

AMENDED IN SENATE JULY 12, 2017

AMENDED IN SENATE JULY 3, 2017

AMENDED IN ASSEMBLY MAY 30, 2017

AMENDED IN ASSEMBLY APRIL 17, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 72

**Introduced by Assembly Members Santiago and Chiu
(Coauthor: Assembly Member Mullin)**

December 16, 2016

An act to amend Section 65585 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 72, as amended, Santiago. Housing.

The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan for the physical development of the city or county and of any land outside its boundaries that bears relation to its planning. That law also requires the general plan to contain specified mandatory elements, including a housing element for the preservation, improvement, and development of housing. Existing law prescribes requirements for the preparation of the housing element, including a requirement that a planning agency submit a draft of the element or draft amendment to the element to the Department of Housing and Community Development prior to the adoption of the element or amendment to the element. Existing law requires the department to review the draft and report its written findings, as specified. Existing law also requires the department, in its written

findings, to determine whether the draft substantially complies with the housing element.

This bill would require the department to also review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or a specified provision and to issue written findings, as specified, whether the action or failure to act substantially complies with the housing element. If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with the housing element, and if it has issued findings as described above that an amendment to the housing element substantially complies with the housing element, the bill would authorize the department, after allowing no more than 30 days for a local agency response, to revoke its findings until it determines that the city, county, or city and county has come into compliance with the housing element. The bill would also require the department to notify the city, county, or city and county and *authorize the department to notify* the Office of the Attorney General that the city, county, or city and county is in violation of state law if the department makes certain findings of noncompliance or a violation.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 65585 of the Government Code is
 2 amended to read:
 3 65585. (a) In the preparation of its housing element, each city
 4 and county shall consider the guidelines adopted by the department
 5 pursuant to Section 50459 of the Health and Safety Code. Those
 6 guidelines shall be advisory to each city or county in the
 7 preparation of its housing element.
 8 (b) (1) At least 90 days prior to adoption of its housing element,
 9 or at least 60 days prior to the adoption of an amendment to this
 10 element, the planning agency shall submit a draft element or draft
 11 amendment to the department.
 12 (2) The planning agency staff shall collect and compile the
 13 public comments regarding the housing element received by the
 14 city, county, or city and county, and provide these comments to
 15 each member of the legislative body before it adopts the housing
 16 element.

1 (3) The department shall review the draft and report its written
2 findings to the planning agency within 90 days of its receipt of the
3 draft in the case of an adoption or within 60 days of its receipt in
4 the case of a draft amendment.

5 (c) In the preparation of its findings, the department may consult
6 with any public agency, group, or person. The department shall
7 receive and consider any written comments from any public
8 agency, group, or person regarding the draft or adopted element
9 or amendment under review.

10 (d) In its written findings, the department shall determine
11 whether the draft element or draft amendment substantially
12 complies with this article.

13 (e) Prior to the adoption of its draft element or draft amendment,
14 the legislative body shall consider the findings made by the
15 department. If the department's findings are not available within
16 the time limits set by this section, the legislative body may act
17 without them.

18 (f) If the department finds that the draft element or draft
19 amendment does not substantially comply with this article, the
20 legislative body shall take one of the following actions:

21 (1) Change the draft element or draft amendment to substantially
22 comply with this article.

23 (2) Adopt the draft element or draft amendment without changes.
24 The legislative body shall include in its resolution of adoption
25 written findings which explain the reasons the legislative body
26 believes that the draft element or draft amendment substantially
27 complies with this article despite the findings of the department.

28 (g) Promptly following the adoption of its element or
29 amendment, the planning agency shall submit a copy to the
30 department.

31 (h) The department shall, within 90 days, review adopted
32 housing elements or amendments and report its findings to the
33 planning agency.

34 (i) (1) (A) The department shall review any action or failure
35 to act by the city, county, or city and county that it determines is
36 inconsistent with an adopted housing element or Section 65583,
37 including any failure to implement any program actions included
38 in the housing element pursuant to Section 65583. The department
39 shall issue written findings to the city, county, or city and county
40 as to whether the action or failure to act substantially complies

1 with this article, and provide a reasonable time no longer than 30
2 days for the city, county, or city and county to respond to the
3 findings before taking any other action authorized by this section,
4 including the action authorized by subparagraph (B).

5 (B) If the department finds that the action or failure to act by
6 the city, county, or city and county does not substantially comply
7 with this article, and if it has issued findings pursuant to this section
8 that an amendment to the housing element substantially complies
9 with this article, the department may revoke its findings until it
10 determines that the city, county, or city and county has come into
11 compliance with this article.

12 (2) The department may consult with any local government,
13 public agency, group, or person, and shall receive and consider
14 any written comments from any public agency, group, or person,
15 regarding the action or failure to act by the city, county, or city
16 and county described in paragraph (1), in determining whether the
17 housing element substantially complies with this article.

18 (j) The department shall notify the city, county, or city and
19 county and *may notify* the Office of the Attorney General that the
20 city, county, or city and county is in violation of state law if the
21 department finds that the housing element or an amendment to this
22 element, or any action or failure to act described in subdivision
23 (i), does not substantially comply with this article or that any local
24 government has taken an action in violation of the following:

25 (1) Housing Accountability Act (Section 65589.5 of the
26 Government Code).

27 (2) Section 65863 of the Government Code.

28 (3) Chapter 4.3 (commencing with Section 65915) of Division
29 1 of Title 7 of the Government Code.

30 (4) Section 65008 of the Government Code.