

Assembly Bill 712

Ensuring Compliance with Housing Laws

Assemblymember Buffy Wicks (AD-14)

SUMMARY

AB 712 would help ensure public agencies comply with state housing laws. Specifically, it would increase remedies against public agencies that violate the rights established in existing housing law. It would also prevent public agencies from requiring housing development applicants to indemnify those public agencies when they violate state housing law on the applicant's projects.

ISSUE

To address the housing crisis, the state has passed numerous statutes to make housing permitting easier and more predictable. For these laws to be effective, they must be easy to enforce and have real consequences when they are broken.

Unfortunately, most state housing laws (with the notable exception of the Housing Accountability Act) are difficult to enforce. Specifically, these laws largely rely on housing developers to sue public agencies that break the law. However, housing developers are highly hesitant to do so, because they need to maintain long-term relationships with these agencies, and because they do not collect attorney's fees even when they win the case. As such, repeated violations of housing law may occur, which impedes the ability for developers to build more housing.

Additionally, some public agencies have started requiring developers to indemnify them from the very lawsuits that developers bring when those agencies break housing laws – and to require developers to pay for the legal fees incurred by the public agency. This arrangement all but guarantees that the developer will not sue to enforce their own rights.

SOLUTION

AB 712 would apply the same requirements that exist in the Housing Accountability Act to other housing laws. This includes providing the project applicant with attorney's fees and costs when they prevail in court. It also would subject the public agency to fines in a court case where the public agency had been previously warned by the Attorney General or Department of Housing and Community Development that their action was in violation of the law. These fines could be increased in instances where the court had previously found that the public agency had broken the same law.

Additionally, AB 712 would end the practice of public agencies asking housing development applicants to indemnify the local government against lawsuits when the local government violates the applicant's rights. This includes banning the imposition of reimbursement agreements that hold housing development applicants accountable for paying for a local government's legal defense in lawsuits brought forward by the applicant.

By increasing remedies against public agencies that violate existing housing law and preventing public agencies from being indemnified for these violations, AB 712 would help ensure public agencies comply with state housing laws. This will result in more certainty for all parties, and more housing in California.

SUPPORT

California Building Industry Association (sponsor)

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