

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2025-2026 Regular Session**

AB 1385 (Petrie-Norris)  
Version: April 9, 2025  
Hearing Date: July 1, 2025  
Fiscal: Yes  
Urgency: No  
ID

**SUBJECT**

Unlawfully restrictive covenants: housing developments: major wildfire disasters

**DIGEST**

This bill permits an owner of a property subject to a restrictive covenant that limits the size or density of housing on the property and that is located in a county that experienced a major wildfire disaster occurring in January 2025 to record a restrictive covenant modification document making those restrictive covenants unenforceable.

**EXECUTIVE SUMMARY**

In early January 2025, extremely dry conditions and high winds in Los Angeles resulted in two of the worst wildfires in state history: the Palisades and Eaton fires. The fires burned 37,469 acres and damaged or destroyed almost 18,000 structures, including 373 mobilehomes, and resulted in 29 fatalities. In addition, just under 13,000 households were displaced by the Palisades and Eaton fires, exacerbating Los Angeles' ongoing housing and homelessness crises.

California property law enables the owner of property, upon subdivision or development of the land, to place covenants, restrictions, or other limitations on how the subdivided land may be used. Restrictive covenants can require any development on the property to follow certain architectural styles, limit the types of uses or development on the property, or even limit the number of people who may reside on the property. Because such covenants are considered to "run with the land," they remain on the property's title even after the original owner sells the land. Many restrictive covenants that restrict the size and density of residential property pose a hindrance to the development of those properties into affordable housing. Thus, in 2021, the Legislature passed AB 721 to allow for the removal of these restrictive covenants for affordable housing projects. AB 1385 proposes to permit an owner of property located within a county that experienced a major wildfire disaster in January 2025 to utilize the AB 721 process to remove restrictive covenants that limit the size or

density of housing on the property. AB 1385 is author-sponsored, and the Committee has received no timely letters of support or opposition. Should the bill pass this Committee, it will then be referred to the Senate Housing Committee.

### **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Prohibits enforcement, against the owner of an affordable housing development, of any covenants, conditions, restrictions, or private limits on private or publicly owned land that restrict the number, size, or location of the residences that may be built on the property, or that restrict the number of persons or families who may reside on the property, if an approved restrictive covenant affordable housing modification document has been recorded in the public record, as specified. (Civ. Code § 714.6(a).)
- 2) Authorizes the owner of an affordable housing development to modify or remove a covenant restricting the number or size of the residences that may be built on a property or the number of persons who may reside on the property to the extent necessary to allow the affordable housing development to proceed, by submitting a restrictive covenant modification document to the county recorder. (Civ. Code § 714.6(b)(1).)
- 3) Outlines the process for obtaining a modified covenant, in which the county counsel reviews for eligibility the covenant modification document submitted by the owner, and approves if eligible. Requires the county recorder to submit the modification document and accompanying documentation received with the application to the County Counsel within five business days of when the county recorder received them. Requires the County Counsel to determine within 15 days whether the restrictive covenant restricts the property by residences or residents as specified in (1), whether the owner has shown that they qualify as an affordable housing developer, whether any required notice has been provided, whether an exemption applies to the restrictive covenant, and whether the restrictive covenant may no longer be enforced against the owner applicant. (Civ. Code § 714.6(b)(2).)
- 4) Permits an owner who requested a restrictive covenant modification, upon notification that the county counsel has approved the modification document, to mail by certified mail the modification document, a copy of this section, and a written explanation of the modification and that it was approved to anyone who the owner knows has an interest in the property or the restrictive covenant, or to publish a notice of the approved modification, as specified. Specifies that notice shall be deemed to have been given if the notice is actually received by the interested party or is mailed as specified, or in the case of a published notice, to anyone whose

interest does not appear of record or for whom no mailing address is available or reasonably ascertainable. (Civ. Code § 714.6(b)(2)(D).)

- 5) Specifies that a county will not incur any liability for recording a covenant modification document that is not authorized by this section, and that liability for an unauthorized recording should be the sole responsibility of the owner that caused the unauthorized recordation. (Civ. Code § 714.6(b)(3).)
- 6) Provides that a restrictive covenant invalidated under this section will be enforceable if the property in question is utilized in a manner that violates the terms relating to affordable housing. (Civ. Code § 714.6(b)(4).)
- 7) Provides a process through which a city or county may provide notice of a violation of the terms of this section relating to affordable housing when an owner who obtained a covenant modification under this section fails to utilize the property for affordable housing. (Civ. Code § 714.6(b)(5).)
- 8) Specifies that this section only applies to restrictive covenants that restrict the number, size, or location of the residences that may be built on a property or that restrict the number of persons or families who may reside on the property, and does not apply to any other covenant, including covenants that related to purely aesthetic objective design standards, provide for fees or assessments for the maintenance of common areas, or that provide for limits on the amount of rent. (Civ. Code § 714.6(c).)
- 9) Requires any party that is deemed to have been given notice that wishes to file a suit challenging the validity of the restrictive covenant modification document to file the suit within 35 days of receiving notice. (Civ. Code § 714.6(d)(1).)
- 10) Provides that, in any suit to enforce the rights provided by this section or to defend against any suit filed against those rights, a prevailing owner will be entitled to recover litigation costs and reasonable attorney's fees. (Civ. Code § 714.6(d)(2).)
- 11) Specifies that this section may not be interpreted to authorize any development that is not otherwise consistent with the local general plan, zoning ordinances, or any applicable specific plan that applies to the housing development, including any requirements regarding the number or size of residential units or any applicable zoning restriction. Specifies that this section does not invalidate local building codes or other rules regulating the number of persons who may reside in a dwelling or the size of a dwelling, provided that such restrictions are otherwise compliant with applicable laws. Specifies that this section does not prevent an affordable housing development from receiving any bonus or incentive pursuant to a specified statute or any related local ordinance. (Civ. Code § 714.6(f).)

- 12) Exempts the following from the prohibition on restrictive covenants related to affordable housing:
  - a) specified conservation easements; and
  - b) any interest in land comparable to a conservation easement that is held by any political subdivision and recorded in the office of the county recorder of the county where the land is situated. (Civ. Code § 714.6(g).)
- 13) Defines, for the purposes of the section above, the following terms:
  - a) “affordable housing development” to mean a development located on the property subject to the restrictive covenant that either:
    - i. is subject to a recorded affordability restriction requiring 100% of units to be made affordable units rented by low income households for 55 years, as specified; or
    - ii. is owned or controlled by an individual or entity that has submitted a permit or application to develop a project that complies with (i), above.
  - b) “restrictive covenant” to mean any recorded covenant, condition, restriction, or limit on the use of private or publicly owned land contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest that restricts the number, size, or location of residences that may be built on the property, or that restricts the number of persons or families who may reside on the property. (Civ. Code § 714.6(j).)
- 14) Authorizes the appointment of a county counsel by a county board of supervisors and vests the county counsel with the duties of a public prosecutor. (Gov. Code §§ 27640 et seq.)
- 15) Authorizes a county counsel to represent and advise the officers and employees of special districts organized within the county and shall have exclusive charge and control of all civil actions and proceedings in which special districts, their officers or employees are concerned or are parties, as specified. (Gov. Code § 27645.)
- 16) Provides that specified notices must be published, as specified, in a newspaper of general circulation for the period prescribed, the number of times, and in the manner provided. (Gov. Code § 6060.)

This bill includes a property that is located within a county that has experienced a major wildfire disaster occurring in January 2025 in the definition of a “housing development” that is subject to a restrictive covenant, so that such properties may qualify for the process for obtaining a restrictive covenant modification document described in the existing law, above.

## COMMENTS

### 1. Author's statement

According to the author:

California, like most of the nation, is facing an unprecedented housing crisis, the result of decades of underproduction, exclusionary zoning, density restrictions, and the like. In March of 2022, the state Department of Housing and Community Development (HCD) estimated that, to keep up with Demand, California must plan for the development of more than 2.5 million homes over the next eight years. The recent Palisades and Eaton Fires have only exacerbated an already-strained housing crisis, burning an estimated 16,000 homes across 60 square miles, making the fires the costliest disasters in US history, and displacing tens of thousands of residents. The pace of rebuild efforts and housing recovery following a wildfire is impacted by several factors, including the debris-removal process, ability to expedite, local permits, local zoning laws, and land-use covenants.

This measure builds upon the successful process established by AB 721 (Bloom, 2021) to eliminate covenants that stand in the way of developing and rebuilding in wildfire-impacted regions. AB 1385 provides a mechanism to modify the effect of the covenants to allow the parcel otherwise constrained by the covenant to be used for housing, while maintaining local control and input.

### 2. The Los Angeles wildfires were some of the most destructive in the state's history

In early January 2025, extremely dry conditions and high winds in Los Angeles resulted in two of the most destructive wildfires in state history. The Palisades fire, which started on January 7th, burned a total of 23,448 acres and damaged or destroyed almost 8,000 structures in the Pacific Palisades and Topanga State Park area of west Los Angeles.<sup>1</sup> That same day, another major fire also broke out in the greater Los Angeles area: the Eaton fire. The Eaton fire consumed 14,021 acres and damaged or destroyed more than 10,000 structures, including significant portions of the city of Altadena.<sup>2</sup> About half of all properties in the Pacific Palisades and Altadena were destroyed by the Palisades and Eaton fires, and both fires together tragically took the lives of 29 civilians and injured a dozen firefighters. Real estate losses have been estimated to be as high as \$30 billion, and just under 13,000 households were displaced by both fires.<sup>3</sup> An

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<sup>1</sup> CalFire, "Palisades Fire," (3/27/2025) <https://www.fire.ca.gov/incidents/2025/1/7/palisades-fire>.

<sup>2</sup> CalFire, "Eaton Fire," (3/04/2025) <https://www.fire.ca.gov/incidents/2025/1/7/eaton-fire>.

<sup>3</sup> Doug Smith and Sandhya Kambhampati, "Real Estate losses from fires may top \$30 billion, from old mobile homes to \$23-million mansions," Los Angeles Times (Feb. 21, 2025) <https://www.latimes.com/california/story/2025-02-21/real-estate-losses-from-palisades-and-eaton-fires-top-30->

estimated 9,592 single family homes and condominiums, 678 apartment units, 2,210 duplex and bungalow courts, and 373 mobilehomes were either heavily damaged or destroyed. Additionally, records show that about 770 rent-controlled units were destroyed in the Pacific Palisades. All told, the January wildfires in Los Angeles were some of the most tragic and destructive wildfires in state history. This destruction displaced thousands of residents, and in doing so, exacerbated the already severe housing crisis in Southern California.

### 3. Restrictive covenants and their discriminatory history

California property law enables the owner of property, upon subdivision or development of the land, to place covenants, restrictions, or other limitations on how the subdivided land may be used. Restrictive covenants can require any development on the property to follow certain architectural styles, limit the types of uses or development on the property, or even limit the number of people who may reside on the property. The primary purpose of such restrictions is to provide assurance to property owners that the surrounding properties will not develop in ways that they do not expect and do not want. Thus, a covenant is essentially an agreement of the property owner or purchaser not to use their property, or only to use their property, in certain ways, to the benefit of an adjacent or surrounding property. Because such covenants are considered to “run with the land,” they remain on the property’s title even after the original owner sells the land. These restrictions can then be enforced through legal action by any of the other owners of the subdivided property who have an interest in compliance with the covenant.

Historically, restrictive covenants have been used in California and throughout the nation to exclude and discriminate against minorities. In the most explicit examples, covenants prohibited non-white owners from purchasing or owning a property throughout entire neighborhoods. Such racially-restrictive covenants were promoted and encouraged by the Federal government through the process of “red-lining” sections of cities as too risky for underwriting mortgage guarantees and by giving higher loan scores to properties that included racially-restrictive covenants.<sup>4</sup> These practices confined persons of color to poorer neighborhoods and denied them the ability to purchase property and accrue wealth.

The United States Supreme Court eventually ruled that such covenants were unenforceable as they violated the Equal Protection Clause of the Fourteenth Amendment. (*Shelley v. Kramer* (1948) 334 U.S. 1.). Yet these covenants still exist in many housing deeds, even though they are unenforceable. Recognizing this, a process was

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[billion#:~:text=Los%20Angeles%20Housing%20Department%20records,the%20city's%20rent%20stabilization%20ordinance.](#)

<sup>4</sup> Farrell Evans, “How Neighborhoods Used Restrictive Housing Covenants to Block Nonwhite Families,” History (Dec. 15, 2022), available at <https://www.history.com/news/racially-restrictive-housing-covenants>

created in state law through which a property owner can remove a discriminatory covenant from the title of their land. (Gov. Code § 12956.2.) In 2021, the Legislature also enacted AB 1466 (McCarty, Ch. 359, Stats. 2021) to require every county recorder to establish a program to assist in identifying and removing racially-restrictive covenants from the deeds of property in their records.

However, as racially-restrictive covenants were banned, developers and neighborhood associations found other ways to subvert the *Shelley* ruling. Many developers and homeowners associations began adopting covenants that restricted the number or size of the residences that may be built on a property, or that restricted the number of persons who may reside on the property. Although race-neutral on their face, these covenants had the practical effect of maintaining white, single-family neighborhoods in California's affluent suburban communities. These covenants are still enforceable, and prior to the passage of AB 721 (Bloom, Ch. 349, Stats. 2021), were able to be used to block affordable housing developments that otherwise had been approved by the city.

4. The Legislature passed AB 721 (Bloom, Ch. 349, Stats. 2021) to remove restrictive covenants that were an impediment to affordable housing

To combat the negative effects that covenants restricting residential density have on the production of affordable housing and how these restrictions also lead to housing segregation, the Legislature passed AB 721 in 2021. Under the bill, any covenants, conditions, restrictions, or private limits on private or publicly-owned land that restricts the number or size of the residences that may be built on the property, or that restricts the number of persons who may reside on the property, would be unenforceable as against a property owner developing the land for housing composed exclusively of affordable units. To facilitate that end, the bill allows an affordable housing developer to request the county recorder remove the covenant from the property deed, using much the same process that property owners can currently use to remove discriminatory restrictive covenants.

To have the restrictive covenant removed and deemed unenforceable, an owner of an affordable housing project must submit a covenant modification document to the county recorder in much the same way that covenant modification documents must be submitted to remove racially-restrictive covenants. The county recorder then has five business days to submit the documentation and modification document to the county counsel for review. The county counsel is required to determine if the request for modification meets the requirements under AB 721 to have the covenant removed within 15 business days of receiving the documents from the county recorder. Through that process, AB 721 vested authority in the county counsel to determine if the request for modification qualifies under the provisions of the statute.

AB 721 included a number of other important provisions intended to ensure that property owners who obtained a restrictive covenant affordable housing modification

document used the property for the required purpose. Those provisions specified that a restrictive covenant invalidated by a restrictive covenant affordable housing modification document would be enforceable if the property is used in a way that violates the bill's requirements for affordable housing development. (Civ. Code § 714.6(b)(4).) AB 721 also provided a process through which a city or county may provide notice of a violation relating to the affordable housing requirement when an owner who obtained a covenant modification fails to utilize the property for affordable housing. (Civ. Code § 714.6(b)(5).) That provision allows the property owner to have such a notice rescinded if they come into compliance with the affordability restrictions.

The AB 721 process was most recently amended by AB 911 (Schiavo, Ch. 750, Stats. 2023), which placed limits on when an interested party may sue to challenge a restrictive covenant modification and permitted for the AB 721 process to take place before an affordable housing developer has finalized a purchase of the restricted property.

5. AB 1385 proposes to allow properties affected by the LA wildfires to utilize the AB 721 process

Given the amount of destruction caused by the Eaton and Palisades fires, a significant amount of rebuilding will be required over the coming months and years. AB 1385 aims to better facilitate the construction of housing on properties in counties affected by the LA wildfires by allowing properties located in a county which has experienced a major wildfire disaster that occurred in January 2025 to utilize the AB 721 process to remove restrictive covenants that limit the number, size, or location of residences on the property or the number of persons or families residing on the property. For such properties, if the owner wishes to build housing upon the property that would be larger or more dense than is permitted by restrictive covenant on the property, regardless of whether the housing would be affordable, the owner could use the AB 721 process to remove the covenant and continue with construction.

The number of properties to which AB 1385 could apply is significant. It is not premised on the property itself being affected by the wildfires, only that it be located in a county that experienced a major wildfire disaster in January 2025. The Palisades and Eaton fires both took place in Los Angeles county, a county of about 4,000 square miles with a population of nearly 10 million people. AB 1385 would apply to every property in the county on which a restrictive covenant exists limiting the size or density of housing. Yet AB 1385 could apply to more than just Los Angeles county, as there were numerous other wildfires that occurred during January 2025 throughout the state. For example, the Kenneth fire that began on January 9<sup>th</sup> affected both Los Angeles and Ventura counties, and the Border 2 fire that began on January 23<sup>rd</sup> burned in San Diego county.<sup>5</sup> Many other smaller wildfires cropped up throughout the state, though it is unclear if

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<sup>5</sup> See 2025 Incident Archive, CalFire (accessed Jun. 16, 2025), <https://www.fire.ca.gov/incidents/2025>.



such fires would be considered a “major” wildfire for the purposes of AB 1385’s provisions. Nonetheless, the number of properties to which AB 1385’s provisions could apply are significant, though in a region as impacted for housing as Los Angeles, this broad applicability may allow generally for greater housing construction in the entire region.

The development of more housing is critical to the state, and the Los Angeles area, resolving its housing crisis. The Legislature has enacted a plethora of laws in the last few years to encourage and streamline the construction of new housing, and AB 1385 would be another such law, one that is focused on areas hit by the January 2025 wildfires. Yet on the other side of the restrictive covenants affected by AB 1385 are potentially parties with an interest in the enforcement and compliance with that covenant. When the covenant was created, there were specific reasons to create the restrictive covenant for the benefit of the surrounding property or properties. While the reasons for the restriction may no longer be present, in some instances, another party may still believe they stand to benefit from the restriction, and would prefer that the restrictive covenant not be removed. AB 1385 does not change the process by which an interested party may contest the validity of the restrictive covenant modification. If they received notice of the modification, an interested party would have 35 days to challenge the restrictive covenant modification, pursuant to the provisions put in place in 2023 by AB 911. Yet they would only be able to challenge the validity of the restrictive covenant modification document; if the interested party simply wanted the restrictive covenant to remain, they would not be able to make that claim if the restrictive covenant modification was otherwise valid. Thus, AB 1385, like AB 721, can impair a party’s interests. Nevertheless, this impairment would be to serve an important state interest: the promotion of the development of more housing.

#### 6. Amendments

The author has agreed to amendments that will clarify that the qualifying properties are those in counties subject to the state of emergency declared by the Governor on January 7, 2025. A complete mock-up of the amendments are attached at the end of this analysis.

#### SUPPORT

None received

#### OPPOSITION

None received

### **RELATED LEGISLATION**

#### **Pending Legislation:**

SB 625 (Wahab, 2025) makes a covenant, restriction, or condition in any deed or other instrument or governing document of a common interest development void and unenforceable to the extent that it prohibits a substantially similar reconstruction of a residential structure destroyed by a disaster, as specified, and specifies the process for requests to modify a separate interest to be approved, as specified. SB 625 is currently pending before the Assembly Housing and Community Development Committee.

SB 610 (Wahab, 2025) makes various changes to landlord-tenant law, the Mobilehome Residency Law regarding mobilehome parks, and to the Subdivision Map Act to provide additional protections to tenants and mobilehome owners during or related to disasters, including by providing mobilehome owners a right to return to the mobilehome park after a disaster. SB 610 is currently pending before the Assembly Housing and Community Development Committee.

AB 1050 (Schultz, 2025) permits owners of commercial properties who wish to redevelop the property to include residential units to utilize an existing legal process to remove restrictive covenants on the property that limit the number, size, or location of residences on the property or the number of persons or families who may reside on the property. AB 1050 is currently pending before this Committee.

AB 311 (McKinnor, 2025) authorizes a tenant to temporarily permit a person at risk of homelessness to reside in their unit, regardless of the terms of the tenant's lease, and includes in the definition of a person at risk of homelessness a person who is displaced as a result of a disaster in an area in which a state of emergency has been declared. AB 311 is currently pending before this Committee.

#### **Prior Legislation:**

AB 911 (Schiavo, Ch. 750, Stats. 2023) amended the AB 721 process by creating an optional notice process whereby a property purchaser can provide notice to interested parties that they intend to remove the covenant, by creating a 35 day timeline for parties that received notice to file a lawsuit objecting to the covenant's elimination upon the providing of such notice, and by clarifying that affordable housing developers may request the covenant be removed before they have finalized a purchase of the property in question.

AB 721 (Bloom, Ch. 349, Stats. 2021) made any recorded covenants, conditions, restrictions, or limits on the use of private or publicly owned land contained in any deed, contract, security instrument, or other instrument affecting the sale that restricts the number, size, or location of residences on the property or the number of persons or

families who may reside on the property unenforceable against the owner of an affordable housing development if an approved restrictive covenant affordable housing modification document has been recorded, and creates a process by which such a restrictive covenant affordable housing modification document may be approved by the county counsel and recorded.

AB 1466 (McCarty, Ch. 359, Stats. 2021) required the county recorder of each county to establish a restrictive covenant program to assist in the identification and redaction of unlawfully restrictive covenants, and made other changes regarding the modification of unlawful restrictive covenants.

**PRIOR VOTES:**

Assembly Floor (Ayes 63, Noes 10)

Assembly Appropriations Committee (Ayes 11, Noes 3)

Assembly Judiciary Committee (Ayes 10, Noes 2)

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**Amended Mock-up Amendments for AB-1385 (Petrie-Norris (A))**  
*(Amendments may be subject to technical changes by Legislative Counsel)*

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 714.6 of the Civil Code is amended to read:

**714.6.** (a) Recorded covenants, conditions, restrictions, or private limits on the use of private or publicly owned land contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in real property that restrict the number, size, or location of the residences that may be built on the property, or that restrict the number of persons or families who may reside on the property, shall not be enforceable against the owner of a housing development, if an approved restrictive covenant housing modification document has been recorded in the public record as provided for in this section, except as explicitly provided in this section.

(b) (1) The owner of a housing development shall be entitled to establish that an existing restrictive covenant is unenforceable under subdivision (a) by submitting a restrictive covenant modification document pursuant to Section 12956.2 of the Government Code that modifies or removes any existing restrictive covenant language that restricts the number, size, or location of the residences that may be built on the property, or that restricts the number of persons or families that may reside on the property, to the extent necessary to allow the housing development to proceed under the existing declaration of restrictive covenants.

(2) (A) The owner shall submit to the county recorder a copy of the original restrictive covenant, a copy of any notice the owner believes is required pursuant to paragraph (3) of subdivision (g), and any documents the owner believes necessary to establish that the property qualifies as a housing development under this section prior to, or simultaneously with, the submission of the request for recordation of the restrictive covenant modification document.

(B) Before recording the restrictive covenant modification document, pursuant to subdivision (b) of Section 12956.2 of the Government Code, the county recorder shall, within five business days of receipt, submit the documentation provided to the county recorder by the owner pursuant to subparagraph (A) and the modification document to the county counsel for review. The county counsel shall determine whether the original restrictive covenant document restricts the property in a manner prohibited by subdivision (a), whether the owner has submitted documents sufficient to establish that the property qualifies as an a housing development under this section, whether any notice required under this section has been provided, whether any exemption provided in subdivision (g) or (h) applies, and whether the restriction may no longer be enforced

against the owner of the housing development and that the owner may record a modification document pursuant to this section.

(C) Pursuant to Section 12956.2 of the Government Code, the county counsel shall return the documents and inform the county recorder of the county counsel's determination within 15 days of submission to the county counsel. If the county counsel is unable to make a determination, the county counsel shall specify the documentation that is needed in order to make the determination. If the county counsel has authorized the county recorder to record the modification document, that authorization shall be noted on the face of the modification or on a cover sheet affixed thereto, and the county recorder shall notify the owner or submitting party of the county counsel's determination without delay so that the notice described in subparagraph (D) may be given.

(D) Upon being notified that the county counsel has authorized the county recorder to record the modification document, the owner may mail, by certified mail to anyone who the owner knows has an interest in the property or in the restrictive covenant, a copy of the modification document, together with a copy of this section and a written explanation that the modification has been applied for and approved for recordation by the county counsel pursuant to this section. That notice shall be deemed given if the notice is actually received by the intended recipient or if the notice is mailed by certified mail both to an address for notice indicated in the restrictive covenant, if any, and to the intended recipient's address as shown in the last equalized assessment roll, if that address reasonably can be ascertained from the assessment roll. The owner may also publish notice pursuant to Section 6061 of the Government Code identifying that a modification document pursuant to this section has been submitted to the county recorder and approved for recordation by the county counsel, and that the modification document is available for public inspection in the office of the county recorder. The notice shall also identify the property by assessor's parcel number and mailing address. If no mailing address has been assigned for the property, then the property shall be identified instead by its nearest intersection. If the owner elects to publish notice in this manner, then notice shall be deemed given to anyone whose interest does not appear of record or for whom an address for notice does not appear of record and cannot reasonably be ascertained from the assessment roll. Notice as described in this subparagraph is optional, and failure to provide it shall not, in any manner, invalidate a restrictive covenant modification document recorded pursuant to this section.

(E) The county recorder shall not record the modification document if the county counsel finds that the original restrictive covenant document does not contain a restriction prohibited by this section or if the county counsel finds that the property does not qualify as a housing development. If the owner of the property is not yet its record title owner, but is instead a beneficial owner with a right pursuant to a purchase and sale or similar agreement to purchase the property, then the owner shall not record

the modification document until the owner closes escrow on the property and becomes its record title owner.

(F) A modification document shall be indexed in the same manner as the original restrictive covenant document being modified. It shall contain a recording reference to the original restrictive covenant document, in the form of a book and page or instrument number, and date of the recording. The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original restrictive covenant document, subject to any intervening amendments or modifications, except to the extent modified by the recorded modification document.

(3) If the holder of an ownership interest of record in property causes to be recorded a modification document pursuant to this section that modifies or removes a restrictive covenant that is not authorized by this section, the county shall not incur liability for recording the document. The liability that may result from the unauthorized recordation shall be the sole responsibility of the holder of the ownership interest of record who caused the unauthorized recordation.

(4) A restrictive covenant that was originally invalidated by this section shall become and remain enforceable while the property subject to the restrictive covenant modification is utilized in any manner that violates the terms of the restrictions required by this section.

(5) If the property is utilized in any manner that violates the terms of the restrictions required by this section, the city or county may, after notice and an opportunity to be heard, record a notice of that violation. If the owner complies with the applicable restrictions, the owner may apply to the agency of the city or county that recorded the notice of violation for a release of the notice of violation, and if approved by the city or county, a release of the notice of violation may be recorded.

(6) The county recorder may charge a standard recording fee to an owner who submits a modification document for recordation pursuant to this section.

(c) (1) Subject to paragraph (2), this section shall only apply to restrictive covenants that restrict the number, size, or location of the residences that may be built on a property or that restrict the number of persons or families who may reside on a property. This section does not apply to any other covenant, including, but not limited to, covenants that:

(A) Relate to purely aesthetic objective design standards, as long as the objective design standards are not applied in a manner that renders the housing development infeasible.

(B) Provide for fees or assessments for the maintenance of common areas.

(C) Provide for limits on the amount of rent that may be charged to tenants.

(2) Paragraph (1) shall not apply to restrictive covenants, fees, and assessments that have not been consistently enforced or assessed prior to the construction of the housing development.

(d) (1) Any suit filed by a party that is deemed to have been given notice as described in subparagraph (D) of paragraph (2) of subdivision (b), which challenges the validity of a restrictive covenant modification document pursuant to this section, shall be filed within 35 days of that notice.

(2) In any suit filed to enforce the rights provided in this section or defend against a suit filed against them, a prevailing owner of a housing development, and any successors or assigns, or a holder of a conservation easement, shall be entitled to recover, as part of any judgment, litigation costs and reasonable attorney's fees, provided that any judgment entered shall be limited to those costs incurred after the modification document was recorded as provided by subdivision (b).

(3) This subdivision shall not prevent the court from awarding any prevailing party litigation costs and reasonable attorney's fees otherwise authorized by applicable law, including, but not limited to, subdivision (d) of Section 815.7 of the Civil Code.

(e) This section shall not be interpreted to modify, weaken, or invalidate existing laws protecting affordable and fair housing and prohibiting unlawful discrimination in the provision of housing, including, but not limited to, prohibitions on discrimination in, or resulting from, the enforcement of restrictive covenants.

(f) (1) Provided that the restrictions are otherwise compliant with all applicable laws, this section does not invalidate local building codes or other rules regulating either of the following:

(A) The number of persons who may reside in a dwelling.

(B) The size of a dwelling.

(2) This section shall not be interpreted to authorize any development that is not otherwise consistent with the local general plan, zoning ordinances, and any applicable specific plan that apply to the housing development, including any requirements regarding the number of residential units, the size of residential units, and any other zoning restriction relevant to the housing development.

(3) This section does not prevent a housing development from receiving any bonus or incentive pursuant to any statute listed in Section 65582.1 of the Government Code or any related local ordinance.

(g) (1) Subject to paragraph (2), this section does not apply to:

(A) Any conservation easement, as defined in Section 815.1, that is recorded as required by Section 815.5, and held by any of the entities or organizations set forth in Section 815.3.

(B) Any interest in land comparable to a conservation easement that is held by any political subdivision and recorded in the office of the county recorder of the county where the land is situated.

(2) The exclusion from this section of conservation easements held by tax-exempt nonprofit organizations, as provided in subparagraph (A) of paragraph (1), applies only if the conservation easement satisfies one or more of the following:

(A) It was recorded in the office of the county recorder where the property is located before January 1, 2022.

(B) It is, as of the date of recordation of the conservation easement, held by a land trust or other entity that is accredited by the Land Trust Accreditation Commission, or any successor organization, or is a member of the California Council of Land Trusts, or any successor organization, and notice of that ownership is provided in the text of the recorded conservation easement document, or if that notice is not provided in the text of the recorded conservation easement document, the land trust or other entity provides documentation of that accreditation or membership within 30 days of receipt of either of the following:

(i) A written request for that documentation.

(ii) Any written notice of the intended modification of the conservation easement provided pursuant to paragraph (3).

(C) It was funded in whole or in part by a local, state, federal, or tribal government or was required by a local, state, federal, or tribal government as mitigation for, or as a condition of approval of, a project, and notice of that funding or mitigation requirement is provided in the text of the recorded conservation easement document.

(D) It is held by a land trust or other entity whose purpose is to conserve or protect indigenous cultural resources, and that purpose of the land trust or other entity is provided in the text of the recorded conservation easement document.

(E) It, as of the date of recordation of the conservation easement, burdens property that is located entirely outside the boundaries of any urbanized area or urban cluster, as designated by the United States Census Bureau.



(3) (A) At least 60 days before submission of a modification document modifying a conservation easement to a county recorder pursuant to subdivision (b), the owner of a housing development shall provide written notice of the intended modification of any conservation easement to the parties to that conservation easement and any third-party beneficiaries or other entities that are entitled to receive notice of changes to or termination of the conservation easement with the notice being sent to the notice address of those parties as specified in the recorded conservation easement. The notice shall include a return mailing address of the owner of the housing development, the approximate number, size, and location of intended structures to be built on the property for the purposes of housing, and a copy of the intended modification document, and shall specify that it is being provided pursuant to this section.

(B) The county recorder shall not record any restrictive covenant modification document unless the county recorder has received confirmation from the county counsel that any notice required pursuant to subparagraph (A) was provided in accordance with subparagraph (A).

(h) This section shall not apply to any settlement, conservation agreement, or conservation easement, notice of which has been recorded, for which either of the following apply:

(1) It was entered into before January 1, 2022, and limits the density of or precludes development in order to mitigate for the environmental impacts of a proposed project or to resolve a dispute about the level of permitted development on the property.

(2) It was entered into after January 1, 2022, and limits the density of or precludes development where the settlement is approved by a court of competent jurisdiction and the court finds that the density limitation is for the express purpose of protecting the natural resource or open-space value of the property.

(i) The provisions of this section shall not apply to any recorded deed restriction, public access easement, or other similar covenant that was required by a state agency for the purpose of compliance with a state or federal law, provided that the recorded deed restriction, public access easement, or similar covenant contains notice within the recorded document, inclusive of its recorded exhibits, that it was recorded to satisfy a state agency requirement.

(j) For purposes of this section:

(1) (A) "Housing development" means a development located on the property that is the subject of the recorded restrictive covenant and that meets one of the following requirements:

(i) The property is subject to a recorded affordability restriction requiring 100 percent of the units, exclusive of a manager's unit or units, be made available at affordable rent to, and be occupied by, lower income households for 55 years for rental housing, unless a local ordinance or the terms of a federal, state, or local grant, tax credit, or other project financing requires, as a condition of the development of residential units, that the development include a certain percentage of units that are affordable to, and occupied by, low-income, lower income, very low income, or extremely low income households for a term that exceeds 55 years for rental housing units.

(ii) The property is owned or controlled by an entity or individual that has submitted a permit application to the relevant jurisdiction to develop a project that complies with clause (i).

(iii) The property is located within a county *subject to the state of emergency declared by the Governor on January 7, 2025 related to the Palisades Fire and windstorm conditions.* ~~which has experienced a major wildfire disaster occurring in January 2025.~~

(B) For purposes of subparagraph (A):

(i) "Controlled" includes, without limitation, the right to acquire the property under an option agreement, purchase and sale agreement, or similar agreement.

(ii) "Permit application" includes, without limitation, a building permit application, an application pursuant to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, including a preliminary application pursuant to Section 65941.1 of the Government Code, an application for a zoning or general plan amendment, an application for a specific plan or amendment to a specific plan, a notice of intent or an application for development pursuant to Section 65913.4 of the Government Code, or an application for development pursuant to Section 65912.110 of the Government Code.

(2) "Affordable rent" shall have the same meaning as defined in Section 50053 of the Health and Safety Code.

(3) "Lower income households" shall have the same meaning as defined in Section 50079.5 of the Health and Safety Code.

(4) "Modification document" means a restrictive covenant modification document described in paragraph (1) of subdivision (b).

(5) "Owner" means any record title owner of the property, any beneficial owner of the property, or an entity or individual controlling the property for purposes of clause (ii) of subparagraph (A) of paragraph (1).

(6) "Restrictive covenant" means any recorded covenant, condition, restriction, or limit on the use of private or publicly owned land contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest that restricts the number, size, or location of the residences that may be built on the property or that restricts the number of persons or families who may reside on the property, as described in subdivision (a).

SEC. 2.

**SEC. 2.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.