

AMERICA'S AFFORDABLE COMMUNITIES INITIATIVE

Questionnaire for HUD's Initiative on Removal of Regulatory Barriers

PART B: State Agencies and Departments or Other Applicants for Projects Located in Unincorporated Areas or Areas Otherwise Not Covered in Part A

| | | |
|---|--------------------------------|--|
| <p>1. Does your state, either in its planning and zoning enabling legislation or in any other legislation, require localities regulating development have a comprehensive plan with a "housing element?" If no, skip to question # 4</p> <p><i>Government Code § 65583</i></p> | NO <input type="checkbox"/> | YES <input checked="" type="checkbox"/> |
| <p>2. Does you state require that a local jurisdiction's comprehensive plan estimate current and anticipated housing needs, taking into account the anticipated growth of the region, for existing and future residents, including low, moderate, and middle income families, for at least the next five years?</p> <p><i>Government Code § 65584</i></p> | NO <input type="checkbox"/> | YES <input checked="" type="checkbox"/> |
| <p>3. Does your state's zoning enabling legislation require that a local jurisdiction's zoning ordinance have a) sufficient land use and density categories (multifamily housing, duplexes, small lot homes and other similar elements); and, b) sufficient land zoned or mapped in these categories, that can permit the building of affordable housing that addresses the needs identified in the comprehensive plan?</p> <p><i>Government Code § 65583(a)(3)</i></p> | NO <input type="checkbox"/> | YES <input checked="" type="checkbox"/> |
| <p>4. Does your state have an agency or office that includes a specific mission to determine whether local governments have policies or procedures that are raising costs or otherwise discouraging affordable housing?</p> <p><i>California Department of Housing & Community Development (http://www.hcd.ca.gov/mission.html)</i></p> | NO <input type="checkbox"/> | YES <input checked="" type="checkbox"/> |
| <p>5. Does your state have a legal or administrative requirement that local governments undertake periodic self-evaluation of regulations and processes to assess their impact upon housing affordability address these barriers to affordability?</p> <p><i>Government Code § 65583(a)(4)</i></p> | NO <input type="checkbox"/> | YES <input checked="" type="checkbox"/> |
| <p>6. Does your state have a technical assistance or education program for local jurisdictions that includes assisting them in identifying regulatory barriers and in recommending strategies to local governments for their removal?</p> <p><i>The Department of Housing & Community Development provides technical assistance to governments in preparation of their housing elements which includes an analysis of governmental constraints and identifying strategies to remove such constraints.</i></p> | NO <input type="checkbox"/> | YES <input checked="" type="checkbox"/> |
| <p>7. Does your state have specific enabling legislation for local impact fees? If no skip to question #9.</p> <p><i>Government Code § 66000 (Mitigation Fee Act)</i></p> | NO <input type="checkbox"/> | YES <input checked="" type="checkbox"/> |
| <p>8. If yes to the question #7, does the state statute provide criteria that sets standards for the allowable type of capital investments that have a direct relationship between the fee and the development (<i>nexus</i>) and a method for fee calculation?</p> <p><i>See above (Question 7)</i></p> | NO <input type="checkbox"/> | YES <input checked="" type="checkbox"/> |

| | | |
|---|--|--|
| <p>9. Does your state provide significant financial assistance to local governments for housing, community development and/or transportation that includes funding prioritization or linking funding on the basis of local regulatory barrier removal activities?</p> <p><i>The Building Equity and Growth in Neighborhoods Equity Program (BEGIN) works to reduce local regulatory barriers to affordable ownership housing, and provide downpayment assistance loans to qualifying first-time low- and moderate-income buyers of homes in BEGIN projects (http://www.hcd.ca.gov/ca/begin).</i></p> | <p>NO <input type="checkbox"/></p> | <p>YES <input checked="" type="checkbox"/></p> |
| <p>10. Does your state have a mandatory state-wide building code that a) does not permit local technical amendments and b) uses a recent version (i.e. published within the last five years or, if no recent version has been published, the last version published) of one of the nationally recognized model building codes (i.e. the International Code Council (ICC), the Building Officials and Code Administrators International (BOCA), the Southern Building Code Congress International (SBCI), the International Conference of Building Officials (ICBO), the National Fire Protection Association (NFPA)) without significant technical amendment or modification?</p> <p>Alternatively, if the state has made significant technical amendment to the model code, can the state supply supporting data that the amendments do not negatively impact affordability?</p> <ul style="list-style-type: none"> ▪ <i>California <u>does</u> have a mandatory statewide building code</i> ▪ <i>State law <u>does not</u> permit local “technical” amendments, but <u>does</u> permit local amendments based on unique geological (e.g., seismic), topographic (e.g., coastal issues) and/or climatic (e.g., snowload) conditions. The amendments must be justified by written findings, which must be submitted to the State Building Standards Commission. Also, local fire suppression/prevention amendments <u>are permitted</u>, again if there are written findings, submitted to HCD.</i> ▪ <i>The statewide “building standards code” for residential construction consists of a building (structural) code, a plumbing code, a mechanical code, an electric code, a fire code, and an energy code. The plumbing, mechanical, electric, energy, and fire <u>codes fit</u> the HUD definition (based on a recently published nationally recognized model code). The building (structural) code <u>does not</u>, and is based on a 1997 model nationally recognized code, and was updated in 2001. The building code update, currently underway, <u>is based</u> on a nationally recognized model code published within the last 5 years.</i> ▪ <i>The statewide building standards code <u>has many</u> amendments and modifications. They all are carefully considered to meet the needs of the State’s residents and businesses, and the adoption process explicitly considers and balances “affordability” with “safety”, “public welfare”, “impact on business”, etc. (The statutory standards are in section 18930 of the Health and Safety Code)</i> ▪ <i>As to “supporting data” for state amendments, the adoption process includes analysis by the proposing agency (HCD, State Fire Marshal, Energy Commission) as to impact on affordability, and oral and written testimony is provided and recorded with regard to the same issues.</i> | <p>NO <input type="checkbox"/></p> | <p>YES <input checked="" type="checkbox"/></p> |

| | | |
|--|--|--|
| <p>11. Has your jurisdiction adopted specific building code language regarding housing rehabilitation that encourages such rehabilitation through graduated regulatory requirements applicable as different levels of work are performed in existing buildings? Such code language increases regulatory requirements (the additional improvements required as a matter of regulatory policy) in proportion to the extent of rehabilitation that an owner/developer chooses to do on a voluntary basis. For further information see HUD publication: “<i>Smart Codes in Your Community: A Guide to Building Rehabilitation Codes</i>”</p> <ul style="list-style-type: none"> ▪ Health & Safety Code § 17958.8: Local governments must permit the replacement, retention and extension of original materials and original methods of construction during alterations and repair of existing buildings as long as the original materials/methods comply with building code provisions governing that portion of the building at the time of its construction AND the building does not become or continue to be substandard ▪ Health & Safety Code § 17958.9: Moved apartments or dwellings must be allowed to retain existing materials and methods of construction as long as they do not become or continue to be substandard ▪ Health & Safety Codes § 17922(d): Housing codes must permit continued use of original methods in existing portions of a home, but additions or alterations increasing area or size of an existing building must comply with current codes ▪ Health & Safety Code § 17951: Local governments may approve alternate materials, installations or work on a case-by-case basis which vary from code standards; in some cases this is used to mitigate the cost of meshing additional spaces with existing space ▪ Health & Safety Code § 17980(b)(2): In code enforcement, when a local government agency must decide whether to require vacating of a building or to repair as necessary, it must give preference to the repair of the building whenever it is economically feasible to do so without having to repair more than 75% of the building AND shall give full consideration to the needs for housing as expressed in the local jurisdiction’s housing element | <p>NO <input type="checkbox"/></p> | <p>YES <input checked="" type="checkbox"/></p> |
| <p>12. Within the past five years has your state made any changes to its own processes or requirements to streamline or consolidate the state’s own approval processes involving permits for water or wastewater, environmental review, or other State administered permits or programs involving housing development. If yes, briefly list these changes.</p> <p>Government Code Section § 66473.7- Water Supply; Availability; Conditions for map approval; Verification; Exceptions (added by Stats 2001)</p> | <p>NO <input type="checkbox"/></p> | <p>YES <input checked="" type="checkbox"/></p> |
| <p>13. Within the past five years, has your state (i.e., Governor, legislature, planning department) directly or in partnership with major private or public stakeholders, convened or funded comprehensive studies, commissions, or panels to review state or local rules, regulations, development standards, and processes to assess their impact on the supply of affordable housing?</p> <p>May 2000: Raising the Roof: California Housing Development Projections and Constraints 1997-2020. Prepared the by the California Department of Housing & Community Development. Report available at http://www.hcd.ca.gov/hpd/hrc/rtr/index.html</p> <p>August 2001: Pay to Play – Residential Development Fees in California Cities and Counties. Prepared by the Department of Housing & Community Development. Report available at http://www.hcd.ca.gov/hpd/pay2play/pay_to_play.html</p> <p>May 2002: Rebuilding the Dream: Solving California’s Affordable Housing Crisis. Prepared by the Little Hoover Commission on California State Organization and Economy. Report available at http://www.lhc.ca.gov/lhcdir/report165.html</p> | <p>NO <input type="checkbox"/></p> | <p>YES <input checked="" type="checkbox"/></p> |

| | | |
|---|---|--|
| <p>14. Within the past five years, has the state initiated major regulatory reforms either as a result of the above study or as a result of information identified in the barrier component of the states' "Consolidated Plan submitted to HUD?" If yes, briefly list these major regulatory reforms.</p> | <p>NO <input checked="" type="checkbox"/></p> | <p>YES <input type="checkbox"/></p> |
| <p>15. Has the state undertaken any other actions regarding local jurisdiction's regulation of housing development including permitting, land use, building or subdivision regulations, or other related administrative procedures? If yes, briefly list these actions. <i>(below is a partial list)</i></p> <p><i><u>AB 1866</u> (Gov. Code Section 65852.2) provides that after July 1, 2003, the permit process for second units is ministerial. Local governments will be required to implement a process for second units in which the applicant is entitled to the permit if he or she complies with local standards -- obviating the need for time-consuming, contentious, costly public hearings.</i></p> <p><i><u>AB 2292</u> (Gov Code Section 65863) was signed into law, effective January 1, 2003, and requires local governments to make a finding that proposed residential density reductions (and down zonings) are consistent with the jurisdiction's general plan and housing element and with the density utilized by the state Department of Housing and Community Development in determining compliance with housing element law.</i></p> | <p>NO <input type="checkbox"/></p> | <p>YES <input checked="" type="checkbox"/></p> |
| <p>Total Points: (total of 14 questions answered "yes") 2 points</p> | | |