



Fact Sheet: AB 1406 Condo Deposit Reform

PROPOSED BILL

AB 1406 would incentivize condominium development, addressing the state's severe shortage of entry-level for-sale housing, by increasing the existing liquidated damages cap from 3% of the sale price to 6%. This change would reduce lender risk, unlock financing for condo projects, and increase the supply of more affordable, for-sale housing.

BACKGROUND

California's homeownership rate has steadily declined over the past two decades and now sits at just over 55 percent, the second lowest in the nation. Despite significant growth in multifamily housing, very little of this new housing is available for sale. According to research conducted by Lambda Alpha International, from 2011 to 2021, for sale multifamily condominiums made up only 3% of all newly constructed housing in California.¹

California's strict limits on developers' use of homebuyers' deposits and low liquidated damages cap are cited as a significant constraint restricting condo production. California's 3% liquidated damages cap is the lowest in the nation, requiring any funds over 3% of a buyer's deposit to be fully refunded to the buyer, if the buyer decides to terminate the purchase agreement and default on the deal.

This limit restricts the financing that developers can use for construction, increases risk, and forces them to rely on

more expensive debt. It also encourages buyers to purchase condos speculatively, further increasing project risk.

Most states lack a statutorily imposed liquidated damages cap, instead relying on courts to determine the 'reasonableness' of liquidated damages provisions of real estate contracts. Case law in states such as New York, Colorado, and Nevada have upheld liquidated damages caps of up to 10% and higher. California's statutory cap prohibits developers from including a liquidated damages provision above 3%, even if the anticipated harm to the developer is higher than 3%. This imbalance increases the risk and cost of condominium development, limiting production.

The heightened risk and associated costs, significantly restricts pathways to homeownership—especially in dense urban areas where land is scarce and single-family homes are financially out of reach for most Californians. According to data from the California Association of Realtors (CAR), only 15% of California households could afford the median-priced home. In comparison, 25% of all home buyers were able to afford the median-priced condo or townhome.² While Californians are ready to buy homes, the state's minuscule condominium production rate impedes homeownership.

SOLUTION

AB 1406 would encourage condominium development by increasing the liquidated

¹ [lai webinar discussion paper - home ownership in transition-r0.pdf](#)

²

<https://www.car.org/aboutus/mediacenter/newsreleases/2025releases/2qtr2025hai>

damages cap from 3% to 6% while maintaining existing bonding and consumer protection requirements that safeguard purchasers' deposits. Furthermore AB 1406 preserves existing law allowing buyers to challenge the validity of liquidated damages in a real estate contract, even if they are under the statutory cap. Raising the liquidated damages cap would more accurately reflect the risk and costs associated with canceled contracts and provide lenders greater certainty. This change would result in more favorable financing, reducing development costs, increasing the supply and construction of more condominiums.

By improving condominium project feasibility, AB 1406 would increase the availability of affordable entry-level homeownership opportunities and help alleviate the state's housing crisis.

SUPPORT

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East Bay for Everyone
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Faith and Housing Coalition
Fieldstead and Co.
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Ventura County YIMBY
South Pasadena Residents for Responsible
Growth
The Two Hundred

Westbank Corp.
Yes! In Redwood City
YIMBY Action
YIMBY Los Angeles
YIMBY Monterey Peninsula
YIMBY SLO

OPPOSITION

California Association of Realtors
California Land Title Association

FOR MORE INFORMATION

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