

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1318 (Luz Rivas) – As Introduced February 16, 2023

**SUBJECT:** California Environmental Quality Act: exemption: residential projects.

**SUMMARY:** Increases the site limit from four acres to five acres for purposes of an existing California Environmental Quality Act (CEQA) exemption for urban infill housing projects meeting specified criteria. Requires the lead agency to file a notice of exemption (NOE) with the Office of Planning and Research (OPR).

**EXISTING LAW:**

- 1) Requires, pursuant to CEQA, lead agencies with the principal responsibility for carrying out or approving a proposed project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (Public Resources Code (PRC) §21000, et seq.).
- 2) Exempts from CEQA specified residential housing projects which meet detailed criteria established to ensure the project does not have a significant effect on the environment, including:
  - a) Affordable agricultural housing projects of not more than 45 units within a city, or 20 units within an agricultural zone, on a site not more than five acres in size.
  - b) Urban affordable housing projects of not more than 100 units on a site not more than five acres in size.
  - c) Urban infill housing projects of not more than 100 units on a site not more than four acres in size which is within one-half mile of a major transit stop (PRC §21159.20-21159.24).

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Background.** CEQA provides a process for evaluating the environmental effects of applicable projects undertaken or approved by public agencies. If a project is not exempt from CEQA, an initial study is prepared to determine whether the project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration. If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR.

Generally, an EIR must accurately describe the proposed project, identify and analyze each significant environmental impact expected to result from the proposed project, identify mitigation measures to reduce those impacts to the extent feasible, and evaluate a range of reasonable alternatives to the proposed project. Prior to approving any project that has received environmental review, an agency must make certain findings. If mitigation

measures are required or incorporated into a project, the agency must adopt a reporting or monitoring program to ensure compliance with those measures.

- 2) **Environmental Review of Housing Development Projects.** CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines adopted by the OPR for housing projects. A CEQA exemption provides a tremendous benefit to property owners, developers, local governments and other parties involved in the approval of a project as it allows for the project to be completed in an expedited fashion and can insulate the project from CEQA lawsuits. In light of the state’s ongoing housing crisis, the Legislature has created several exemptions to CEQA that are designed to increase the production of housing. The protection of resources afforded by CEQA is not exempted lightly. The Legislature balances the risk of allowing projects to proceed without a full environmental review by limiting exemptions to projects that comply with scores of objective standards and criteria. These standards and criteria are an expression of the state’s values and ensure that exempt projects do not result in harm to public health and safety and the environment.
- 3) **Bill Summary and Author’s Statement.** According to the author, “AB 1318 provides a modest increase in the scope of an existing CEQA exemption for infill housing projects, making the acreage limit for this exemption the same as other existing CEQA exemptions for affordable and farmworker housing.”

This bill increases the size limit for the urban infill exemption from four acres to five acres and requires the lead agency for one of these projects to file an NOE with OPR.

This bill is sponsored by the author.

- 4) **Previous Legislation.** SB 1925 (Sher), Chapter 1039, Statutes of 2002, exempts from CEQA certain residential projects providing affordable urban or agricultural housing, or located on an infill site within an urbanized area, and meeting specified unit and acreage criteria.
- 5) **Arguments in Support.** The California Apartment Association writes in support, “AB 1318 provides a modest increase in the scope of an existing CEQA exemption for infill housing projects, making the acreage limit for this exemption the same as other existing CEQA exemptions for affordable and farmworker housing.”
- 6) **Arguments in Opposition.** None on file.
- 7) **Double-Referral.** This bill was double-referred to the Natural Resources Committee, where it passed on a 11-0 vote on April 17, 2023.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

The California Apartment Association

##### **Opposition**

None on file

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