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| **SENATE BILL** | **No. 167** |

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| **Introduced by Senator Skinner (Principal coauthor: Assembly Member Bocanegra)** |
| **January 23, 2017** |

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

LEGISLATIVE COUNSEL'S DIGEST

SB 167, as amended, Skinner. Housing Accountability Act.

(1) The Housing Accountability Act, among other things, prohibits a local agency from disapproving, or conditioning approval in a manner than renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based upon substantial evidence in the record.

This bill would require the findings of the local agency to instead be based on a preponderance of the evidence in the record.

(2) The act authorizes a local agency to disapprove or condition approval of a housing development or emergency shelter, as described above, 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 specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with specified law.

This bill would specify that a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete does not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(3) The act authorizes the project applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization, as defined, to bring an action to enforce its provisions.

This bill would entitle a housing organization to reasonable attorney’s fees and costs if it is the prevailing party in an action to enforce the act.

(4) If a court finds that the local agency disapproved, or conditioned approval in a manner that renders infeasible the project or emergency shelter without making the required findings or without making sufficient findings, the act requires the court to issue an order or judgment compelling compliance with its provisions within 60 days, including an order that the local agency take action on the development project or emergency shelter.

This bill would recast this requirement to specify that the court may order the local agency to approve the housing development project or emergency shelter.

(5) The act authorizes the court to impose fines if it finds that a local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter and failed to carry out the court’s order or judgment within 60 days of the court’s judgment. The act requires that the fines be deposited into a housing trust fund and committed for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

This bill would instead require the court to impose fines, as described above, in every instance in which the court determines that the local agency disapproved, or conditioned approval in a manner than renders infeasible, the project or emergency shelter without making the required findings or without making sufficient findings. The bill would require that the fine be in a minimum amount of $1,000 per housing unit in the housing development project on the date the application was deemed complete. In determining the amount of fine to impose, the bill would require the court to consider the local agency’s progress in attaining its target allocation of the regional housing need, any prior violations of the act, the budget of the local jurisdiction, whether the jurisdiction has complied with a specified analysis requirement, which this bill would impose, and the ratio of median home price to median household income in the jurisdiction, as provided. If the local agency has acted in bad faith and failed to carry out the court’s order, as described above, the bill would require the court to multiply the fine by a factor of 10.

This bill would require that a petition to enforce the act be filed and served no later than 90 days from the later of (a) the withdrawal of the application by the applicant or the effective date of a decision of the local agency imposing conditions on, disapproving, or taking any other final action on a housing development project or (b) the expiration of certain time periods specified in the Permit Streamlining Act.

(6) This bill would make various technical and conforming changes to the Housing Accountability Act.

DIGEST KEY

Vote: majority   Appropriation: no   Fiscal Committee: no   Local Program: no