

AMENDED IN SENATE JULY 13, 2017

AMENDED IN ASSEMBLY MAY 1, 2017

AMENDED IN ASSEMBLY APRIL 17, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1515

Introduced by Assembly Member Daly

February 17, 2017

An act to amend Section 65589.5 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1515, as amended, Daly. Planning and zoning: housing.

The Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified findings. Under the act, the local agency may disapprove or condition approval of a housing development project or emergency shelter if, among other reasons, the housing development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation, as provided. The act makes various findings and declarations relating to its provisions.

This bill would specify that a housing development project or emergency shelter is deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing

development project or emergency shelter is consistent, compliant, or in conformity. The bill would make additional findings related to the Housing Accountability Act in this regard.

This bill would incorporate additional changes to Section 65589.5 of the Government Code proposed by AB 678 and SB 167 to be operative only if this bill and either or both AB 678 and SB 167 are enacted and this bill is enacted last.

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

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

1 SECTION 1. Section 65589.5 of the Government Code is
2 amended to read:

3 65589.5. (a) (1) The Legislature finds and declares all of the
4 following:

5 (A) The lack of housing, including emergency shelters, is a
6 critical problem that threatens the economic, environmental, and
7 social quality of life in California.

8 (B) California housing has become the most expensive in the
9 nation. The excessive cost of the state’s housing supply is partially
10 caused by activities and policies of many local governments that
11 limit the approval of housing, increase the cost of land for housing,
12 and require that high fees and exactions be paid by producers of
13 housing.

14 (C) Among the consequences of those actions are discrimination
15 against low-income and minority households, lack of housing to
16 support employment growth, imbalance in jobs and housing,
17 reduced mobility, urban sprawl, excessive commuting, and air
18 quality deterioration.

19 (D) Many local governments do not give adequate attention to
20 the economic, environmental, and social costs of decisions that
21 result in disapproval of housing projects, reduction in density of
22 housing projects, and excessive standards for housing projects.

23 (2) In enacting the amendments made to this section by the act
24 adding this paragraph, the Legislature further finds and declares
25 the following:

26 (A) California has a housing supply and affordability crisis of
27 historic proportions. The consequences of failing to effectively
28 and aggressively confront this crisis are hurting millions of

1 Californians, robbing future generations of the chance to call
2 California home, stifling economic opportunities for workers and
3 businesses, worsening poverty and homelessness, and undermining
4 the state’s environmental and climate objectives.

5 (B) While the causes of this crisis are multiple and complex,
6 the absence of meaningful and effective policy reforms to
7 significantly enhance the approval and supply of housing affordable
8 to Californians of all income levels is a key factor.

9 (C) The crisis has grown so acute in California that supply,
10 demand, and affordability fundamentals are characterized in the
11 negative: underserved demands, constrained supply, and protracted
12 unaffordability.

13 (D) According to reports and data, California has accumulated
14 an unmet housing backlog of nearly 2,000,000 units and must
15 provide for at least 180,000 new units annually to keep pace with
16 growth through 2025.

17 (E) California’s overall homeownership rate is at its lowest level
18 since the 1940s. The state ranks 49th out of the 50 states in
19 homeownership rates as well as in the supply of housing per capita.
20 Only half of California’s households are able to afford the cost of
21 housing in their local regions.

22 (F) Lack of supply and rising costs are compounding inequality
23 and limiting advancement opportunities for many Californians.

24 (G) The majority of California renters, more than 3,000,000
25 households, pay more than 30 percent of their income toward rent
26 and nearly one-third, more than 1,500,000 households, pay more
27 than 50 percent of their income toward rent.

28 (H) When Californians have access to safe and affordable
29 housing, they have more money for food and health care; they are
30 less likely to become homeless and in need of
31 government-subsidized services; their children do better in school;
32 and businesses have an easier time recruiting and retaining
33 employees.

34 (I) An additional consequence of the state’s cumulative housing
35 shortage is a significant increase in greenhouse gas emissions
36 caused by the displacement and redirection of populations to states
37 with greater housing opportunities, particularly working- and
38 middle-class households. California’s cumulative housing shortfall
39 therefore has not only national but international environmental
40 consequences.

1 (J) California’s housing picture has reached a crisis of historic
2 proportions despite the fact that, for decades, the Legislature has
3 enacted numerous statutes intended to significantly increase the
4 approval, development, and affordability of housing for all income
5 levels, including this section.

6 (K) The Legislature’s intent in enacting this section in 1982 and
7 in expanding its provisions since then was to significantly increase
8 the approval and construction of new housing for all economic
9 segments of California’s communities by meaningfully and
10 effectively curbing the capability of local governments to deny,
11 reduce the density for, or render infeasible housing development
12 projects and emergency shelters. That intent has not been fulfilled.

13 (L) It is the policy of the state that this section should be
14 interpreted and implemented in a manner to afford the fullest
15 possible weight to the interest of, and the approval and provision
16 of, housing.

17 (b) It is the policy of the state that a local government not reject
18 or make infeasible housing developments, including emergency
19 shelters, that contribute to meeting the need determined pursuant
20 to this article without a thorough analysis of the economic, social,
21 and environmental effects of the action and without complying
22 with subdivision (d).

23 (c) The Legislature also recognizes that premature and
24 unnecessary development of agricultural lands for urban uses
25 continues to have adverse effects on the availability of those lands
26 for food and fiber production and on the economy of the state.
27 Furthermore, it is the policy of the state that development should
28 be guided away from prime agricultural lands; therefore, in
29 implementing this section, local jurisdictions should encourage,
30 to the maximum extent practicable, in filling existing urban areas.

31 (d) A local agency shall not disapprove a housing development
32 project, including farmworker housing as defined in subdivision
33 (h) of Section 50199.7 of the Health and Safety Code, for very
34 low, low-, or moderate-income households, or an emergency
35 shelter, or condition approval in a manner that renders the project
36 infeasible for development for the use of very low, low-, or
37 moderate-income households, or an emergency shelter, including
38 through the use of design review standards, unless it makes written
39 findings, based upon substantial evidence in the record, as to one
40 of the following:

1 (1) The jurisdiction has adopted a housing element pursuant to
2 this article that has been revised in accordance with Section 65588,
3 is in substantial compliance with this article, and the jurisdiction
4 has met or exceeded its share of the regional housing need
5 allocation pursuant to Section 65584 for the planning period for
6 the income category proposed for the housing development project,
7 provided that any disapproval or conditional approval shall not be
8 based on any of the reasons prohibited by Section 65008. If the
9 housing development project includes a mix of income categories,
10 and the jurisdiction has not met or exceeded its share of the regional
11 housing need for one or more of those categories, then this
12 paragraph shall not be used to disapprove or conditionally approve
13 the project. The share of the regional housing need met by the
14 jurisdiction shall be calculated consistently with the forms and
15 definitions that may be adopted by the Department of Housing and
16 Community Development pursuant to Section 65400. In the case
17 of an emergency shelter, the jurisdiction shall have met or exceeded
18 the need for emergency shelter, as identified pursuant to paragraph
19 (7) of subdivision (a) of Section 65583. Any disapproval or
20 conditional approval pursuant to this paragraph shall be in
21 accordance with applicable law, rule, or standards.

22 (2) The development project or emergency shelter as proposed
23 would have a specific, adverse impact upon the public health or
24 safety, and there is no feasible method to satisfactorily mitigate or
25 avoid the specific adverse impact without rendering the
26 development unaffordable to low- and moderate-income
27 households or rendering the development of the emergency shelter
28 financially infeasible. As used in this paragraph, a “specific,
29 adverse impact” means a significant, quantifiable, direct, and
30 unavoidable impact, based on objective, identified written public
31 health or safety standards, policies, or conditions as they existed
32 on the date the application was deemed complete. Inconsistency
33 with the zoning ordinance or general plan land use designation
34 shall not constitute a specific, adverse impact upon the public
35 health or safety.

36 (3) The denial of the project or imposition of conditions is
37 required in order to comply with specific state or federal law, and
38 there is no feasible method to comply without rendering the
39 development unaffordable to low- and moderate-income

1 households or rendering the development of the emergency shelter
2 financially infeasible.

3 (4) The development project or emergency shelter is proposed
4 on land zoned for agriculture or resource preservation that is
5 surrounded on at least two sides by land being used for agricultural
6 or resource preservation purposes, or which does not have adequate
7 water or wastewater facilities to serve the project.

8 (5) The development project or emergency shelter is inconsistent
9 with both the jurisdiction’s zoning ordinance and general plan land
10 use designation as specified in any element of the general plan as
11 it existed on the date the application was deemed complete, and
12 the jurisdiction has adopted a revised housing element in
13 accordance with Section 65588 that is in substantial compliance
14 with this article.

15 (A) This paragraph cannot be utilized to disapprove or
16 conditionally approve a housing development project if the
17 development project is proposed on a site that is identified as
18 suitable or available for very low, low-, or moderate-income
19 households in the jurisdiction’s housing element, and consistent
20 with the density specified in the housing element, even though it
21 is inconsistent with both the jurisdiction’s zoning ordinance and
22 general plan land use designation.

23 (B) If the local agency has failed to identify in the inventory of
24 land in its housing element sites that can be developed for housing
25 within the planning period and are sufficient to provide for the
26 jurisdiction’s share of the regional housing need for all income
27 levels pursuant to Section 65584, then this paragraph shall not be
28 utilized to disapprove or conditionally approve a housing
29 development project proposed for a site designated in any element
30 of the general plan for residential uses or designated in any element
31 of the general plan for commercial uses if residential uses are
32 permitted or conditionally permitted within commercial
33 designations. In any action in court, the burden of proof shall be
34 on the local agency to show that its housing element does identify
35 adequate sites with appropriate zoning and development standards
36 and with services and facilities to accommodate the local agency’s
37 share of the regional housing need for the very low and low-income
38 categories.

39 (C) If the local agency has failed to identify a zone or zones
40 where emergency shelters are allowed as a permitted use without

1 a conditional use or other discretionary permit, has failed to
2 demonstrate that the identified zone or zones include sufficient
3 capacity to accommodate the need for emergency shelter identified
4 in paragraph (7) of subdivision (a) of Section 65583, or has failed
5 to demonstrate that the identified zone or zones can accommodate
6 at least one emergency shelter, as required by paragraph (4) of
7 subdivision (a) of Section 65583, then this paragraph shall not be
8 utilized to disapprove or conditionally approve an emergency
9 shelter proposed for a site designated in any element of the general
10 plan for industrial, commercial, or multifamily residential uses. In
11 any action in court, the burden of proof shall be on the local agency
12 to show that its housing element does satisfy the requirements of
13 paragraph (4) of subdivision (a) of Section 65583.

14 (e) Nothing in this section shall be construed to relieve the local
15 agency from complying with the congestion management program
16 required by Chapter 2.6 (commencing with Section 65088) of
17 Division 1 of Title 7 or the California Coastal Act of 1976
18 (Division 20 (commencing with Section 30000) of the Public
19 Resources Code). Neither shall anything in this section be
20 construed to relieve the local agency from making one or more of
21 the findings required pursuant to Section 21081 of the Public
22 Resources Code or otherwise complying with the California
23 Environmental Quality Act (Division 13 (commencing with Section
24 21000) of the Public Resources Code).

25 (f) (1) Nothing in this section shall be construed to prohibit a
26 local agency from requiring the development project to comply
27 with objective, quantifiable, written development standards,
28 conditions, and policies appropriate to, and consistent with, meeting
29 the jurisdiction's share of the regional housing need pursuant to
30 Section 65584. However, the development standards, conditions,
31 and policies shall be applied to facilitate and accommodate
32 development at the density permitted on the site and proposed by
33 the development.

34 (2) Nothing in this section shall be construed to prohibit a local
35 agency from requiring an emergency shelter project to comply
36 with objective, quantifiable, written development standards,
37 conditions, and policies that are consistent with paragraph (4) of
38 subdivision (a) of Section 65583 and appropriate to, and consistent
39 with, meeting the jurisdiction's need for emergency shelter, as
40 identified pursuant to paragraph (7) of subdivision (a) of Section

1 65583. However, the development standards, conditions, and
2 policies shall be applied by the local agency to facilitate and
3 accommodate the development of the emergency shelter project.

4 (3) This section does not prohibit a local agency from imposing
5 fees and other exactions otherwise authorized by law that are
6 essential to provide necessary public services and facilities to the
7 development project or emergency shelter.

8 (4) For purposes of this section, a housing development project
9 or emergency shelter shall be deemed consistent, compliant, and
10 in conformity with an applicable plan, program, policy, ordinance,
11 standard, requirement, or other similar provision if there is
12 substantial evidence that would allow a reasonable person to
13 conclude that the housing development project or emergency
14 shelter is consistent, compliant, or in conformity.

15 (g) This section shall be applicable to charter cities because the
16 Legislature finds that the lack of housing, including emergency
17 shelter, is a critical statewide problem.

18 (h) The following definitions apply for the purposes of this
19 section:

20 (1) “Feasible” means capable of being accomplished in a
21 successful manner within a reasonable period of time, taking into
22 account economic, environmental, social, and technological factors.

23 (2) “Housing development project” means a use consisting of
24 any of the following:

25 (A) Residential units only.

26 (B) Mixed-use developments consisting of residential and
27 nonresidential uses in which nonresidential uses are limited to
28 neighborhood commercial uses and to the first floor of buildings
29 that are two or more stories. As used in this paragraph,
30 “neighborhood commercial” means small-scale general or specialty
31 stores that furnish goods and services primarily to residents of the
32 neighborhood.

33 (C) Transitional housing or supportive housing.

34 (3) “Housing for very low, low-, or moderate-income
35 households” means that either (A) at least 20 percent of the total
36 units shall be sold or rented to lower income households, as defined
37 in Section 50079.5 of the Health and Safety Code, or (B) 100
38 percent of the units shall be sold or rented to persons and families
39 of moderate income as defined in Section 50093 of the Health and
40 Safety Code, or persons and families of middle income, as defined

1 in Section 65008 of this code. Housing units targeted for lower
2 income households shall be made available at a monthly housing
3 cost that does not exceed 30 percent of 60 percent of area median
4 income with adjustments for household size made in accordance
5 with the adjustment factors on which the lower income eligibility
6 limits are based. Housing units targeted for persons and families
7 of moderate income shall be made available at a monthly housing
8 cost that does not exceed 30 percent of 100 percent of area median
9 income with adjustments for household size made in accordance
10 with the adjustment factors on which the moderate-income
11 eligibility limits are based.

12 (4) “Area median income” means area median income as
13 periodically established by the Department of Housing and
14 Community Development pursuant to Section 50093 of the Health
15 and Safety Code. The developer shall provide sufficient legal
16 commitments to ensure continued availability of units for very low
17 or low-income households in accordance with the provisions of
18 this subdivision for 30 years.

19 (5) “Disapprove the development project” includes any instance
20 in which a local agency does either of the following:

21 (A) Votes on a proposed housing development project
22 application and the application is disapproved.

23 (B) Fails to comply with the time periods specified in
24 subdivision (a) of Section 65950. An extension of time pursuant
25 to Article 5 (commencing with Section 65950) shall be deemed to
26 be an extension of time pursuant to this paragraph.

27 (i) If any city, county, or city and county denies approval or
28 imposes restrictions, including design changes, a reduction of
29 allowable densities or the percentage of a lot that may be occupied
30 by a building or structure under the applicable planning and zoning
31 in force at the time the application is deemed complete pursuant
32 to Section 65943, that have a substantial adverse effect on the
33 viability or affordability of a housing development for very low,
34 low-, or moderate-income households, and the denial of the
35 development or the imposition of restrictions on the development
36 is the subject of a court action which challenges the denial, then
37 the burden of proof shall be on the local legislative body to show
38 that its decision is consistent with the findings as described in
39 subdivision (d) and that the findings are supported by substantial
40 evidence in the record.

1 (j) When a proposed housing development project complies
2 with applicable, objective general plan and zoning standards and
3 criteria, including design review standards, in effect at the time
4 that the housing development project's application is determined
5 to be complete, but the local agency proposes to disapprove the
6 project or to approve it upon the condition that the project be
7 developed at a lower density, the local agency shall base its
8 decision regarding the proposed housing development project upon
9 written findings supported by substantial evidence on the record
10 that both of the following conditions exist:

11 (1) The housing development project would have a specific,
12 adverse impact upon the public health or safety unless the project
13 is disapproved or approved upon the condition that the project be
14 developed at a lower density. As used in this paragraph, a "specific,
15 adverse impact" means a significant, quantifiable, direct, and
16 unavoidable impact, based on objective, identified written public
17 health or safety standards, policies, or conditions as they existed
18 on the date the application was deemed complete.

19 (2) There is no feasible method to satisfactorily mitigate or
20 avoid the adverse impact identified pursuant to paragraph (1), other
21 than the disapproval of the housing development project or the
22 approval of the project upon the condition that it be developed at
23 a lower density.

24 (k) (1) The applicant, a person who would be eligible to apply
25 for residency in the development or emergency shelter, or a housing
26 organization may bring an action to enforce this section. If, in any
27 action brought to enforce this section, a court finds that the local
28 agency disapproved a project or conditioned its approval in a
29 manner rendering it infeasible for the development of an emergency
30 shelter, or housing for very low, low-, or moderate-income
31 households, including farmworker housing, without making the
32 findings required by this section or without making sufficient
33 findings supported by substantial evidence, the court shall issue
34 an order or judgment compelling compliance with this section
35 within 60 days, including, but not limited to, an order that the local
36 agency take action on the development project or emergency
37 shelter. The court shall retain jurisdiction to ensure that its order
38 or judgment is carried out and shall award reasonable attorney's
39 fees and costs of suit to the plaintiff or petitioner who proposed
40 the housing development or emergency shelter, except under

1 extraordinary circumstances in which the court finds that awarding
2 fees would not further the purposes of this section. If the court
3 determines that its order or judgment has not been carried out
4 within 60 days, the court may issue further orders as provided by
5 law to ensure that the purposes and policies of this section are
6 fulfilled, including, but not limited to, an order to vacate the
7 decision of the local agency, in which case the application for the
8 project, as constituted at the time the local agency took the initial
9 action determined to be in violation of this section, along with any
10 standard conditions determined by the court to be generally
11 imposed by the local agency on similar projects, shall be deemed
12 approved unless the applicant consents to a different decision or
13 action by the local agency.

14 (2) For purposes of this subdivision, “housing organization”
15 means a trade or industry group whose local members are primarily
16 engaged in the construction or management of housing units or a
17 nonprofit organization whose mission includes providing or
18 advocating for increased access to housing for low-income
19 households and have filed written or oral comments with the local
20 agency prior to action on the project. A housing organization may
21 only file an action pursuant to this section to challenge the
22 disapproval of a housing development by a local agency.

23 (l) If the court finds that the local agency (1) acted in bad faith
24 when it disapproved or conditionally approved the housing
25 development or emergency shelter in violation of this section and
26 (2) failed to carry out the court’s order or judgment within 60 days
27 as described in subdivision (k), the court, in addition to any other
28 remedies provided by this section, may impose fines upon the local
29 agency that the local agency shall be required to deposit into a
30 housing trust fund. Fines shall not be paid from funds that are
31 already dedicated for affordable housing, including, but not limited
32 to, redevelopment or low- and moderate-income housing funds
33 and federal HOME and CDBG funds. The local agency shall
34 commit the money in the trust fund within five years for the sole
35 purpose of financing newly constructed housing units affordable
36 to extremely low, very low, or low-income households. For
37 purposes of this section, “bad faith” shall mean an action that is
38 frivolous or otherwise entirely without merit.

39 (m) Any action brought to enforce the provisions of this section
40 shall be brought pursuant to Section 1094.5 of the Code of Civil

1 Procedure, and the local agency shall prepare and certify the record
 2 of proceedings in accordance with subdivision (c) of Section 1094.6
 3 of the Code of Civil Procedure no later than 30 days after the
 4 petition is served, provided that the cost of preparation of the record
 5 shall be borne by the local agency. Upon entry of the trial court's
 6 order, a party shall, in order to obtain appellate review of the order,
 7 file a petition within 20 days after service upon it of a written
 8 notice of the entry of the order, or within such further time not
 9 exceeding an additional 20 days as the trial court may for good
 10 cause allow. If the local agency appeals the judgment of the trial
 11 court, the local agency shall post a bond, in an amount to be
 12 determined by the court, to the benefit of the plaintiff if the plaintiff
 13 is the project applicant.

14 (n) In any action, the record of the proceedings before the local
 15 agency shall be filed as expeditiously as possible and,
 16 notwithstanding Section 1094.6 of the Code of Civil Procedure or
 17 subdivision (m) of this section, all or part of the record may be
 18 prepared (1) by the petitioner with the petition or petitioner's points
 19 and authorities, (2) by the respondent with respondent's points and
 20 authorities, (3) after payment of costs by the petitioner, or (4) as
 21 otherwise directed by the court. If the expense of preparing the
 22 record has been borne by the petitioner and the petitioner is the
 23 prevailing party, the expense shall be taxable as costs.

24 (o) This section shall be known, and may be cited, as the
 25 Housing Accountability Act.

26 *SEC. 1.5. Section 65589.5 of the Government Code is amended*
 27 *to read:*

28 65589.5. (a) (1) The Legislature finds and declares all of the
 29 following:

30 ~~(1)~~

31 (A) The lack of housing, including emergency shelters, is a
 32 critical problem that threatens the economic, environmental, and
 33 social quality of life in California.

34 ~~(2)~~

35 (B) California housing has become the most expensive in the
 36 nation. The excessive cost of the state's housing supply is partially
 37 caused by activities and policies of many local governments that
 38 limit the approval of housing, increase the cost of land for housing,
 39 and require that high fees and exactions be paid by producers of
 40 housing.

1 ~~(3)~~

2 (C) Among the consequences of those actions are discrimination
3 against low-income and minority households, lack of housing to
4 support employment growth, imbalance in jobs and housing,
5 reduced mobility, urban sprawl, excessive commuting, and air
6 quality deterioration.

7 ~~(4)~~

8 (D) Many local governments do not give adequate attention to
9 the economic, environmental, and social costs of decisions that
10 result in disapproval of housing *development* projects, reduction
11 in density of housing projects, and excessive standards for housing
12 *development* projects.

13 (2) *In enacting the amendments made to this section by the act*
14 *adding this paragraph, the Legislature further finds and declares*
15 *the following:*

16 (A) *California has a housing supply and affordability crisis of*
17 *historic proportions. The consequences of failing to effectively and*
18 *aggressively confront this crisis are hurting millions of*
19 *Californians, robbing future generations of the chance to call*
20 *California home, stifling economic opportunities for workers and*
21 *businesses, worsening poverty and homelessness, and undermining*
22 *the state's environmental and climate objectives.*

23 (B) *While the causes of this crisis are multiple and complex,*
24 *the absence of meaningful and effective policy reforms to*
25 *significantly enhance the approval and supply of housing*
26 *affordable to Californians of all income levels is a key factor.*

27 (C) *The crisis has grown so acute in California that supply,*
28 *demand, and affordability fundamentals are characterized in the*
29 *negative: underserved demands, constrained supply, and protracted*
30 *unaffordability.*

31 (D) *According to reports and data, California has accumulated*
32 *an unmet housing backlog of nearly 2,000,000 units and must*
33 *provide for at least 180,000 new units annually to keep pace with*
34 *growth through 2025.*

35 (E) *California's overall homeownership rate is at its lowest*
36 *level since the 1940s. The state ranks 49th out of the 50 states in*
37 *homeownership rates as well as in the supply of housing per capita.*
38 *Only one-half of California's households are able to afford the*
39 *cost of housing in their local regions.*

1 (F) *Lack of supply and rising costs are compounding inequality*
2 *and limiting advancement opportunities for many Californians.*

3 (G) *The majority of California renters, more than 3,000,000*
4 *households, pay more than 30 percent of their income toward rent*
5 *and nearly one-third, more than 1,500,000 households, pay more*
6 *than 50 percent of their income toward rent.*

7 (H) *When Californians have access to safe and affordable*
8 *housing, they have more money for food and health care; they are*
9 *less likely to become homeless and in need of*
10 *government-subsidized services; their children do better in school;*
11 *and businesses have an easier time recruiting and retaining*
12 *employees.*

13 (I) *An additional consequence of the state's cumulative housing*
14 *shortage is a significant increase in greenhouse gas emissions*
15 *caused by the displacement and redirection of populations to states*
16 *with greater housing opportunities, particularly working- and*
17 *middle-class households. California's cumulative housing shortfall*
18 *therefore has not only national but international environmental*
19 *consequences.*

20 (J) *California's housing picture has reached a crisis of historic*
21 *proportions despite the fact that, for decades, the Legislature has*
22 *enacted numerous statutes intended to significantly increase the*
23 *approval, development, and affordability of housing for all income*
24 *levels, including this section.*

25 (K) *The Legislature's intent in enacting this section in 1982*
26 *and in expanding its provisions since then was to significantly*
27 *increase the approval and construction of new housing for all*
28 *economic segments of California's communities by meaningfully*
29 *and effectively curbing the capability of local governments to deny,*
30 *reduce the density for, or render infeasible housing development*
31 *projects and emergency shelters. That intent has not been fulfilled.*

32 (L) *It is the policy of the state that this section should be*
33 *interpreted and implemented in a manner to afford the fullest*
34 *possible weight to the interest of, and the approval and provision*
35 *of, housing.*

36 (b) *It is the policy of the state that a local government not reject*
37 *or make infeasible housing ~~developments~~, development projects,*
38 *including emergency shelters, that contribute to meeting the need*
39 *determined pursuant to this article without a thorough analysis of*

1 the economic, social, and environmental effects of the action and
2 without complying with subdivision (d).

3 (c) The Legislature also recognizes that premature and
4 unnecessary development of agricultural lands for urban uses
5 continues to have adverse effects on the availability of those lands
6 for food and fiber production and on the economy of the state.
7 Furthermore, it is the policy of the state that development should
8 be guided away from prime agricultural lands; therefore, in
9 implementing this section, local jurisdictions should encourage,
10 to the maximum extent practicable, in filling existing urban areas.

11 (d) A local agency shall not disapprove a housing development
12 project, including farmworker housing as defined in subdivision
13 (h) of Section 50199.7 of the Health and Safety Code, for very
14 low, low-, or moderate-income households, or an emergency
15 shelter, or condition approval in a manner that renders the *housing*
16 *development* project infeasible for development for the use of very
17 low, low-, or moderate-income households, or an emergency
18 shelter, including through the use of design review standards,
19 unless it makes written findings, based upon ~~substantial a~~
20 *preponderance of the evidence* in the record, as to one of the
21 following:

22 (1) The jurisdiction has adopted a housing element pursuant to
23 this article that has been revised in accordance with Section 65588,
24 is in substantial compliance with this article, and the jurisdiction
25 has met or exceeded its share of the regional housing need
26 allocation pursuant to Section 65584 for the planning period for
27 the income category proposed for the housing development project,
28 provided that any disapproval or conditional approval shall not be
29 based on any of the reasons prohibited by Section 65008. If the
30 housing development project includes a mix of income categories,
31 and the jurisdiction has not met or exceeded its share of the regional
32 housing need for one or more of those categories, then this
33 paragraph shall not be used to disapprove or conditionally approve
34 the *housing development* project. The share of the regional housing
35 need met by the jurisdiction shall be calculated consistently with
36 the forms and definitions that may be adopted by the Department
37 of Housing and Community Development pursuant to Section
38 65400. In the case of an emergency shelter, the jurisdiction shall
39 have met or exceeded the need for emergency shelter, as identified
40 pursuant to paragraph (7) of subdivision (a) of Section 65583. Any

1 disapproval or conditional approval pursuant to this paragraph
2 shall be in accordance with applicable law, rule, or standards.

3 (2) The *housing* development project or emergency shelter as
4 proposed would have a specific, adverse impact upon the public
5 health or safety, and there is no feasible method to satisfactorily
6 mitigate or avoid the specific adverse impact without rendering
7 the development unaffordable to low- and moderate-income
8 households or rendering the development of the emergency shelter
9 financially infeasible. As used in this paragraph, a “specific,
10 adverse impact” means a significant, quantifiable, direct, and
11 unavoidable impact, based on objective, identified written public
12 health or safety standards, policies, or conditions as they existed
13 on the date the application was deemed complete. Inconsistency
14 with the zoning ordinance or general plan land use designation
15 shall not constitute a specific, adverse impact upon the public
16 health or safety.

17 (3) The denial of the *housing development* project or imposition
18 of conditions is required in order to comply with specific state or
19 federal law, and there is no feasible method to comply without
20 rendering the development unaffordable to low- and
21 moderate-income households or rendering the development of the
22 emergency shelter financially infeasible.

23 (4) The *housing* development project or emergency shelter is
24 proposed on land zoned for agriculture or resource preservation
25 that is surrounded on at least two sides by land being used for
26 agricultural or resource preservation purposes, or which does not
27 have adequate water or wastewater facilities to serve the project.

28 (5) The *housing* development project or emergency shelter is
29 inconsistent with both the jurisdiction’s zoning ordinance and
30 general plan land use designation as specified in any element of
31 the general plan as it existed on the date the application was
32 deemed complete, and the jurisdiction has adopted a revised
33 housing element in accordance with Section 65588 that is in
34 substantial compliance with this article. *For purposes of this*
35 *section, a change to the zoning ordinance or general plan land*
36 *use designation subsequent to the date the application was deemed*
37 *complete shall not constitute a valid basis to disapprove or*
38 *condition approval of the housing development project or*
39 *emergency shelter.*

1 (A) This paragraph cannot be utilized to disapprove or
2 conditionally approve a housing development project if the *housing*
3 development project is proposed on a site that is identified as
4 suitable or available for very low, low-, or moderate-income
5 households in the jurisdiction's housing element, and consistent
6 with the density specified in the housing element, even though it
7 is inconsistent with both the jurisdiction's zoning ordinance and
8 general plan land use designation.

9 (B) If the local agency has failed to identify in the inventory of
10 land in its housing element sites that can be developed for housing
11 within the planning period and are sufficient to provide for the
12 jurisdiction's share of the regional housing need for all income
13 levels pursuant to Section 65584, then this paragraph shall not be
14 utilized to disapprove or conditionally approve a housing
15 development project proposed for a site designated in any element
16 of the general plan for residential uses or designated in any element
17 of the general plan for commercial uses if residential uses are
18 permitted or conditionally permitted within commercial
19 designations. In any action in court, the burden of proof shall be
20 on the local agency to show that its housing element does identify
21 adequate sites with appropriate zoning and development standards
22 and with services and facilities to accommodate the local agency's
23 share of the regional housing need for the very low and low-income
24 *low, low-, and moderate-income* categories.

25 (C) If the local agency has failed to identify a zone or zones
26 where emergency shelters are allowed as a permitted use without
27 a conditional use or other discretionary permit, has failed to
28 demonstrate that the identified zone or zones include sufficient
29 capacity to accommodate the need for emergency shelter identified
30 in paragraph (7) of subdivision (a) of Section 65583, or has failed
31 to demonstrate that the identified zone or zones can accommodate
32 at least one emergency shelter, as required by paragraph (4) of
33 subdivision (a) of Section 65583, then this paragraph shall not be
34 utilized to disapprove or conditionally approve an emergency
35 shelter proposed for a site designated in any element of the general
36 plan for industrial, commercial, or multifamily residential uses. In
37 any action in court, the burden of proof shall be on the local agency
38 to show that its housing element does satisfy the requirements of
39 paragraph (4) of subdivision (a) of Section 65583.

1 (e) Nothing in this section shall be construed to relieve the local
2 agency from complying with the congestion management program
3 required by Chapter 2.6 (commencing with Section 65088) of
4 Division 1 of Title 7 or the California Coastal Act of 1976
5 (Division 20 (commencing with Section 30000) of the Public
6 Resources Code). Neither shall anything in this section be
7 construed to relieve the local agency from making one or more of
8 the findings required pursuant to Section 21081 of the Public
9 Resources Code or otherwise complying with the California
10 Environmental Quality Act (Division 13 (commencing with Section
11 21000) of the Public Resources Code).

12 (f) (1) Nothing in this section shall be construed to prohibit a
13 local agency from requiring the *housing* development project to
14 comply with objective, quantifiable, written development standards,
15 conditions, and policies appropriate to, and consistent with, meeting
16 the jurisdiction's share of the regional housing need pursuant to
17 Section 65584. However, the development standards, conditions,
18 and policies shall be applied to facilitate and accommodate
19 development at the density permitted on the site and proposed by
20 the development.

21 (2) Nothing in this section shall be construed to prohibit a local
22 agency from requiring an emergency shelter project to comply
23 with objective, quantifiable, written development standards,
24 conditions, and policies that are consistent with paragraph (4) of
25 subdivision (a) of Section 65583 and appropriate to, and consistent
26 with, meeting the jurisdiction's need for emergency shelter, as
27 identified pursuant to paragraph (7) of subdivision (a) of Section
28 65583. However, the development standards, conditions, and
29 policies shall be applied by the local agency to facilitate and
30 accommodate the development of the emergency shelter project.

31 (3) This section does not prohibit a local agency from imposing
32 fees and other exactions otherwise authorized by law that are
33 essential to provide necessary public services and facilities to the
34 *housing* development project or emergency shelter.

35 (4) *For purposes of this section, a housing development project*
36 *or emergency shelter shall be deemed consistent, compliant, and*
37 *in conformity with an applicable plan, program, policy, ordinance,*
38 *standard, requirement, or other similar provision if there is*
39 *substantial evidence that would allow a reasonable person to*

1 *conclude that the housing development project or emergency*
2 *shelter is consistent, compliant, or in conformity.*

3 (g) This section shall be applicable to charter cities because the
4 Legislature finds that the lack of housing, including emergency
5 shelter, is a critical statewide problem.

6 (h) The following definitions apply for the purposes of this
7 section:

8 (1) “Feasible” means capable of being accomplished in a
9 successful manner within a reasonable period of time, taking into
10 account economic, environmental, social, and technological factors.

11 (2) “Housing development project” means a use consisting of
12 any of the following:

13 (A) Residential units only.

14 (B) Mixed-use developments consisting of residential and
15 nonresidential uses ~~in which nonresidential uses are limited to~~
16 ~~neighborhood commercial uses and to the first floor of buildings~~
17 ~~that are two or more stories. As used in this paragraph,~~
18 ~~“neighborhood commercial” means small-scale general or specialty~~
19 ~~stores that furnish goods and services primarily to residents of the~~
20 ~~neighborhood. with at least two-thirds of the square footage~~
21 ~~designated for residential use.~~

22 (C) Transitional housing or supportive housing.

23 (3) “Housing for very low, low-, or moderate-income
24 households” means that either (A) at least 20 percent of the total
25 units shall be sold or rented to lower income households, as defined
26 in Section 50079.5 of the Health and Safety Code, or (B) 100
27 percent of the units shall be sold or rented to persons and families
28 of moderate income as defined in Section 50093 of the Health and
29 Safety Code, or persons and families of middle income, as defined
30 in Section 65008 of this code. Housing units targeted for lower
31 income households shall be made available at a monthly housing
32 cost that does not exceed 30 percent of 60 percent of area median
33 income with adjustments for household size made in accordance
34 with the adjustment factors on which the lower income eligibility
35 limits are based. Housing units targeted for persons and families
36 of moderate income shall be made available at a monthly housing
37 cost that does not exceed 30 percent of 100 percent of area median
38 income with adjustments for household size made in accordance
39 with the adjustment factors on which the moderate-income
40 eligibility limits are based.

1 (4) “Area median income” means area median income as
2 periodically established by the Department of Housing and
3 Community Development pursuant to Section 50093 of the Health
4 and Safety Code. The developer shall provide sufficient legal
5 commitments to ensure continued availability of units for very low
6 or low-income households in accordance with the provisions of
7 this subdivision for 30 years.

8 (5) “Disapprove the *housing* development project” includes any
9 instance in which a local agency does either of the following:

10 (A) Votes on a proposed housing development project
11 application and the application is ~~disapproved~~. *disapproved,*
12 *including any required land use approvals or entitlements*
13 *necessary for the issuance of a building permit.*

14 (B) Fails to comply with the time periods specified in
15 subdivision (a) of Section 65950. An extension of time pursuant
16 to Article 5 (commencing with Section 65950) shall be deemed to
17 be an extension of time pursuant to this paragraph.

18 (i) If any city, county, or city and county denies approval or
19 imposes ~~restrictions~~, *conditions*, including design changes, ~~a~~
20 ~~reduction of allowable densities or lower density~~, or a *reduction*
21 *of the percentage of a lot that may be occupied by a building or*
22 *structure under the applicable planning and zoning in force at the*
23 *time the application is deemed complete pursuant to Section 65943,*
24 *that have a substantial adverse effect on the viability or*
25 *affordability of a housing development for very low, low-, or*
26 *moderate-income households, and the denial of the development*
27 *or the imposition of ~~restrictions~~ *conditions* on the development is*
28 *the subject of a court action which challenges the ~~denial~~, *denial**
29 *or the imposition of conditions*, then the burden of proof shall be
30 on the local legislative body to show that its decision is consistent
31 with the findings as described in subdivision (d) and that the
32 findings are supported by ~~substantial~~ *a preponderance of the*
33 *evidence in the record. For purposes of this section, “lower*
34 *density” includes any conditions that have the same effect or*
35 *impact on the ability of the project to provide housing.*

36 (j) (1) When a proposed housing development project complies
37 with applicable, objective general ~~plan and zoning plan~~, *zoning,*
38 *and subdivision* standards and criteria, including design review
39 standards, in effect at the time that the housing development
40 project’s application is determined to be complete, but the local

1 agency proposes to disapprove the project or to ~~approve it upon~~
2 ~~the~~ *impose* a condition that the project be developed at a lower
3 density, the local agency shall base its decision regarding the
4 proposed housing development project upon written findings
5 supported by ~~substantial~~ *a preponderance of the* evidence on the
6 record that both of the following conditions exist:

7 (1)

8 (A) The housing development project would have a specific,
9 adverse impact upon the public health or safety unless the project
10 is disapproved or approved upon the condition that the project be
11 developed at a lower density. As used in this paragraph, a “specific,
12 adverse impact” means a significant, quantifiable, direct, and
13 unavoidable impact, based on objective, identified written public
14 health or safety standards, policies, or conditions as they existed
15 on the date the application was deemed complete.

16 (2)

17 (B) There is no feasible method to satisfactorily mitigate or
18 avoid the adverse impact identified pursuant to paragraph (1), other
19 than the disapproval of the housing development project or the
20 approval of the project upon the condition that it be developed at
21 a lower density.

22 (2) (A) *If the local agency considers a proposed housing*
23 *development project to be inconsistent, not in compliance, or not*
24 *in conformity with an applicable plan, program, policy, ordinance,*
25 *standard, requirement, or other similar provision as specified in*
26 *this subdivision, it shall provide the applicant with written*
27 *documentation identifying the provision or provisions, and an*
28 *explanation of the reason or reasons it considers the housing*
29 *development to be inconsistent, not in compliance, or not in*
30 *conformity as follows:*

31 (i) *Within 30 days of the date that the application for the housing*
32 *development project is determined to be complete, if the housing*
33 *development project contains 150 or fewer housing units.*

34 (ii) *Within 60 days of the date that the application for the*
35 *housing development project is determined to be complete, if the*
36 *housing development project contains more than 150 units.*

37 (B) *If the local agency fails to provide the required*
38 *documentation pursuant to subparagraph (A), the housing*
39 *development project shall be deemed consistent, compliant, and*

1 *in conformity with the applicable plan, program, policy, ordinance,*
2 *standard, requirement, or other similar provision.*

3 (3) *For purposes of this section, the receipt of a density bonus*
4 *pursuant to Section 65915 shall not constitute a valid basis on*
5 *which to find a proposed housing development project is*
6 *inconsistent, not in compliance, or not in conformity, with an*
7 *applicable plan, program, policy, ordinance, standard,*
8 *requirement, or other similar provision specified in this*
9 *subdivision.*

10 (4) *For purposes of this section, “lower density” includes any*
11 *conditions that have the same effect or impact on the ability of the*
12 *project to provide housing.*

13 (k) (1) (A) *The applicant, a person who would be eligible to*
14 *apply for residency in the development or emergency shelter, or*
15 *a housing organization may bring an action to enforce this section.*
16 *If, in any action brought to enforce this section, a court finds that*
17 *either (i) the local agency, in violation of subdivision (d),*
18 *disapproved a housing development project or conditioned its*
19 *approval in a manner rendering it infeasible for the development*
20 *of an emergency shelter, or housing for very low, low-, or*
21 *moderate-income households, including farmworker housing,*
22 *without making the findings required by this section or without*
23 *making sufficient findings supported by substantial evidence, a*
24 *preponderance of the evidence, or (ii) the local agency, in violation*
25 *of subdivision (j), disapproved a housing development project*
26 *complying with applicable, objective general plan and zoning*
27 *standards and criteria, or imposed a condition that the project be*
28 *developed at a lower density, without making the findings required*
29 *by this section or without making findings supported by a*
30 *preponderance of the evidence, the court shall issue an order or*
31 *judgment compelling compliance with this section within 60 days,*
32 *including, but not limited to, an order that the local agency take*
33 *action on the housing development project or emergency shelter.*
34 *The court may issue an order or judgment directing the local*
35 *agency to approve the housing development project or emergency*
36 *shelter if the court finds that the local agency acted in bad faith*
37 *when it disapproved or conditionally approved the housing*
38 *development or emergency shelter in violation of this section. The*
39 *court shall retain jurisdiction to ensure that its order or judgment*
40 *is carried out and shall award reasonable attorney’s fees and costs*

1 of suit to the plaintiff or ~~petitioner who proposed the housing~~
2 ~~development or emergency shelter, petitioner,~~ except under
3 extraordinary circumstances in which the court finds that awarding
4 fees would not further the purposes of this section. ~~If the court~~
5 ~~determines that its order or judgment has not been carried out~~
6 ~~within 60 days, the~~ For purposes of this section, “lower density”
7 includes conditions that have the same effect or impact on the
8 ability of the project to provide housing.

9 (B) (i) Upon a determination that the local agency has failed
10 to comply with the order or judgment compelling compliance with
11 this section within 60 days issued pursuant to subparagraph (A),
12 the court shall impose fines on a local agency that has violated
13 this section and require the local agency to deposit any fine levied
14 pursuant to this subdivision into a local housing trust fund. The
15 local agency may elect to instead deposit the fine into the Building
16 Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular
17 Session is enacted, or otherwise in the Housing Rehabilitation
18 Loan Fund. The fine shall be in a minimum amount of ten thousand
19 dollars (\$10,000) per housing unit in the housing development
20 project on the date the application was deemed complete pursuant
21 to Section 65943. In determining the amount of fine to impose, the
22 court shall consider the local agency’s progress in attaining its
23 target allocation of the regional housing need pursuant to Section
24 65584 and any prior violations of this section. Fines shall not be
25 paid out of funds already dedicated to affordable housing,
26 including, but not limited to, Low and Moderate Income Housing
27 Asset Funds, funds dedicated to housing for very low, low-, and
28 moderate-income households, and federal HOME Investment
29 Partnerships Program and Community Development Block Grant
30 Program funds. The local agency shall commit and expend the
31 money in the local housing trust fund within five years for the sole
32 purpose of financing newly constructed housing units affordable
33 to extremely low, very low, or low-income households. After five
34 years, if the funds have not been expended, the money shall revert
35 to the state and be deposited in the Building Homes and Jobs Fund,
36 if Senate Bill 2 of the 2017–18 Regular Session is enacted, or
37 otherwise in the Housing Rehabilitation Loan Fund, for the sole
38 purpose of financing newly constructed housing units affordable
39 to extremely low, very low, or low-income households.

1 (ii) *If any money derived from a fine imposed pursuant to this*
 2 *subparagraph is deposited in the Housing Rehabilitation Loan*
 3 *Fund, then, notwithstanding Section 50661 of the Health and Safety*
 4 *Code, that money shall be available only upon appropriation by*
 5 *the Legislature.*

6 (C) *If the court determines that its order or judgment has not*
 7 *been carried out within 60 days, the court may issue further orders*
 8 *as provided by law to ensure that the purposes and policies of this*
 9 *section are fulfilled, including, but not limited to, an order to vacate*
 10 *the decision of the local agency, agency and to approve the housing*
 11 *development project, in which case the application for the housing*
 12 *development project, as constituted proposed by the applicant at*
 13 *the time the local agency took the initial action determined to be*
 14 *in violation of this section, along with any standard conditions*
 15 *determined by the court to be generally imposed by the local*
 16 *agency on similar projects, shall be deemed to be approved unless*
 17 *the applicant consents to a different decision or action by the local*
 18 *agency.*

19 (2) For purposes of this subdivision, “housing organization”
 20 means a trade or industry group whose local members are primarily
 21 engaged in the construction or management of housing units or a
 22 nonprofit organization whose mission includes providing or
 23 advocating for increased access to housing for low-income
 24 households and have filed written or oral comments with the local
 25 agency prior to action on the *housing development* project. A
 26 housing organization may only file an action pursuant to this
 27 section to challenge the disapproval of a housing development by
 28 a local agency. *A housing organization shall be entitled to*
 29 *reasonable attorney’s fees and costs if it is the prevailing party in*
 30 *an action to enforce this section.*

31 (l) If the court finds that the local agency (1) acted in bad faith
 32 when it disapproved or conditionally approved the housing
 33 development or emergency shelter in violation of this section and
 34 (2) failed to carry out the court’s order or judgment within 60 days
 35 as described in subdivision (k), the court, in addition to any other
 36 remedies provided by this section, ~~may impose fines upon the local~~
 37 ~~agency that the local agency shall be required to deposit into a~~
 38 ~~housing trust fund. Fines shall not be paid from funds that are~~
 39 ~~already dedicated for affordable housing, including, but not limited~~
 40 ~~to, redevelopment or low- and moderate-income housing funds~~

1 and federal HOME and CDBG funds. The local agency shall
2 commit the money in the trust fund within five years for the sole
3 purpose of financing newly constructed housing units affordable
4 to extremely low, very low, or low-income households. *shall*
5 *multiply the fine determined pursuant to subparagraph (B) of*
6 *paragraph (1) of subdivision (k) by a factor of five.* For purposes
7 of this section, “bad faith” ~~shall mean~~ *includes, but is not limited*
8 *to, an action that is frivolous or otherwise entirely without merit.*

9 (m) Any action brought to enforce the provisions of this section
10 shall be brought pursuant to Section 1094.5 of the Code of Civil
11 Procedure, and the local agency shall prepare and certify the record
12 of proceedings in accordance with subdivision (c) of Section 1094.6
13 of the Code of Civil Procedure no later than 30 days after the
14 petition is served, provided that the cost of preparation of the record
15 shall be borne by the local ~~agency.~~ *agency, unless the petitioner*
16 *elects to prepare the record as provided in subdivision (n) of this*
17 *section. A petition to enforce the provisions of this section shall*
18 *be filed and served no later than 90 days from the later of (1) the*
19 *effective date of a decision of the local agency imposing conditions*
20 *on, disapproving, or any other final action on a housing*
21 *development project or (2) the expiration of the time periods*
22 *specified in subparagraph (B) of paragraph (5) of subdivision (h).*
23 Upon entry of the trial court’s order, a party ~~shall,~~ *may,* in order
24 to obtain appellate review of the order, file a petition within 20
25 days after service upon it of a written notice of the entry of the
26 order, or within such further time not exceeding an additional 20
27 days as the trial court may for good cause ~~allow.~~ *allow, or may*
28 *appeal the judgment or order of the trial court under Section 904.1*
29 *of the Code of Civil Procedure.* If the local agency appeals the
30 judgment of the trial court, the local agency shall post a bond, in
31 an amount to be determined by the court, to the benefit of the
32 plaintiff if the plaintiff is the project applicant.

33 (n) In any action, the record of the proceedings before the local
34 agency shall be filed as expeditiously as possible and,
35 notwithstanding Section 1094.6 of the Code of Civil Procedure or
36 subdivision (m) of this section, all or part of the record may be
37 prepared (1) by the petitioner with the petition or petitioner’s points
38 and authorities, (2) by the respondent with respondent’s points and
39 authorities, (3) after payment of costs by the petitioner, or (4) as
40 otherwise directed by the court. If the expense of preparing the

1 record has been borne by the petitioner and the petitioner is the
2 prevailing party, the expense shall be taxable as costs.

3 (o) This section shall be known, and may be cited, as the
4 Housing Accountability Act.

5 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
6 *Section 65589.5 of the Government Code proposed by this bill,*
7 *Assembly Bill 678, and Senate Bill 167. That section shall only*
8 *become operative if (1) Assembly Bill 678 or Senate Bill 167, or*
9 *both those bills, and this bill are enacted and become effective on*
10 *or before January 1, 2018, (2) each bill amends Section 65589.5*
11 *of the Government Code, and (3) this bill is enacted after Assembly*
12 *Bill 678 or Senate Bill 167, or both bills, in which case Section 1*
13 *of this bill shall not become operative.*