



## ARMBRUSTER GOLDSMITH & DELVAC LLP

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Dale Goldsmith | Mark Armbruster | William F. Delvac | David A. Goldberg  
Damon P. Mamalakidis | Daniel Reardon | Aaron Clark | Matt Dzurec | Alix Wisner

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### NEW BUDGET BILLS EASE INFILL HOUSING DEVELOPMENT

As a part of recent budget negotiations, the California Legislature has recently passed two bills, Assembly Bill (AB) 130 and Senate Bill (SB) 131, that substantially amend the California Environmental Quality Act (CEQA) to permit a streamlined environmental review process for virtually all infill housing development projects and implementing a variety of new and modified exemptions for specific uses. The bills are effective immediately.

#### CEQA Statutory Exemption for Infill Housing Development Projects

AB 130 creates a general CEQA statutory exemption for “housing development projects” (defined as fully residential and qualified mixed-use projects). The exemption is similar to, but more expansive than, the existing Class 32 Categorical Exemption for infill development projects.

The new exemption applies to any housing development project that:

1. Is located on a site of less than 20 acres (or 5 acres, for a Builder's Remedy project) that is located in an incorporated city or US Census Bureau-defined urban area and that is near or previously developed with urban uses;
2. Is consistent with either the applicable General Plan, applicable zoning, or both, and with any applicable Local Coastal Plan (approval of a density bonus, incentives or concessions, waivers or reductions of development standards does not render the project inconsistent);
3. Would provide at least half of minimum residential density for the property to qualify as a site available for low-income housing under the State's Housing Element Law (i.e., 15 du/ac for a metropolitan county, or 10 du/ac for a "suburban jurisdiction");
4. Is not subject to various exclusions for sensitive sites, including certain coastal areas, farmland, wetlands, Very High Fire Hazard Severity Zones, earthquake fault zones, flood hazard areas, conservation land, and designated hazardous waste sites;
5. Does not require demolition of a historic structure that was designated on a federal, state, or local register before a preliminary application for the project was submitted; and
6. Does not contain hotel uses.

Projects that are located within 500 feet of a freeway are also required to include specified design measures to avoid air pollution impacts on residents.

The following qualifying projects are subject to construction labor requirements, including payment of prevailing wages: (a) 100% affordable projects; (b) projects with buildings over 85 feet in height above grade; and (c) certain market-rate projects in San Francisco. No other qualifying projects are subject to such requirements.

The exemption does not require the provision of any affordable housing.

#### New Exemptions and Streamlining

SB 131 creates or extends statutory exemptions for a variety of uses, including but not limited to “advanced manufacturing” facilities, day care centers, nonprofit food banks, broadband deployment, and others, excluding certain projects such as 1) oil and gas infrastructure, 2) distribution centers greater than 50,000 square feet in size, and 3) projects located on “natural and protected lands.”

For housing development projects that are ineligible for a statutory or categorical exemption due to meeting all but one of the relevant eligibility criteria, SB 131 creates a new form of streamlined environmental review that is strictly limited to effects caused by the sole condition that would make the project ineligible for an exemption and that avoids the alternatives analysis and analysis of cumulative or growth-inducing impacts that would ordinarily be considered in an Environmental Impact Report.

### Building Code Changes

AB 130 freezes building code updates applicable to residential units between October 1, 2025 and June 1, 2031, and would also prevent local agencies from independently updating their building codes, other than emergency changes to protect health and safety (which the Building Standards Commission must certify). The intent of this provision is to reduce the cost of new housing by limiting code changes that would require revisions to plans or costly upgrades.

### Coastal Commission

AB 130 would prohibit appeals of certain locally approved residential projects in coastal areas to the California Coastal Commission.

### Want to Learn More?

Due to the extent and variety of changes to CEQA and state housing law made by AB 130 and SB 131, the above summary is necessarily limited in scope. We anticipate that it will take time for State agencies and local governments to develop procedures to implement these bills. If you have questions regarding AB 130 and SB 131, please contact Dale Goldsmith ([dale@agd-landuse.com](mailto:dale@agd-landuse.com); 310-209-8800), Dan Reardon ([daniel@agd-landuse.com](mailto:daniel@agd-landuse.com); 310-254-9058), or your existing point of contact at our firm.

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Armbruster Goldsmith & Delvac LLP | 12100 Wilshire Blvd Suite 1600 | Los Angeles, CA  
90025 US

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