



# Senate Bill 948, Land Use

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SB 948 (Alarcon) (Chapter 968, Statutes of 1999) contains reforms to housing element law, Anti-Nimby law, density bonus law, the Ellis Act and the Permit Streamlining Act. SB 948 does the following:

- **Longer Statute of Limitations for Pro-Housing Lawsuits:** SB 948 clarifies Government Code Section 65009(d), which gives a much longer period of time for filing lawsuits brought to enforce a locality's obligation under housing element law and other housing laws. The law typically provides 60-90 days to bring most suits against localities, but for actions brought in support of affordable housing, the action can be brought anytime after the plaintiff gives the locality 60 days notice to correct the cited deficiencies. The action can also be brought within 60 days of HCD's review of the housing element. SB 948 corrects an adverse lower court ruling that narrowly interpreted the law.

- **Anti-Nimby Law:** SB 948 makes significant changes to the state's "Anti-Nimby" law. That law narrowly limits the ability of a locality to deny or condition affordable housing proposals unless it makes specified findings.

- **Health and Safety:** SB 948 provides that localities can only use the "adverse impact on public

health and safety" excuse to deny or condition an affordable housing development if the adverse impact is a "significant, quantifiable, direct, and unavoidable impact based on objective, identified written public health or safety standards policies or conditions as they existed on the date the application was deemed complete." This narrow finding makes it difficult for localities to establish an adverse health and safety impact.

- **SB 948 also expands the law to apply to moderate income housing not just lower income housing, and limits the "overconcentration" excuse for denying or conditioning housing proposals to instances of overconcentration of "very low" income households not "low-income."**

- **SB 948 provides that localities can only use the "inconsistent with zoning" excuse for denying or conditioning housing proposals if the housing is inconsistent with both the general plan and the zoning ordinance.**

- **The bill also defines what it means to "disapprove the development project" and provides that a court shall retain jurisdiction to ensure compliance with its order and, if after 60 days, the local government has not complied with the order, SB 948 allows the court to take further action.**

- **Ellis Act:** The Ellis Act governs demolitions and conversions of housing to other uses. SB 948 expresses the intent of the Legislature to preserve local government authority over subsequent reuse or demolition of property that has been converted and provides for 120 days notice to tenants before a unit can be withdrawn from the market, except in the case of seniors, where 1 year notice is required.

- **Density Bonus Law:** SB 948 clarifies that a developer may opt to accept less than the 25% density bonus offered by the jurisdiction if he or she chooses. The bill also clarifies that localities must grant the density bonus without requiring a general plan amendment, zoning change, or other discretionary approval.

- **Permit Streamlining Act:** SB 948 reduces the amount of time a locality has to approve a lower income housing development project from 180 days to 90 days after an Environmental Impact Report, provided the locality has received notice from the applicant that it has made or will be making an application for housing funding from a public agency. This change addresses the tactic used by some localities of delaying action on an application until after funding deadlines.