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HOUSING ELEMENT
APPENDIX A

State Housing Element Law

GOVERNMENT CODE SECTION 65580-65589.8

65580. The Legislature finds and declares as follows:

(a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.

(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.

(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

(d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

(e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

65581. It is the intent of the Legislature in enacting this article:

(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.

(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.

(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.

(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

65582. As used in this article:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(e) "Low- and moderate-income households" means persons and families of low or moderate incomes as defined by Section 50093 of the Health and Safety Code.

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584.

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the handicapped, elderly, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project by project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a Low and Moderate Income Housing Fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) (A) Identify adequate sites which will be made available through appropriate zoning and development standards and with services and facilities, including sewage collection and treatment, domestic water supply, and septic tanks and wells, needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing in order to meet the community's housing goals as identified in subdivision (b). Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low and low-income households. Where the inventory of sites pursuant to

paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low and very low income households.

(B) For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a conditional use permit, except when the proposed project is a mixed-use project involving both commercial or industrial uses and residential uses. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(C) The requirements of this subdivision regarding identification of sites for farmworker housing shall apply commencing with the next revision of housing elements required by Section 65588 following the enactment of this subparagraph.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, or color.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

65583.1. (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for consistency with state law, may allow a city or county to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to

a more intense land use category and increasing the density allowed within one or more categories. Nothing in this section reduces the responsibility of a city or county to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

(c) (1) The Department of Housing and Community Development may allow a city or county to substitute the provision of units for up to 25 percent of the community's obligation to identify adequate sites for any income category in its housing element pursuant to paragraph (1) of subdivision (c) of Section 65583 if the community includes in its housing element a program committing the local government to provide units in that income category within the city or county that will be made available through the provision of committed assistance during the planning period covered by the element to low- and very low income households at affordable housing costs or affordable rents, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, and which meet the requirements of paragraph (2). Except as otherwise provided in this subdivision, the community may substitute one dwelling unit for one dwelling unit site in the applicable income category. The program shall do all of the following:

(A) Identify the specific, existing sources of committed assistance and dedicate a specific portion of the funds from those sources to the provision of housing pursuant to this subdivision.

(B) Indicate the number of units that will be provided to both low- and very low income households and demonstrate that the amount of dedicated funds is sufficient to develop the units at affordable housing costs or affordable rents.

(C) Demonstrate that the units meet the requirements of paragraph (2).

(2) Only units that comply with subparagraph (A), (B), or (C) qualify for inclusion in the housing element program described in paragraph (1), as follows:

(A) Units that are to be substantially rehabilitated with committed assistance from the city or county and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not eligible to be "substantially rehabilitated" unless all of the following requirements are met:

(i) At the time the unit is identified for substantial rehabilitation, (I) the local government has determined that the unit is at imminent risk of loss to the housing stock, (II) the local government has committed to provide relocation assistance pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 to any occupants temporarily or permanently displaced by the rehabilitation or code enforcement activity, (III) the local government requires that any displaced occupants will have the right to reoccupy the rehabilitated units, and (IV) the unit has been cited and found by the local code enforcement agency or a court to be unfit for human habitation and vacated or subject to being vacated because of the existence for not less than 120 days of four of the

conditions listed in subdivisions (a) to (g), inclusive, of Section 17995.3 of the Health and Safety Code.

(ii) The rehabilitated unit will have long-term affordability covenants and restrictions that require the unit to be available to, and occupied by, persons or families of low- or very low income at affordable housing costs for at least 20 years or the time period required by any applicable federal or state law or regulation, except that if the period is less than 20 years, only one unit shall be credited as an identified adequate site for every three units rehabilitated pursuant to this section, and no credit shall be allowed for a unit required to remain affordable for less than 10 years.

(iii) Prior to initial occupancy after rehabilitation, the local code enforcement agency shall issue a certificate of occupancy indicating compliance with all applicable state and local building code and health and safety code requirements.

(B) Units that are located in a multifamily rental housing complex of 16 or more units, are converted with committed assistance from the city or county from nonaffordable to affordable by acquisition of the unit or the purchase of affordability covenants and restrictions for the unit, are not acquired by eminent domain, and constitute a net increase in the community's stock of housing affordable to low- and very low income households. For purposes of this subparagraph, a unit is not converted by acquisition or the purchase of affordability covenants unless all of the following occur:

(i) The unit is made available at a cost affordable to low- or very low income households.

(ii) At the time the unit is identified for acquisition, the unit is not available at a cost affordable to low- or very low income households.

(iii) At the time the unit is identified for acquisition the unit is not occupied by low- or very low income households.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) The acquisition price is not greater than 120 percent of the median price for housing units in the city or county.

(vi) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to persons of low or very low income for not less than 30 years.

(C) Units that will be preserved at affordable housing costs to persons or families of low or very low incomes with committed assistance from the city or county by acquisition of the unit or the purchase of affordability covenants for the unit. For purposes of this subparagraph, a unit shall not be deemed preserved unless all of the following occur:

(i) The unit has long-term affordability covenants and restrictions that require the unit to be affordable to and reserved for occupancy by persons of the same or lower income group as the current occupants for a period of at least 40 years.

(ii) The unit is multifamily rental housing that receives governmental assistance under any of the following state and federal programs: Section 221(d)(3) of the National Housing Act (12 U.S.C. Sec. 17151(d)(3) and (5)); Section 236 of the National Housing Act (12 U.S.C. Sec. 1715z-1); Section 202 of the Housing Act of 1959 (12 U.S.C. Sec. 1701q); for rent supplement assistance under Section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. Sec. 1701s); under Section 515 of the Housing Act of 1949, as amended (42 U.S.C. Sec. 1485); and any new construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance, under Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. Sec. 1437f); any state and local multifamily revenue bond programs; local redevelopment programs; the federal Community Development Block Grant Program; and other local housing assistance programs or units that were used to

qualify for a density bonus pursuant to Section 65916.

(iii) The city or county finds, after a public hearing, that the unit is eligible, and is reasonably expected, to change from housing affordable to low- and very low income households to any other use during the next five years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use.

(iv) The unit is in decent, safe, and sanitary condition at the time of occupancy.

(v) At the time the unit is identified for preservation it is available at affordable cost to persons or families of low or very low income.

(3) This subdivision does not apply to any city or county that, during the current or immediately prior planning period, as defined by Section 65588, has not met any of its share of the regional need for affordable housing, as defined in Section 65584, for low- and very low income households. A city or county shall document for any such housing unit that a building permit has been issued and all development and permit fees have been paid or the unit is eligible to be lawfully occupied.

(4) For purposes of this subdivision, "committed assistance" means that the city or county enters into a legally enforceable agreement during the first two years of the housing element planning period that obligates sufficient available funds to provide the assistance necessary to make the identified units affordable and that requires that the units be made available for occupancy within two years of the execution of the agreement. "Committed assistance" does not include tenant-based rental assistance.

(5) For purposes of this subdivision, "net increase" includes only housing units provided committed assistance pursuant to subparagraph (A) or (B) of paragraph (2) in the current planning period, as defined in Section 65588, that were not provided committed assistance in the immediately prior planning period.

(6) For purposes of this subdivision, "the time the unit is identified" means the earliest time when any city or county agent, acting on behalf of a public entity, has proposed in writing or has proposed orally or in writing to the property owner, that the unit be considered for substantial rehabilitation, acquisition, or preservation.

(7) On July 1 of the third year of the planning period, as defined by Section 65588, in the report required pursuant to Section 65400, each city or county that has included in its housing element a program to provide units pursuant to subparagraph (A), (B), or (C) of paragraph (2) shall report in writing to the legislative body, and to the department within 30 days of making its report to the legislative body, on its progress in providing units pursuant to this subdivision. The report shall identify the specific units for which committed assistance has been provided or which have been made available to low- and very low income households, and it shall adequately document how each unit complies with this subdivision. If, by July 1 of the third year of the planning period, the city or county has not entered into an enforceable agreement of committed assistance for all units specified in the programs adopted pursuant to subparagraph (A), (B), or (C) of paragraph (2), the city or county shall, not later than July 1 of the fourth year of the planning period, adopt an amended housing element in accordance with Section 65585, identifying additional adequate sites pursuant to paragraph (1) of subdivision (c) of Section 65583 sufficient to accommodate the number of units for which committed assistance was not provided. If a city or county does not amend its housing element to identify adequate sites to address any shortfall, or fails to complete the rehabilitation, acquisition, purchase of affordability covenants, or the preservation of any housing unit within two years after committed assistance was provided to that unit, it shall be prohibited from identifying units pursuant to subparagraph (A), (B), or (C) of paragraph (2) in the housing element that it adopts for the next

planning period, as defined in Section 65588, above the number of units actually provided or preserved due to committed assistance.

65584. (a) For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a general plan of the city or county.

The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, the loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the housing needs of farmworkers. The distribution shall seek to reduce the concentration of lower income households in cities or counties which already have disproportionately high proportions of lower income households. Based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, and in consultation with each council of governments, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the department relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the department shall ensure that this determination is consistent with the statewide housing need. The department may revise the determination of the council of governments if necessary to obtain this consistency. The appropriate council of governments shall determine the share for each city or county consistent with the criteria of this subdivision and with the advice of the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588. The council of governments shall submit to the department information regarding the assumptions and methodology to be used in allocating the regional housing need. As part of the allocation of the regional housing need, the council of governments, or the department pursuant to subdivision (b), shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The department shall submit to each council of governments information regarding the assumptions and methodology to be used in allocating the regional share of the statewide housing need. As part of its determination of the regional share of the statewide housing need, the department shall provide each council of governments with data describing the assumptions and methodology used in calculating its share of the statewide housing need. The councils of governments shall provide each city and county with the department's information. The council of governments shall provide a subregion with its share of the regional housing need, and delegate responsibility for providing allocations to cities and a county or counties in the subregion to a subregional entity if this responsibility is requested by a county and all cities in the county, a joint powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or the governing body of a subregional agency established by the council of governments, in accordance with an agreement entered into between the council of governments and the subregional entity that sets forth the process, timing, and other terms and conditions of that

delegation of responsibility.

(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a). If the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.

(c) (1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.

(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

(B) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(C) The date of the hearing shall be at least 30 days from the date of the notification.

(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographic restraints on the production of housing.

(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the council of governments or the department grant a revised allocation pursuant to paragraph (1), the council of governments or the department shall ensure that the current total housing need is maintained. If the council of governments or department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share which was originally determined by the council of governments or the department.

(4) The determination of the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(5) The council of governments or the department shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(A) One or more cities within the county agree to increase its share or their shares in an amount which will make up for the reduction.

(B) The transfer of shares shall only occur between a county and cities within that county.

(C) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(D) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval

of the proposed reduction, taking into consideration the criteria of subdivision (a).

(6) The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(d) (1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city or county that directly limits, by number, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(2) Paragraph (1) does not apply to any city or county that imposes a moratorium on residential construction for a specified period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings that specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

(e) Any authority to review and revise the share of a city or county of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(f) A fee may be charged interested parties for any additional costs caused by the amendments made to subdivision (c) by Chapter 1684 of the Statutes of 1984 reducing from 45 to seven days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

65584.3. (a) A city that is incorporated to promote commerce and industry, that is located in the County of Los Angeles, and that has no residentially zoned land within its boundaries on January 1, 1992, may elect to adopt a housing element that makes no provision for new housing or the share of regional housing needs as determined pursuant to Section 65584 for the current and subsequent revisions of the housing element pursuant to Section 65588, for the period of time that 20 percent of all tax increment revenue accruing from all redevelopment projects, and required to be set aside for low- and moderate-income housing pursuant to Section 33334.2 of the Health and Safety Code, is annually transferred to the Housing Authority of the County of Los Angeles.

(b) (1) The amount of tax increment to be transferred each year pursuant to subdivision (a) shall be determined at the end of each fiscal year, commencing with the 1992-93 fiscal year. This amount shall be transferred within 30 days of the agency receiving each installment of its allocation of tax increment moneys, commencing in 1993.

(2) On or before December 31, 1992, the agency shall make an additional payment to the Housing Authority of the County of Los Angeles that eliminates any indebtedness to the low- and moderate-income housing fund pursuant to Section 33334.3. This amount shall be reduced by any amount actually expended by the redevelopment agency for principal or interest payments on agency

bonds issued prior to the effective date of the act that adds this section, when that portion of the agency's tax increment revenue representing the low- and moderate-income housing set-aside funds was lawfully pledged as security for the bonds, and only to the extent that other tax increment revenue in excess of the 20-percent low- and moderate-income set-aside funds is insufficient in that fiscal year to meet in full the principal and interest payments.

(c) The Department of Housing and Community Development shall annually review the calculation and determination of the amount transferred pursuant to subdivisions (a) and (b). The department may conduct an audit of these funds if and when the Director of Housing and Community Development deems an audit appropriate.

(d) The amount transferred pursuant to subdivisions (a) and (b) shall fulfill the obligation of that city's redevelopment agency to provide for housing for low- and moderate-income families and individuals pursuant to Sections 33334.2 to 33334.16, inclusive, of the Health and Safety Code. The use of these funds for low- and moderate-income families in the region of the Southern California Association of Governments within which the city is located shall be deemed to be of benefit to the city's redevelopment project areas.

(e) (1) The amount transferred pursuant to subdivisions (a) and (b) to the Housing Authority of the County of Los Angeles shall be expended to provide housing and assistance, including, but not limited to, that specified in subdivision (e) of Section 33334.2 of the Health and Safety Code for low-and moderate-income families and individuals, in the region of the Southern California Association of Governments within which the city is located.

(2) Funds expended pursuant to this subdivision shall be expended in accordance with all of the following:

(A) The funds shall be expended for the construction of low- and moderate-income housing located no further than 15 miles from the nearest boundary line of the City of Industry.

(B) The low- and moderate-income housing constructed pursuant to this subdivision shall be in addition to any other housing required by the housing element of the general plan of the jurisdiction in which the low- and moderate-income housing is constructed.

(C) Funds may be encumbered by the Housing Authority of the County of Los Angeles for the purposes of this subdivision only after the authority has prepared a written plan for the expenditure of funds to be transferred to the authority pursuant to this subdivision and has filed a copy of this expenditure plan with the Department of Housing and Community Development.

(f) A city that meets the conditions specified in subdivision (d) shall continue to have responsibility for preparing a housing element pursuant to Section 65583 only to the extent to which the assessment of housing needs, statement of goals and objectives, and the five-year schedule of actions relate to the city's plan to maintain, preserve, and improve the housing that exists in the city on the effective date of the act which adds this section.

(g) This section shall not become operative unless and until a parcel of land, to be dedicated for the construction of a high school, is transferred pursuant to a written agreement between the City of Industry and the Pomona Unified School District, and a copy of this agreement is filed with the County Clerk of the County of Los Angeles.

65584.5. (a) A city or county may transfer a percentage of its share of the regional housing needs to another city or county, if all of the following requirements are met:

(1) Both the receiving city or county and the transferring city or county comply with all of the conditions specified in subdivision (b).

(2) The council of governments or the department reviews the

findings made pursuant to paragraph (2) of subdivision (c).

(3) The transfer does not occur more than once in a five-year housing element interval pursuant to subdivision (b) of Section 65588.

(4) The procedures specified in subdivision (c) are met.

(b) (1) Except as provided in paragraph (5) of subdivision (c) of Section 65584, a city or county transferring a share of its regional housing needs shall first have met, in the current or previous housing element cycle, at least 15 percent of its existing share of the region's affordable housing needs, as defined in Section 65584, in the very low and lower income category of income groups defined in Section 50052.5 of the Health and Safety Code if it proposes to transfer not more than 15 percent. In no event, however, shall the city or county transfer more than 500 dwelling units in a housing element cycle.

(2) A city or county shall transfer its regional housing needs in the same proportion by income group as the jurisdiction has met its regional housing needs.

(3) The transfer shall be only between jurisdictions that are contiguously situated or between a receiving city or county that is within 10 miles of the territory of the community of the donor city or county. If both the donor community and receiving community are counties, the donor county shall be adjacent to, in the same council of governments region as, and in the same housing market as, the receiving county. The sites on which any transferred housing units will be constructed shall be in the receiving city or county, and within the same housing market area as the jurisdiction of the donor city or county.

(4) The transferring and receiving city or county shall have adopted, and shall be implementing, a housing element in substantial compliance with Section 65583.

(5) The transferring city or county and the receiving city or county shall have completed, and provided to the department, the annual report required by subdivision (b) of Section 65400.

(c) (1) The donor city or county and the receiving city or county shall, at least 45 days prior to the transfer, hold a public hearing, after providing notice pursuant to Section 6062, to solicit public comments on the draft contract, including its terms, conditions, and determinations.

(2) The transferring and the receiving city or county shall do all of the following:

(A) Adopt a finding, based on substantial evidence on the record, that the transfer of the regional housing need pursuant to the terms of the agreement will not cause or exacerbate racial, ethnic, or economic segregation and will not create a detrimental financial impact upon the receiving city or county.

(B) Adopt a finding, based on substantial evidence on the record, that the transfer of the regional housing need will result in the construction of a greater number of similar type dwelling units than if the transfer does not occur.

(3) (A) The transferring city or county and the receiving city or county shall enter into an agreement to transfer units eligible under subdivision (b). A copy of this agreement shall be sent to the council of governments and the department to be kept on file for public examination.

(B) The agreement shall include a plan and schedule for timely construction of dwelling units, including, in addition to site identification, identification of and timeframes for applying for sufficient subsidy or mortgage financing if the units need a subsidy or mortgage financing, and a finding that sufficient services and public facilities will be provided.

(4) At least 60 days prior to the transfer, the receiving city or county planning agency and the transferring city or county planning agency shall submit to the department a draft amendment to reflect the identified transferred units. A transferring agency may reduce

its housing needs only to the extent that it had not previously reduced its housing needs pursuant to paragraph (2) of subdivision (b) of Section 65583. A county planning agency that has its share of the regional housing need reduced pursuant to paragraph (5) of subdivision (c) of Section 65584 shall comply with this section. A receiving city or county shall, in addition to any other provisions of the article, identify in its housing element sufficient sites to meet its initial low- and moderate-income housing needs and sufficient sites to meet all transferred housing needs.

(5) The department shall review the draft amendment and report its written findings to the planning agency within 45 days of its receipt.

(6) The department's review shall follow the same procedure, requirements, and responsibilities of Sections 65583, 65585, 65587, and 65589.3. The court shall consider any written findings submitted by the department.

(d) No transfer made pursuant to this section shall affect the plans for a development that have been submitted to a city or county for approval 45 days prior to the adoption of the amendment to the housing element.

(e) No transfer made pursuant to this section shall be counted toward any ordinance or policy of a locality that specifically limits the number of units that may be constructed.

(f) The Attorney General or any other interested person shall have authority to enforce the terms of the agreement and the provisions of this section.

(g) For a period of five years after the transfer occurs, the report required by subdivision (b) of Section 65400 shall include information on the status of transferred units, implementation of the terms and conditions of the transfer contract, and information on any dwelling units actually constructed, including the number, type, location, and affordability requirements in place for these units.

(h) (1) At least 60 days prior to the proposed transfer, the donor city or county shall submit the proposed agreement to the council of governments, or to the department if there is no council of governments that serves the city or county, for review. The governing board of the council or the director shall determine whether there is substantial evidence to support the terms, conditions, and determinations of the agreement and whether the agreement complies with the substantive and procedural requirements of this section. If the council or the director finds that there is substantial evidence to support the terms, conditions, and determinations of the agreement, and that the agreement complies with the substantive and procedural requirements of this section, the participating jurisdictions may proceed with the agreement. If the governing board or the director finds that there is not substantial evidence to support the terms, conditions, and findings of the agreement, or that the agreement does not comply with the substantive and procedural requirements of this section, the board or the director may make recommendations for revising or terminating the agreement. The participating jurisdictions shall then include those revisions, if any, or terminate the agreement.

(2) The council or the director may convene a committee to advise the council or the director in conducting this review. The donor city or county and the receiving community shall pay the council's or the department's costs associated with the committee. Neither the donor city or county, nor the receiving city or county, may expend moneys in its Low and Moderate Income Housing Fund of its redevelopment agency for costs associated with the committee.

(3) Membership of the committee appointed pursuant to paragraph (2) shall include all of the following:

(A) One representative appointed by the director.

(B) One representative appointed by the donor agency.

(C) One representative appointed by the receiving community.

(D) Two low- and moderate-income housing advocates, appointed by

the director, who represent those persons in that region.

(i) (1) The receiving city or county shall construct the housing units within three years of the date that the transfer contract is entered into pursuant to this section. This requirement shall be met by documenting that a building permit has been issued and all fees have been paid.

(2) Any portion of a regional share allocation that is transferred to another jurisdiction, and that is not constructed within the three-year deadline set forth in paragraph (1), shall be reallocated by the council of governments to the transferring city or county, and the transferring city or county shall modify its zoning ordinance, if necessary, and amend its housing element to reflect the reallocated units.

(3) If, at the end of the five-year housing element planning period, any portion of a regional share allocation that is transferred to another jurisdiction is not yet constructed, the council of governments shall add the unbuilt units to the normal regional fair share allocation and reallocate that amount to either of the following:

(A) The receiving city, if the three-year deadline for construction has not yet occurred; or

(B) The transferring city, if the three-year deadline for construction has occurred.

(4) If the transferred units are not constructed within three years, the nonperforming jurisdictions participating in the transfer of regional share allocations shall be precluded from transferring their regional shares, pursuant to this section, for the planning period of the next periodic update of the housing element.

(j) On or after January 1, 2000, no transferring city or county shall enter into an agreement pursuant to this section unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

(k) If Article XXXIV of the California Constitution is applicable, the receiving city or county shall certify that it has sufficient authority under Article XXXIV of the California Constitution to allow development of units transferred pursuant to this section.

(l) The receiving city or county shall not, within three years of the date of the transfer agreement entered into pursuant to this section, or until transferred units are constructed, whichever is longer, enter into a contract to transfer units outside the territorial jurisdiction of the agency pursuant to this section.

(m) Communities that have transferred a portion of their share of the regional housing need to another city or county pursuant to this section shall comply with all other provisions of law for purposes of meeting the remaining regional housing need not transferred, including compliance with the provisions of Section 65589.5.

(n) As used in this section, "housing market area" means the area determined by a council of governments or the department pursuant to Section 65584, and based upon market demand for housing, employment opportunities, the availability of suitable sites and public facilities, and commuting patterns.

(o) This section shall not be construed to interfere with the right of counties to transfer shares of regional housing needs pursuant to paragraph (5) of subdivision (c) of Section 65584.

65584.6. (a) The County of Napa may, during its current housing element planning period, identified in Section 65588, meet up to 15 percent of its existing share of the regional housing need for lower income households, as defined in Section 65584, by committing funds for the purpose of constructing affordable housing units, and constructing those units in one or more cities within the county, only after all of the following conditions are met:

(1) An agreement has been executed between the county and the

receiving city or cities, following a public hearing held by the county and the receiving city or cities to solicit public comments on the draft agreement. The agreement shall contain information sufficient to demonstrate that the county and city or cities have complied with the requirements of this section and shall also include the following:

(A) A plan and schedule for timely construction of dwelling units.

(B) Site identification by street address for the units to be developed.

(C) A statement either that the sites upon which the units will be developed were identified in the receiving city's housing element as potential sites for the development of housing for lower-income households, or that the units will be developed on previously unidentified sites.

(D) The number and percentage of the county's lower-income housing needs previously transferred, for the appropriate planning period, pursuant to this section.

(2) The council of governments that assigned the county's share receives and approves each proposed agreement to meet a portion of the county's fair share housing allocation within one or more of the cities within the county after taking into consideration the criteria of subdivision (a) of Section 65584. If the council of governments fails to take action to approve or disapprove an agreement between the county and the receiving city or cities within 45 days following the receipt of the agreement, the agreement shall be deemed approved.

(3) The city or cities in which the units are developed agree not to count the units towards their share of the region's affordable housing need.

(4) The county and the receiving city or cities, based on substantial evidence on the record, make the following findings:

(A) Adequate sites with appropriate zoning exist in the receiving city or cities to accommodate the units to be developed pursuant to this section. The agreement shall demonstrate that the city or cities have identified sufficient vacant or underutilized or vacant and underutilized sites in their housing elements to meet their existing share of regional housing need, as allocated by the council of governments pursuant to subdivision (a) of Section 65584, in addition to the sites needed to construct the units pursuant to this section.

(B) If needed, additional subsidy or financing for the construction of the units is available.

(C) The receiving city or cities have housing elements that have been found by the Department of Housing and Community Development to be in compliance with this article.

(5) If the sites upon which units are to be developed pursuant to this section were previously identified in the receiving city's housing element as potential sites for the development of housing sufficient to accommodate the receiving city's share of the lower income household need identified in its housing element, then the receiving city shall have amended its housing element to identify replacement sites by street address for housing for lower-income households. Additionally, the Department of Housing and Community Development shall have received and reviewed the amendment and found that the city's housing element continues to comply with this article.

(6) The county and receiving city or cities shall have completed, and provided to the department, the annual report required by subdivision (b) of Section 65400.

(7) For a period of five years after a transfer occurs, the report required by subdivision (b) of Section 65400 shall include information on the status of transferred units, implementation of the terms and conditions of the transfer agreement, and information on any dwelling units actually constructed, including the number, type,

location, and affordability requirements.

(8) The receiving city demonstrates that it has met, in the current or previous housing element cycle, at least 20 percent of its share of the regional need for housing for very low-income households allocated to the city pursuant to Section 65584.

(b) The credit that the county receives pursuant to this section shall not exceed 40 percent of the number of units that are affordable to lower income households and constructed and occupied during the same housing element cycle in unincorporated areas of the county. The county shall only receive the credit after the units have been constructed and occupied. Within 60 days of issuance of a certificate of occupancy for the units, the county shall inform the council of governments and the department in writing that a certificate of occupancy has been issued.

(c) Concurrent with the review by the council of governments prescribed by this section, the Department of Housing and Community Development shall evaluate the agreement to determine whether the city or cities are in substantial compliance with this section. The department shall report the results of its evaluation to the county and city or cities for inclusion in their record of compliance with this section.

(d) If at the end of the five-year period identified in subdivision (c) of Section 65583, any percentage of the regional share allocation has not been constructed as provided pursuant to subdivision (a), or, after consultation with the department, the council of governments determines that the requirements of paragraphs (5) and (7) of subdivision (a) have not been substantially complied with, the council of governments shall add the unbuilt units to Napa County's regional share allocation for the planning period of the next periodic update of the housing element.

(e) Napa County shall not meet a percentage of its share of the regional share pursuant to subdivision (a) on or after June 30, 2007, unless a later enacted statute, that is enacted before June 30, 2007, deletes or extends that date.

65585. (a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department. The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

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

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

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

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

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

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

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

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

65585.1. (a) The San Diego Association of Governments (SANDAG), if it approves a resolution agreeing to participate in the self-certification process, and in consultation with the cities and county within its jurisdiction, its housing element advisory committee, and the department, shall work with a qualified consultant to determine the maximum number of housing units that can be constructed, acquired, rehabilitated, and preserved as defined in paragraph (11) of subdivision (e) of Section 33334.2 of the Health and Safety Code, and the maximum number of units or households that can be provided with rental or ownership assistance, by each jurisdiction during the third and fourth housing element cycles to meet the existing and future housing needs for low and very low income households as defined in Sections 50079.5, 50093, and 50105 of the Health and Safety Code, and extremely low income households. The methodology for determining the maximum number of housing units that can be provided shall include a recognition of financial resources and regulatory measures that local jurisdictions can use to provide additional affordable lower income housing. This process is intended to identify the available resources that can be used to determine the maximum number of housing units each jurisdiction can provide. The process acknowledges that the need to produce housing for low, very low, and extremely low income households may exceed available resources. The department and SANDAG, with input from its housing element advisory committee, the consultant, and local jurisdictions, shall agree upon definitions for extremely low income households and their affordable housing costs, the methodology for the determination of the maximum number of housing units and the number each jurisdiction can produce at least one year before the due date of each housing element revision, pursuant to paragraph (3) of subdivision (e) of Section 65588. If SANDAG fails to approve a resolution agreeing to participate in this pilot program, or SANDAG and the department fail to agree upon the methodology by which the maximum number of housing units is determined, then local jurisdictions may not self-certify pursuant this section.

(1) The "housing element advisory committee" should include representatives of the local jurisdictions, nonprofit affordable housing development corporations and affordable housing advocates, and representatives of the for-profit building, real estate and banking industries.

(2) The determination of the "maximum number of housing units" that the jurisdiction can provide assumes that the needs for low, very low, and extremely low income households, including those with special housing needs, will be met in approximate proportion to their representation in the region's population.

(3) A "qualified consultant" for the purposes of this section means an expert in the identification of financial resources and regulatory measures for the provision of affordable housing for lower income households.

(b) A city or county within the jurisdiction of the San Diego

Association of Governments that elects not to self-certify, or is ineligible to do so, shall submit its housing element or amendment to the department, pursuant to Section 65585.

(c) A city or county within the jurisdiction of the San Diego Association of Governments that elects to self-certify shall submit a self-certification of compliance to the department with its adopted housing element or amendment. In order to be eligible to self-certify, the legislative body, after holding a public hearing, shall make findings, based on substantial evidence, that it has met the following criteria for self-certification:

(1) The jurisdiction's adopted housing element or amendment substantially complies with the provisions of this article, including addressing the needs of all income levels.

(2) For the third housing element revision, pursuant to Section 65588, the jurisdiction met its fair share of the regional housing needs for the second housing element revision cycle, as determined by the San Diego Association of Governments.

In determining whether a jurisdiction has met its fair share, the jurisdiction may count each additional lower income household provided with affordable housing costs. Affordable housing costs are defined in Section 6918 for renters, and in Section 6925 for purchasers, of Title 25 of the California Code of Regulations, and in Sections 50052.5 and 50053 of the Health and Safety Code, or by the applicable funding source or program.

(3) For subsequent housing element revisions, pursuant to Section 65588, the jurisdiction has provided the maximum number of housing units as determined pursuant to subdivision (a), within the previous planning period.

(A) The additional units provided at affordable housing costs as defined in paragraph (2) in satisfaction of a jurisdiction's maximum number of housing units shall be provided by one or more of the following means:

(i) New construction.

(ii) Acquisition.

(iii) Rehabilitation.

(iv) Rental or ownership assistance.

(v) Preservation of the availability to lower income households of affordable housing units in developments which are assisted, subsidized, or restricted by a public entity and which are threatened with imminent conversion to market rate housing.

(B) The additional affordable units shall be provided in approximate proportion to the needs defined in paragraph (2) of subdivision (a).

(4) The city or county provides a statement regarding how its adopted housing element or amendment addresses the dispersion of lower income housing within its jurisdiction, documenting that additional affordable housing opportunities will not be developed only in areas where concentrations of lower income households already exist, taking into account the availability of necessary public facilities and infrastructure.

(5) No local government actions or policies prevent the development of the identified sites pursuant to Section 65583, or accommodation of the jurisdiction's share of the total regional housing need, pursuant to Section 65584.

(d) When a city or county within the jurisdiction of the San Diego Association of Governments duly adopts a self-certification of compliance with its adopted housing element or amendment pursuant to subdivision (c), all of the following shall apply:

(1) Section 65585 shall not apply to the city or county.

(2) In any challenge of a local jurisdiction's self-certification, the court's review shall be limited to determining whether the self-certification is accurate and complete as to the criteria for self-certification. Where there has not been a successful challenge of the self-certification, there shall be a rebuttable presumption of the validity of the housing element or amendment.

(3) Within six months after the completion of the revision of all housing elements in the region, the council of governments, with input from the cities and county within its jurisdiction, the housing element advisory committee, and qualified consultant shall report to the Legislature on the use and results of the self-certification process by local governments within its jurisdiction. This report shall contain data for the last planning period regarding the total number of additional affordable housing units provided by income category , the total number of additional newly constructed housing units, and any other information deemed useful by SANDAG in the evaluation of the pilot program.

(e) This section shall become inoperative on June 30, 2009, and as of January 1, 2010, is repealed, unless a later enacted statute, which is enacted before January 1, 2010, deletes or extends that date.

65586. Local governments shall conform their housing elements to the provisions of this article on or before October 1, 1981. Jurisdictions with housing elements adopted before October 1, 1981, in conformity with the housing element guidelines adopted by the Department of Housing and Community Development on December 7, 1977, and located in Subchapter 3 (commencing with Section 6300) of Chapter 6 of Part 1 of Title 25 of the California Administrative Code, shall be deemed in compliance with this article as of its effective date. A locality with a housing element found to be adequate by the department before October 1, 1981, shall be deemed in conformity with these guidelines.

65587. (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981, and the deadlines set by Section 65588. Except as specifically provided in subdivision (b) of Section 65361, the Director of Planning and Research shall not grant an extension of time from these requirements.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.

(c) If a court finds that an action of a city, county, or city and county, which is required to be consistent with its general plan, does not comply with its housing element, the city, county, or city and county shall bring its action into compliance within 60 days. However, the court shall retain jurisdiction throughout the period for compliance to enforce its decision. Upon the court's determination that the 60-day period for compliance would place an undue hardship on the city, county, or city and county, the court may extend the time period for compliance by an additional 60 days.

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every five years, to reflect the results of this periodic review.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, the dates of revisions for the housing element shall be modified as follows:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: December 31, 2000, for the third revision, and June 30, 2005, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: December 31, 2001, for the third revision, and June 30, 2006, for the fourth revision.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, the Sacramento Area Council of Governments, and the Association of Monterey Bay Area Governments: June 30, 2002, for the third revision, and June 30, 2007, for the fourth revision.

(4) Local governments within the regional jurisdiction of the San Diego Association of Governments: December 31, 1999, for the third revision cycle ending June 30, 1999, and June 30, 2004, for the fourth revision.

(5) All other local governments: June 30, 2003, for the third revision, and June 30, 2008, for the fourth revision.

(6) Subsequent revisions shall be completed not less often than at five-year intervals following the fourth revision.

65588.1. (a) The planning period of existing housing elements prepared pursuant to subdivision (b) of Section 65588 shall be extended through the housing element due date prescribed in subdivision (e) of Section 65588. Local governments shall continue to implement the housing program of existing housing elements and the annual review pursuant to Section 65400.

(b) The extension provided in this section shall not limit the existing responsibility under subdivision (b) of Section 65588 of any jurisdiction to adopt a housing element in conformance with this article.

(c) It is the intent of the Legislature that nothing in this section shall be construed to reinstate any mandates pursuant to Chapter 1143 of the Statutes of 1980 suspended by the Budget Act of 1993-94.

65589. (a) Nothing in this article shall require a city, county, or city and county to do any of the following:
(1) Expend local revenues for the construction of housing, housing subsidies, or land acquisition.
(2) Disapprove any residential development which is consistent with the general plan.
(b) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government to impose rent controls or restrictions on the sale of real property.
(c) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government with respect to measures that may be undertaken or required by a local government to be undertaken to implement the housing element of the local general plan.
(d) The provisions of this article shall be construed consistent with, and in promotion of, the statewide goal of a sufficient supply of decent housing to meet the needs of all Californians.

65589.3. In any action filed on or after January 1, 1991, taken to challenge the validity of a housing element, there shall be a rebuttable presumption of the validity of the element or amendment if, pursuant to Section 65585, the department has found that the element or amendment substantially complies with the requirements of this article.

65589.5. (a) The Legislature finds all of the following:
(1) The lack of affordable housing is a critical problem which threatens the economic, environmental, and social quality of life in California.
(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments which limit the approval of affordable housing, increase the cost of land for affordable housing, and require that high fees and exactions be paid by producers of potentially affordable housing.
(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.
(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions which result in disapproval of affordable housing projects, reduction in density of affordable housing projects, and excessive standards for affordable housing projects.
(b) It is the policy of the state that a local government not reject or make infeasible affordable housing developments which contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without meeting the provisions of subdivision (d).
(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands to urban uses continues to have adverse effects on the availability of those lands for food and fiber

production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project affordable to very low, low- or moderate-income households or condition approval in a manner which renders the project infeasible for development for the use of very low, low- or moderate-income households unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588 and that is in substantial compliance with this article, and the development project is not needed for the jurisdiction to meet its share of the regional housing need for very low, low-, or moderate-income housing.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

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

(4) Approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households and there is no feasible method of approving the development at a different site, including those sites identified pursuant to paragraph (1) of subdivision (c) of Section 65583, without rendering the development unaffordable to low- and moderate-income households.

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

(6) The development project 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 housing element pursuant to this article.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with written development standards, conditions, and policies appropriate to, and consistent with, meeting the quantified objectives relative to the development of housing, as required in the housing element pursuant to subdivision (b) of Section 65583. Nothing in this section shall be construed to prohibit a local agency from imposing fees and other

exactions otherwise authorized by law which are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of affordable housing is a critical statewide problem.

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

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

(2) "Affordable to very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

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

(4) "Neighborhood" means a planning area commonly identified as such in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

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

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

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

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

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria

in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

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

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

(k) If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of very low, low-, or moderate-income households without properly making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled.

(l) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure, all or part of the record may be filed (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

65589.6. In any action taken to challenge the validity of a decision by a city, county, or city and county to disapprove a project or approve a project upon the condition that it be developed at a lower density pursuant to Section 65589.5, the city, county, or city and county shall bear the burden of proof that its decision has conformed to all of the conditions specified in Section 65589.5.

65589.7. (a) The housing element adopted by the legislative body and any amendments made to that element shall be delivered to all public agencies or private entities that provide water services at retail or sewer services within the territory of the legislative body. When allocating or making plans for the allocation of available and future resources or services designated for residential use, each public agency or private entity providing water services at retail or sewer services, shall grant a priority for the provision of these available and future resources or services to proposed

housing developments which help meet the city's, county's, or city and county's share of the regional housing need for lower income households as identified in the housing element adopted by the legislative body and any amendments made to that element.

(b) This section is intended to neither enlarge nor diminish the existing authority of a city, county or city and county in adopting a housing element. Failure to deliver a housing element adopted by the legislative body or amendments made to that element, to a public agency or private entity providing water services at retail or sewer services shall not invalidate any action or approval of a development project. The special districts which provide water services at retail or sewer services related to development, as defined in subdivision (e) of Section 56426, are included within this section.

(c) As used in this section, "water services at retail" means supplying water directly to the end user or consumer of that water, and does not include sale by a water supplier to another water supplier for resale.

65589.8. A local government which adopts a requirement in its housing element that a housing development contain a fixed percentage of affordable housing units, shall permit a developer to satisfy all or a portion of that requirement by constructing rental housing at affordable monthly rents, as determined by the local government.

Nothing in this section shall be construed to expand or contract the authority of a local government to adopt an ordinance, charter amendment, or policy requiring that any housing development contain a fixed percentage of affordable housing units.