65852.150 of the Government Code is amended  
20 to read:

21 65852.150. (a) The Legislature finds and declares ~~that second~~  
22 *all of the following:*

23 (1) *Accessory dwelling* units are a valuable form of housing in  
24 California. ~~Second~~

25 (2) *Accessory dwelling* units provide housing for family  
26 members, students, the elderly, in-home health care providers, the  
27 disabled, and others, at below market prices within existing  
28 neighborhoods. ~~Homeowners~~

29 (3) *Homeowners* who create ~~second~~ *accessory dwelling* units  
30 benefit from added income, and an increased sense of security.  
31 ~~Allowing second~~

32 (4) *Allowing accessory dwelling* units in single-family or  
33 multifamily residential zones provides additional rental housing  
34 stock in California.

35 (5) *California faces a severe housing crisis.*

36 (6) *The state is falling far short of meeting current and future*  
37 *housing demand with serious consequences for the state’s economy,*  
38 *our ability to build green infill consistent with state greenhouse*  
39 *gas reduction goals, and the well-being of our citizens, particularly*  
40 *lower and middle-income earners.*

1 (7) *Accessory dwelling units offer lower cost housing to meet*  
 2 *the needs of existing and future residents within existing*  
 3 *neighborhoods, while respecting architectural character.*

4 (8) *Accessory dwelling units are, therefore, an essential*  
 5 *component of California's housing supply.*

6 ~~It~~

7 (b) *It is the intent of the Legislature that ~~any second-unit~~*  
 8 *~~ordinances~~ an accessory dwelling unit-ordinance adopted by a*  
 9 *local ~~agencies have~~ agency has the effect of providing for the*  
 10 *creation of ~~second~~ accessory dwelling units and that provisions in*  
 11 *~~these ordinances~~ this ordinance relating to matters including unit*  
 12 *size, parking, fees and other requirements, are not so arbitrary,*  
 13 *excessive, or burdensome so as to unreasonably restrict the ability*  
 14 *of homeowners to create ~~second~~ accessory dwelling units in zones*  
 15 *in which they are authorized by local ordinance.*

16 *SEC. 5. Section 65852.2 of the Government Code is amended*  
 17 *to read:*

18 65852.2. (a) (1) ~~Any~~ *A local agency may, by ordinance,*  
 19 *provide for the creation of ~~second~~ accessory dwelling units in*  
 20 *single-family and multifamily residential zones. The ordinance*  
 21 *~~may do any~~ shall do all of the following:*

22 (A) *Designate areas within the jurisdiction of the local agency*  
 23 *where ~~second~~ accessory dwelling units may be permitted. The*  
 24 *designation of areas may be based on criteria, that may include,*  
 25 *but are not limited to, the adequacy of water and sewer services*  
 26 *and the impact of ~~second~~ accessory dwelling units on traffic ~~flow.~~*  
 27 *flow and public safety.*

28 (B) *Impose standards on ~~second~~ accessory dwelling units that*  
 29 *include, but are not limited to, parking, height, setback, lot*  
 30 *coverage, architectural review, maximum size of a unit, and*  
 31 *standards that prevent adverse impacts on any real property that*  
 32 *is listed in the California Register of Historic Places. *However,**  
 33 **notwithstanding subdivision (d), a local agency shall not impose**  
 34 **parking standards for an accessory dwelling unit in any of the**  
 35 **following instances:**

36 (i) *The accessory dwelling unit is located within one-half mile*  
 37 *of public transit or shopping.*

38 (ii) *The accessory dwelling unit is located within an*  
 39 *architecturally and historically significant historic district.*

1 (iii) *The accessory dwelling unit is part of the existing primary*  
2 *residence.*

3 (iv) *When on-street parking permits are required, but not offered*  
4 *to the occupant of the accessory dwelling unit.*

5 (v) *When there is a car share vehicle located within one block*  
6 *of the accessory dwelling unit.*

7 (C) Provide that ~~second~~ *accessory dwelling* units do not exceed  
8 the allowable density for the lot upon which the ~~second~~ *accessory*  
9 *dwelling* unit is located, and that ~~second~~ *accessory dwelling* units  
10 are a residential use that is consistent with the existing general  
11 plan and zoning designation for the lot.

12 (2) The ordinance shall not be considered in the application of  
13 any local ordinance, policy, or program to limit residential growth.

14 (3) When a local agency receives its first application on or after  
15 July 1, 2003, for a permit pursuant to this subdivision, the  
16 application shall be considered ministerially without discretionary  
17 review or a hearing, notwithstanding Section 65901 or 65906 or  
18 any local ordinance regulating the issuance of variances or special  
19 use permits. ~~Nothing in this paragraph may be construed to require~~  
20 ~~a local government to adopt or amend an ordinance for the creation~~  
21 ~~of second units. permits, within 90 days of submittal of a complete~~  
22 ~~building permit application.~~ A local agency may charge a fee to  
23 reimburse it for costs that it incurs as a result of amendments to  
24 this paragraph enacted during the 2001–02 Regular Session of the  
25 Legislature, including the costs of adopting or amending any  
26 ordinance that provides for the creation of ~~second~~ *accessory*  
27 *dwelling* units.

28 (b) (1) When a local agency ~~which~~ *that* has not adopted an  
29 ordinance governing ~~second~~ *accessory dwelling* units in accordance  
30 with subdivision (a) ~~or~~ (e) receives its first application on or after  
31 July 1, 1983, for a permit pursuant to this subdivision, the local  
32 agency shall accept the application and approve or disapprove the  
33 application ministerially without discretionary review pursuant to  
34 this subdivision unless it adopts an ordinance in accordance with  
35 subdivision (a) ~~or~~ (e) within ~~120~~ 90 days after receiving the  
36 application. Notwithstanding Section 65901 or 65906, every local  
37 agency shall ~~grant a variance or special use permit for~~ *ministerially*  
38 *approve* the creation of a ~~second~~ *an accessory dwelling* unit if the  
39 ~~second~~ *accessory dwelling* unit complies with all of the following:

- 1 (A) The unit is not intended for sale *separate from the primary*  
2 *residence* and may be rented.
- 3 (B) The lot is zoned for single-family or multifamily use.
- 4 (C) The lot contains an existing single-family dwelling.
- 5 (D) The ~~second~~ *accessory dwelling* unit is either attached to the  
6 existing dwelling and located within the living area of the existing  
7 dwelling or detached from the existing dwelling and located on  
8 the same lot as the existing dwelling.
- 9 (E) The increased floor area of an attached ~~second~~ *accessory*  
10 *dwelling* unit shall not exceed ~~30~~ 50 percent of the existing living  
11 area.
- 12 (F) The total area of floorspace for a detached ~~second~~ *accessory*  
13 *dwelling* unit shall not exceed 1,200 square feet.
- 14 (G) Requirements relating to height, setback, lot coverage,  
15 architectural review, site plan review, fees, charges, and other  
16 zoning requirements generally applicable to residential construction  
17 in the zone in which the property is located.
- 18 (H) Local building code requirements ~~which~~ *that* apply to  
19 detached dwellings, as appropriate.
- 20 (I) Approval by the local health officer where a private sewage  
21 disposal system is being used, if required.
- 22 (2) No other local ordinance, policy, or regulation shall be the  
23 basis for the denial of a building permit or a use permit under this  
24 subdivision.
- 25 (3) This subdivision establishes the maximum standards that  
26 local agencies shall use to evaluate proposed ~~second~~ *accessory*  
27 *dwelling* units on lots zoned for residential use ~~which~~ *that* contain  
28 an existing single-family dwelling. No additional standards, other  
29 than those provided in this subdivision or subdivision (a), shall be  
30 utilized or imposed, except that a local agency may require an  
31 applicant for a permit issued pursuant to this subdivision to be an  
32 owner-occupant.
- 33 (4) No changes in zoning ordinances or other ordinances or any  
34 changes in the general plan shall be required to implement this  
35 subdivision. ~~Any~~ A local agency may amend its zoning ordinance  
36 or general plan to incorporate the policies, procedures, or other  
37 provisions applicable to the creation of ~~second~~ *accessory dwelling*  
38 units if these provisions are consistent with the limitations of this  
39 subdivision.

1 (5) ~~A second unit which~~ *An accessory dwelling unit that*  
2 ~~conforms to the requirements of this subdivision shall not be~~  
3 ~~considered to exceed the allowable density for the lot upon which~~  
4 ~~it is located, and shall be deemed to be a residential use which that~~  
5 ~~is consistent with the existing general plan and zoning designations~~  
6 ~~for the lot. The second accessory dwelling units shall not be~~  
7 ~~considered in the application of any local ordinance, policy, or~~  
8 ~~program to limit residential growth.~~

9 ~~(e) No local agency shall adopt an ordinance which totally~~  
10 ~~precludes second units within single-family or multifamily zoned~~  
11 ~~areas unless the ordinance contains findings acknowledging that~~  
12 ~~the ordinance may limit housing opportunities of the region and~~  
13 ~~further contains findings that specific adverse impacts on the public~~  
14 ~~health, safety, and welfare that would result from allowing second~~  
15 ~~units within single-family and multifamily zoned areas justify~~  
16 ~~adopting the ordinance.~~

17 ~~(d)~~

18 (c) A local agency may establish minimum and maximum unit  
19 size requirements for both attached and detached ~~second accessory~~  
20 ~~dwelling~~ units. No minimum or maximum size for a ~~second an~~  
21 ~~accessory dwelling~~ unit, or size based upon a percentage of the  
22 existing dwelling, shall be established by ordinance for either  
23 attached or detached dwellings ~~which that~~ does not permit at least  
24 ~~an a 500-foot accessory dwelling unit or a 500-foot efficiency unit~~  
25 to be constructed in compliance with local development standards.

26 ~~(e)~~

27 (d) Parking requirements for ~~second accessory dwelling~~ units  
28 shall not exceed one parking space per unit or per bedroom.  
29 ~~Additional parking may be required provided that a finding is made~~  
30 ~~that the additional parking requirements are directly related to the~~  
31 ~~use of the second unit and are consistent with existing~~  
32 ~~neighborhood standards applicable to existing dwellings. These~~  
33 ~~spaces may be provided as tandem parking on an existing~~  
34 ~~driveway.~~ Off-street parking shall be permitted in setback areas in  
35 locations determined by the local agency or through tandem  
36 parking, unless specific findings are made that parking in setback  
37 areas or tandem parking is not feasible based upon ~~specific site or~~  
38 ~~regional topographical or fire and life safety conditions, or that it~~  
39 ~~is not permitted anywhere else in the jurisdiction. conditions. This~~

- 1 *subdivision shall not apply to a unit that complies with paragraph*  
 2 *(1) of subdivision (b).*  
 3 ~~(f)~~  
 4 *(e) Fees charged for the construction of ~~second~~ accessory*  
 5 *dwelling units shall be determined in accordance with Chapter 5*  
 6 *(commencing with Section 66000). Accessory dwelling units shall*  
 7 *not be considered new residential uses for the purposes of*  
 8 *calculating private or public utility connection fees, including*  
 9 *water and sewer service.*  
 10 ~~(g)~~  
 11 *(f) This section does not limit the authority of local agencies to*  
 12 *adopt less restrictive requirements for the creation of ~~second~~*  
 13 *accessory dwelling units.*  
 14 ~~(h)~~  
 15 *(g) Local agencies shall submit a copy of the ordinances adopted*  
 16 *pursuant to subdivision (a) ~~or (e)~~ to the Department of Housing*  
 17 *and Community Development within 60 days after adoption.*  
 18 ~~(i)~~  
 19 *(h) As used in this section, the following terms mean:*  
 20 *(1) "Living area," means the interior habitable area of a dwelling*  
 21 *unit including basements and attics but does not include a garage*  
 22 *or any accessory structure.*  
 23 *(2) "Local agency" means a city, county, or city and county,*  
 24 *whether general law or chartered.*  
 25 *(3) For purposes of this section, "neighborhood" has the same*  
 26 *meaning as set forth in Section 65589.5.*  
 27 *(4) ~~"Second unit"~~ "Accessory dwelling unit" means an attached*  
 28 *or a detached residential dwelling unit which provides complete*  
 29 *independent living facilities for one or more persons. It shall*  
 30 *include permanent provisions for living, sleeping, eating, cooking,*  
 31 *and sanitation on the same parcel as the single-family dwelling is*  
 32 *situated. ~~A second~~ An accessory dwelling unit also includes the*  
 33 *following:*  
 34 *(A) An efficiency unit, as defined in Section 17958.1 of Health*  
 35 *and Safety Code.*  
 36 *(B) A manufactured home, as defined in Section 18007 of the*  
 37 *Health and Safety Code.*  
 38 ~~(j)~~  
 39 *(i) Nothing in this section shall be construed to supersede or in*  
 40 *any way alter or lessen the effect or application of the California*

1 Coastal Act (Division 20 (commencing with Section 30000) of  
2 the Public Resources Code), except that the local government shall  
3 not be required to hold public hearings for coastal development  
4 permit applications for second units.

5 *SEC. 6. Section 66412.2 of the Government Code is amended*  
6 *to read:*

7 66412.2. This division shall not apply to the construction,  
8 financing, or leasing of dwelling units pursuant to Section 65852.1  
9 or ~~second~~ *accessory dwelling* units pursuant to Section 65852.2,  
10 but this division shall be applicable to the sale or transfer, but not  
11 leasing, of those units.

12 *SEC. 7. No reimbursement is required by this act pursuant to*  
13 *Section 6 of Article XIII B of the California Constitution because*  
14 *a local agency or school district has the authority to levy service*  
15 *charges, fees, or assessments sufficient to pay for the program or*  
16 *level of service mandated by this act, within the meaning of Section*  
17 *17556 of the Government Code.*