

Date of Hearing: April 27, 2011

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Norma Torres, Chair

AB 931 (Dickinson) – As Amended: April 15, 2011

SUBJECT: CEQA exemption: housing projects.

SUMMARY: Increases the maximum retail use from 15 percent to 25 percent in the definition of "residential" for purposes of an existing California Environmental Quality Act (CEQA) exemption for infill housing projects meeting specified criteria.

EXISTING LAW

- 1) Under CEQA requires lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA. CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines. (Public Resources Code Section 21000, et seq.)
- 2) Exempts from CEQA specified residential housing projects that meet criteria established to ensure the project does not have a significant effect on the environment, including:
 - a) Affordable agricultural housing projects of not more than 45 units within a city, or 20 units within an agricultural zone, on a site not more than five acres in size;
 - b) Affordable urban housing projects of not more than 100 units on a site not more than five acres in size; and
 - c) Urban infill housing projects of not more than 100 units on a site not more than four acres in size that is within one-half mile of a major transit stop.

(Public Resources Code Sections 21159.20-21159.28)

- 3) With respect to the CEQA exemption for urban infill housing projects, specifies that the exemption applies only to residential projects and defines "residential" as a use consisting of either of the following:
 - a) Residential units only; or
 - b) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 25 percent of the total floor area of the project.

(Public Resources Code Section 21159.24)

FISCAL EFFECT: Unknown

COMMENTS:

CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that the project would not have a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

SB 1925 (Sher), Chapter 1039, Statutes of 2002, exempted from CEQA certain residential projects providing affordable urban or agricultural housing, or located on an infill site within an urbanized area, and meeting specified unit and acreage criteria. The stated intent of the Legislature in enacting those provisions included “creating a streamlined procedure for agricultural employee housing, affordable housing, and urban infill housing projects that do not have an adverse effect on the environment.”

For purposes of qualifying for the CEQA exemption for infill housing, among other criteria projects must be either entirely residential or include residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.

AB 931 increases the amount of a project that can be devoted to retail uses to 25 percent. According to the author, numerous communities around the state have indicated frustration over the inability of certain infill projects to meet the criteria for exemption from CEQA under existing law. The author argues that in order to encourage more infill development in existing urban areas consistent with the goals of SB 375 (Steinberg), Chapter 728, Statutes of 2008, the infill exemption needs to be re-examined. AB 931 makes a relatively minor change to the existing exemption for infill housing as an initial step in making the exemption more usable in communities that are trying to encourage infill.

Double referred: The Assembly Committee on Rules referred AB 931 to the Committee on Natural Resources and Housing and Community Development. This bill is schedule to be heard in the Committee on Natural Resources on April 25, 2011.

REGISTERED SUPPORT / OPPOSITION:

None on file

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