

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

AB 1050 (Schultz)  
Version: March 27, 2025  
Hearing Date: July 1, 2025  
Fiscal: Yes  
Urgency: No  
ID

**SUBJECT**

Unlawfully restrictive covenants: housing developments: reciprocal easement agreements

**DIGEST**

This bill 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.

**EXECUTIVE SUMMARY**

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 place a variety of restrictions on properties, including by limiting 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 affordable housing. Thus, in 2021, the Legislature passed AB 721 to allow for the removal of these restrictive covenants for affordable housing projects. Similar restrictive covenants are often contained in restrictive easement agreements made on commercial properties that hinder the ability of owners to redevelop these commercial properties into developments that include residential units. AB 1050 builds upon AB 721’s process to permit the removal of restrictive covenants that restrict the size and density of residential property on commercial property when the owner plans to redevelop the property to include residential units.

AB 1050 is author-sponsored and supported by the Lieutenant Governor Eleni Kounalakis, the California Apartment Association, and a number of other pro-housing organizations. The Committee has received no timely letters of opposition. Should this

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 document 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 modification and if it was approved to anyone who the owner knows has an interest in the property or the restrictive covenant, or may publish a notice of the approved modification. Specifies that notice shall be deemed to have been given if the notice is actually received by the interested party or is mailed to them 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 or 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:

- 1) Includes recorded covenants, conditions, restrictions, or private limits on the use of private or publicly owned land contained in a reciprocal easement agreement that restrict the number, size, or location of residences that may be built on the property, or that limit the number of persons or families who may reside on the property, in the prohibition on enforcement against the owner of a housing development if an approved restrictive covenant housing modification document has been recorded.

- 2) Specifies that Civil Code Section 714.6 may not be interpreted to authorize any development that is not otherwise consistent with state housing laws, including any requirements regarding the number or size of residential units or any applicable zoning restriction.
- 3) Replaces “affordable housing development” with “housing development,” and includes in its definition a property owned or controlled by an entity or individual that has submitted a development project application to redevelop an existing commercial property that includes residential uses permitted by state housing laws or local land use and zoning regulations.
- 4) Amends the definition of “restrictive covenant” to include any recorded covenant, condition, restriction, or limit on the use of private or publicly owned land contained in a reciprocal easement agreement, and to specify that a restrictive covenant does not include an easement set forth in a reciprocal easement agreement or other recorded instrument.

### COMMENTS

#### 1. Author’s statement

According to the author:

The COVID-19 pandemic, along with inflation, have hastened changes in the economy and consumer preferences, prompting the closure of commercial spaces in recent years, all while Californians struggle to find housing. With a shortfall of available homes, we must take necessary measures to remove roadblocks to promote the development of mixed-use and mixed-income housing.

The redevelopment and revitalization of existing shopping centers is a key priority for local governments and helps facilitate their economic development programs. AB 1050 will allow proposed mixed-use developments to provide notice to interested parties of the intent to remove a reciprocal easement agreement and proceed to redevelop the property without exposure to litigation at a later date. Importantly, this bill does not alter state housing laws related to project approvals, nor does it change local zoning ordinances or the entitlement process.

#### 2. 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 that any development on the property 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 to only 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, and sometimes last in perpetuity. These restrictions can then be enforced through legal action by any of the other owners of the subdivided property who have an interest in the 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 giving higher loan scores to properties that included racially-restrictive covenants.<sup>1</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 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 created in state law through which a property owner can remove a discriminatory covenant from the title of their land. (Gov. Code § 12956.2.) Most recently, the Legislature 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 an affordable housing development that otherwise had been approved by the city.

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<sup>1</sup> Farrell Evans, “How Neighborhoods Used Restrictive Housing Covenants to Block Nonwhite Families,” History (Dec. 15, 2022), <https://www.history.com/news/racially-restrictive-housing-covenants> (accessed on Jun. 25, 2025).

3. Restrictive covenants have posed an impediment to affordable housing development

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.

4. AB 1050 proposes to allow the AB 721 process for removing restrictive covenants to commercial properties

However, neither AB 721 nor AB 911 addressed covenants related to commercial real property. According to the author, the redevelopment and revitalization of existing shopping centers into mixed-use spaces and housing is a key priority for local governments and for tackling the state's housing crisis. Yet these commercial properties often include reciprocal easement agreements (REAs), which are agreements often created when a property is owned by more than one entity and the owners wish to develop the property into a shopping center. The REA outlines the rights, obligations, and limitations of the parties, and can outline how shared areas will be used, accessed, and maintained. They also can specify how the property can or cannot be developed. These rules help ensure the coordinated development and operation of the property, and that all owners have the appropriate use and access to the property for their business. REAs also often contain provisions regarding how and when the agreement may be changed or terminated.

However, according to the author, these REAs pose roadblocks to the development of housing on distressed commercial properties because of the limitations they include and the exposure to litigation that they pose to a developer looking to redevelop the property. To address this issue, AB 1050 would allow a property owner of commercial property wishing to build housing to utilize the AB 721 process to remove an REA that restricts the number or size of residences or the number of persons residing on the property. By doing so, AB 1050 would allow a property owner to redevelop the commercial property into one that includes residential uses, without the risk of litigation for doing so against the restrictions of the REA.

AB 1050 would not invalidate or change state housing laws or a city or county's general plan or zoning ordinances, so any redevelopment utilizing AB 1050's toll would still need to be compliant with all applicable housing laws and local ordinances. However, AB 1050 does not require that the redevelopment be for affordable housing; any type of housing is sufficient to meet the bill's requirements and qualify to have the restrictive covenant in the REA deemed unenforceable.

The development of more housing is critical to the state 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 1050 would be another such law. Yet on the other side of the restrictive covenants affected by AB 1050 are potentially parties with an interest in the enforcement and compliance with that covenant. When the covenant was created through an REA, there were clear and important reasons for that restriction to be in place, and the parties to the REA agreed to that restriction for a mutual benefit. While the reasons for that benefit may no longer be present, in some instances, another party may still believe they stand to benefit from the restriction. In that instance, AB 1050 would permit, as did AB 721 with owners looking to build



affordable housing developments, the owner to proceed with removing the restrictive covenant over the objection of owners of neighboring property who otherwise would have the power to block it. However, AB 1050 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, they would have 35 days to contest it, pursuant to the provisions put in place by AB 911. If the restrictive covenant modification document is otherwise valid, though, the owner would be allowed to proceed with its recordation. Thus, AB 1050, like AB 721, can impair a party's rights, rights they previously believed they would have when they bought their property or entered into the REA. Nevertheless, like with AB 721, this impairment would to be serve an important state interest: the promotion of the development of housing.

#### 5. Amendments

The author has agreed to amendments that will clarify the language of the bill. A full mock-up of the amendments are attached at the end of this analysis.

### SUPPORT

Abundant Housing LA  
Bay Area Council  
California Apartment Association  
Circulate San Diego  
Fieldstead and Company, INC.  
Housing Action Coalition  
Inner City Law Center  
Institute for Responsive Government Action  
Lieutenant Governor Eleni Kounalakis  
Spur  
Zillow Group

### OPPOSITION

None received

### RELATED LEGISLATION

#### Pending Legislation:

AB 1385 (Petrie-Norris, 2025) authorizes properties located in the areas impacted by the January 2025 Los Angeles County wildfires to utilize the AB 721 process for removing restrictive covenants that block affordable housing development on the properties. This bill is currently in this Committee and is set to be heard on the same day as this bill.

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 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 unlawfully restrictive covenants.

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.

**PRIOR VOTES:**

Assembly Floor (Ayes 60, Noes 12)

Assembly Appropriations Committee (Ayes 11, Noes 2)

Assembly Judiciary Committee (Ayes 9, Noes 1)

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**Mock-up Amendments for AB-1050 (Schultz (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, reciprocal easement agreement, 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 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 council. If the county council is unable to make a determination, the county council shall specify the documentation that is needed in order to make the determination. If the county council 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 council's determination without delay so that the notice described in subparagraph (D) may be given.

(D) Upon being notified that the county council 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 council 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 council, 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 council finds that the original restrictive covenant document does not contain a restriction prohibited by this section or if the county council 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.

(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 state housing laws or 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 owned or controlled by an entity or individual that has submitted a development project application to redevelop an existing commercial property, and the development project ~~that~~ includes residential uses permitted by state housing laws or local land use and zoning regulations.

(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 subparagraph (B) 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, reciprocal easement agreement, 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). "Restrictive covenant" does not include an easement set forth in a reciprocal easement agreement or other recorded instrument.

**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.