



Governor Newsom Signs SB 8, SB 9, SB 10, and AB 1174

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On September 16, 2021, Governor Gavin Newsom signed into law four bills designed to facilitate housing production across California: SB 8, SB 9, SB 10, and AB 1174. AB 1174, an urgency measure, goes into effect immediately, while the other three bills will take effect on January 1, 2022.

SB 9 creates a ministerial process for (1) an owner to split an existing single-family residential lot into two relatively equal lots and (2) provides that an owner can build up two units on a single-family residential lot. While SB 9 will generally apply statewide to urban and suburban areas, sensitive types of properties (high-fire zones, wetlands, flood zone, historic properties, etc.) and properties that have been recently used for rental/affordable housing are excluded. SB 9 allows cities and counties to apply “objective” standards to either the lot split or two-unit development, provided they do not result in a unit size of less than 800 square feet.

In an effort to respond to concerns that SB 9 would disproportionately benefit developers, changes were made to the bill to:

- Require an applicant that elects to split a parcel to sign an affidavit indicating that the applicant intends to occupy one of housing units as a principal residence for a minimum of three years from the date of the approval of the lot split.
- Prohibit the same party from buying adjacent lots and splitting them both.

A building official may deny either a lot split or two-unit project if it can make specific findings related to the public health and safety. As ministerial actions, both the lot split and the two-unit project would be exempt from CEQA and, while still subject to the Coastal Act, will not require a public hearing.

SB 8 extends the sunset on SB 330, the Housing Crisis Act of 2019 (“HCA”), by five years, to January 1, 2030, and provides that until January 1, 2034, the HCA’s provisions apply to a housing development project that submits a preliminary application before January 1, 2030. SB 8 also clarifies provisions of the HCA related to downzoning, the definition of “housing development project,” and demolition and replacement of units.

SB 10 creates a voluntary process for a local agency to adopt an ordinance allowing up to ten units on a parcel, at a height specified in the ordinance, if the parcel is located in either a transit-rich area or an



urban infill site (as defined therein). The ordinance would be exempt from CEQA and must contain certain specified findings. The bill will sunset on January 1, 2029.

AB 1174 is an urgency measure designed to clarify and expand upon SB 35, which was adopted in 2017 to streamline housing production in jurisdictions not meeting their RHNA numbers. AB 1174 clarifies the length of validity of certain approvals, when newer objective standards can apply to a previously approved project, and other matters specific to SB 35.

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