

AMENDED IN SENATE APRIL 27, 2021

AMENDED IN SENATE APRIL 5, 2021

SENATE BILL

No. 9

Introduced by Senators Atkins, Caballero, Rubio, and Wiener
(Coauthors: Senators ~~Gonzalez Cortese, Gonzalez, and McGuire~~)
(Coauthor: Assembly Member Robert Rivas)
(Coauthors: Assembly Members Robert Rivas and Wicks)

December 7, 2020

An act to amend Section 66452.6 of, and to add Sections 65852.21 and 66411.7 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 9, as amended, Atkins. Housing development: approvals.

The Planning and Zoning Law provides for the creation of accessory dwelling units by local ordinance, or, if a local agency has not adopted an ordinance, by ministerial approval, in accordance with specified standards and conditions.

This bill, among other things, would require a proposed housing development containing no more than 2 residential units within a single-family residential zone to be considered ministerially, without discretionary review or hearing, if the proposed housing development meets certain requirements, including, but not limited to, that the proposed housing development would not require demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the proposed housing development does not allow for the demolition of more than 25% of the existing exterior structural walls, except as provided, and that the development is not located within a historic district, is not included on

the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving the construction of 2 residential units, including, but not limited to, authorizing a ~~city or county~~ *local agency* to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of up to 2 units or physically precluding either of the 2 units from being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances.

The Subdivision Map Act vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification of those maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months, except as provided.

This bill, among other things, would require a ~~city or county~~ *local agency* to ministerially approve a parcel map ~~or tentative and final map~~ for an urban lot split that meets certain requirements, including, but not limited to, that the urban lot split would not require the demolition or alteration of housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income, that the parcel is located within a *single-family* residential zone, and that the parcel is not located within a historic district, is not included on the State Historic Resources Inventory, or is not within a site that is legally designated or listed as a city or county landmark or historic property or district.

The bill would set forth what a local agency can and cannot require in approving an urban lot split, including, but not limited to, authorizing a ~~city or county~~ *local agency* to impose objective zoning standards, objective subdivision standards, and objective design standards, as defined, unless those standards would have the effect of physically precluding the construction of 2 units, as defined, on either of the resulting parcels or physically precluding either of the 2 units from

being at least 800 square feet in floor area, prohibiting the imposition of setback requirements under certain circumstances, and setting maximum setback requirements under all other circumstances. The bill, until January 1, 2027, would prohibit a local agency from imposing an owner occupancy requirement on applicants unless specified conditions are met.

The bill would also extend the limit on the additional period that may be provided by ordinance, as described above, from 12 months to 24 months and would make other conforming or nonsubstantive changes.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment. CEQA does not apply to the approval of ministerial projects.

This bill, by establishing the ministerial review processes described above, would thereby exempt the approval of projects subject to those processes from CEQA.

The California Coastal Act of 1976 provides for the planning and regulation of development, under a coastal development permit process, within the coastal zone, as defined, that shall be based on various coastal resources planning and management policies set forth in the act.

This bill would exempt a local ~~government~~ agency from being required to hold public hearings for coastal development permit applications for housing developments and urban lot splits pursuant to the above provisions.

By increasing the duties of local agencies with respect to land use regulations, the bill would impose a state-mandated local program.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

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: yes.

State-mandated local program: yes.

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

SECTION 1. Section 65852.21 is added to the Government Code, to read:

65852.21. (a) A proposed housing development containing no more than two residential units within a single-family residential zone shall be considered ministerially, without discretionary review or a hearing, if the proposed housing development meets all of the following requirements:

(1) The parcel subject to the proposed housing development is located within a ~~city~~ city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(2) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(3) Notwithstanding any provision of this section or any local law, the proposed housing development would not require demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

(C) Housing that has been occupied by a tenant in the last three years.

(4) The parcel subject to the proposed housing development is not a parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(5) The proposed housing development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the housing development meets at least one of the following conditions:

(A) If a local ordinance so allows.

1 (B) The site has not been occupied by a tenant in the last three
2 years.

3 (6) The development is not located within a historic district or
4 property included on the State Historic Resources Inventory, as
5 defined in Section 5020.1 of the Public Resources Code, or within
6 a site that is designated or listed as a city or county landmark or
7 historic property or district pursuant to a city or county ordinance.

8 (b) (1) Notwithstanding any local law and except as provided
9 in paragraph (2), ~~a city or county~~ *local agency* may impose
10 objective zoning standards, objective subdivision standards, and
11 objective design review standards that do not conflict with this
12 section.

13 (2) (A) ~~The city or county~~ *local agency* shall not impose
14 objective zoning standards, objective subdivision standards, and
15 objective design standards that would have the effect of physically
16 precluding the construction of up to two units or that would
17 physically preclude either of the two units from being at least 800
18 square feet in floor area.

19 (B) (i) Notwithstanding subparagraph (A), no setback shall be
20 required for an existing structure or a structure constructed in the
21 same location and to the same dimensions as an existing structure.

22 (ii) Notwithstanding subparagraph (A), in all other circumstances
23 not described in clause (i), ~~a local government~~ *agency* may require
24 a setback of up to four feet from the side and rear lot lines.

25 (c) In addition to any conditions established in accordance with
26 subdivision (b), a local agency may require any of the following
27 conditions when considering an application for two residential
28 units as provided for in this section:

29 (1) Off-street parking of up to one space per unit, except that a
30 local agency shall not impose parking requirements in either of
31 the following instances:

32 (A) The parcel is located within one-half mile walking distance
33 of either a high-quality transit corridor, as defined in subdivision
34 (b) of Section 21155 of the Public Resources Code, or a major
35 transit stop, as defined in Section 21064.3 of the Public Resources
36 Code.

37 (B) There is a car share vehicle located within one block of the
38 parcel.

39 (2) For residential units connected to an onsite wastewater
40 treatment system, a percolation test completed within the last five

1 5 years, or, if the percolation test has been recertified, within the
2 last 10 years.

3 (d) A local agency shall require that a rental of any unit created
4 pursuant to this section be for a term longer than 30 days.

5 (e) Notwithstanding Section ~~65852.2~~, *65852.2 or 65852.22*, a
6 local agency shall not be required to permit an accessory dwelling
7 unit *or a junior accessory dwelling unit* on parcels that use both
8 the authority contained within this section and the authority
9 contained in Section 66411.7.

10 (f) Notwithstanding subparagraph (B) of paragraph (2) of
11 subdivision (b), an application shall not be rejected solely because
12 it proposes adjacent or connected structures provided that the
13 structures meet building code safety standards and are sufficient
14 to allow separate conveyance.

15 (g) Local agencies shall include units constructed pursuant to
16 this section in the annual housing element report as required by
17 subparagraph (I) of paragraph (2) of subdivision (a) of Section
18 65400.

19 (h) For purposes of this section, all of the following apply:

20 (1) A housing development contains two residential units if the
21 development proposes no more than two new units or if it proposes
22 to add one new unit to one existing unit.

23 (2) The terms “objective zoning standards,” “objective
24 subdivision standards,” and “objective design review standards”
25 mean standards that involve no personal or subjective judgment
26 by a public official and are uniformly verifiable by reference to
27 an external and uniform benchmark or criterion available and
28 knowable by both the development applicant or proponent and the
29 public official prior to submittal. These standards may be embodied
30 in alternative objective land use specifications adopted by a ~~city~~
31 ~~or county~~, *local agency*, and may include, but are not limited to,
32 housing overlay zones, specific plans, inclusionary zoning
33 ordinances, and density bonus ordinances.

34 (3) “*Local agency*” means *a city, county, or city and county,*
35 *whether general law or chartered.*

36 (i) A local agency may adopt an ordinance to implement the
37 provisions of this section. An ordinance adopted to implement this
38 section shall not be considered a project under Division 13
39 (commencing with Section 21000) of the Public Resources Code.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local ~~government~~ agency shall not be required to hold public hearings for coastal development permit applications for a housing development pursuant to this section.

SEC. 2. Section 66411.7 is added to the Government Code, to read:

66411.7. (a) Notwithstanding any other provision of this division and any local law, a ~~city or county~~ local agency shall ministerially approve, as set forth in this section, a parcel map ~~or tentative and final map~~ for an urban lot split ~~that~~ *only if the local agency determines that the parcel map for the urban lot split* meets all the following requirements:

(1) The parcel map ~~or tentative and final map~~ subdivides an existing parcel to create *no more than* two new parcels of approximately equal lot area provided that one parcel shall not be smaller than 40 percent of the lot area of the original parcel proposed for subdivision.

(2) (A) Except as provided in subparagraph (B), both newly created parcels are no smaller than 1,200 square feet.

(B) A local agency may by ordinance adopt a smaller minimum lot size subject to ministerial approval under this subdivision.

(3) The parcel being subdivided meets all the following requirements:

(A) The parcel is located within a *single-family* residential zone.

(B) The parcel subject to the proposed urban lot split is located within a ~~city~~ city, the boundaries of which include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

(C) The parcel satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(D) The proposed urban lot split would not require demolition or alteration of any of the following types of housing:

1 (i) Housing that is subject to a recorded covenant, ordinance,
2 or law that restricts rents to levels affordable to persons and
3 families of moderate, low, or very low income.

4 (ii) Housing that is subject to any form of rent or price control
5 through a public entity's valid exercise of its police power.

6 (iii) A parcel or parcels on which an owner of residential real
7 property has exercised the owner's rights under Chapter 12.75
8 (commencing with Section 7060) of Division 7 of Title 1 to
9 withdraw accommodations from rent or lease within 15 years
10 before the date that the development proponent submits an
11 application.

12 (iv) Housing that has been occupied by a tenant in the last three
13 years.

14 (E) The parcel is not located within a historic district or property
15 included on the State Historic Resources Inventory, as defined in
16 Section 5020.1 of the Public Resources Code, or within a site that
17 is designated or listed as a city or county landmark or historic
18 property or district pursuant to a city or county ordinance.

19 (F) The parcel has not been established through prior exercise
20 of an urban lot split as provided for in this section.

21 (G) Neither the owner of the parcel being subdivided nor any
22 person acting in concert with the owner has previously subdivided
23 an adjacent parcel using an urban lot split as provided for in this
24 section.

25 (b) An application for *a parcel map for* an urban lot split shall
26 be approved in accordance with the following requirements:

27 (1) A local agency shall approve or deny an application for *a*
28 *parcel map for* an urban lot split ministerially without discretionary
29 review.

30 (2) A local agency shall approve an urban lot split only if it
31 conforms to all applicable objective requirements of the
32 Subdivision Map Act (Division 2 (commencing with Section
33 66410)), except as otherwise expressly provided in this section.

34 (3) Notwithstanding Section 66411.1, a local agency shall not
35 impose regulations that require dedications of rights-of-way or the
36 construction of offsite improvements for the parcels being created
37 as a condition of issuing a parcel map ~~or tentative and final map~~
38 ~~for an urban lot split.~~ *split pursuant to this section.*

39 (c) (1) Except as provided in paragraph (2), notwithstanding
40 any local law, a ~~city or county~~ *local agency* may impose objective

1 zoning standards, objective subdivision standards, and objective
2 design review standards applicable to a parcel created by an urban
3 lot split that do not conflict with this section.

4 (2) A local agency shall not impose objective zoning standards,
5 objective subdivision standards, and objective design review
6 standards that would have the effect of physically precluding the
7 construction of two units on either of the resulting parcels or that
8 would result in a unit size of less than 800 square feet.

9 (3) (A) Notwithstanding paragraph (2), no setback shall be
10 required for an existing structure or a structure constructed in the
11 same location and to the same dimensions as an existing structure.

12 (B) Notwithstanding paragraph (2), in all other circumstances
13 not described in subparagraph (A), a local ~~government~~ agency
14 may require a setback of up to four feet from the side and rear lot
15 lines.

16 (d) In addition to any conditions established in accordance with
17 ~~subdivision (e)~~, *this section*, a local agency may require any of the
18 following conditions when considering an application for *a parcel*
19 *map for an urban lot split*:

20 (1) Easements required for the provision of public services and
21 facilities.

22 (2) A requirement that the parcels have access to, provide access
23 to, or adjoin the public right-of-way.

24 (3) Off-street parking of up to one space per unit, except that a
25 local agency shall not impose parking requirements in either of
26 the following instances:

27 (A) The parcel is located within one-half mile walking distance
28 of either a high-quality transit corridor as defined in subdivision
29 (b) of Section 21155 of the Public Resources Code, or a major
30 transit stop as defined in Section 21064.3 of the Public Resources
31 Code.

32 (B) There is a car share vehicle located within one block of the
33 parcel.

34 (e) A local agency shall require that the uses allowed on a lot
35 created by this section be limited to residential uses.

36 (f) (1) A local agency may impose an owner occupancy
37 requirement on an applicant for an urban lot split that meets one
38 of the following conditions:

1 (A) The applicant intends to occupy one of the housing units
2 as their principal residence for a minimum of one year from the
3 date of the approval of the urban lot split.

4 (B) The applicant is a “qualified nonprofit corporation.” A
5 “qualified nonprofit corporation” means a nonprofit corporation
6 organized pursuant to Section 501(c)(3) of the Internal Revenue
7 Code that has received a welfare exemption under either of the
8 following:

9 (i) Section 214.15 of the Revenue and Taxation Code for
10 properties intended to be sold to low-income families who
11 participate in a special no-interest loan program.

12 (ii) Section 214.18 of the Revenue and Taxation Code for
13 properties owned by a community land trust.

14 (2) A local agency shall not impose additional owner occupancy
15 standards, other than provided for in this subdivision, on an urban
16 lot split pursuant to this section.

17 (3) This subdivision shall become inoperative on January 1,
18 2027.

19 (g) A local agency shall require that a rental of any unit created
20 pursuant to this section be for a term longer than 30 days.

21 (h) A local agency shall not require, as a condition for ministerial
22 approval of a ~~permit~~ *parcel map* application for the creation of an
23 urban lot split, the correction of nonconforming zoning conditions.

24 (i) (1) Notwithstanding any provision of Section 65852.2,
25 Section 65852.21, Section 65852.22, Section 65915, or this section,
26 a local agency shall not be required to permit more than two units
27 on a parcel created through the exercise of the authority contained
28 within this section.

29 (2) For the purposes of this section, “unit” means any dwelling
30 unit, including, but not limited to, a unit or units created pursuant
31 to Section 65852.21, a primary dwelling, an accessory dwelling
32 unit as defined in Section 65852.2, or a junior accessory dwelling
33 unit as defined in Section 65852.22.

34 (j) Notwithstanding paragraph (3) of subdivision (c), an
35 application shall not be rejected solely because it proposes adjacent
36 or connected structures provided that the structures meet building
37 code safety standards and are sufficient to allow separate
38 conveyance.

39 (k) Local agencies shall include the number of applications for
40 *parcel maps* for urban lot splits pursuant to this section in the

1 annual housing element report as required by subparagraph (I) of
2 paragraph (2) of subdivision (a) of Section 65400.

3 (I) For purposes of this section, *both of the terms “objective*
4 *following shall apply:*

5 (1) “Objective zoning standards,” “objective subdivision
6 standards,” and “objective design review standards” mean standards
7 that involve no personal or subjective judgment by a public official
8 and are uniformly verifiable by reference to an external and
9 uniform benchmark or criterion available and knowable by both
10 the development applicant or proponent and the public official
11 prior to submittal. These standards may be embodied in alternative
12 objective land use specifications adopted by a ~~city or county~~, *local*
13 *agency*, and may include, but are not limited to, housing overlay
14 zones, specific plans, inclusionary zoning ordinances, and density
15 bonus ordinances.

16 (2) “Local agency” means a city, county, or city and county,
17 whether general law or chartered.

18 (m) A local agency may adopt an ordinance to implement the
19 provisions of this section. An ordinance adopted to implement this
20 section shall not be considered a project under Division 13
21 (commencing with Section 21000) of the Public Resources Code.

22 (n) Nothing in this section shall be construed to supersede or in
23 any way alter or lessen the effect or application of the California
24 Coastal Act of 1976 (Division 20 (commencing with Section
25 30000) of the Public Resources Code), except that the local
26 ~~government~~ *agency* shall not be required to hold public hearings
27 for coastal development permit applications for urban lot splits
28 pursuant to this section.

29 SEC. 3. Section 66452.6 of the Government Code is amended
30 to read:

31 66452.6. (a) (1) An approved or conditionally approved
32 tentative map shall expire 24 months after its approval or
33 conditional approval, or after any additional period of time as may
34 be prescribed by local ordinance, not to exceed an additional 24
35 months. However, if the subdivider is required to expend two
36 hundred thirty-six thousand seven hundred ninety dollars
37 (\$236,790) or more to construct, improve, or finance the
38 construction or improvement of public improvements outside the
39 property boundaries of the tentative map, excluding improvements
40 of public rights-of-way that abut the boundary of the property to

1 be subdivided and that are reasonably related to the development
2 of that property, each filing of a final map authorized by Section
3 66456.1 shall extend the expiration of the approved or conditionally
4 approved tentative map by 48 months from the date of its
5 expiration, as provided in this section, or the date of the previously
6 filed final map, whichever is later. The extensions shall not extend
7 the tentative map more than 10 years from its approval or
8 conditional approval. However, a tentative map on property subject
9 to a development agreement authorized by Article 2.5
10 (commencing with Section 65864) of Chapter 4 of Division 1 may
11 be extended for the period of time provided for in the agreement,
12 but not beyond the duration of the agreement. The number of
13 phased final maps that may be filed shall be determined by the
14 advisory agency at the time of the approval or conditional approval
15 of the tentative map.

16 (2) Commencing January 1, 2012, and each calendar year
17 thereafter, the amount of two hundred thirty-six thousand seven
18 hundred ninety dollars (\$236,790) shall be annually increased by
19 operation of law according to the adjustment for inflation set forth
20 in the statewide cost index for class B construction, as determined
21 by the State Allocation Board at its January meeting. The effective
22 date of each annual adjustment shall be March 1. The adjusted
23 amount shall apply to tentative and vesting tentative maps whose
24 applications were received after the effective date of the
25 adjustment.

26 (3) “Public improvements,” as used in this subdivision, include
27 traffic controls, streets, roads, highways, freeways, bridges,
28 overcrossings, street interchanges, flood control or storm drain
29 facilities, sewer facilities, water facilities, and lighting facilities.

30 (b) (1) The period of time specified in subdivision (a), including
31 any extension thereof granted pursuant to subdivision (e), shall
32 not include any period of time during which a development
33 moratorium, imposed after approval of the tentative map, is in
34 existence. However, the length of the moratorium shall not exceed
35 five years.

36 (2) The length of time specified in paragraph (1) shall be
37 extended for up to three years, but in no event beyond January 1,
38 1992, during the pendency of any lawsuit in which the subdivider
39 asserts, and the local agency that approved or conditionally

1 approved the tentative map denies, the existence or application of
2 a development moratorium to the tentative map.

3 (3) Once a development moratorium is terminated, the map
4 shall be valid for the same period of time as was left to run on the
5 map at the time that the moratorium was imposed. However, if the
6 remaining time is less than 120 days, the map shall be valid for
7 120 days following the termination of the moratorium.

8 (c) The period of time specified in subdivision (a), including
9 any extension thereof granted pursuant to subdivision (e), shall
10 not include the period of time during which a lawsuit involving
11 the approval or conditional approval of the tentative map is or was
12 pending in a court of competent jurisdiction, if the stay of the time
13 period is approved by the local agency pursuant to this section.
14 After service of the initial petition or complaint in the lawsuit upon
15 the local agency, the subdivider may apply to the local agency for
16 a stay pursuant to the local agency's adopted procedures. Within
17 40 days after receiving the application, the local agency shall either
18 stay the time period for up to five years or deny the requested stay.
19 The local agency may, by ordinance, establish procedures for
20 reviewing the requests, including, but not limited to, notice and
21 hearing requirements, appeal procedures, and other administrative
22 requirements.

23 (d) The expiration of the approved or conditionally approved
24 tentative map shall terminate all proceedings and no final map or
25 parcel map of all or any portion of the real property included within
26 the tentative map shall be filed with the legislative body without
27 first processing a new tentative map. Once a timely filing is made,
28 subsequent actions of the local agency, including, but not limited
29 to, processing, approving, and recording, may lawfully occur after
30 the date of expiration of the tentative map. Delivery to the county
31 surveyor or city engineer shall be deemed a timely filing for
32 purposes of this section.

33 (e) Upon application of the subdivider filed before the expiration
34 of the approved or conditionally approved tentative map, the time
35 at which the map expires pursuant to subdivision (a) may be
36 extended by the legislative body or by an advisory agency
37 authorized to approve or conditionally approve tentative maps for
38 a period or periods not exceeding a total of six years. The period
39 of extension specified in this subdivision shall be in addition to
40 the period of time provided by subdivision (a). Before the

1 expiration of an approved or conditionally approved tentative map,
2 upon an application by the subdivider to extend that map, the map
3 shall automatically be extended for 60 days or until the application
4 for the extension is approved, conditionally approved, or denied,
5 whichever occurs first. If the advisory agency denies a subdivider's
6 application for an extension, the subdivider may appeal to the
7 legislative body within 15 days after the advisory agency has
8 denied the extension.

9 (f) For purposes of this section, a development moratorium
10 includes a water or sewer moratorium, or a water and sewer
11 moratorium, as well as other actions of public agencies that regulate
12 land use, development, or the provision of services to the land,
13 including the public agency with the authority to approve or
14 conditionally approve the tentative map, which thereafter prevents,
15 prohibits, or delays the approval of a final or parcel map. A
16 development moratorium shall also be deemed to exist for purposes
17 of this section for any period of time during which a condition
18 imposed by the city or county could not be satisfied because of
19 either of the following:

20 (1) The condition was one that, by its nature, necessitated action
21 by the city or county, and the city or county either did not take the
22 necessary action or by its own action or inaction was prevented or
23 delayed in taking the necessary action before expiration of the
24 tentative map.

25 (2) The condition necessitates acquisition of real property or
26 any interest in real property from a public agency, other than the
27 city or county that approved or conditionally approved the tentative
28 map, and that other public agency fails or refuses to convey the
29 property interest necessary to satisfy the condition. However,
30 nothing in this subdivision shall be construed to require any public
31 agency to convey any interest in real property owned by it. A
32 development moratorium specified in this paragraph shall be
33 deemed to have been imposed either on the date of approval or
34 conditional approval of the tentative map, if evidence was included
35 in the public record that the public agency that owns or controls
36 the real property or any interest therein may refuse to convey that
37 property or interest, or on the date that the public agency that owns
38 or controls the real property or any interest therein receives an
39 offer by the subdivider to purchase that property or interest for fair
40 market value, whichever is later. A development moratorium

1 specified in this paragraph shall extend the tentative map up to the
2 maximum period as set forth in subdivision (b), but not later than
3 January 1, 1992, so long as the public agency that owns or controls
4 the real property or any interest therein fails or refuses to convey
5 the necessary property interest, regardless of the reason for the
6 failure or refusal, except that the development moratorium shall
7 be deemed to terminate 60 days after the public agency has
8 officially made, and communicated to the subdivider, a written
9 offer or commitment binding on the agency to convey the necessary
10 property interest for a fair market value, paid in a reasonable time
11 and manner.

12 SEC. 4. The Legislature finds and declares that ensuring access
13 to affordable housing is a matter of statewide concern and not a
14 municipal affair as that term is used in Section 5 of Article XI of
15 the California Constitution. Therefore, Sections 1 and 2 of this act
16 adding Sections 65852.21 and 66411.7 to the Government Code
17 and Section 3 of this act amending Section 66452.6 of the
18 Government Code apply to all cities, including charter cities.

19 SEC. 5. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 a local agency or school district has the authority to levy service
22 charges, fees, or assessments sufficient to pay for the program or
23 level of service mandated by this act, within the meaning of Section
24 17556 of the Government Code.