

# New Laws: Deeper Dive

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SCAG Virtual Housing Element  
Conference





# 2017- 2019 Legislation

SITES	CONSTRAINTS	HE COMPLIANCE	FAIR HOUSING	HOMELESSNESS	LAND USE
AB 1397	AB 879	AB 101	AB 686	AB 2162	SB 330
SB 6	AB 1483	AB 72		AB 101	AB 671
AB 1486				AB 139	AB 1763
					No-net loss

# AB 686 (Statutes of 2018)

Affirmatively Furthering Fair Housing



What does it mean to “affirmatively further fair housing?”



Take	Take meaningful actions to address significant disparities in housing needs and in access to opportunity
Replace	Replace segregated living patterns with truly integrated and balanced living patterns
Transform	Transform racially and ethnically concentrated areas of poverty into areas of opportunity
Foster and maintain	Foster and maintain compliance with civil rights and fair housing laws

# AB 686 AFFH: Data and Analysis



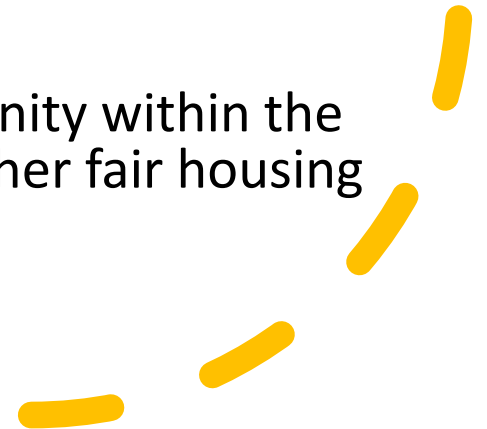
- Summary of fair housing issues
- Assessment of fair housing enforcement and outreach capacity
- Analyzing data, integration and segregation patterns and trends, racially or ethnic concentrated areas of poverty, disparities in access to opportunity, disproportionate housing needs, and displacement risk
- Assess factors that have contributed to fair housing issues and data results



# AB 686 AFFH Analysis: Identify



- **Identify** your fair housing priorities and goals – highest priority to those that limit or deny fair housing choice, access to opportunity, or negatively impact fair housing or civil rights compliance
  - **Identify** metrics and milestones for determining fair housing results
- **Impacted sections:** Sites inventory
- **Identify sites** throughout the community within the housing element to affirmatively further fair housing



AB 686  
AFFH:  
Strategies  
and Actions



- Develop strategies and actions to implement the identified priorities and goals. This could include:
  - Enhancing mobility strategies
  - Encouraging development of new affordable housing in areas of opportunity
  - Place based strategies to encourage community revitalization
  - Preservation of existing affordable housing
  - Protecting existing residents from displacement
- Program requirement: Provide Equal Housing Opportunities – **Promote and affirmatively further fair housing opportunities and promote housing...**



# Governmental and Non-governmental constraints





# AB 879, (Statutes 2017)



- **Impacted section:** **Governmental constraints**
- Include and analyze any locally adopted ordinances that impact the cost and supply of housing
  - Do you have an inclusionary or short-term rental ordinance?

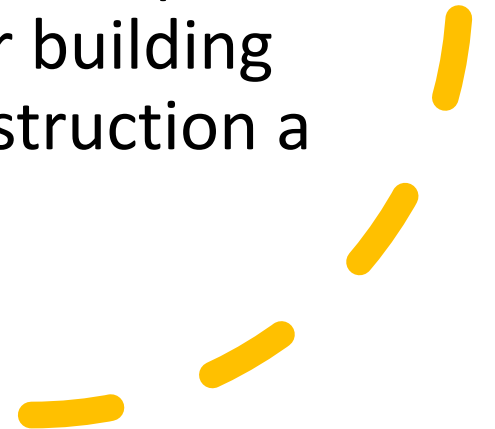


# AB 879, (Statutes 2017)



- **Impacted section:** Non-governmental constraints

1. Analyze requests to develop at densities below those anticipated
2. Analyze the length of time between receiving approval for a housing development and submittal of an application for building permits that could hinder the construction a localities RHNA.



# AB 879, (Statutes 2017)



- **Impacted section:** Non-governmental constraints

Include an analysis demonstrating local efforts to remove nongovernmental constraints that create a gap between the localities planning for housing for all income levels and the construction of that housing.



# AB 879 (Statutes, 2017)



- **Impacted section: Programs**
- Include a program to address and remove nongovernmental constraints to the maintenance, improvement, and development of housing
  1. Address and Remove (or Mitigate) Constraints (Governmental and non-governmental constraints)
  2. Assist in the Development of Housing
  3. Identify Adequate Sites
  4. Improve and Conserve the Existing Housing Stock
  5. Preserve Units at-Risk of Conversion to Market Rates
  6. Provide Equal Housing Opportunities
  7. **ADU Plan**



# AB 101 – Low Barrier Navigation Centers

- Impacted section: **governmental constraints (permitting procedures)**
- Must allow low barrier navigation centers as by-right in areas zoned for mixed-uses and nonresidential zones permitting MF uses
- Low barrier navigation centers defined as:
- “housing first, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities such as supportive services.



# AB 2162 – Supportive Housing (Statutes of 2018)



## **Zoning:**

- Allowing permanent supportive housing by-right in all zones where mixed-use and multifamily are permitted, including nonresidential zones permitting MF uses
- Permanent supportive housing is only subject to the same restrictions of other residential dwellings of the same type in the same zone.

## **Streamlining:**

- Local govt. has 30 days to notify the applicant if the application is complete. Once it is complete, the local govt. must review the application within 60 days for projects with 50 or fewer units.
- For projects with more than 50 units must be reviewing in 120 days.

# AB 139: Quantification and zoning

- Revises the methodology to determine your homeless population:
  - Include current PIT count before the start of the planning period
  - Need for ES based on number of beds available on a year-round and seasonal basis
  - Number of shelter beds that go unused on an average monthly basis within a one-year period
  - % of those in an ES that move to permanent housing
- This will determine you need that you need to accommodate for which could impact your zoning for ES



AB 139

*Emergency and Transitional Housing Act of 2019*



**Impacted Sections:**



Special Housing needs –  
People experiencing  
homelessness



Zoning for a variety of  
housing types



Development standards



Review and revise  
section



# AB 139: Development Standards – Parking

## Development standards

- Past: off-street parking based upon “demonstrated need”
- AB 139: only need to have sufficient parking for staff working at the emergency shelter



# AB 139: Review and Revise Section

**Impacted section:** Review and  
Revise section

**AB 139:** specific analysis of how you did on your programs specific to your special needs population: Progress in implementing those programs and were was there a gap?



# ADUs



# AB 671 – ADU Plan

Impacted section: Program core areas

Include a plan within your housing element that incentivizes the creation of ADUs that can be offered at an affordable rent for very-low, low, or moderate-income households





# AB 671 – ADU Plan

Each jurisdiction must identify specific programs in its housing element that will allow it to implement the stated policies and achieve the stated goals and objectives. Programs must include specific action steps the locality will take to implement its policies and achieve its goals and objectives. Programs must also include a specific timeframe for implementation, identify the agencies or officials responsible for implementation, describe the jurisdiction's specific role in implementation, and (whenever possible) identify specific, measurable outcomes.

1. Address and Remove (or Mitigate) Constraints
2. Assist in the Development of Housing
3. Identify Adequate Sites
4. Improve and Conserve the Existing Housing Stock
5. Preserve Units at-Risk of Conversion to Market Rates
6. Provide Equal Housing Opportunities
7. **NEW! Develop a plan that incentivizes and promotes ADUs that can be offered at a affordable rent**

Other





Enforcement



# HE Compliance

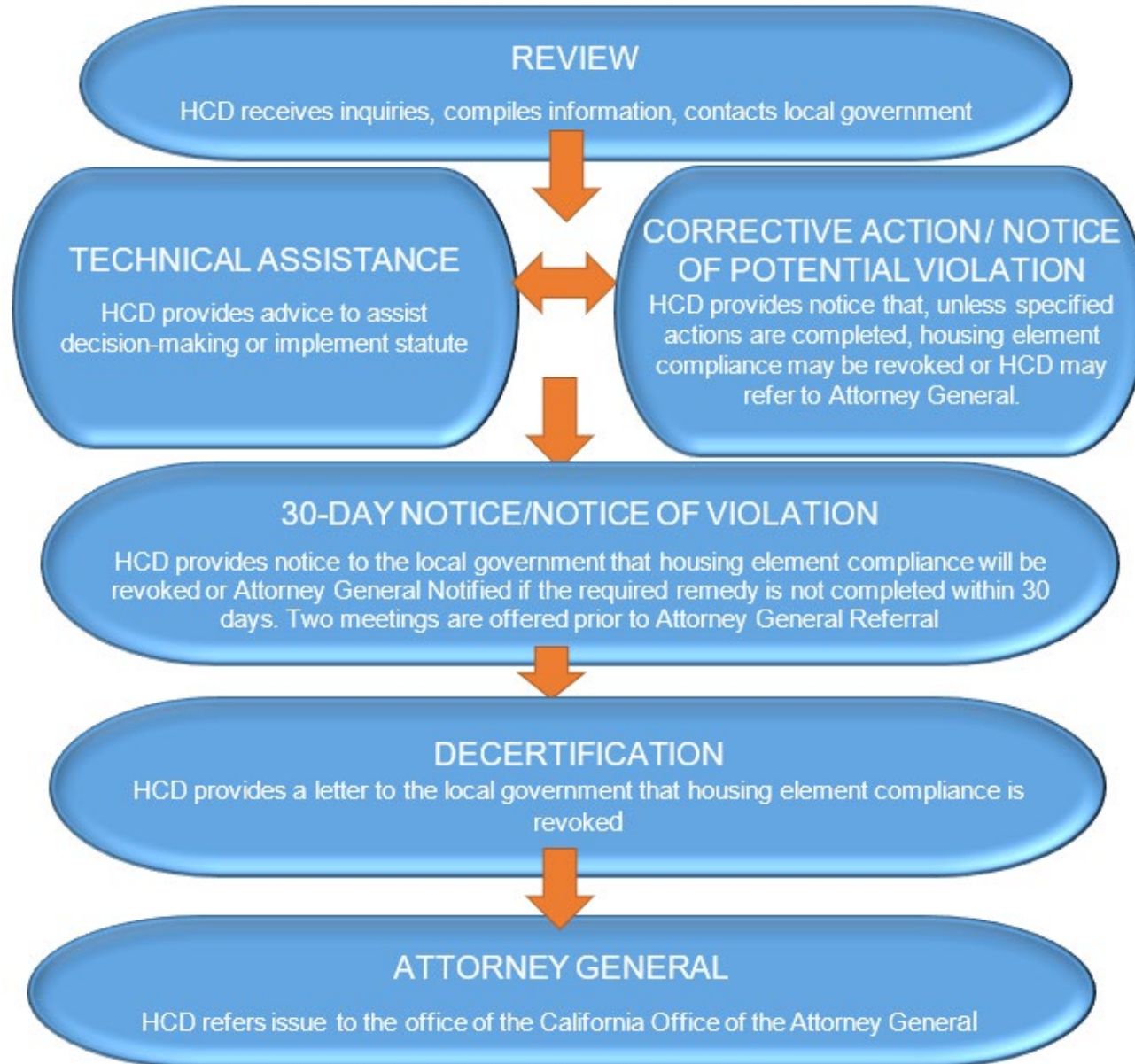
- Authorizes HCD to revoke housing element compliance and/or refer violations of housing element and other laws to the Attorney General (AB 72)
- Imposes fine on housing elements that are not found in substantial compliance with state housing element law (AB 101)
- HCD engages in a rigorous TA process before revoking compliance
- Important for several grant funding programs including SB2 Year 2 and gaining a Prohousing designation







## General Approach to Enforcement



# SB 330



- Requires jurisdictions to identify all requirements of a development application
- Creates preliminary application process that freezes fees and development standards (vesting rights)
- Must have a checklist available on website
- Limits hearings to 5
- Establishes application completeness review timeframes and requires written comments (30 days first review, 90 days response, 30 days second review)
- Shortens approval timeframes after CEQA review.
- **Sunsets in 2025**

# SB 330 – Affected Cities and Unincorporated Census Places “Urbanized Areas”

- Jurisdiction wide “no-net-loss” - No reduction in density
- No moratoriums unless approved by HCD
- Limits on implementation of growth control requirements
- New design review standards must be objective
- Jurisdiction wide housing replacement requirements





# Local Surplus Lands: Overview

## AB 1486 (Ting)

- Broadens **definition** of “local agency” to include cities, counties, special districts, etc.
- Requires local agencies send **notices** about available surplus land beginning 1/1/2020 to:
  - HCD
  - Developers
  - Local entities
- Expanded Annual Progress Report (**APR**) requirement to include surplus lands disposed

## AB 1255 (R. Rivas)

- Creates new requirement for cities and counties to create an **inventory** of surplus & excess lands
- Requires cities and counties to **share** the inventory with
  - HCD by April 1, 2021
  - Citizen, limited dividend corporation and non-profits upon request
- HCD will provide local inventories to **DGS** for a statewide inventory



# Sites Inventory

(SB 6, AB 1486)

- For any housing element adopted – January 1, 2021 (**SB6**)
  - Must submit an electronic copy of the sites inventory with the adopted element on a form that is developed by the Department.
- Indicate in the sites inventory if the site is publicly owned (**AB 1486**)





SB 35  
(Statutes,  
2017)

- Requires a streamlined ministerial approval process for applicants that qualify under SB 35
  - For more information on SB 35:  
<https://www.hcd.ca.gov/community-development/accountability-enforcement/statutory-determinations.shtml>
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# AB 1483 – Fees and Development Standards

Requires cities, counties, and special districts to post on website the following:

- A current schedule of fees, exactions, and affordability requirements, which shall be presented in a manner that clearly identifies the fees, exactions, and affordability requirements that apply to each parcel.
- All zoning ordinances and development standards, which shall specify the zoning, design, and development standards that apply to each parcel.
- Detailed information that will be required from any applicant for a development project
- The current and five previous annual fee reports or the current and five previous annual financial reports.
- An archive of impact fee nexus studies, cost of service studies, or equivalent, conducted by the city, county, or special district on or after January 1, 2018.



# Changes to No-Net-Loss – SB 166, 2017

- If a proposed developed is approved for a **different income category**, for example if a market-rate project on a site identified for your lower-income RHNA, must identify another site or rezone within 180 days.

