



MIDDLE CLASS HOUSING ACT (SB 6)

Government Code § 65852.24

INTRODUCTION

The Middle Class Housing Act of 2022 (Chapter 659, Statutes of 2022), commonly referred to as “SB 6” was signed into law on September 28, 2022. The law aims to address California’s housing shortage by providing that housing is an allowed use, without the need for rezoning, on eligible commercially-zoned sites provided that a proposed development meets specified requirements. The statute does not create a specific ministerial approval process but allows project applicants to use the option to combine SB 6 with the existing Streamlined Ministerial Approval Process (“SMAP”) available under Government Code section 65913.4.

The Housing Law Fact Sheets provide an overview of existing laws which the California Department of Housing and Community Development (HCD) has statutory authority to enforce. The fact sheet does not constitute legal advice but is intended to be a resource for local agencies and decision-makers within California, including members of City Councils, Boards of Supervisors, and Planning Commissions.

KEY PROVISIONS

The statute allows for residential development on commercially zoned sites where office, retail, or parking are a principally permitted use. Eligible developments must comply with site eligibility criteria and development-specific requirements. For example, a site cannot be on or adjacent to an industrial use, and a development must meet specified density and comply with local development standards and inclusionary housing requirements, if applicable. A proposed development may be either entirely residential or mixed-use with at least 50 percent of the square footage of the new construction associated with the project designated for residential use.

The statute does not automatically mandate a specific review process for applications submitted under SB 6. However, a project sponsor may utilize the streamlined process specified in Government Code section 65913.4 (“SMAP”) for a project that meets the criteria of both statutes. In addition, SB 6 projects are entitled to the protections of the Housing Accountability Act (HAA) and may utilize State Density Bonus Law (SDBL) to qualify for a density bonus, waiver, or incentive/concession.

Local Implementation

SB 6 is applicable to local jurisdictions without an implementing ordinance, although a local jurisdiction may choose to adopt a local ordinance. Local agencies have the option to exempt certain parcel(s) from SB 6. However, to do so, local agencies must show that there is no net loss in residential density from the exempted parcel(s) by making written findings supported by substantial evidence that either the lost residential density:

- ▶ Is concurrently reallocated to other parcel(s), or
- ▶ Can be accommodated on a site(s) that allows a density at or above the density specified in Government Code section 65583.2, subdivision (c)(3)(B) in excess of the acreage required to accommodate the jurisdiction’s share of lower income housing..

Middle Class Housing Act vs. Affordable Housing and High Road Jobs Act

The Middle Class Housing Act was signed into law at the same time as the Affordable Housing and High Road Jobs Act in Government Code sections 65400, 65585, and 65912.100, commonly referred to as “AB 2011.” Both statutes broadly create opportunities for housing on commercially zoned sites, but key differences include:

- ▶ **Review process.** While AB 2011 creates a streamlined ministerial process and projects are exempt from the California Environmental Quality Act (CEQA), SB 6 does not. SB 6 on its own does not mandate a specific review process; however, it creates an option for project applicants to invoke SMAP (Government Code section 65913.4) if the developer wants to pursue a ministerial approval process.
- ▶ **Eligibility.** SB 6 and AB 2011 each have their own set of site eligibility and development requirements. Some of these requirements are the same, while others are not. For example, both statutes provide that the site must allow office, retail, or parking use and cannot be located on or adjacent to an industrial use. Generally, AB 2011 has a more extensive list of eligibility requirements compared to SB 6—AB 2011 itself has different requirements depending on the project affordability.
- ▶ **Affordability.** SB 6 does not establish a specific affordability requirement for eligible projects but instead defers to a local government’s inclusionary housing requirement if there is one in place. AB 2011 has a specific set of affordability requirements (one for 100 percent affordable projects and another for mixed-income) whether or not a local government has its own inclusionary housing requirements.
- ▶ **Labor provisions.** SB 6 includes more extensive “skilled and trained workforce” requirements in addition to prevailing wage requirements. AB 2011 requires prevailing wage but does not include “skilled and trained workforce” requirements.

LEGISLATIVE HIGHLIGHTS

Expanded Housing Development on Commercial Sites

[AB 2243](#), Wicks (2024); amended Gov. Code, §§ 65852.24, 65912.101, 65912.111, 65912.112, 65912.113, 65912.114, 65912.121, 65912.122, 65912.123, and 65912.124, and added Gov. Code, § 65912.106

Amends both SB 6 and AB 2011 to broaden the scope of residential developments permissible in commercial zones. It allows mixed-income projects on regional mall sites under 100 acres and in narrower commercial corridors and extends eligibility to projects within 500 feet of a freeway.