



## 2021 Rings In Impactful New California Real Estate Laws and Regulations

By Procopio Real Estate Associates [Sara Neva](#) and [Pooja Pujara](#)

By any measure, 2020 was an unprecedented year. The California commercial and residential real estate landscape changed significantly with the spread of COVID-19 and the resulting economic impacts. Throughout last year our Real Estate team provided updates on the latest legal changes through laws and emergency measures in a series of articles that can be found online on the firm's [COVID-19 resources page](#).

It's important to note, however, that the sweeping changes to California real estate law set in motion in 2020 are not limited to COVID-19. We've compiled below legal summaries on more than a dozen new state laws involving tenancy, housing, zoning and planning, CEQA, and taxes.

| Bill   | Key Takeaways*   |
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| <b>Tenancy</b>   |  |
| <a href="#">AB 3088</a> . Tenant, Homeowner and Small Landlord Relief Stabilization Act. | <p>AB 3088, the Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020, which also enacts the COVID-19 Tenant Relief Act of 2020, provides statewide protections for residential tenants and property owners suffering financial hardship due to the COVID-19 pandemic. AB 3088, among other things:</p> <ul style="list-style-type: none"> <li>(1) creates a statewide residential real property eviction moratorium until October 5, 2020 by prohibiting the issuance of summonses, complaints, defaults or default judgments with respect to unlawful detainer actions on residential real property,</li> <li>(2) protects tenants from eviction due to nonpayment of rent if, on or before January 31, 2021, tenant pays 25% of rent due from September 1, 2020 to January 31, 2021 and signs a hardship declaration,</li> <li>(3) increases notice requirements for landlords to make to tenants, and</li> <li>(4) requires mortgage servicers of loans secured by residential property containing no more than four dwelling units to provide specified written notice to borrowers stating the reasons for forbearance denial if the mortgage servicer denies forbearance between March 1, 2020, and January 31, 2021 and the borrower was current on payments as of February 1, 2020, and was experiencing a financial hardship preventing the borrower from making timely payments on the mortgage obligation due to the COVID-19 pandemic.</li> </ul> <p>This bill went into effect as an urgency statute on August 31, 2020.</p> <p>For more information on AB 3088 see our overview of tenant protections under the CDC order and AB 3088 <a href="#">here</a>. [NOTE TO PATRICK: Please link Pooja's article if it is</p> |

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|   | <p>ready by the time we publish this update. If Pooja’s article is not ready, please disregard the last sentence referring to the link so we can publish this week.]</p>   |
| <p><a href="#">SB 1079</a>. Residential property: foreclosure.</p>                  | <p>Existing law provides certain requirements that must be satisfied before the exercise of a power of sale under a deed of trust. One requirement is that, if a loan is secured by real property containing 1-4 single-family residences, a notice of sale containing specific information be sent to potential bidders and to the property owner.</p> <p>SB 1079 requires that the notices of sale additionally provide tenants with notice, and that the notices specify a tenant’s right to purchase the property during foreclosure sales. The law also provides that a trustee cannot bundle properties for sale (each property must be bid on separately), unless the deed of trust provides otherwise.</p> <p>Additionally, SB 1079 provides an alternative process for trustee’s sales under a power of sale in a deed of trust on real property containing 1-4 single-family residences. The law permits “eligible bidders” to bid on foreclosed properties up to 45 days after the foreclosure sale. Eligible bidders primarily include: (A) the tenant occupying the property, (B) a prospective owner-occupant, and (C) certain non-profits.</p> <p>Currently, California law requires owners of vacant residential property purchased at a foreclosure sale under a deed of trust to maintain the property. SB 1079 increases the fine for failure to maintain the property to up to \$2,000 per day for the first 30 days, and up to \$5,000 per day after that.</p> <p>This law extends through January 1, 2026.</p> |
| <p><a href="#">SB 1190</a>. Tenancy: termination.</p>                               | <p>SB 1190 allows a tenant to terminate a tenancy without penalty if the tenant, a household member, or an immediate family member of the tenant was a victim of a crime that caused bodily injury or death, an act of domestic violence, sexual assault, stalking, human trafficking, or elder abuse. If a tenant exercises its right to terminate a tenancy, the landlord may not keep the security deposit or advance rent.</p>   |
| <p><a href="#">SB 1157</a>. Tenancy: credit reporting: lower income households.</p> | <p>Under this new law, a tenant of an assisted housing development (a multifamily rental housing development that receives governmental assistance under certain programs) can now request that the landlord report the tenant’s rental payments to the tenant’s credit agency to increase and build on credit history. The law authorizes landlords to charge tenants the lesser of \$10 per month or the actual cost to provide the reporting service. This law does not apply to landlords of assisted housing developments with 15 or fewer dwelling units.</p> <p>This law is in effect between July 1, 2021 and July 1, 2025.</p>  |
| <p><b>Housing</b></p>   |  |
| <p><a href="#">AB 3308</a>. School districts: employee housing.</p>                 | <p>In an effort to address the housing needs of teachers and school district employees, AB 3308 expands on the Teacher Housing Act of 2016. AB 3308 provides that school districts may restrict occupancy on land owned by school districts to teachers and school district employees and permits school districts and developers in receipt</p>   |

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|   | of affordable rental housing tax credits and local or state funds to prioritize and restrict occupancy on school district land to teachers and school district employees.   |
| <a href="#">AB 2405</a> . Right to safe, decent, and affordable housing.  | <p>AB 2405 requires that all relevant state agencies and departments including the Department of Housing and Community Development, the State Department of Social Services, and the Office of Emergency Services to consider the State’s housing policy (that every individual has the right to safe, decent, and affordable housing; policies including homelessness prevention, emergency accommodations, and permanent housing) when establishing or revising relevant policies, regulations and grant criteria.</p> <p>This bill becomes operative on January 1, 2026.</p>   |
| <a href="#">AB 2782</a> . Mobilehome parks: change of use: rent control.  | <p>AB 2782 requires managers of mobilehome parks to provide at least 60 days’ (rather than 15 days, as previously required) written notice that the management will be appearing before a local governmental board, commission, or body to obtain local approval for an intended change of use of the mobilehome park. This bill also requires that, when a change in use is proposed, the party proposing the change prepare a replacement and relocation plan to mitigate the impact on displaced residents. Before approving a change in use, this bill requires the legislative body or agency to make a finding as to whether approval of the mobilehome park’s conversion into a new use will result in or materially contribute to a shortage of housing opportunities for low- and moderate-income households. If a mobilehome resident is unable to find alternate housing, the party proposing the change in use must compensate the resident with the payment of "in-place market value" for the loss of the home.</p> <p>Additionally, AB 2782 eliminates the current rent control exemption from long term leases signed after February 13, 2020. Until its sunset date of January 1, 2025, this bill allows for rent control on mobilehome leases that are more than 1 year long.</p> |
| <a href="#">AB 3182</a> . Housing: governing documents rental or leasing of separate interests: accessory dwelling units. | <p>AB 3182 amends the Davis-Stirling Act to provide that an owner of a separate interest in a common interest development is not subject to a provision in a governing document that prohibits the owner’s right to rent or lease the owner’s interest to a renter, lessee, or tenant. However, the bill does not prevent an association from prohibiting short-term rentals of 30 days or less or adopting rental restrictions that limit the total number of rentals to 25% of the interests in the development. If an association has conflicting provisions in its governing documents, such documents are required to be amended no later than December 31, 2021.</p>  |
| <b>Zoning &amp; Planning</b>  |   |
| <a href="#">SB 1030</a> . Housing: housing application approvals.   | <p>Currently, a housing development project application is “deemed completed” at the time a preliminary application is submitted, and will be judged on the applicable general plan, zoning, and subdivision standards and criteria in effect on this date. The new law revises the definition of “deemed completed” to include the submission of a completed application if the applicant has not submitted a preliminary application.</p>   |

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|   | <p>Additionally, a housing development project applicant may change the number of units or square footage of a development by up to 20%. The 20% calculation excludes additional density provided by the State Density Bonus Law and any applicable local density bonus ordinances.</p> <p>This bill went into effect as an urgency statute on September 25, 2020.</p>   |
| <p><a href="#">AB 831</a>. Planning and zoning: housing: development application modifications.</p>                       | <p>AB 831 strengthens prior legislation (SB 35's Streamlined Ministerial Approval Process) which allowed certain qualified housing projects and housing-rich mixed-use projects to go through a streamlined, ministerial CEQA-exempt approval process. AB 831 aims to close loopholes that municipalities could use to avoid the streamlined approval process. As amended by AB 831, SB 35 projects can make minor modifications prior to the issuance of a final building permit so long as projects meet the standards in place during the original application submission. The bill also clarifies that mixed-use development is eligible for the streamlined approval process if it is at least 2/3 residential.</p> <p>AB 831 went into effect as an urgency statute on September 28, 2020.</p>   |
| <p><a href="#">AB 168</a>. Planning and zoning: annual report: housing development: streamlined approvals.</p>            | <p>AB 168 further amends SB 35 (Streamlined Ministerial Approval Process), which allows for developers' applications to go through a streamlined, ministerial approval processes. The new law requires local governments to provide notice to and consult with Native American tribes to gauge the effects of such development on a potential cultural trial resource. The project will be ineligible for the streamlined process under SB 35 if (A) the proposed development site is a tribal cultural resource that is on a register list, (B) the local government and the Native American tribe do not agree that no potential tribal cultural resource would be affected by the development, or (C) the local government and Native American tribe find that a potential tribal cultural resource could be affected by the development and the parties fail to document an agreement regarding the treatment of those tribal cultural resources.</p> <p>This bill went into effect as an urgency statute on September 25, 2020.</p> |
| <p><a href="#">AB 1561</a>. Planning and zoning: housing element and entitlement extensions.</p>                          | <p>AB 1561 (1) authorizes an analysis of constraints upon the maintenance, improvement, or development of housing for persons with a characteristic identified by a specified provision of the Unruh Civil Rights Act, (2) extends the time that California Native American tribes have to respond to a lead agency's consultation before releasing a releasing a negative declaration, mitigated negative declaration, or environmental impact report by an additional 30 days for any housing development project completed between March 4, 2020 and December 31, 2021, and (3) extends by 18 months the time period under the Permit Streamlining Act for the expiration, effectuation or utilization of housing entitlements issued before, and in effect on, March 4, 2020, and that expire before December 31, 2021.</p>  |
| <p><a href="#">AB 725</a>. General Plans: housing element moderate-income and above moderate-income housing: suburban</p> | <p>To increase housing development and encourage multifamily development, AB 725 requires that, commencing January 1, 2022, county and city general plans designate sites to meet (1) at least 25% of a metropolitan jurisdiction's share of the regional housing need for <i>moderate-income</i> housing be allocated to sites with zoning that allows at least 4 but no more than 100 units of housing per acre, and (2) 25% of a metropolitan's jurisdiction's share of the regional housing need for</p>   |

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| and metropolitan jurisdictions.   | <i>above moderate</i> -income housing be allocated to site with zoning that allows at least 4 units of housing per acre.   |
| <a href="#">AB 2345</a> . Planning and zoning: density bonuses: annual report: affordable housing.                          | AB 2345 seeks to provide additional benefits for affordable housing by, among other things, (1) revising the State Density Bonus Law to require that general plan’s annual report include information regarding density bonuses, (2) increasing the maximum density bonus based on housing affordability, (3) lowering the threshold for the calculation of the amount of density bonus for each type of housing development that qualifies for incentives or concessions, (4) changing the way distance between a development and a transit stop is measured (for purposes of determining whether a project is located within ½ mile of a major transit stop under the Density Bonus Law), (5) decreasing the maximum ratio of parking for developments with 2- 3 bedrooms, and (6) providing that a housing development that receives a waiver from any maximum controls on density is only eligible for a specified waiver or reduction of development standards, but the applicable municipality may agree to additional waivers or reductions of development standards. |
| <a href="#">AB 1851</a> . Religious institution affiliated housing development projects: parking requirements.              | AB 1851 prevents local agencies from denying a developer of a religious institution affiliated housing development project from being built in a parking lot simply because it will reduce religious-use parking spaces, so long as the number of parking spaces eliminated is less than 50%. The bill also prevents local agencies from requiring that these projects “cure” an existing deficit of parking spaces as a condition of approval.  |
| <b>CEQA</b>   |  |
| <a href="#">SB 288</a> . California Environmental Quality Act: exemptions: transportation-related projects.                 | SB 288 creates additional CEQA exemptions for certain transit-related projects, including projects that improve customer information and way finding for transit riders, bicyclists, or pedestrians, projects by a public transit agency to construct or maintain infrastructure to charge or refuel zero-emission transit buses, projects carried out by a city or county to reduce minimum parking requirements, and projects for pedestrian and bicycle facilities. The projects, however, cannot demolish affordable housing units and must be carried out by a public agency, among other requirements. Projects in excess of \$100 million also have additional requirements. The exemptions are in effect until January 1, 2023.<br><br>This bill also extends the existing CEQA exemption for bicycle transportation plans in urbanized areas until January 1, 2030.   |
| <b>Tax</b>  |  |
| California Proposition 19: The Property Tax Transfers, Exemptions, and Revenue for Wildfire Agencies and Counties Amendment | Proposition 19 is a constitutional amendment that allows eligible homeowners (persons 55 years or older, with severe disabilities, or victims of wild fires or other natural disasters) to transfer tax assessments anywhere within the state and these tax assessments can be transferred to more expensive homes with an upward adjustment within two years of the sale of the original residence. Previously, eligible homeowners could only transfer tax assessments within the county to homes of equal or lesser market value.<br><br>Additionally, the amendment allows for eligible homeowners to transfer their tax assessments up to 3 times (as opposed to 1). The amendment also requires that   |

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|  | inherited homes that are not used as principal residences (such as vacation homes and income properties) be reassessed at market value when transferred. Lastly, beginning February 16, 2021, a transfer of a principal residence by a parent to a child is only exempt from reassessment if the parent was using the property as their principal residence and the child will also be using the home as their principal residence immediately following the transfer. |
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## **CONCLUSION**

Real estate owners are advised to consult with trusted legal advisors to ensure compliance with critical new statutes and regulations. Procopio's Real Estate attorneys continue to monitor legislative and regulatory action as well as significant court cases to best serve their clients. Feel free to contact us to learn more about these and other developments in California real estate law.



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