



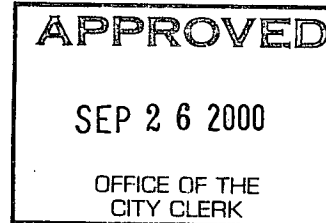
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PLANNING & BUILDING DEPT.

**CITY OF SACRAMENTO**  
CALIFORNIA

1231 I STREET  
ROOM 300  
SACRAMENTO, CA  
95814-2998

September 19, 2000



City Council  
Sacramento, California

Honorable Members in Session:

**SUBJECT: RECOMMENDATION OPPOSING SENATE BILL 1621  
(ALARCON) PLANNING AND ZONING: HOUSING**

**LOCATION:** Citywide

**RECOMMENDATION:**

Forward to the Governor a letter from the City of Sacramento requesting a veto of SB 1621, which severely restricts the ability of cities and counties to establish an interim ordinance, or moratorium, on multifamily housing development, as well as any ordinance that would affect the construction of multifamily housing.

**CONTACT PERSON:** Kirsten Garrard, Administrative Analyst, 264-2986  
Gary Stonehouse, Planning Director, 264-5567

**FOR COUNCIL MEETING OF:** September 26, 2000

**SUMMARY**

Staff recommends that the City Council send a letter to the Governor of California requesting a veto of SB1621, which would severely restrict the ability of a local government to enact an interim (urgency) ordinance when it involves multifamily housing in any way unless the local government makes the following finding supported by substantial evidence in the record:

*“(1) The continued approval of the development of multifamily housing projects would have 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 that the ordinance is adopted by the legislative body.*

*(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the adoption of the proposed interim ordinance."*

## **COMMITTEE/COMMISSION ACTION**

The Law & Legislation Committee, on September 19, 2000, voted 2-2 on approval of the staff recommendation to send a letter to the Governor requesting a veto of SB 1621. Because there was no action approved on this item, the committee decided to bring the issue forward to the full Council. Concerns raised by committee members included loss of local control and ability to address overconcentration of low income housing in certain areas of the City if the bill is signed by the Governor versus lack of fair-share low income and affordable housing by suburban jurisdictions burdening the City of Sacramento if the bill is not signed.

## **BACKGROUND**

Existing law allows a local government to adopt an "interim ordinance", otherwise called a moratorium, prohibiting any new land use that may be in conflict with a change to the general plan, specific plan or zoning proposal that the jurisdiction is studying or considering.

Recently, the cities of Indio, Landcaster, Palmdale, and Paso Robles have all adopted moratoria on multi-family housing development. Housing advocates believe that such moratoria make it impossible for communities to meet their overwhelming need for affordable housing. They also believe that local governments are able to use this interim ordinance authority to block rental housing projects they otherwise have no legal authority to deny.

The League of California Cities and California State Association of Counties believe that SB1621 undercuts the ability of locally elected representatives to respond to urgency situations affecting local land use within their communities. They also believe that SB1621 limits the ability of local governments to enact an interim ordinance to review the overconcentration of lower income housing within certain areas of their communities.

Staff concurs with the League of California Cities and California State Association of Counties and recommends that the City Council send a letter to Governor Davis requesting he veto SB 1621. The existing requirements for establishing an interim ordinance are already stringent: a public hearing, making specific legislative findings, and a 4/5 vote.

Furthermore, mandating more stringent findings will affect more than just multifamily housing. If a local government decides to update its general plan, and imposes a moratorium on all development during the update, the multifamily housing facet of the moratorium would be held to a higher standard than the other types of development, and could ultimately overrule the authority local governments have to temporarily halt development in order to evaluate the future of their cities' growth. Attached are a copy of SB 1621, the Legislative Council's Digest, and a veto request letter.

**ENVIRONMENTAL CONSIDERATIONS:**

There are no environmental considerations associated with this report.

**POLICY CONSIDERATIONS:**

The City of Sacramento increased its emphasis on reviewing state and federal legislation that affect the City and local control.

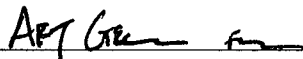
**FINANCIAL CONSIDERATIONS:**

The financial impacts of this legislation have not been evaluated at this time.

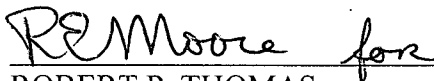
**ESBD CONSIDERATIONS:**

ESBD Considerations do not apply to this item.

Respectfully submitted,

  
\_\_\_\_\_  
Gary Stonehouse,  
Planning Director

APPROVED:

  
\_\_\_\_\_  
ROBERT P. THOMAS  
City Manager

September 26, 2000

**DRAFT**

Governor Gray Davis  
State of California  
State Capitol  
Sacramento, CA 95814

RE: **SB1621** (Alarcon) Planning and Zoning: Housing  
**Request for Veto**

Dear Governor Davis,

The City of Sacramento respectfully requests your **VETO** of **SB 1621**.

This bill severely restricts the ability of cities and counties to establish an interim ordinance, or moratorium, on multifamily housing development. The bill's language would result in a significant loss in local flexibility to adopt interim ordinances to respond to unique local land use issues in our community. The existing requirements for establishing an interim ordinance are already stringent: a public hearing, making specific legislative findings, and a 4/5 vote.

Furthermore, mandating more stringent findings will affect more than just multifamily housing. If a local government decides to update its general plan, and imposes a moratorium on all development during the update, the multifamily housing facet of the moratorium would be held to a higher standard than the other types of development, and could ultimately overrule the authority local governments have to temporarily halt development in order to evaluate the future of their cities' growth.

Again, the City of Sacramento respectfully urges your **VETO** of **SB1621**.

Sincerely,

SENATE RULES COMMITTEE	SB 1621
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 445-6614	Fax: (916)
327-4478	

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UNFINISHED BUSINESS

Bill No: SB 1621  
 Author: Alarcon (D)  
 Amended: 6/29/00  
 Vote: 21

SENATE HOUSING & COMM. DEV. COMMITTEE : 5-0, 4/3/00  
AYES: Alarcon, Bowen, Costa, Escutia, Vasconcellos

SENATE FLOOR : 22-13, 4/10/00  
AYES: Alarcon, Alpert, Bowen, Burton, Chesbro, Costa,  
 Dunn, Figueroa, Hayden, Hughes, Johnston, Karnette,  
 Murray, O'Connell, Ortiz, Peace, Perata, Polanco, Schiff,  
 Solis, Soto, Speier  
NOES: Brulte, Haynes, Johannessen, Johnson, Kelley,  
 Knight, Leslie, Lewis, Monteith, Mountjoy, Poochigian,  
 Rainey, Wright

ASSEMBLY FLOOR : 44-22, 8/10/00 - See last page for vote

SUBJECT : Planning and zoning: housing

SOURCE : California Rural Legal Assistance Foundation  
 Western Center on Law and Poverty

DIGEST : This bill relates to the development of  
 affordable housing by clarifying requirements at the local  
 level. The bill makes two changes in law relating to  
 interim ordinances and housing element law.

Assembly Amendments delete the section which declared  
 legislative intent with respect to providing a statutory  
 CONTINUED

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form for a notice of an intention to withdraw a rent  
 controlled accommodation from rent or lease and with

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respect to addressing the problem of retaliatory or discriminatory evictions.

ANALYSIS : This bill contains two distinct elements related to housing:

1. Zoning Moratoria . Local zoning ordinances regulate residential land use and densities. Within residentially zoned property, ordinances specify the type of residential use: single family, duplexes, condominiums, apartments, residential hotels and other forms of residential housing. Property owners must comply with the residential uses permitted by the zoning ordinance.

Existing law allows a local government to adopt an "interim ordinance", otherwise called a moratorium, prohibiting any new land use that may be in conflict with a change to the general plan, specific plan or zoning proposal that the jurisdiction is studying or considering. The local government must first make legislative findings that there is a current and immediate threat to the public health, safety or welfare and that the approval of additional permits would result in the realization of that threat. Upon a 4/5ths vote, the local legislative body can adopt such an ordinance for 45 days and ultimately extend it for as long as two years.

Recently, the cities of Indio, Lancaster, Palmdale, and Paso Robles have all adopted moratoria on multi-family housing development. Housing advocates believe that such moratoria make it impossible for communities to meet their overwhelming need for affordable housing. They also believe that local governments are able to use this interim ordinance authority to block rental housing projects they otherwise have no legal authority to deny.

This bill would set a higher standard for moratoria that affect multi-family housing by requiring a local government to make findings, supported by substantial evidence in the record, that (1) the continued approval of projects would have a "specific adverse impact" on the

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public health or safety; and that (2) there is no feasible alternative to satisfactorily mitigate this impact. "Specific adverse impact" is defined as 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 that the ordinance is adopted."

2. Zoning for All Housing Needs . Existing zoning law requires a local government to identify and appropriately zone sufficient land to meet the jurisdiction's housing needs. The zoning must also be accompanied by

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appropriate standards to facilitate the development of housing for families of moderate income. Moderate income families are those that earn less than 120% of the area median income.

This bill would clarify that a local government must identify and appropriately zone sufficient land to meet the jurisdiction's housing needs for all income categories and assure that the zoning is accompanied by appropriate standards to facilitate the development of housing for lower income as well as moderate income households. Lower income households are those that earn less than 80% of the area median income.

Comments : \_

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1. Housing moratoria . When adopting a land use moratorium, current law requires a local government to make legislative findings that there is a current and immediate threat to the public health, safety, or welfare. California land use law distinguishes between legislative decisions that make policy (general plans, zoning) and administrative decisions that apply policies to specific properties (subdivisions, use permits). The Planning and Zoning Law frequently requires local officials to make findings based on substantial evidence in the record when they make administrative decisions. Legislative findings, however, generally don't need an evidentiary record. Using language from the state's Anti-NIMBY law, this bill requires a local government, when adopting or extending a multi-family housing moratorium, to make specific legislative findings

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supported by substantial evidence on the record.

2. Zoning for all housing needs . A local government can satisfy the requirement to zone with appropriate standards to facilitate moderate income housing by allowing for the development of homes targeted at buyers in the 100-120% of area median income category. This bill ensures that cities are appropriately zoning to facilitate the development of low-income housing in addition to moderate income housing.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No  
Local: No

SUPPORT : (Verified 8/23/00)

California Rural Legal Assistance Foundation (co-source)  
Western Center on Law and Poverty (co-source)  
Affordable Homes, Avila Beach  
Affordable Housing Foundation, San Francisco  
Agora Group, Goleta  
Apartment Association of the Greater Inland Empire

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Archdiocese of Los Angeles Peace and Justice Commission  
 Asian Law Alliance, San Jose  
 Bakersfield Homeless Center  
 Berkeley Gray Panthers  
 Burbank Housing Development Corporation, Santa Rosa  
 California Affordable Housing Law Project, Oakland  
 California Apartment Association  
 California Building Industry Association  
 California Community Reinvestment Committee, Glendale  
 California Housing Council  
 California Housing Partnership Corporation, San Francisco  
 California Legislative Council for Older Americans  
 Chicano Federation of San Diego County  
 City of Concord Housing Department  
 City of Los Angeles  
 City of Modesto Housing Department  
 City of Salinas Planning Department  
 Coachella Valley Housing Coalition, Indio  
 Common Ground Communities, Nevada City  
 Community Economics, Oakland  
 Community Housing Opportunities Corporation, Davis  
 Community Resource Associates, Clayton

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Conference of Social Justice Coordinators of Southern  
 California, Los Angeles  
 Congress of California Seniors  
 Corporation for Supportive Housing, Oakland  
 Council of Community Housing Organizations, San Francisco  
 East LA Community Corporation (ELACC)  
 East Palo Alto Council of Tenants  
 Eden Housing, Inc., Hayward  
 Emergency Housing Consortium, San Jose  
 Enterprise Foundation, Los Angeles  
 Fair Housing Council of Riverside County  
 Fair Housing of Marin  
 Family Assistance Program, Los Angeles  
 Foundation for Quality Housing Opportunities, North  
 Hollywood  
 Friends Committee on Legislation  
 Gubb and Barshay LLP, San Francisco  
 H and L Properties, Long Beach  
 Herman and Coliver Architecture, San Francisco  
 Homes for Life Foundation, Los Angeles  
 Housing Authority of the City of Santa Barbara  
 Inquilinos Unidos, Los Angeles  
 Interpersonal Developmental Facilitators, Inc., Pasadena  
 Kings County Housing Authority  
 Lake County Alliance for the Mentally Ill  
 LINC Housing, Long Beach  
 Local Initiatives Support Corporation, San Francisco  
 Long Beach Housing Development Corporation  
 Los Angeles Community Design Center  
 Los Angeles Council of Society of St Vincent de Paul  
 Los Angeles County Mental Health Association  
 Los Angeles Housing Partnership, Inc.

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Low-Income Housing Fund, Los Angeles  
 Marin City Community Development Corporation  
 Marin Continuum of Housing and Services, San Rafael  
 Mercy Charities Housing California, Orange  
 Metropolitan Area Advisory Committee, National City  
 Mid-Peninsula Housing Coalition, Redwood City  
 Mission Housing Development Corporation, San Francisco  
 Nancy Lewis and Associates, Los Angeles  
 Napa Valley Community Housing, Napa  
 Neighborhood Housing Services of Orange County  
 Nevada County Housing and Community Services, Grass Valley  
 New Directions, Inc., Los Angeles

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Orange County Community Housing Corporation, Santa Ana  
 Penny Lane, North Hills  
 People's Self-Help Housing Corporation, San Luis Obispo  
 Planning for Elders in the Central City, San Francisco  
 Public Law Center, Santa Ana  
 Related Companies of California, Irvine  
 Renee Franken and Associates  
 Resources for Community Development, Berkeley  
 Rural Communities Housing Corporation, Ukiah  
 Rural Community Assistance Corporation, Sacramento  
 Saben Investments, Inc., North Hills  
 Sacramento Housing and Redevelopment Agency  
 Sacramento Loaves and Fishes  
 Sacramento Mutual Housing Association  
 Sacramento Neighborhood Housing Services  
 Saint Joseph Health System, Orange  
 SAMCO, San Jose  
 San Diego Apartment Association  
 San Joaquin County Housing Authority  
 San Leandro Shelter for Women and Children  
 Santa Barbara County Legal Aid Foundation  
 Santa Monica Commission on Older Americans  
 Santa Monica Rent Control Board  
 Sentinel Fair Housing, Oakland  
 Shelter for the Homeless, Midway City  
 Shelter Partnership, Inc., Los Angeles  
 Shelter, Inc., Concord  
 Sisters of the Holy Names California Province, Los Gatos  
 Skid Row Housing Trust, Los Angeles  
 Sober Living Network, Santa Monica  
 Sonoma County Mobilehome Owners Association  
 Southern California Association of Non-Profit Housing  
 Thai Community Development Center, Los Angeles  
 Thomas Lauderbach Development Consultants, El Cerrito  
 Tri-County Apartment Association  
 Thomas Safron and Associates, Los Angeles  
 Venice Community Housing Corporation, Venice  
 West Contra Costa Conservation League, El Cerrito  
 West Hollywood Community Housing Corporation  
 WNC, Inc., Costa Mesa

OPPOSITION : (Verified 8/18/00)

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League of California Cities

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California State Association of Counties  
City of Barstow  
City of Costa Mesa

ARGUMENTS IN SUPPORT : Proponents argue this bill will help meet affordable housing needs. State officials estimate that there is a demand for 250,000 new housing units each year in California, but only 140,000 were built last year. Many economists agree that inadequate housing production poses a major long-run threat to the state's economic growth. This bill will increase the development of affordable housing by reducing barriers at the local level.

ARGUMENTS IN OPPOSITION : Opponents argue this bill places an unnecessary and onerous mandate on planning and zoning at the local level. They are concerned the bill "would severely constrain the flexibility of local government to respond to unique local land use issues in our communities. Moreover, we are concerned about the long-term implications of the proposed requirements." \_

ASSEMBLY FLOOR :

AYES: Alquist, Aroner, Bock, Briggs, Calderon, Campbell, Cardenas, Cardoza, Cedillo, Corbett, Correa, Davis, Ducheny, Dutra, Florez, Floyd, Gallegos, House, Keeley, Kuehl, Leach, Lempert, Leonard, Longville, Machado, Maddox, Mazzone, McClintock, Migden, Reyes, Romero, Scott, Shelley, Steinberg, Strom-Martin, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Wright, Hertzberg

NOES: Aanestad, Ackerman, Ashburn, Bates, Battin, Baugh, Cox, Cunneen, Dickerson, Havice, Kaloogian, Lowenthal, Margett, Olberg, Oller, Robert Pacheco, Rod Pacheco, Pescetti, Strickland, Thompson, Wesson, Zettel

NC:s1 8/25/00 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*

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BILL NUMBER: SB 1621      ENROLLED  
BILL TEXT

PASSED THE SENATE      AUGUST 25, 2000  
PASSED THE ASSEMBLY    AUGUST 10, 2000  
AMENDED IN ASSEMBLY    JUNE 29, 2000  
AMENDED IN ASSEMBLY    JUNE 21, 2000  
AMENDED IN SENATE      MARCH 27, 2000

INTRODUCED BY      Senators Alarcon and Burton

FEBRUARY 22, 2000

An act to amend Sections 65858 and 65913.1 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1621, Alarcon. Planning and zoning: housing.

Existing law places prescribed limits on the adoption of an interim zoning ordinance by a local legislative body.

This bill would prohibit the adoption or extension of an interim ordinance denying needed approvals for multifamily housing projects unless the legislative body identifies the adverse impact of continued approval of the development.

The bill also would make clarifying changes relating to the provision of affordable housing in requirements relating to zoning sufficient vacant land for low-cost residential use.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65858 of the Government Code is amended to read:

65858. (a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. The legislative body shall not adopt or extend any interim ordinance pursuant to this section that has the effect of denying approvals needed for the development of all

or any multifamily housing projects except upon written findings adopted by the legislative body, supported by substantial evidence on the record, that both of the following conditions exist:

(1) The continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. 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 that the ordinance is adopted by the legislative body.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the adoption of the proposed interim ordinance.

(d) Ten days prior to the expiration of any interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance as provided in this section.

(f) Notwithstanding subdivision (e), upon termination of a prior interim ordinance, the legislative body may adopt another interim ordinance pursuant to this section provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.

SEC. 2. Section 65913.1 of the Government Code is amended to read:

65913.1. (a) In exercising its authority to zone for land uses and in revising its housing element pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3, a city, county, or city and county shall designate and zone sufficient vacant land for residential use with appropriate standards, in relation to zoning for nonresidential use, and in relation to growth projections of the general plan to meet housing needs for all income categories as identified in the housing element of the general plan. For the purposes of this section:

(1) "Appropriate standards" means densities and requirements with respect to minimum floor areas, building setbacks, rear and side yards, parking, the percentage of a lot that may be occupied by a structure, amenities, and other requirements imposed on residential lots pursuant to the zoning authority which contribute significantly to the economic feasibility of producing housing at the lowest possible cost given economic and environmental factors, the public health and safety, and the need to facilitate the development of housing affordable to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code and to persons and families of lower income, as defined in Section 50079.5 of the Health and Safety Code. However, nothing in this section shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to construct this housing.

(2) "Vacant land" does not include agricultural preserves pursuant to Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5.

(b) Nothing in this section shall be construed to require a city, county, or city and county in which less than 5 percent of the total land area is undeveloped to zone a site within an urbanized area of that city, county, or city and county for residential uses at densities that exceed those on adjoining residential parcels by 100 percent. For the purposes of this section, "urbanized area" means a central city or cities and surrounding closely settled territory, as defined by the United States Department of Commerce Bureau of the Census in the Federal Register, Volume 39, Number 85, for Wednesday, May 1, 1974, at pages 15202-15203, and as periodically updated.

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CURRENT BILL STATUS

MEASURE : S.B. No. 1621  
AUTHOR(S) : Alarcon and Burton.  
TOPIC : Planning and zoning: housing.  
+LAST AMENDED DATE : 06/29/2000

TYPE OF BILL :  
Inactive  
Non-Urgency  
Non-Appropriations  
Majority Vote Required  
Non-State-Mandated Local Program  
Non-Fiscal  
Non-Tax Levy

LAST HIST. ACT. DATE: 08/25/2000  
LAST HIST. ACTION : Senate concurs in Assembly amendments. (Ayes 36. Noes  
0. Page 6003.) To enrollment.

TITLE : An act to amend Sections 65858 and 65913.1 of the  
Government Code, relating to housing.

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