1995

# 1995 Housing Issues and Legislation

Assembly Committee on Housing and Community Development

## Assembly Committee on Housing and Community Development

# 1995 HOUSING ISSUES AND LEGISLATION




**DAN HAUSER, Chairman**
**PHIL HAWKINS, Vice-Chairman**

0563-A

Additional copies of this publication may be purchased for $5.70 per copy from:

Assembly Publications Office
State Capitol, Box 942849
Sacramento, CA 94249-0001

Please add California sales tax. Make checks payable to STATE OF CALIFORNIA.

ASSEMBLY COMMITTEE ON HOUSING
AND COMMUNITY DEVELOPMENT

MEMBERS

Dan Hauser, Chairman
Phil Hawkins, Vice-Chair
Paula L. Boland
Robert Campbell
Mickey Conroy
Susan Davis
Denise Moreno Ducheny
Bob Margett
Bernie Richter

CONSULTANTS

Stephen Holloway
Daniel Carrigg

COMMITTEE SECRETARY

Brenda K. Heiser

TABLE OF CONTENTS

# HOUSING FINANCE

California has one of the most expensive single-family housing markets in the nation and experiences a high rate of overcrowding in multifamily housing.

Legislative proposals are introduced in each session to alleviate the adverse housing conditions in California; however, it should be emphasized that the vast majority of all housing produced in this state originates through private sector financing.

This section sets forth a summary of housing conditions, a review of government housing financing programs and a description of legislation introduced this session.

## Housing Conditions

1) **Single-Family Housing:** In 1989, about 53.6 percent of all Californians owned their homes. Since then, home ownership has increased as a result of a drop in median-home prices. In mid-1994, about 56.8 percent of all Californians owned their own homes; nevertheless, the state's home ownership rate is the sixth lowest in the nation.

   The increase in home ownership results from an improvement in housing affordability. In mid-1990, only about 20 percent of California households could afford to buy a $200,000 median-price home. In mid-1995, however, about 37 percent of California households could afford to purchase the median home price of $181,360. In contrast, about 53 percent of United States' households can afford median-priced homes.

2) **Multifamily Housing:** The most important housing need in California is affordable, multifamily housing. According to the California Statewide Housing Plan Update (October 1990), issued by the Department of Housing and Community Development (HCD), more than one-third of all renters in the state spend more than 35 percent of their incomes for housing. The Update states that an average of at least 250,000 housing units need to be built annually through 1996. If net immigration remains at its present level, at least 275,000 new housing units will be needed annually. The 1995 estimated rate of building will result in only 88,000 residential units, of which only 16,000 will be multifamily units.

   Compounding the problem of the shortage of affordable housing is the potential loss of up to 120,000 units which receive federal assistance and will be converting to market value when federal loans are repaid.

## Governmental Housing Finance Programs

1) **Mortgage Revenue Bond Financing:** The California Housing Financing Agency (CHFA) and local housing agencies provide construction and mortgage loans through the sale of tax-exempt revenue bonds. The issuance of these bonds is subject to the Federal Tax Reform Act (TRA) of 1986, which imposes major restrictions on the issuance of tax-exempt revenue bonds used for private activities, including housing bonds.

Under the TRA, a bonded indebtedness ceiling is imposed on all tax-exempt private activity bonds issued within a state. The ceiling is adjusted each year to reflect changes in the state's population. The ceiling for 1995 approximates $1.572 billion.

In general, housing bond issuers - such as CHFA - must compete for bonding authority against other such issuers and other private activity uses - such as industrial development projects - for allocations under the ceiling.

The California Debt Limit Allocation Committee (CDLAC) has the statutory authority to allocate private activity bond authority to state and local issuers. Typically, housing projects received the preponderance of allocations. In 1995, $1.2 billion was reserved for housing from a total ceiling of $1.572 billion. The amounts reserved for housing were allocated as follows: CHFA - $475,000,000 (all for single-family); Local agencies - $725,000,000 ($510,863,187 for single-family and the remainder for multi-family).

a) **Multifamily Housing:** The TRA requires 20 percent of total rental units in an assisted project to be reserved for households with incomes lower than 50 percent of county median income or 40 percent of total units to be reserved for households with incomes under 60 percent of county median income.

b) **Single-Family Housing:** The TRA requires a single-family mortgagor to be a first-time homebuyer, i.e., the buyer cannot have owned a home within the previous three years. For a family of three of more persons, a mortgagor's family income cannot exceed 115 percent of median family income for the area in which the residence is located or the statewide median income ($53,590), whichever is greater. The income of a family of one or two persons cannot exceed 100 percent of area median income or statewide median income ($46,600), whichever is higher.

   Two-thirds of the amount of mortgage financing in targeted areas must be provided to those whose family incomes do not exceed 140 percent of median family income (120 percent of median income for a family of one or two persons) for the area or statewide median income, whichever is greater. A target area includes a census tract in which at least 70 percent of the families have incomes which are 80 percent or less than the statewide median family income and areas of chronic economic distress, as defined.

   The price of a home may not exceed 90 percent of the average area purchase price or 110 percent of such price in a targeted area. For new construction, prices range from $149,599 to $237,705 in non-target areas and $182,843 to $290,529 in target areas. For resale homes, prices range from $88,267 to $256,510 in non-target areas and $107,881 to $313,512 in target areas.

2) **Mortgage Bond and Loan Insurance:** California is one of five states which has its own "private" mortgage insurance company, the California Housing Loan Insurance Fund (CHLIF). This has enabled Californians to obtain lower

financing in areas and under conditions which the Federal Housing Administration (FHA) or private insurers cannot meet. During the severe devaluation of home prices during 1988 to 1989, CHLIF was able to replace the insurance on those CHFA loans issued by private insurance companies which were collapsing and continue homeowner coverage.

The California Housing Loan Insurance Fund was created in 1977 for the purpose of providing reasonably priced bond and loan insurance; reducing the risk factor in providing loans for single-family and rental housing, including privately financed loans; and securing revenue bonds issued by local agencies.

It was not until 1988, however, that CHLIF earned a claims paying credit rating, thereby becoming the state's equivalent of a private mortgage insurance company. Under an agreement with Standard and Poor's and Moody's, from 1988 until 1991 CHLIF operated under certain rating agency restrictions regarding the types of loans it could insure.

Beginning in March 1991, however, these restrictions were no longer applicable and CHLIF could provide single-family mortgage insurance to developers of affordable housing outside of CHFA's programs, including for-profit and non-profit developers, redevelopment agencies, and local finance agencies.

3) **The Federal HOME Program:** The HOME Investment Partnership Act was authorized by the Cranston-Gonzalez National Affordable Housing Act (1989). HOME is a federal block grant program which provides funds to state and local governments which, in turn, make money available for the development or rehabilitation of owner-occupied and rental units, and the provision of first-time homebuyer and rent subsidy programs.

The HOME Program is a unique program among the many programs administered by HCD. Under HOME, applicants may apply for funding for both individual projects and for programs comprising several different types of housing projects.

Under the funding formula, some communities in California are eligible to receive direct allocations from the federal Department of Housing and Urban Development (HUD) while other communities must compete for the general state allocation.

However, a community eligible to receive a direct allocation may transfer that allocation to the state and then compete for a portion of the state allocation. This transfer can be very beneficial to a community which has a solid housing program, but needs more money than it would receive under the direct allocation formula. As an example, the City of Redding has transferred its $409,000 direct allocation to HCD and is now eligible to apply for up to a $1 million allocation from HCD.

Over the next few years, the Federal HOME program will be a primary public financing source for affordable housing in California.

4) **General Obligation Bond Financing:** Prior to 1980, the Federal Government took the lead in financing local, affordable housing projects. Since then, however, federal housing funds have declined precipitously.

To make up a small portion of this shortfall, the Legislature enacted, and the voters approved, Propositions 77 and 84 in 1988 and Proposition 107 in 1990. Proposition 77 provided for a $150 million general bond issue: $80 million for seismic safety and $70 million for general rehabilitation loans.

Proposition 84 provided for a $300 million bond issue, including $200 million for financing new construction of rental units. Proposition 107 authorized the sale of $150 million of bonds, including $100 million for the Rental Housing Construction Program. All of these funds have been committed.

5) **Low Income Housing Tax Credits:** The Low Income Housing Tax Credit provides a credit against net tax in the personal income, bank and corporation, and insurance gross premiums tax for costs related to qualified low-income housing projects. The credit is 30 percent of costs paid or incurred with respect to the purchase of, or improvements to, low-income housing. The credit is claimed over a four-year period. The state's low-income housing tax credit parallels a similar credit in federal law.

In order to claim the credit, the project must:

a) Be located in California;
b) Have been allocated a federal tax credit; and
c) Meet federal guidelines regarding occupancy eligibility and rent levels.

Taxpayers must apply to the California Tax Credit Allocation Committee for an allocation of both the state and federal credits. The amount of tax credit allocated to a project is based on the amount needed to insure the financial feasibility of the project.

The amount of state credit available is limited to $35 million per year, plus any unallocated and returned balances from prior years. California's low-income housing tax credit is available for any year in which the comparable federal credit is available.

The low-income housing tax credit is unique among state tax provisions. The amount of credit available is capped and project sponsors must apply for an allocation of credits. In most cases, individual taxpayers receive tax credits as members of a limited partnership when the general partner is the project sponsor and the limited partners receive credits based on their individual financial participation. Investors (i.e., the taxpayer ultimately claiming the credits) typically buy into a project by paying fifty to sixty cents for each dollar of tax credit received.

Credits are awarded based on the amount of assistance needed to insure a project's financial feasibility and a number of criteria established in state and federal law to target projects to areas or types of housing where there is significant need. In this respect, the tax credit program acts as a subsidy for the cost of developing low-income housing.

## 1995 Legislation

The following are brief descriptions of significant legislation heard by the Committee relating to housing finance:

**AB 997 (Hauser) - CDLAC**

Provides that of the total amount of the state ceiling allocated for the purpose of providing housing, the CDLAC shall endeavor to allocate approximately 2/3 of this amount to local agencies.

**Status: Vetoed by the Governor**

**AB 1197 (Takasuki) - Housing Bond Credit Committee**

Terminates the existence of the Housing Bond Credit Committee and transfers its duties CHFA.

**Status: Two-year bill, Senate Housing Committee**

**AB 1658 (Battin) - Housing**

Defines "rural area" for purposes of the Housing Rehabilitation Loan Fund (Fund) to be the same definition as is applicable for low-income housing credits. The Fund is continuously appropriated for several purposes including making deferred payment loans by the Department of Housing and Community Development (HCD) for the acquisition and rehabilitation of rental housing.

**Status: Chapter 12, Statutes of 1995**

**SB 1015 (Mello) - Assisted Housing developments**

Extends the sunset date for the right of first refusal from December 31, 1995 to December 31, 2000 for a provision of existing law which requires an owner of a federally assisted housing development to give a one-year notice to the tenants and applicable local governments prior to the anticipated date of termination of participation in the federal program. Existing law also prohibits owners of specified federal developments who have not given notice of intent prior to January 1, 1991 from selling or otherwise disposing of the development in a manner which would either result in the discontinuance of its use as a development or cause the termination of any low-income use restrictions, as defined, unless the owner provides specified entities with an opportunity to purchase the development at a price and on terms which represent a bona fide intention to sell, as defined (right of first refusal).

The above provision sunsets on December 31, 1995.

**Status: Chapter 790, Statutes of 1995**

**SB 1100 (Petris) - Assisted Housing developments**

Re-enacts in substantially similar form, the provisions of state law, which sunset on January 1, 1995, that required operators of multifamily rental housing to provide notice to tenants or local governmental agencies prior to the termination or prepayment of the governmental assistance.

**Status: Two-year bill, Assembly Housing Committee**

## LAND USE PLANNING

In 1981, California began a comprehensive program to allocate among local governments the statewide need for low-, moderate- and above moderate-income housing units. For the first time, each community was required to display in the housing element of its general plan how the community would meet its "share" of California's housing need.

The housing element, as a planning tool, was initially developed to describe how growth would be accommodated using a "best case scenario" approach. A locality was not expected to build the units, but was required to provide appropriate zoning for the development of the housing need identified within its housing element, including the regional need for housing.

Over the years, amendments have been made to Housing Element Law which require greater local government responsibility to ensure that housing is actually built, including identifying specific sites, to accommodate a community's lower income housing unit regional allocation.

This policy of both distributing growth projections without regard to financial or community viability and requiring greater and greater certainty that specific income units are accounted for is internally inconsistent at best.

In general, it is agreed that something must be done to streamline the housing element approval process, provide a better balance between jobs and housing, and increase first-time homebuyer opportunities.

### Housing Element Process

Housing Element Law (HEL), requires every locality to adopt and update a housing element every five years which includes an identification of existing and projected housing needs, an inventory of land suitable for residential development, and a five-year plan to meet those identified needs.

As part of its housing needs assessment, a locality is required to include its share of regional housing needs. A locality's regional housing needs allocation is developed through the following process:

1) Every five years, the Department of Finance projects statewide growth for the next five-year period. From this data the Department of Housing and Community Development (HCD) establishes the existing and projected statewide need for affordable housing by income group.

2) HCD, in consultation with the regional council of governments (COGs), divides the statewide need into regional shares.

3) The COG distributes the regional need to the county(s) and cities within the region.

4) The local government develops its housing element, which includes the local government's regional share.

5) The local government submits its housing element for review to HCD to ensure conformity and consistency with the statewide need for housing.

6) The local government adopts its housing element after considering HCD's comments and revising its element to reflect those comments or adopting findings as to why HCD's comments should be ignored.

7) If HCD determines that the housing element is in compliance with state law, there is a rebuttable presumption regarding the validity of the housing element.

The housing element is required to identify adequate sites which may be made available through appropriate zoning and development standards. A community whose inventory of land suitable for residential development is inadequate to meet its housing needs is required to minimally identify sufficient sites, with appropriate density and development standards, to accommodate the locality's share of low- and very low-income households.

Additionally, HEL requires a planning agency to make an annual report to its legislative body on the status of the general plan and the community's progress in implementing the plan, including its progress in meeting its regional housing needs and local efforts in removing governmental constraints.

**Suspension of the Regional Housing Allocation Mandate**

The Legislature suspended 44 mandates for 1992-93, including AB 2853 (Roos), Chapter 1143, Statutes of 1980, relating to numerous general plan housing element requirements, including the requirement to revise the housing element at five-year intervals. SB 80 (Alquist), Chapter 55, Statutes of 1993, similarly suspended 44 mandates, including the AB 2853 requirements.

In reaction to the suspended mandate, the Legislature enacted AB 2172 (Hauser) Chapter 695, Stats. 1993. This bill extended the housing element deadlines two years. This bill also:

1) Requires local governments to continue implementing existing housing programs and the annual housing review.

2) Prohibits the extension from limiting the existing responsibility to adopt a housing element.

3) Prohibits the above provisions from being construed to reinstate any mandates pursuant to Chapter 1143 of the Statutes of 1980 suspended by the 1993-94 Budget Act.

Currently, the third revision of housing elements of local governments within the Southern California Association of Governments (SCAG) are to be revised by June 30, 1996; within the Association of Bay Area Governments (ABAG) by June 30, 1997; within the San Diego Association of Governments (SANDAG) and other COGS by June 30, 1998; and all other local governments by June 30, 1997.

SB 936 (Campbell) similarly attempted to extend the housing element deadlines this year, but was vetoed by the Governor.

## 1995 Legislation

The following are brief descriptions of legislation relating to land use planning:

**AB 1511 (V. Brown) - Historic districts**

Authorizes a local government to exclude manufactured homes from a state-registered or a locally-designated historic district provided that the jurisdiction has an adopted housing element in compliance with state law and that any locally-adopted special architectural standards apply equally to all other buildings within the district.

**Status: Vetoed by the Governor**

**AB 1715 (Goldsmith) - Self-Certification**

Requires the San Diego Association of Governments (SANDAG) - if it approves a resolution agreeing to participate in a self-certification process, and in consultation with the cities and county within its jurisdiction, its housing element advisory committee, and HCD - to perform a resource assessment for the region to determine a standard for existing and future needs for low- and very low-income households for each local jurisdiction.

Permits a city or county within the jurisdiction of SANDAG to submit a self-certification of compliance to the department with its adopted or amended housing element if the legislative body, after holding a public hearing, makes a finding, based on substantial evidence, that it has met all of several specified criteria for self-certification.

**Status: Chapter 589, Statutes of 1995**

**SB 936 (Campbell)**

1) Allows a jurisdiction to identify the following sites:

   a) Sites being converted from non-affordable to affordable through local government direct financial or rental assistance or acquisition.

   b) Sites that are in need of substantial rehabilitation which will be accomplished by committed assistance from the local government.

   c) Sites that provide a net increase in permanent housing for people with special housing needs, including farmworkers, seniors and congregate care facilities.

2) Provides that a city or county must show a net increase in the total number of units assisted by the local government programs listed above.

3) Recasts and revises existing law as to the determination and distribution of a city or county share of regional housing needs and requires HCD and COGS to hold a public hearing prior to making its allocation.

4) Provides a process for a COG to establish subregion councils for allocations.

5) Limits the ability of a jurisdiction to use a growth control measure in determining or reducing its share of regional need but exempts a jurisdiction that imposes a moratorium based on preservation and protection of public health and safety.

6) Provides for a jurisdiction to use an appeal process to object to its regional housing need through a mediator, arbitrator or administrative law judge (ALJ). Provides that the ALJ may order a reallocation of housing needs within the COG.

7) Extends the housing element revision dates for specified COGS.

**Status: Vetoed by the Governor**

## BUILDING STANDARDS

### Overview

Building standards reflect a balancing act between health and safety concerns and the pragmatic costs of construction. Developers insist that it is difficult to impossible to build affordable housing when increasing costs and regulations are placed on their shoulders; consumer groups, fire departments, and disabled advocates argue for safer, energy-efficient, and accessible buildings. The various interests make clear and convincing arguments for their positions. The public policy struggle is in finding the wavering nexus.

Building standards in California are based upon model codes, such as the Uniform Building Code and the Uniform Mechanical Code. Model codes are published and approved by groups of national and regional experts on structural, mechanical, electrical, plumbing, and fire safety standards. For instance, the Uniform Mechanical Code is published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials.

California building standards are currently adopted in a process whereby numerous, authorized state agencies and departments develop proposed new or amended changes to the California Building Standards Code (Code), which is also known as Title 24 of the California Administrative Code. The California Building Standards Commission (BSC) then has the authority to review, adopt, or reject proposed changes. Adopted changes are published in Title 24. Local governments can modify the Code, but those modifications must be more stringent than the statewide standard.

The Code applies to all buildings and residential occupancies; an updated version is published every three years. These building standards are comprised of updated national model codes - parts of which are adopted in their entirety - and additions and amendments to them by state agencies through the BSC. Some structures, however, such as high-rise commercial buildings and private schools, are not subject to the BSC and are governed by the model codes and local ordinances.

Although most building standards are created and adopted in the administrative process, numerous bills are introduced each year which propose new building standards or amendments to existing building standards. These bills are drafted in response to natural disasters, requested by industry, or proposed by consumer groups in reaction to perceived dangers relating to existing building standards.

### Major Legislation

In 1995, the Committee heard several major bills relating to building standards issues and enforcement.

AB 151 (Baca) centered on a skirmish between labor groups and the building and manufacturing industry over the use of chlorinated polyvinyl chloride (CPVC) plastic pipe for residential water supplies. This issue, which has been kept in limbo for over a decade due to an uncompleted Environmental Impact Report at

HCD, exploded on to the Legislative arena in 1995 - not because of the cost issues - but because of numerous failures of copper piping in the author's district. The bill grants a short two-year grace period for local jurisdictions to allow for the use of CPVC pipe. But, when signing the bill, the Governor ordered HCD to draft regulations so that the bill's provisions would apply statewide. The bill sunsets in 1998, which is a virtual guarantee that the issue will be back before the Legislature sometime soon, unless building standards are adopted by the BSC which resolve the issue.

AB 717 (Ducheny) requires local building officials to meet certain educational and training requirements. AB 717 is a reintroduction of a bill from the 1990 Session, SB 2126 (Ayala), which was vetoed by Governor Deukmejian. In his veto message of SB 2126, Governor Deukmejian said that there was "no indication of a widespread problem of construction in the state." After the 1994 Northridge Earthquake, however, a report by the Seismic Safety Commission indicated that much of the damage could have been reduced if existing building codes had been adequately enforced. This report provided some momentum to AB 717 which eventually led to its signature.

AB 747 (V. Brown) continued the recent string of bills related to wood roof fire retardency standards. But while all of the previous bills were focused on mandating increased fire safety standards, AB 747 highlighted some loopholes in the way that wood roof shingles are sold. Shingles were being sold on the market as meeting specified retardency standards even though they were still undergoing testing. In 1994, AB 3819 (W. Brown), Chapter 843, Statutes of 1994, required all wood roof coverings to pass a 10-year (natural) weathering test, which is the long-established standard required under the UBC. Products which were either in the process of completing the 10-year test or had not yet begun the test were eliminated from the market until they completed the testing. Only one company in the wood shake and shingle industry had products that had passed the entire battery of tests which include the 10-year natural weathering test; the other major firm in the industry had products which had not completed the 10-year test. AB 747, in effect, provides a five-year step ladder of dates that will enable the company with products that have not passed the 10-year weathering test to continue to sell their products with Class C or B ratings while they are undergoing testing. The bill also lowers the natural weathering test from 10 to five years.

SB 304 (Rosenthal) approaches seismic safety issues from the prevention angle by requiring a seller of a home to certify to a buyer that the water heater is braced to prevent tipping during an earthquake.

The following is a list of building standards bills heard by the Committee during the 1995 Legislative Session:

**ACR 11 (Aguiar) - Disabled Access Signage**

Requires the Division of State Architect (DSA) to appropriately notify designers and manufacturers of braille tactile signage and state agencies that regulate or purchase braille tactile signage that the requirements for braille tactile signage in California are in some cases more stringent than

the requirements of the Americans with Disabilities Act and that products sold in California must comply with the California Building Standards Code. The notification must be made prior to January 1, 1996.

**Status: Chapter 49, Statutes of 1995.**

**AB 151 (Baca) - CPVC Plastic Pipe**

Exempts from the California Plumbing Code's provisions which prohibit the use of CPVC piping those jurisdictions which have approved the use of chlorinated polyvinyl chloride (CPVC) pipe prior to January 1, 1996, provided that the CPVC piping and solvents are listed as approved materials in the Uniform Plumbing Code (UPC) and certain specified flushing and worker safety practices are strictly complied with.

In a letter that accompanied the signing of the bill, the Governor instructed HCD to draft regulations to make the provisions of this bill applicable statewide.

**Status: Chapter 785, statutes of 1995.**

**AB 616 (Morrow) - Building Occupancy Levels**

Defines "A room used for sleeping purposes" as that phrase is used in the Uniform Housing Code to mean habitable spaces designed and intended to be used as bedrooms.

**Status: Assembly Housing Committee, two-year bill.**

**AB 717 (Ducheny) - Building Inspector Training and Certification**

Establishes certification, training, and continuing education requirements for construction inspectors, plans examiners, and building officials. More specifically, this bill:

1) Requires construction inspectors, plans examiners and building officials, except for inspectors employed by fire departments, as defined, to complete one year of verifiable experience in the appropriate field and then to obtain certification from a recognized state, national, or international association of building officials or construction inspectors or examiners, as determined by the local agency.

2) Requires the area of certification to be closely related to the primary job function, as determined by the local agency.

3) Exempts from the certification requirements, but not from the continuing education requirements, any person who has been continuously employed as either a construction inspector, plans examiner, or building official for at least two years, but requires these individuals to obtain certification if they change employers. Further, exempts from all requirements of this bill, engineers, land

surveyors, and architects who are not employees of a local agency, and clarifies that this bill does not affect their requirements for licensure, jurisdiction, authority, or scope of practice.

4) Requires the completion of at least 45 hours of continuing education during every three-year period.

5) Provides that those who provide the continuing education may include any organizations associated with the code enforcement profession, community colleges, or other providers of similar quality, as determined by the local agency.

6) Defines "continuing education" as that education relating to the enforcement of Title 24 of the California Code of Regulations (California Building Standards Code) and other locally enforced building standards, including, but not limited to the model uniform codes adopted by the state.

7) Requires local agencies to bear the costs of the certification, certification renewal, and continuing education required by this bill, and provides that the local agency may recover its costs through imposing fees for, including, but not limited to, construction inspections and plan checks.

**Status: Chapter 623, statutes of 1995.**

**AB 747 (V. Brown) - Wood Roof Fire Retardency Standards (Urgency)**

1) Reduces wood roof fire retardency standards from requiring treated wood shakes and shingles to pass a 10-year natural weathering test to passing a five-year natural weathering test by January 1, 2001.

2) Prohibits the sale of any wood roofing materials which fail at any point in the natural weathering test between January 1, 1996 and January 1, 2001.

**Status: Chapter 333, Statutes of 1995.**

**AB 1314 (Sher) - Straw Bale Structures**

Establishes statutory safety guidelines for the construction of structures using rice straw bales. These guidelines become effective only if they are adopted by a city or county based upon local conditions. More specifically, this bill:

1) Authorizes a local jurisdiction that adopts these guidelines to make whatever modifications to them that it considers necessary based upon local conditions, provided that the city or county files a copy of the changes with HCD.

2) Authorizes, subject to the availability of funds, the California Building Standards Commission to prepare a report on the use and implementation of the guidelines before January 1, 2002. Provides that the Commission may accept and use any funds provided or donated for the preparation of the report.

3) Specifies that none of the act's provisions shall be construed as an exemption from either the Architects Practice Act or the Professional Engineers Act relative to the preparation of plans, drawings, specifications, or calculations under the direct supervision of a licensed architect or a civil engineer, for the construction of structures that deviate from the conventional framing requirements for wood-frame construction.

4) Makes various declarations as to the environmental and energy benefits that will result from building homes made out of rice straw, including providing options that will assist the rice industry in reducing field burning to meet statutory goals.

**Status: Chapter 941, statutes of 1995.**

**AB 1784 (Speier) - Swimming Pool Safety**

Requires the installation of specified safety enclosures or alarms for pools for which permits are pulled after January 1, 1997.

**Status: Assembly Housing Committee, two-year bill.**

**SB 304 (Rosenthal) - Water Heaters**

1) Requires a seller of any real property containing an existing water heater to certify in writing to the prospective purchaser that the heater has been braced, anchored, or strapped to resist falling during an earthquake.

2) Authorizes the certification to be included in existing transactional documents, including, but not limited to, the Homeowner's Guide to Earthquake Safety, a real estate sales contract or receipt for deposit, or a transfer disclosure statement.

3) States that failure of any person to comply with this section does not create a presumption of a failure by that person to exercise due care.

**Status: Chapter 98, Statutes of 1995.**

**SB 335 (Solis) - Locks & Deadbolts/Rental Housing**

1) Requires the landlord of a building intended for human habitation to do all of the following on and after July 1, 1996:

   - Install and maintain operable deadbolt locks on exterior doors, except for screen doors, that provide direct access to the living areas of a dwelling unit, as specified.

   - Install and maintain operable window locks for windows and sliding glass doors that are designed to be opened and are accessible from the exterior of each dwelling unit. Defines "accessible" as not including a window that is more than 12 feet vertically or six feet horizontally from the ground, a roof, or any other accessible platform.

- Install locking mechanisms that comply with applicable fire and safety codes to exterior doors that provide ingress or egress to common areas with direct access to dwelling units in multi-family developments with 16 or more units.

2) Requires the tenant of the dwelling unit to be responsible for notifying the owner or his or her authorized agent when the tenant becomes aware of an inoperable deadbolt lock, window lock, or sliding glass door lock to the dwelling unit.

3) Provides that the owner or his or her authorized agent shall correct any reported deficiencies in the lock within a reasonable time, but shall not be in violation of the requirements of this bill prior to receiving notice of a deficiency from the tenant.

4) Provides that, on and after January 1, 1997, a tenant may use various existing rights and remedies currently contained under provisions of existing Landlord/Tenant Law and other provision of existing law to enforce the "lock" requirements of this bill. More specifically, the bill provides for the following remedies:

   - Repair and deduct.
   - Injunctive relief.
   - Damages of $100 to $1,000 for wrongfully collecting rent for an untenantable dwelling.
   - Breach of contract.
   - Affirmative defense in eviction actions for nonpayment of rent after the landlord has received notice and has been given a reasonable opportunity to make repairs.

5) Clarifies that a violation of this section shall not broaden, limit, or otherwise affect the duty of care owed by a landlord pursuant to existing law, including responsibility for willful acts and negligence. Further, the bill provides that the delayed operative dates in the bill do not affect a landlord's duty to maintain the premises in a safe condition.

6) Provides that the bill shall not be construed to affect any authority of any public entity that may otherwise exist to impose any additional security requirements upon a landlord.

**Status: Assembly Housing Committee, two-year bill.**

**SB 533 (Hughes) - Building Code Violations/Los Angeles**

Reduces the existing formula used by an enforcement agency to determine whether or not a substandard building should be either repaired or demolished. The existing threshold requires an enforcement agency to give preference to repair a building when less than 75 percent of the building is damaged; this bill reduces the damage threshold to 50 percent. The bill is limited to the City of Los Angeles.

**Status: Failed passage. Assembly Appropriations Committee**

**SB 1109 (Leslie) - Hospital Building Standards**

1) Reduces the standard time for a less-restrictive building standard to take effect from 180 to 30 days. Requires the California Building Standards Commission to determine if a proposed amendment or repeal of a provision of the California Building Standards Code will result in less-restrictive regulation.

2) Requires, through an expanded definition of the word "hospital," the Office of Statewide Health Planning and Development (OSHPD) to also inspect skilled nursing facilities and intermediate care facilities after earthquakes.

3) Requires the California Health Policy and Data Advisory Commission of OSHPD to undertake a review of current activities and future needs relating to the collection and use of health facilities data and to assess the value and usefulness of specified reports.

4) Extends the sunset on the OSHPD data collection and reporting function from January 1, 1997 to January 1, 1999.

**Status: Chapter 543, Statutes of 1995**

## COMMUNITY REDEVELOPMENT

### Overview

Redevelopment began in 1945 as a post-war blight removal program that used federal urban-renewal grants to clean up blighted urban areas. These first projects were few in number: 27 projects in 1966. Project size was also limited. Prior to 1957, most project areas ranged from 10 to 100 acres.

By 1995, however, due to the use of tax-increment financing authorized by the voters in 1952 and fiscal restrictions imposed upon local governments by Proposition 13, redevelopment has emerged into a key local financing tool. The spread of redevelopment has grown so tremendously that now there is scarcely a jurisdiction that does not have an agency. There are currently 359 cities, 24 counties, and 2 joint city-county agencies. Many project areas encompass thousands of acres. According to the Legislative Analyst, over 100 square miles of California land was put under the control of redevelopment agencies in 1993.

Redevelopment offers several unique powers to local officials. First, under redevelopment, jurisdictions can issue bonds without a vote of the people; and second, they can use eminent domain authority to take private property for other private development uses.

Redevelopment agencies accumulate their funds by freezing the property tax base within a project area that has been designated as "blighted." With the property tax base frozen, all the affected taxing entities that receive property tax -- schools, fire departments, police departments, special districts -- continue to receive the same share of property tax that they received in the year when the redevelopment plan took effect. For instance, if a school was receiving $100,000 in property tax in 1990, it continues to receive that amount from the project area throughout the life of the redevelopment plan. Any additional property tax generated above the base year goes to the redevelopment agency. But the agency must share a percentage of this money with the affected taxing entities. A statutory formula requires certain percentages of funds to be passed through to the affected taxing entities. The specific percentages increase through the term of the redevelopment project.

A central interest the state has with redevelopment is its significant fiscal impact on the General Fund. Estimates of the cost of redevelopment to the state range from $400 to $750 million per year. These state costs are the result of the state guaranteeing minimum levels of school funding. Schools currently receive approximately 50 percent of local property tax dollars. When a redevelopment project area is declared and the property tax base within that area is "frozen," a large portion of the increase in the property tax increment generated within the project area flows to the redevelopment agency. Schools -- unlike all the other affected taxing entities that receive property tax within a project area -- are then reimbursed by the state for any amounts that they lose to redevelopment.

These high state costs, the lack of clear public scrutiny, proliferation of agencies and large project areas make redevelopment highly controversial. Once agencies are started, they gather momentum and are rarely if ever stopped.

City officials and developers tout redevelopment's benefits and advantages to revive down-trodden urban areas; tax watch-dog groups and adversely-affected business owners view redevelopment agencies as administrative behemoths which gobble up scarce tax dollars and engage in grand-scale development deals of dubious value. The suspicious see redevelopment agencies as engaging in games of fiscal sleights of hand with its true powers only understood by cagey attorneys, consultants, and staff.

In many cases, redevelopment powers have been used prudently and have produced good results. Examples are numerous where a run-down urban area is "redeveloped" and brought back to life again. In other more-controversial cases, these powers have been used to "develop" as opposed to redevelop. This happens when large areas of vacant land are deemed "blighted," and redevelopment agencies issue bonds without a public vote. These funds are then used to build infrastructure to attract development or to engage in bidding wars with surrounding communities to attract auto malls and "big-box" retailers and other sales-tax generators.

The Legislature sought to limit redevelopment abuses by passing laws, such as AB 1290 (Isenberg), Chapter 942, Statutes of 1993, to attempt to keep redevelopment focused on removing true urban blight. According to a report prepared by the Legislative Analyst, Redevelopment after Reform: A Preliminary Look, there is no initial evidence that the recent "reforms" have worked. The Analyst found no evidence that redevelopment project areas adopted in 1994 after the "reform" law were either smaller in size or more focused on eliminating urban blight than those project areas adopted in earlier years. The Analyst's report, however, was condemned as "premature" by redevelopment representatives who contended that the reforms had not had been given enough time to work.

**Redevelopment Reform: AB 1290**

The early 1990's were difficult times for redevelopment agencies. Many members of the Legislature were openly criticizing agencies for adopting large project areas with questionable evidence of blight, engaging in bidding wars with other jurisdictions for new commercial developments, and hoarding millions of dollars in unspent housing set aside funds. The cry for reform was in the air. With little sympathy for the pleas of the defenders of redevelopment, the Legislature raided these perceived "cash cows" to help balance the state's budget deficit for two years in a row. In response to this negative environment, the California Redevelopment Association sponsored AB 1290 (Isenberg), Chapter 942, Statutes of 1993, which proposed numerous reforms to the existing redevelopment process. The bill focused on issues which had historically caused concerns among redevelopment critics, including the definition of "blight," the term of redevelopment plans, and mitigation agreements.

Major portions of language included in AB 1290 were the result of special hearings held by the Committee in 1993 and the numerous discussions following those hearings. In brief, AB 1290:

- Alters the definition of "blight."

- Specifies term limits for new and previously adopted project areas, i.e., the term of the redevelopment plan, the term of the available flow of tax increment moneys, and the term of the agency's redevelopment powers.

- Increases and modifies penalties for the failure to expend tax increment moneys in an agency's LMI Fund.

- Authorizes the development of affordable housing units outside the project area to count toward an agency's inclusionary requirements. Under the provisions of the bill, an agency must produce two units outside the project area for every one unit owed.

- Prohibits the dedication of sales tax to an agency by its legislative body.

- Authorizes the financing of facilities or capital equipment made in conjunction with the development or rehabilitation of property used for industrial or manufacturing purposes.

- Deletes provisions relating to negotiated mitigation agreements and, instead, provides for a guaranteed statutory pass-through beginning in the first year of a project area for all affected taxing entities.

**Redevelopment and Military Base Closures**

Military Base Redevelopment Law (MRL) was adopted during the same time that AB 1290 was being considered in the Legislature. Requests by communities for special redevelopment legislation to assist them in base closure recovery entered a hostile climate. Proposals for a uniform redevelopment law that included special powers and exemptions for closed military bases were rejected. Members of the Legislature preferred to move cautiously. A comprehensive redevelopment law could have unforeseen consequences. The safer course was to examine each base's request individually.

Existing MRL finally made it into law as an amendment into SB 915 (Johnston), Chapter 944, Statutes of 1993, which contained special redevelopment legislation for the redevelopment of Mather Air Force Base. By the time it was enacted, the general consensus was that MRL was moot; many of its provisions (mandatory school pass-through formulas that require schools to receive 100 percent their share of property tax within 15 years, and requirements for the establishment of a fiscal review committee) are more stringent than existing Community Redevelopment Law (CRL). Since the enactment of MRL, communities with closed bases continue to be faced with two choices: either use standard CRL or seek special legislation.

Communities representing Norton and George, Castle, Mather, Fort Ord, March, and Mare Island closed military facilities, have each come to the Legislature over the past several years seeking amendments to redevelopment law. No two bills have been the same. Some had special definitions of blight; others didn't. Some allowed territory outside the base to be included; others didn't. Some had special tax allocation provisions and housing set-aside deferrals and waivers; others didn't. Yet, even with this special legislation, some of these bases chose not to use their special legislation because -- after careful

analysis -- they realized that the special legislation was more restrictive than standard redevelopment law. Mather did not use its special legislation; March is considering not using theirs. Please refer to the following comparison (pages 23 and 24) of the various bills that was prepared by the Governor's Office of Planning and Research (OPR). (More Detail on these individual bills may be found in the Committee's 1993-1994 Housing Update.)

**1995 Legislation and Interim Hearing**

Although the no individual-base redevelopment bills were introduced during the 1995 Session, the Committee did receive one bill on the issue: AB 1648 (Conroy). AB 1648 revived the policy proposal for a comprehensive approach to the redevelopment of closed military bases. The Committee referred the bill to interim study earlier in the year, where it remains eligible to be voted on by the Committee in January.

AB 1648, which is sponsored by OPR, proposes numerous revisions to existing MRL which include: altering the definition of blight for military bases, replacing the school pass-through formula with the standard redevelopment pass-through formula, and deleting the requirement for a fiscal review committee. In addition, the bill grants statewide application to both language relating to delayed California Environmental Quality Act compliance and a housing set-aside deferral formula.

In sponsoring AB 1648, OPR is attempting to implement some of the recommendations of the Governor's California Military Base Reuse Task Force Report, which was issued in January 1994. AB 1648, however, is OPR's second attempt at seeking legislative approval for such a proposal. In 1994, the Committee heard a similar measure, AB 3769 (Weggeland) which did not receive a favorable reception. In its initial hearing before the Committee, the Committee rejected the bill with a single "aye" vote, two "no" votes, and eight abstentions. AB 3769 was later amended to address only March Air Force Base issues and passed the Committee.

The Committee held an interim hearing on November 1, 1995 at the State Capitol on military base redevelopment. Representatives of the closed military bases were invited to testify on the issue. The purpose of the hearing was to determine if there were sufficient policy reasons for altering the Legislature's "one-base-at-a-time" practice of handling military base redevelopment issues in favor of a more comprehensive approach such as proposed in AB 1648. Whether or not the Committee members were convinced by the testimony given at the hearing to consider a comprehensive approach remains to be seen in the coming Session. (A background paper prepared for the hearing is available from the Committee.)

**Community Redevelopment and Disaster Recovery**

In 1995, the Legislature approved redevelopment reform legislation to address some recent redevelopment abuses to existing Disaster Project Law (DPL). The bill, AB 189 (Hauser), Chapter 186, Statutes of 1995, rewrites and tightens DPL in response to some recent abuses after the Northridge Earthquake.

## MILITARY BASE CLOSURE REDEVELOPMENT LEGISLATION
### Comparison of Key Provisions Included in Chapter 4.5 (HSC)

| Provision | *AB 419* Chapter 545/89 Norton & George AFB | *MBR, Article 2* Chapter 943/93 Castle AFB | *MBR, Article 3* Chapter 944/93 Mather AFB | *MBR, Article 4* Chapter 1169/94 Fort Ord | *MBR, Article 5* Chapter 1170/94 March AFB | *MBR, Article 6* Chapter 1168/94 Mare Island |
|---|---|---|---|---|---|---|
| 1. Required blight findings | Standard CRL (pre-1994) | MBR, Article 1, Sec. 33492.11 | MBR, Article 1, Sec. 33492.11 | Special - Sec 33492.74 | Special - Sec 33492.82 | Special - Sec 33492.95 (expands findings of Sec 33492.11) |
| 2. Tax allocation formula | Standard CRL (pre-1994) | MBR, Article 1, Sec 33492.15 | MBR, Article 1, Sec 33492.15, but permits 78% pass-thru | Special - Sec 33492.71 and Sec 33492.78 | CRL, Sec 33607.5, for school payments only | CRL, Sec 33607.5, for all taxing entities |
| 3. Redevelopment area definition | Defined by RDA | MBR, Article 2, Sec 33492.53(g) | MBR, Article 3, Sec 33492.63 | Defined by redevelop-ment agency | Defined by redevelop-ment agency | MBR, Article 6, Sec 33492.93 |
| 4. Negotiated pass-thru | Permitted, per Standard CRL (pre-1994) | Yes | Yes | No (special statutory formula) | Yes | No |
| 5. Inclusion of areas outside base in project area | Yes (up to 3 miles for Norton, up to 8 miles for George) | Yes | No | No | Yes, but limited to 2% of acreage within 1 mile of base perimeter | No |
| 6. Low- & moderate-income (LMI) set-aside deferral provision | Defer for indefinite period; Pay back according to repayment plan | Defer 50% for 5 years repay within 8 years | Defer 50% for 10 years repay within 20 years | Waive 100% for 5 yrs and 50% between years 5 and 10 if 6% LMI vacancy rate | Defer 100% for 5 yrs if 4% LMI vacancy rate repay in 10 years | No provision |
| 7. CEQA deferral | Yes | No | Yes | No | No | Yes |
| 8. Provision for replacement of barracks | No provision | No provision | No provision | Replacement not required (Sec 33492.76) | Replacement not required (Sec 33492.87(b)(1)) | No provision |

## MILITARY BASE CLOSURE REDEVELOPMENT LEGISLATION
### Comparison of Key Provisions (Continued)

| Provision | *AB 419* Chapter 545/89 Norton & George AFB | *MBR, Article 2* Chapter 943/93 Castle AFB | *MBR, Article 3* Chapter 944/93 Mather AFB | *MBR, Article 4* Chapter 1169/94 Fort Ord | *MBR, Article 5* Chapter 1170/94 March AFB | *MBR, Article 6* Chapter 1168/94 Mare Island |
|---|---|---|---|---|---|---|
| 9. Provision for housing replacement | No provision | 1:1 replacement unless vacancy rate exceed 6% | No provision | No provision | Replacement required, per special formula (Sec 33492.87(b)(2)) | No provision |
| 10. Provision for commencement of payments to other taxing entities | Immediate, per CRL | MBR, Article 1, Sec 33492.9 | MBR, Article 1, Sec 33492.9 | MBR, Article 1, Sec 33492.9 | MBR, Article 1, Sec 33492.9, but with exceptions for certain payments to cities | MBR, Article 1, Sec 33492.9 |
| 11. Other provisions | --- | --- | --- | Special pass-throughs to cities and counties to relieve financial burdens for public safety, etc. | Permits redevelopment agency to offer credit enhancements | --- |

In 1994, the Legislative Analyst issued a report documenting some of the abuses. The existing DPL provisions had not been amended since the law was enacted in 1964, when a tidal wave damaged Crescent City. The 1964 language allowed the project to be developed in an accelerated fashion by reducing public notice requirements from 30 to 10 days, prohibiting the right of the people to vote on the adoption of the plan, and eliminating the requirement that the project area contain blight. Under this outdated authority, some cities proposed massive redevelopment projects after disasters without declaring the area blighted and keeping the public shut-out of the process.

The intent of AB 189 was to reform DPL in a manner that limited future abuses, but also allowed jurisdictions that suffer legitimate disasters to rebuild their communities. AB 189 limits the application of the law so that it can only be used by localities in disaster-stricken areas for a 10-year period, restores the public right to vote on project adoption, and reinstates standard 30-day public notice requirements. It is also anticipated that AB 189 will reduce the need for communities to seek special legislation after future disasters.

## 1995 Legislation

1995 was one of the quietest in recent years for redevelopment legislation. It appeared that the critics of redevelopment were satisfied to wait to see if the AB 1290 reforms were working. Most of the legislation involved clean-up of prior bills, re-introductions of bills from previous sessions, and individual legislation relating to base closures; specifically, Fort Ord.

**AB 189 (Hauser) - Disaster Project Law**

1) Requires the adoption of a redevelopment plan to be commenced within six months of a Presidentially declared disaster, and for the adoption to be completed within 24 months.

2) Requires a preliminary plan to be prepared covering the proposed disaster project and compliance with existing CRL 30-day public-notice provisions.

3) Authorizes the ordinance adopting the redevelopment plans to be subject to referendum.

4) Establishes a time limit of 10 years to establish loans, advances, and indebtedness to be paid with tax increment, 10 years to complete the redevelopment plan, and 30 years to repay indebtedness.

5) Authorizes the "base-year assessment roll" to be established through a procedure under existing law which takes into account the decline in property values due to the disaster.

6) Limits the use of tax-increment funds to repairing and replacing only those buildings and facilities which have been damaged or destroyed by a disaster.

7) Defines "project area" as a predominantly urbanized area limited to those areas in which the disaster conditions are so prevalent and so substantial that they have caused a reduction in, or lack of, the normal pre-disaster usage of the area to such an extent that it causes a serious physical and economic burden which cannot reasonably be expected to be reversed or alleviated during the term of the redevelopment plan by private enterprise or governmental action, or both, without redevelopment.

8) Authorizes the adoption of a redevelopment plan without compliance with the California Environmental Quality Act (CEQA). An agency is allowed to delay CEQA compliance for up to 12 months following the adoption of the plan, but requires all projects undertaken within the 12-month period to be subject to CEQA.

9) Clarifies that an agency must comply with existing relocation requirements when the actions of the agency cause displacement.

10) Sunsets the law on January 1, 2001.

**Status: Chapter 186, Statutes of 1995**

**AB 368 (Speier) - Battered Women's Shelters**

Authorizes a redevelopment agency to use up to 30% of its Low and Moderate Income Housing Fund outside of its jurisdiction for transitional housing or emergency shelter, and/or a shelter for battered women.

**Status: Assembly Housing Committee, two-year bill.**

**AB 419 (Olberg) - Financial Reports**

1) Requires a redevelopment agency to submit a detailed report of its administrative funds, as well as a copy of its annual report, upon the written request of a taxing entity which levies taxes within the jurisdiction of the agency.

2) Requires the person or taxing agency to reimburse the redevelopment agency for all actual and reasonable costs incurred in connection with the provision of the requested information.

**Status: Chapter 116, Statutes of 1995.**

**AB 1264 (Knight) - Disaster Project Law**

Authorizes a redevelopment pass-through payment to the Castaic Lake Water Agency.

**Status: Assembly Housing Committee, two-year bill.**

**AB 1379 (Thompson) - Payments to Affected Taxing Entities**

1) Authorizes a redevelopment agency to make payments to an affected taxing entity that is a state water contractor (Castaic Lake Water Agency) of those taxes that were originally levied and approved by the

state's voters prior to July 1, 1978, to fund a state water contractor's payments on its water supply contract with the Department of Water Resources for the costs of building, operating, maintaining, and replacing the State Water Resources Development System.

2) Provides that the payments made shall not cause any reduction in other currently authorized payments.

3) Defines "State Water Resources Development System" to mean as that term is defined in the Water Code.

**Status: Chapter 137, Statutes of 1995.**

**AB 1424 (Isenberg) - Affected Taxing Entities**

1) Expresses the intent of the Legislature with regard to the formula for payments of redevelopment agencies to local taxing entities required by the Community Redevelopment Law Reform Act of 1993 [AB 1290 (Isenberg), Chapter 942, Statutes of 1993], which states in part:

> Prior to the enactment of AB 1290, negotiated agreements between redevelopment agencies and taxing entities often led to redevelopment project areas that were not truly blighted, thereby increasing both the size of project areas and the amount of local property taxes diverted to redevelopment activities. These negotiated agreements cost the state General Fund between $400 million and $750 million per year.
>
> AB 1290 replaced negotiated agreements with a statewide formula to provide all taxing entities affected by redevelopment project areas a set percentage of their anticipated property tax revenues.
>
> Some private education consultants were advising school districts that the letter and intent of AB 1290 may be circumvented by entering into negotiated agreements that would prevent the state from slowing the financial drain on the General Fund caused by redevelopment projects.

2) Requires that a reduction in a payment by a redevelopment agency to a school district, community college district, county office of education, or for special education, be subtracted only from the amount that otherwise would be available for educational facilities (the portion considered to not be property taxes).

3) Changes the portions of the amounts paid to a school district that are considered to be property taxes and not to be property taxes from 43.9% and 56.1% to 43.3% and 56.7%, respectively.

**Status: Chapter 141, Statutes of 1995.**

**AB 1648 (Conroy) - Military Base Conversions**

Makes numerous revisions to existing Military Base Redevelopment Law which include expanding the definition of blight, altering school pass-through formulas, and deleting the requirement for a fiscal review committee. In addition, the bill grants statewide application to language relating to a California Environmental Quality Act exemption and a housing deferral formula taken from individually-focused military base redevelopment legislation.

**Status: Assembly Housing Committee, two-year bill.**

**AB 1820 (McPherson) - Replacement Dwellings**

Exempts all dwelling units located within a redevelopment project area that are set aside for housing the homeless under the federal Stewart B. Mckinney Act from being subject to existing redevelopment law replacement requirements for low- and moderate-income housing.

**Status: Senate Housing Committee, two-year bill.**

**SB 77 (Mello) - Fort Ord**

Expands the existing exemption from low- and moderate-income set-aside requirements for the Fort Ord Redevelopment Agency. Specifically, this bill authorizes the agency to waive half of the housing set-aside funds from the fifth year through the tenth year, provided the finding of a 6% affordable housing vacancy factor continues to be made.

**Status: Chapter 45, Statutes of 1995**

**SB 78 (Mello) - Fort Ord**

Exempts any housing built prior to January 1, 1970 from being subject to existing redevelopment law replacement requirements for low and moderate income housing under the jurisdiction of the Fort Ord Redevelopment Agency.

**Status: Assembly Housing Committee, two-year bill.**

**SB 1036 (Mello) - Fort Ord**

1) Authorizes, through various deletions to existing law, FORA or another redevelopment agency with jurisdiction within Fort Ord to finance facilities or infrastructure which are for the primary benefit of CSU or UC.

2) Prohibits financial assistance for the development or redevelopment of buildings owned or operated by CSU or UC.

**Status: Chapter 441, Statutes of 1995.**

## RENT CONTROL

Under existing law, in the absence of state or local law to the contrary, rental rates for real property are established by contractual agreement. Over 100 jurisdictions have established, through ordinance or initiative, some form of rent control on multifamily rental housing or mobilehome park spaces.

Fourteen cities have some form of residential rent control. Over 100 jurisdictions have enacted mobilehome rent control. Mobilehome rent control applies to 1,365 parks covering about 147,200 mobilehome spaces. Approximately 4,500 parks and 310,000 spaces are not covered by rent control.

Proponents of rent control argue that either state regulation or the prohibition of rent control is inappropriate - each community is unique and local circumstances should determine whether rent control is warranted. Rent control protects persons with low incomes from high rents which result from speculation, low vacancy rates, or the desire for higher profits.

Opponents of rent control argue that rent controls deter new construction of rental housing and discourage investment. Further, rent controls which do not offer adequate returns inhibit the proper maintenance and upkeep of residential property. Finally, it is contended that rent control subsidizes rents for persons who can readily afford to pay market rates.

Rent controls may be generally categorized as "severe" or "moderate." Severe rent control is characterized by the continuing control of rent when a unit becomes vacant and prohibits a rent increase when a new tenant occupies the unit (vacancy control). Moderate rent control does not control the rent on a unit when it becomes vacant and permits the rent to rise to the market rate when a new tenant moves in. After this new rent is determined, the rent is again controlled (vacancy decontrol).

With the enactment of AB 1164 (see below) this year, the Legislature is squarely in the business of regulating residential rent control.

### 1995 Legislation

The following rent control bills were heard by the Committee:

**AB 1164 (Hawkins) - Residential Rent Control**

Establishes a comprehensive scheme to regulate local residential rent control, which shall be known and may be cited as the Costa-Hawkins Rental Housing Act, as follows:

1) **Vacancy decontrol:** Establishes vacancy decontrol for residential dwelling units where the former tenant has voluntarily vacated, abandoned, or been evicted pursuant to a three-day notice to pay or quit.

a) Specifies that the rental rate of a dwelling or unit whose rental rate is controlled by ordinance or charter provision in effect on January 1, 1995, shall, until January 1, 1999, be established as follows:

Upon a vacancy, as specified, an owner of residential real property may, not more than twice, establish the initial rental rate for a dwelling or unit in an amount that is no greater than 15 percent more than the rental rate in effect for the immediately preceding tenancy or in an amount that is 70 percent of the prevailing market rent for comparable units, whichever amount is greater.

b) This provision would not apply if the rent control is pursuant to an agreement between the local public entity and the owner for a "direct financial contribution" or other specified assistance from the locality. It would also not apply to impair any obligation of contracts entered into prior to January 1, 1996.

2) **Single-family exemption:** Exempts single-family residences from rent control after 1999 upon a vacancy. Provides a three-year phase-in similar to that described above for a single family home, condominium, townhouse, specified community apartment projects and stock cooperatives, and any dwelling unit which could be sold or transferred separately. This "single-family" exemption provides that any tenant in place prior to January 1, 1996 and who remains after the three-year phase-in would remain covered by the local rent control ordinance.

3) **New Construction Exemption:** Exempts from local controls any new construction which is issued a certificate of occupancy after February 1, 1995, and exempts from local controls any residential real property which is already exempt from local controls as of February 1, 1995 pursuant to a local exemption for newly constructed units.

4) **Evictions:** Provides that this bill would not affect any authority of a public entity that otherwise exists to regulate the basis for eviction (such as local just cause eviction ordinances).

5) **Subletting:** Provides that an owner may increase the rent by any amount to a sublessee or assignee where there is a rental agreement prohibiting subletting or assignment and the original occupant(s) who took possession no longer permanently reside there.

6) **Code Violations:** Exempts from the bill any dwelling or unit which contains serious health, safety, fire or building code violations, as specified.

**Status: Chapter 331, Statutes of 1995**

**AB 1337 (Sweeney) - Mobilehome Park Long-Term Leases**

Provides that the occupant (i.e. purchaser) of a mobilehome shall not be considered an unlawful occupant of a mobilehome park if the management failed to offer a rental agreement for a term of 12 months, a lesser

period requested by the occupant or a longer period, mutually agreed upon by the occupant and management.

Long-term leases are exempt from rent control. The gist of this bill is whether:

a) A prospective purchaser/occupant should receive the benefits of rent control, by agreeing to a month-to-month lease; or

b) Management should be reserved the right to determine the requirements of tenancy, including offering only a long-term lease to a prospective purchaser.

**Status: Vetoed by the Governor**

**SB 1257 (Costa) - Residential Rent Control**

This measure was the initial residential rent control bill, the provisions of which were subsequently amended into AB 1164.

**Status: Two-year bill, Assembly Housing Committee**

## COMMON INTEREST DEVELOPMENTS

"Subordination of individual property rights to the collective judgment of the owners' association, together with restrictions on the use of real property, comprise the chief attributes of owning property in a common interest development."

California Supreme Court, September 2, 1994
Nahrstedt v. Lakeside Village Condominium Association

The Davis-Stirling Act (Act) defines common interest developments (CID), including community apartment projects, condominium projects, planned developments, and stock cooperatives. In addition, the Act provides for association voting requirements, access to records, levy of assessments, conduct of meetings, and liability of officers and directors.

A CID combines a separate interest in the ownership of a unit with a combined interest in the ownership of the common area.

The owners of the separate interests are members of an association which is created for the purpose of managing the CID. The board of directors of the association is responsible for the day-to-day management and operation of the CID.

The Department of Real Estate is the governmental entity responsible for approving, with limited exceptions, the public report required before a CID can be established. It is estimated that there are over 25,000 CID associations. The majority of these associations are less than 10 years old.

In 1995, the biggest development relating to CIDs involved the Federal Home Loan Mortgage Company (Freddie Mac).

Freddie Mac is a shareholder-owned, government-sponsored enterprise created on July 24, 1970; it's primary mission is to provide stability to the secondary market for residential mortgages. Freddie Mac's principal activity consists of purchasing first-lien conventional residential mortgages. Freddie Mac, however, imposes limits on the maximum original principal amount of any type of mortgage that it may purchase. In 1994, the maximum original principal amount for a first-lien conventional single-family mortgage was $203,150. Altogether, Freddie Mac holds about one out of six mortgages in the United States.

On February 15, 1995, Freddie Mac introduced new requirements for California condominium mortgages. Effective July 1, 1995, Freddie Mac required earthquake insurance on condominium projects in specified high-risk areas of the state (and in moderate-risk areas for certain types of projects) before mortgages on individual units within projects are eligible for sale to Freddie Mac.

Freddie Mac requires these deductibles to be prefunded in one of three ways:

a) Maintain reserves in the amount of the deductible, designated for such exclusive use and which must be replenished within six months of disbursement for covered loss.

b) Maintain unit owner's earthquake insurance on all units in the condominium. Each unit must be insured for the dwelling or building coverage at a limit that is at least equal to the unit's prorated share of the project's deductible and for loss assessment coverage.

c) Institute any other method that fully prefunds the amount of the deductible and is demonstrated in the governing documents.

## 1995 Legislation

Descriptions of the major bills reviewed by the Committee in this area follow:

**AB 46 (Hauser) - Meetings**

Re-organizes existing law relating to open meetings. Defines "meeting," allows a member to request an executive session to discuss proposed discipline, and provides for notice of meetings. The purpose of this bill is to provide for open CID meetings.

**Status: Chapter 661, Statutes of 1995**

**AB 104 (Hauser) - Satellite Dishes**

Provides that any covenant, condition, or restriction (CC&R) contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of, or any interest in, a (CID) that effectively prohibits or restricts the installation or use of a television or video antenna or satellite dish that is 36 inches or less in diameter or that effectively prohibits or restricts the attachment of that antenna or dish to a structure within that development where the antenna is not visible from any street or common area, is void and unenforceable.

Allows "reasonable restrictions" on a dish or antenna.

Defines "reasonable restrictions" to mean those restrictions that do not significantly increase the cost of the system (including the antenna and related equipment) or significantly decrease its efficiency or performance.

**Status: Chapter 978, Statutes of 1995**

**AB 463 (Goldsmith) - Fiscal Affairs and Notice of Civil Action**

Deletes the exception to the requirement for ownership approval of special assessments for prescribed legal costs (thereby requiring a vote as well for a special assessment to pay for the costs of construction defect litigation).

Requires the board to provide written notice to members of the association regarding any proposed civil action to be filed by the association against the declarant or other developer of a CID for alleged damage to certain areas or interests that the association is obligated to maintain or repair, as specified.

**Status: Chapter 13, Statutes of 1995**

**AB 1317 (Speier) - Alternative Dispute Resolution (ADR)**

Requires that the existing ADR process relating to enforcement of the governing documents also apply to association assessments.

**Status: Assembly refused to concur in Senate Amendments. Motion to reconsider. Two-year bill, Assembly Floor**

**AJR 23 (Hauser) - Earthquake Insurance**

Memorializes the President and the Congress to prevent the Federal Home Loan Mortgage Corporation from imposing new earthquake insurance requirements for condominiums in California.

**Status: Two-year bill, Senate Judiciary Committee**

**SB 110 (Craven) - Resident-Owned Mobilehome Parks**

Clarifies that resident-owned mobilehome parks are subject to the Davis-Stirling Act, not the Mobilehome Resident Law (MRL). Clarifies that the MRL solely applies to a renter in a mobilehome park who does not have an ownership interest in the parks.

**Status: Chapter 103, Statutes of 1995**

**SB 300 (Petris) - Disclosure of Insurance Policies**

Requires that unless the governing documents (rather than the declaration) impose more stringent standards, the association shall prepare and distribute to all its members a summary of the association's general liability policy, a summary of the association's earthquake and flood insurance policy, if one has been issued, and a summary of the liability coverage policy for the director and officers of the association.

Provides that notwithstanding the above, the association shall, as soon as reasonably practical, notify its members by first-class mail if any of the policies have been canceled and not immediately replaced. If the association renews any of the policies or a new policy is issued to replace an insurance policy of the association, and where there is no lapse in coverage, the association shall notify its members of that fact in the next available mailing to all members.

Provides that to the extent that the information to be disclosed is specified in the insurance policy declaration page, the association may meet these requirements by making copies of that page and distributing it to all its members.

**Status: Chapter 199, Statutes of 1995**

**SB 1325 (Polanco) - Freddie Mac**

1) For the purpose of the Fair Employment and Housing Act (FEHA), includes within the definition of "person" all institutional third parties including the Federal Home Loan Mortgage Corporation.

2) Includes within the definition of "real estate-related transactions" the use of territorial underwriting requirements, including requiring a borrower in a specific geographic area to obtain earthquake insurance, in connection with the purchase by an institutional third party of a loan secured by residential real property.

**Status: Chapter 924, Statutes of 1995**

## HOMELESS PROGRAMS

### Overview

Homelessness is a problem in every major California city, as well as in many rural areas. California's streets, malls, beaches, parks, and river banks are rife with people who for one reason or another do not have permanent places to live. The homeless problem stems from many sources: high housing costs, unemployment, alcoholism, drug addiction, reduced services for the mentally ill, reduced federal housing funds, and a wave of conversions of federally subsidized housing to market rates - all of which have converged to create the current crisis.

Despite the acknowledgment by many in government, the media, and the private sector of the problems of homelessness, there is neither agreement on how best to attack the problem nor significant available public money to fight it with. In large part, the battle against homelessness is being fought by church groups and other non-profit organizations with volunteers, donations, and a trickle of government funds.

Due to frustration with the lack of progress on the problem over the last decade, public sympathy for the homeless appears to be waning. Recently, many cities have enacted stiff anti-camping and panhandling ordinances in response to outraged citizens and business owners who demand a "get-tough" approach to the problem.

The number of homeless people in California is difficult to estimate. Since a person can be homeless for days, weeks, months, or years, the homeless population is constantly fluctuating. Basically, the number of homeless depends on how they are counted and who does the counting. The 1990 census survey counted 48,887 people in shelters and in "visible" locations. However, according to the California Homeless and Housing Coalition (CHHC), 99,000 families (at an average size of three persons per family) received AFDC homeless assistance during Fiscal Year 1991-92. Overall, the CHHC estimates the number of homeless in California at 250,000, with one-third of the homeless population being children.

Who are the homeless? According to a recently released federal report on homelessness, homeless persons tend to be unattached men and women under 40, often with frayed or badly worn ties with family and friends, who are out of work and living on next to nothing. According to the report, homeless persons "show unusually high prevalences of severe mental illness, substance abuse, institutional histories, and foster care placement; minority groups (mainly, African Americans and Hispanics) and veterans are disproportionately represented." Further, the report defines two broad classes of problems which create homeless: "crisis poverty" and "chronic disability." Those with "crisis poverty" often become homeless because they lack education and job and life skills and are living on the bottom rung of poverty - a slight change in their circumstances, such as a late rent check, and they are homeless. Those with "chronic disability," however, possess one or more chronic disabling conditions such as alcohol and drug addictions or mental illness.

The causes of the increase in homelessness during the last decade are also a matter of dispute. One research team recently suggested that the proliferation of homelessness during the last decade is in part a result of the baby boom. The number of Americans age 18 to 44 - the period when most people are vulnerable to addictions and mental illness - increased from 70 million in 1970 to 108 million in 1990.

No matter the underlying cause, it is readily apparent that there are no snap answers. This point become clear by paying a visit to a shelter. Those who work in shelters take a pragmatic and holistic approach toward homeless assistance. According to Mark Holsinger, Executive Director of the Los Angeles Mission, the causes of homelessness are complex: "We've found that there's never just one problem. That's why there is no quick fix to homelessness. Shelter or food alone won't give a person the job and living skills necessary to function independently." Surveys by the Mission indicate a strong need for job training and job skills programs; drug and alcohol programs; and shelters, missions and other places to sleep.

To address the wide array of needs for the homeless, the state and federal government provides services to the homeless through a Byzantine array of agencies, departments, and programs which focus on either emergency shelter and services or narrowly-focused programs which address specific subgroups of the homeless population.

**Department of Housing and Community Development Programs**

1) **Emergency Housing Assistance Program (EHAP):** Operated by HCD. Provides grants to local service providers who offer temporary emergency shelter to the homeless. Grants may be used for the acquisition and renovation or expansion of existing facilities, general maintenance costs, and limited administrative expenses. For the last several years, the Governor's budget has proposed a General Fund appropriation of approximately $2 million for shelter operating expenses under the EHAP. Legislative augmentations for this program have not been successful.

   A previous temporary source of state funds for EHAP was provided through the Roberti Housing and Homeless Act: Proposition 84, which was approved by the voters in June 1988, and Proposition 107, approved in June 1990. Proposition 84 allocated $25 million and Proposition 107 allocated an additional $10 million in bond proceeds to EHAP for so-called "hard costs," i.e., development and rehabilitation of shelters. All of these funds have been committed.

2) **Federal Emergency Shelter Grant Program:** Provides Stewart B. McKinney Homeless Assistance Act of 1987 (McKinney Act) grant funds for rehabilitation of homeless shelters, essential services, operating expenses, homeless prevention, and grant administration. Approximately $1.5 million was allocated to California for this program in 1994, but these funds are expected to decline.

3) **Homeless Handicapped Program:** Funded by HUD under the McKinney Act. The state program contracts with approximately 30 non-profit housing providers who acquire and rehabilitate single-family homes for use by the handicapped homeless. Currently, the program serves between 250 to 300 people. HUD pays for a percentage of the ongoing costs for up to five years, and the residents (most of whom receive Social Security) contribute 30 percent of their incomes toward household needs and maintenance costs. Over the last five years, the program has received $9.7 million in federal funds; there was no previous state funding. This program receives approximately $186,000 per year in state General Fund money.

**Federal Stewart B. McKinney Homeless Assistance Act of 1987**

The McKinney Act provides grants to states and local agencies for various programs for homeless persons, including the provision of "essential services" which includes drug and employment counseling and homeless prevention. The McKinney Act requires that as a condition of eligibility, applicants must provide a match equal in value to funds provided. This match must be supplied through non-federal sources. In addition, federal surplus property, including portions of recently closed military bases, may be made available to the state, local governments, or non-profits for use as facilities to assist the homeless. In 1994, approximately $1 billion nationwide has been set aside to fund 13 different federal programs. This number is expected to decline substantially as a result of budget cuts by Congress.

**Federal Plan To End Homelessness**

In May 1993, President Clinton signed an Executive Order directing the 17 member agencies of the Interagency Council on the Homeless to develop a single coordinated federal plan to break the cycle of existing homelessness and prevent future homelessness. As a result of this order, federal officials launched an eight-month nationwide effort to gather information and recommendations for improving and coordinating existing services and developing the plan. Input was received from over 14,000 representatives of state and local government, non-profit housing and service providers, homeless advocates, economic and community development leaders, educators and social service professionals, as well as individual homeless or formerly homeless persons.

The result is a report entitled, "Priority: Home! The Federal Plan to Break the Cycle of Homelessness." In brief, the report recommends doubling the budget for HUD's homeless programs under the McKinney Act to $1.7 billion and calls for a seamless "continuum of care" that encompasses emergency needs, transitional support, and permanent housing. The Federal Government is urged to reorganize its resources to improve its partnership with states, localities, and the private sector, with a shift away from strictly emergency assistance to services designed to promote long-term independence and self-sufficiency. To prevent future homelessness, the report calls for more job training, better education, comprehensive social services, and affordable housing.

## Recent Legislation

In 1995, the Committee was assigned two bills relating to the homeless: AB 1820 (McPherson) and AB 368 (Speier). AB 1820 clarified that housing units at Fort Ord that were transferred to non-profit corporations for use by the homeless, do not count as housing units that were removed or destroyed by redevelopment activities, which would trigger housing replacement requirements. AB 368 authorized a redevelopment agency to use up to 30% of its funds for the development of transitional housing or emergency shelter outside of the territorial jurisdiction of the agency. Both bills are two-year bills. AB 1820 is located in the Senate Housing and Land Use Committee; AB 368 was not heard by the Assembly Housing Committee.

Other legislative committees also heard bills relating to homelessness, but all of these bills have become two-year bills. In brief, the other bills are:

- AB 416 (Escutia); makes food stamp applications available at shelters.
- AB 476 (Escutia); req. housing plan for homeless with tuberculosis.
- AB 695 (Napolitano); prohibits hate crimes against the homeless.
- AB 758 (V. Brown); requires Santa Rosa Armory to house homeless.
- SB 302 (Campbell); exempts shelter providers from civil damages.
- SB 528 (Rogers); establishes a Nat. Gd. homeless advisory committee.
- SB 552 (Campbell); authorizes shelter in state/county facilities.
- SB 553 (Campbell); req. five armories to shelter homeless year-round.

## 1995 Legislation

**AB 368 (Speier) - Emergency Shelter/Redevelopment Funds**

Authorizes a redevelopment agency to use up to 30% its funds outside of its territorial jurisdiction to develop transitional housing or emergency shelter.

**Status: Assembly Housing Committee, two-year bill**

**AB 1820 (McPherson) - Homeless Housing/Redevelopment**

Exempts all dwelling units located within a redevelopment project area that are set aside for housing the homeless under the federal Stewart B. McKinney Act from being subject to existing redevelopment law replacement requirements for low- and moderate-income housing.

**Status: Senate Housing and Land Use Committee, two-year bill**

## HOUSING DISCRIMINATION

The Legislature addressed discrimination in housing this session relating to the California Fair Employment and Housing Act (Fair Housing Act), the Unruh Civil Rights Act (Unruh Act), and the federal Fair Housing Amendments Act of 1988 (FHAA).

The Fair Housing Act prohibits the owner of any housing accommodation from discriminating against any person in the sale or rental of housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, disability, or familial status. "Familial status" means one or more persons under the age of 18 living with a parent or other person having legal or designated custody and applies to pregnant women or those who are in the process of obtaining legal custody of a child under 18.

The FEHA also prohibits any person from making, printing, or publishing, or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a housing accommodation that indicates any preference, limitation, or discrimination based on race, color, religion, sex, marital status, national origin, ancestry, familial status, or disability or an intention to make any such preference, limitation, or discrimination.

The Unruh Act prohibits discrimination on several bases, including age, in the sale or rental of housing, but permits - as an exception to this prohibition - the establishment and preservation of exclusive housing for senior citizens where the accommodations are designed to meet the physical and social needs of senior citizens, and defines for these purposes a senior citizen housing development.

In 1982, California Supreme Court held in Marina Point, Ltd. v. Wolfson (1982) 30 Cal.3d 72, that the Unruh Act prohibited a business establishment from discriminating in the sale or rental of housing based on age. The Court determined that a landlord of an apartment complex and the owner's association in a planned development are business establishments subject to the Unruh Act.

The Court determined that a ban against children in an apartment complex constitutes arbitrary discrimination under the the Unruh Act. The Court did, however, carve an exception for housing facilities "reserved for older citizens."

The Department of Fair Employment and Housing (DFEH) administers and enforces the Fair Employment and Housing Act (FEHA) and provides for procedures to prevent and eliminate discrimination in housing. DFEH also accepts complaints alleging violations of the Unruh Act relating to housing.

The Fair Housing Act does not expressly require that discrimination be proven intentional. The DFEH states that under the FEHA the burden on a complainant to establish discrimination in housing is met if the complainant demonstrates that the practice has a discriminatory effect. Discriminatory effect is

demonstrated by the disparate impact test. This test allows a complainant (plaintiff) to establish a prima facie case of discrimination by showing that a respondent's (defendant's) practices or policies have an adverse impact on a statutorily protected class of persons.

The DFEH is authorized to investigate complaints and adopt guidelines for accepting complaints regarding occupancy limitations. When a housing provider's occupancy limitation permits the number of occupants to be equal to, or greater than, two persons per bedroom plus one additional person (2+1) for the entire dwelling unit, DFEH will advise the complainant that the complaint probably cannot be sustained unless there is proof of intentional discrimination.

State Housing law provides for the adoption of building standards and the state has adopted by reference the Uniform Housing Code (UHC) as the statewide overcrowding standard; however, a city or county may modify this standard as it determines it is reasonably necessary because of local climatic, geological, or topographical conditions. The UHC provides that every dwelling, except for studio apartments, have one room with at least 120 square feet of floor area. Two persons are allowed to use a room for sleeping purposes if it has a total area of not less than 70 square feet. When more than two persons occupy a room, the required floor area must be increased by an additional 50 square feet per occupant. The UHC is based on health and safety considerations.

The FHAA prohibits discriminatory housing practices based on handicap and familial status. HUD has adopted regulations which recognize, as an exception to the prohibition against discrimination, the special needs and status of senior citizens. These regulations permit "seniors only" developments under specified conditions.

The FHAA expressly does not limit the applicability of any reasonable occupancy standards adopted by the state and local governments.

The FHAA specifies that if HUD receives a complaint alleging discrimination in housing, HUD must refer the complaint to a state or local agency for action if the agency has jurisdiction and is certified by HUD as having protections, procedures, and remedies "substantially equivalent" to HUD in fair housing enforcement.

The following are descriptions of measures relating to discrimination in housing which were heard by the Committee:

**AB 1509 (Hawkins) - Advertising**

Requires DFEH to adopt regulations, by January 1, 1997, consistent with HUD regulations, to interpret the FEHA with respect to the use of words, phrases, symbols and visual aids in advertising.

**Status: Senate Floor, Held at Desk**

**SB 332 (Campbell) - Senior Housing**

Defines a senior citizen housing development in a heavily populated urban area to consist of at least 70 dwelling units built before January 1, 1996, or 150 dwelling units built on or after January 1, 1996

**Status: Chapter 147, Statutes of 1995**

**SB 1325 (Polanco) - Freddie Mac**

Includes within the definition of "person" , for the purposes of the FEHA, all institutional third parties including the Federal Home Loan Mortgage Corporation (Freddie Mac).

Includes within the definition of "real estate-related transactions" the use of territorial underwriting requirements, including requiring a borrower in a specific geographic area to obtain earthquake insurance, in connection with the purchase by an institutional third party of a loan secured by residential real property.

**Status: Chapter 924, Statutes, of 1995**

## FARMWORKER HOUSING

### Overview

Affordable, safe, and sanitary housing for the vast majority of California's farmworkers is virtually nonexistent. When a migrant farmworker arrives in a rural agricultural town, he/she has few options: most of the existing housing is occupied; available units often consist of the most dilapidated units in the community; rents are high; and per-person charges are used to capitalize on "doubling up." If the migrant fails to arrive in town early enough to get a substandard unit, there are four choices available: double up in an occupied unit; pay rent to live in a shed, barn, garage, or backyard; live in a car; or try to obtain housing in a surrounding community and commute to work. Although there are a number of state-operated farm labor camps and some employer-provided housing, these programs address only a minimal portion of the total housing need.

Several reasons are commonly cited for the lack of farmworker housing. Housing advocates maintain that government has not spent enough money for farmworker housing and has let the agricultural industry exploit farmworkers - a historically vulnerable group - for profit. Further, housing advocates argue that the agricultural industry as well as the consumer should be required to pay for farmworker housing and services since they both benefit from farmworker productivity. The agricultural industry maintains that housing is expensive to provide and investments are rarely recaptured because the housing is only used seasonally. Agricultural interests also contend that bothersome governmental regulations and community opposition make farmworker housing difficult to build and maintain. Moreover, the increasing use of farm labor contractors as intermediaries has increased the distance between growers and labor, which serves to blunt workers' attempts to attain better working conditions and benefits directly from growers.

Statistical information suggests that part of the problem is due to an oversupply of workers. Due to their high levels of mobility, durations of employment, and large numbers of undocumented workers (20 to 40 percent of the farm labor force), an accurate estimate of the total number of the farmworker population is difficult to calculate. Yet, all estimates indicate that there are many more farmworkers than jobs.

Agricultural researchers estimate that California agriculture employs the equivalent of 350,000 year-round workers. A 1989 study by the California Employment Development Department revealed that 880,000 people claimed at least a portion of their incomes from farmworking. Some estimates place the total farmworker population as high as 2 million.

Unemployment insurance data suggests most farm work is short-term at best. A 1985 study cited 54 percent of farmworkers as "casual workers" working for a few weeks and earning less than $1,000; 40 percent were "seasonal workers" earning between $1,000 to $12,500 for employment of up to 20 weeks; and only six percent were "regular workers, managers, and professionals" earning an average of $21,000 for 42 weeks.

**Report Cites Failure of 1986 Immigration Reform Measure**

In 1986, Congress passed the Immigration Reform and Control Act (IRCA), which contained provisions to control illegal immigration through a system of penalties against employers who hired illegal workers. In addition, IRCA legalized some aliens present in the United States prior to 1982. IRCA was expected to result in a more stable work force which, in turn, would lead to higher wages and improved working conditions; increased mechanization; decreased production of labor-intensive fruit, vegetable, and horticultural crops; higher food prices for consumers; and a better agricultural job-matching system. However, none of this occurred.

By legalizing over one million farmworkers under the Special Agricultural Worker (SAW) Program, IRCA created an oversupply of labor. Unlike expectations, recently legalized SAW workers did not shift in large numbers to other non-farm jobs. The lack of English speaking skills and the general state of the economy served to keep most SAW workers seeking employment on farms. Conditions for workers did not improve. With fraudulent documents easily available, illegal immigration continued. Illegal and recently legalized farmworkers were pitted against each other vying for a small pool of jobs.

A 1992 report was conducted by the presidential and congressionally appointed Commission on Agricultural Workers - a body composed of a diverse cross-section of the agricultural community including representatives from the United Farm Workers, academics, and growers - on the effectiveness of IRCA. The report recommended the following changes:

- Illegal immigration must be curtailed. Fed by a constant flow of illegal immigrants, the pool of available farmworkers expands and leads to stagnating wages and deteriorating working conditions. The curtailment of illegal immigration should be accomplished with more effective border patrols; better internal apprehension mechanisms; and enhanced enforcement of employer sanctions, including a better fraud-proof employment eligibility and identification system.

- Economic development must be encouraged in countries (such as Mexico) to mitigate "push" migration pressures.

- Methods of matching agricultural workers with agricultural jobs need to be improved to enable farmworkers to obtain enough employment during the course of a year to be economically self-sufficient.

- Farm labor contractors should be more strictly regulated, including requiring training, licensing, and adequate bonding.

- Access to unemployment insurance, worker's compensation, and the right to organize and bargain collectively should be fully extended to all farmworkers.

- Housing standards on the federal and state levels should be reviewed. Standards should allow more flexibility in the design and construction of conceptually different seasonal farmworker housing which responds to the needs of workers and is economically viable. Housing can take the form of

in-transit camp sites, trailer camps, or direct housing subsidies to farmworkers. In addition, the role of federal farmworker housing programs should be expanded.

- Services provided to farmworkers and their children should be improved and coordinated.

## Housing Programs

Housing opportunities for farmworkers are scant in comparison to the demand. To address this enormous need, there are two state programs and a number of private camps offering a combined total of 5,607 units assisting an estimated 39,374 farmworkers and their families. The federal Rural Economic Development Services Agency (formerly the Farmer's Home Administration) provides funding to build low- and moderate-income farmworker housing.

The state housing programs are:

1) **Office of Migrant Services (OMS):** This program, administered by HCD, operates 26 migrant centers distributed among 15 counties, annually servicing an estimated 12,546 migrant farmworkers in 2,107 units. Thirty percent of the farmworkers come from California, 35 percent from Mexico, and the rest from Arizona, New Mexico, and Texas. The centers generally operate from April through November. Land is provided by the locality. The state owns the buildings and equipment and operates the program, usually by contracting with a local housing authority.

2) **Farmworker Housing Grant Program:** This HCD-administered program offers up to 50-percent matching grants for the construction and rehabilitation of owner-occupied and rental housing for low-income, year-round farmworkers. This program has assisted 3,500 units and an estimated 14,280 total farmworkers and their families since 1977. This program, however, is being phased out by HCD.

The federal housing program is:

1) **Section 514/516 RECDS Housing:** This program, funded through the housing program division of the Rural Economic and Community Development Services (RECDS) -- which was formerly known as the Farmers Home Administration, offers funds for the construction and rehabilitation of low- and moderate-income housing for farmworkers. Federal funding in 1995 was approximately $26 million nationwide; of that amount, California received approximately $10 million.

   Over the last five years, with allocations totaling $37.5 million, RECDS has funded the construction of 14 projects in California consisting of 542 farmworker units.

## Private Camps

Private camps, which is housing of any kind for five or more agricultural employees, are often the target of negative press stories on miserable farmworker housing conditions. Newspaper photos and video footage of farmworkers crowded in barns and dilapidated shacks with hazardous electrical wiring and unhealthy sanitary conditions affix in the public mind the "dark" side of California's agricultural industry. Not all private camps, however, are substandard; many camps are clean, safe, and well-maintained.

Private camps are licensed under the HCD-administered Employee Housing Act (Act). In 1994, a total of 1,685 licensed camps served 27,117 farmworkers and their families.

Recently, HCD enforcement efforts against substandard farmworker housing have improved. In the past, the Act was enforced by a handful of state inspectors who responded to complaints or randomly drove agricultural backroads looking for illegal camps. These methods proved ineffective, resulting in few illegal camps being repaired or closed. More recently, HCD - armed by recent legislation authorizing stiff civil penalties of up to $10,000 per day for substandard housing violations - has concentrated its enforcement efforts through an in-house task force by focusing on selected agricultural areas of the state. The task force's efforts have tripled the number of illegal camps identified and brought up to code. In 1993, through 17 strikes, HCD inspectors discovered 180 illegal camps containing 2,349 employees. Under the threat of potentially massive civil penalties, all 180 camps were brought into compliance with health and safety standards.

Cracking down on illegal camps, however, can have its down side, resulting in grower fear and frustration. Some growers, complaining of harassment by state and federal officials, have bulldozed their camps rather than repairing or continuing operation. As a result, their farmworkers will be forced to sleep in cars, other illegal camps, or in the open. For these reasons, HCD inspectors attempt to encourage camp operators to repair substandard camps and keep the camps open.

Battling illegal farmworker housing camps is a difficult fight. This sentiment was voiced by HCD's Director, Tim Coyle, at the Committee's 1992 Oversight Hearing. In response to a question from a Committee member on the enforcement issue, Coyle replied, "With 80,000 farms in the state, it does not matter if the state had 42 inspectors or 420, it still would not be enough for complete enforcement."

## Housing Innovations

Despite the enormity of the problem, continuing efforts to improve the farmworker housing situation by housing advocates, non-profit housing providers, academics, growers, legislators, and others are being made. These efforts include:

- **Emergency Housing:** Some non-profit housing providers and others have argued for the establishment of temporary camps using tents, mobile bunkhouses, and other types of inexpensive shelter as a way of

meeting the demand for farmworker housing. These ideas are often met with criticism from housing advocates who view these proposals as solutions which set back farmworker housing to the days of "The Grapes of Wrath" and fear they will lead to the public perception that the problem is somehow solved.

- **Employer-Provided Housing**: Some growers are building housing. In response to the pressing needs for farmworker housing during the fall grape harvest, Sonoma County recently enacted a red-tape-reducing housing ordinance to promote the building of farmworker housing by local grape growers. In response to over-the-counter permitting and a farmworker-housing friendly board of supervisors, growers have built housing for over 400 workers. Because they offer housing, growers maintain that they are able to attract and keep better workers.

- **Other Ideas**: Other suggested or implemented innovative ideas include using county fairgrounds, Department of Transportation right-of-ways, and National Guard armories as locations for farmworker housing; establishing a statewide network of farmworker hostels where workers could sleep and obtain information on job prospects and services; and establishing or expanding the amount of public funds available for funding farmworker housing through the establishment of revolving loan pools.

## Prior Enforcement Legislation

Over the past several years, the Committee has considered and passed bills which primarily strengthen and tighten enforcement provisions of the Act. In the 1991-92 Legislative Session, the Legislature passed four substantial bills authored by Assembly Member Polanco - AB 923, AB 1816, AB 2164, and AB 3526.

- AB 923 extended protections to farmworkers who complained about substandard conditions in labor camps and contained a provision which allowed a court to sentence a repeat violator of the Act to house arrest in his/her labor camp.

- AB 1816 increased fines from $2,000 to $6,000 for specified violations of the Act, required a labor camp operator to pay 10 times the permit fee if he or she is discovered twice within five years to be operating a camp without a permit, and authorized between $1,000 to $10,000 in fines and up to four years in prison for various violations of the Act.

- AB 2164 allowed for additional civil penalties between $300 to $500 for each violation of the Act which is not corrected after 30 days of the issuance of a correction order.

- AB 3526 revised numerous provisions of the Act. In addition to creating new duties for enforcement agencies and housing operators and increasing various fines and penalties, AB 3526 exempted farmworker housing for 12 or fewer farmworkers from any special local use taxes, fees, or permits.

Similarly, the 1993-94 Legislative Session contained additional enforcement bills. AB 2011 (Polanco) specified procedures for court-ordered receiverships of substandard employee housing, while AB 2571 (Polanco) clarified the procedure for awarding attorney's fees in cases involving resident relocation from a substandard camp which was closed by an enforcement agency. There were, however, a number of other bills which did not relate to enforcement. AB 2703 (Costa) made certain packing house workers eligible for grants under the Farmworker Housing Grant Program, and AB 3154 (Bustamante) made numerous improvements to the OMS Program.

## 1995 Legislation

In 1995, AB 397 (Bustamante), sought to establish a tax-credit program to encourage the development of farmworker housing. Late in the session, the bill was amended to include a wide selection of various tax breaks for businesses. The Governor vetoed the bill.

The following are descriptions of farmworker housing bills heard by the Committee in the 1995 Legislative Session:

**AB 397 (Bustamante) - Farmworker Housing Tax Credits**

Creates the Farmworker Housing Assistance Program to distribute and allocate tax credits to encourage the development of farmworker housing units.

**Status: Vetoed by the Governor**

**SB 305 (Polanco) - Farmworker Housing Construction**

1) Provides that if an owner of employee housing fails to maintain a permit to operate "12-or-fewer" employee housing throughout the first ten consecutive years after the issuance of the original certificate of occupancy, then both of the following shall occur:

   a) The enforcement agency shall notify the appropriate local government entity, and

   b) The public agency that has waived any taxes, fees, assessments, or charges for employee housing under the 12-or-fewer law may recover the amount of those funds from the land owner, less 10% of that amount for each year a valid permit has been maintained.

2) Grandfathers any prospective, planned, or unfinished employee housing facility that has applied to the appropriate state and local public entities for a permit to construct or operate employee housing prior to January 1, 1996.

**Status: Chapter 376, Statutes of 1995**

**SB 851 (Costa) - Farmworker Housing Inspections**

1) Exempts from the definition of "employee housing" a hotel, motel, inn, tourist hotel, multifamily dwelling, or single-family house that meets all of the following conditions:

   a) The housing is offered for rent to both agricultural and non-agricultural employees on the same terms.

   b) None of the occupants are employed by the owner, property manager, or another party with an interest in the housing.

   c) None of the occupants have rent deducted from their wages.

   d) The owner of the housing is not an agricultural employer or an agent of an agricultural employer.

   e) The terms of occupancy are negotiated between each occupant and the owner or manager of the housing.

   f) The occupants are not required to live in the housing as a condition of employment or of securing employment, or are not referred to the housing by the employer of the occupants, the employer's agent, or an agricultural employer.

   g) The housing was not used as housing provided by an employer prior to January 1, 1984.

2) Exempts inactive employee housing from the annual inspection requirement. Loosens the inspection requirement for housing with no violations identified in the prior calendar year from an annual to a biennial inspection.

3) Rewrites and reorganizes the required information for the annual inspection reports prepared by HCD and enforcement agencies. Requires local enforcement agencies to submit their inspection reports to HCD by March 31 instead of June 30 on forms provided by the department.

4) Deletes the requirement that HCD send copies of its annual inspection report to both housing committees of the Legislature and the Legislative Analyst. (Both houses of the Legislature and the Governor will receive this information in the department's annual report.) In addition, the bill deletes language authorizing the Legislative Analyst to include inspection information in its annual budget report to the Legislature.

**Status: Chapter 561, Statutes of 1995**

## NATURAL DISASTER ASSISTANCE & PREPAREDNESS

### Overview

"California has four seasons - earthquake, fire, flood, and drought;" at times, that saying appears to be true. In the past, many Californians have accepted these disasters as facts of life which were soon forgotten. But recent disasters, such as the Loma Prieta and Northridge Earthquakes and the Oakland Hills and Malibu firestorms, may have altered that perception somewhat. The reality of school yards brimming with homeless disaster victims, hospital parking lots crowded with patients, and collapsed freeways and bridges made it clear to government officials, policy makers, and the public that California must be better prepared for future disasters.

A listing of recent earthquakes, fires, and other incidents reveals that California's reputation for major disasters is not based upon myth:

- **Earthquakes**: Coalinga (1983), Whittier-Narrows (1987), Loma Prieta (1989), Upland (1990), Sierra Madre (1991), Cape Mendocino (1992), Landers/Big Bear (1992), and Northridge (1994).

- **Fires**: Santa Barbara, Tehama, and Yosemite (1990); Oakland Hills (1991); Calaveras and Shasta Counties (1992); and Malibu (1993).

- **Other Disasters**: Butte County - snow storms (1990), Dunsmuir - toxic spill (1991), Los Angeles Civil Unrest (1992), Southern California - floods (1992), and Northern California - floods (1995).

The Legislature has responded to recent disasters with a mixture of cure and prevention. When a disaster occurs, the state may be requested by a local government to assist in recovery. Post-disaster assistance generally involves directing funds and resources to the disaster site and implementing existing statutory recovery programs such as the California Disaster Assistance Program (CALDAP), which offers an array of housing rehabilitation funds and assistance to disaster victims. These initial efforts are often followed by urgency legislation which contains narrowly drafted tax exemptions, redevelopment authorities, or enterprise zones to assist in long-term recovery. Following that, administrative or legislative hearings may result in an effort to strengthen and upgrade building standards aimed at reducing future disaster damage.

Below is a brief summary of the CALDAP Program, an outline of recent damage reduction and prevention legislation, an overview of the crisis in homeowner's earthquake insurance, and a list of natural disaster legislation heard by the Committee during the 1995 Session.

### California's Residential Disaster Assistance Program

CALDAP is a permanent disaster assistance program, administered by HCD, which provides "last-resort" financial assistance to repair owner-occupied and rental housing damaged or destroyed by a natural disaster. CALDAP was developed in response to the 1989 Loma Prieta Earthquake. Financial assistance is only

provided to applicants who have exhausted all other forms of assistance, including loans from private lenders, insurance, and the federal Small Business Administration. Since its inception, CALDAP has dispersed over $125 million in disaster assistance. The program, however, has withered in recent years because it was not used. Once one of the largest housing programs operated by HCD, CALDAP has dwindled from a staffing high of 50 personnel years to the current low of 11.

In conjunction with CALDAP, there are several other disaster assistance programs at HCD created to address specific subcategories of post-disaster needs which include farmworker housing rehabilitation, rental security deposits, emergency shelters, rural infrastructure rehabilitation, and migrant worker centers. Despite their existence, none of these programs have received any funding since the Loma Prieta Earthquake. The choice of programs and funding levels are the prerogative of the Governor.

The cost of Loma Prieta disaster repairs were viewed by both the Legislature and the Governor as excessive and eventually led to program restrictions. Homes which suffer the most damage in an earthquake are older or poorly maintained; repairing these structures generally includes repairing previously substandard conditions. Total Loma Prieta costs to the General Fund were $112 million and would have been much higher if not for certain program restrictions imposed by the Governor and the Legislature. Although the original statute limits loan amounts to $30,000, HCD had the ability to waive the limit and make larger loans. As a result, the average Loma Prieta loan amount was approximately $50,000; in cases where structures were initially in poor repair, it was not unusual for individual loan amounts to increase to $75,000 or $100,000.

To control CALDAP's increasing costs, Chairman Hauser authored several HCD-sponsored bills - AB 3413, Chapter 966, Statues of 1992, and AB 1677, Chapter 1105, Statutes of 1993. AB 3413 provided a number of cost containment provisions which included eliminating property acquisition costs for all but lower income rental property and reducing eligible CALDAP rehabilitation costs to only those necessary for disaster victims to obtain certificates of occupancy. When signing the legislation, the Governor stated that no further CALDAP loans would be provided to Loma Prieta victims over the $30,000 statutory cap regardless of whether additional moneys were necessary to return homes to habitable conditions. As a result, some applications were disqualified.

AB 1677 increased the interest rate from three percent to that set for veteran's home loans, created a rental-rehabilitation program for market-rate rental projects, and required HCD to submit a deficiency request to the Department of Finance based upon preliminary damage estimates within 90 days of a disaster.

Ironically, CALDAP was not implemented for the most costly disaster in California history - the Northridge Earthquake. It also was not implemented for the 1995 floods in Northern California. Unlike Loma Prieta, when the Legislature passed a quarter-cent sales tax to pay for Loma Prieta disaster recovery within a matter of weeks, political infighting over how to finance Northridge recovery costs (with estimated total public and private losses between $13 to $20 billion) stalled efforts to pay for damage caused by the

Northridge Earthquake. In the end, as a compromise, the Legislature placed SB 131 (Roberti), a $2 billion earthquake repair bond issue, on the June 1994 ballot. The bond issue, Proposition 1A, was defeated by the voters. No other legislative funding methods were attempted, leaving most disaster costs to be paid by the Federal Government.

## Prevention

Much is learned in the aftermath of each disaster. Disaster-response networks are tested and improved. Bridges, roads, and buildings are rebuilt with better construction methods. Likewise, the Legislature has passed bills to improve California's ability to withstand disasters, especially earthquakes and wildfires. Most recent legislative efforts have been directed toward improving existing buildings - unreinforced masonry buildings (URMs) in particular - to withstand earthquakes. Other legislation has improved mobilehome foundation systems, required water heaters to be braced, and increased fire-safe roofing requirements.

## Seismic Safety

Unreinforced masonry buildings are a serious danger during earthquakes. Because URMs lack steel reinforcement bars, they have the propensity to collapse during earthquakes. A strong legislative emphasis has been on identifying and retrofitting these structurally unsafe buildings.

In 1986, the Legislature passed SB 547 (Alquist), Chapter 250, Statutes of 1986, which required all cities and counties in Seismic Zone 4 to compile URM inventories and to develop mitigation measures within a three-year period. Realizing that URM seismic retrofitting costs are expensive and have little initial financial return for building owners, the Legislature passed and the voters approved Proposition 77 [AB 2032 (W. Brown), Chapter 29, Statutes of 1988], a $150 million general obligation bond measure to help finance the retrofit of low- and moderate-income residential units.

Additional efforts to provide retrofit financing were passed in the 1989-90 Legislative Session. In 1989, SB 424 (Alquist), Chapter 1203, Statutes of 1989, authorized the California Housing Finance Agency to create a construction loan loss guarantee program to induce private lenders to offer mortgage loans for seismic rehabilitation improvements for buildings identified on a locality's list of unsafe buildings; the program, however, was never implemented because it lacked a legislative appropriation and was therefore not marketable. In 1990, the voters approved Proposition 122 [SB 1250 (Torres), Chapter 23, Statutes of 1990], a $300 million general obligation bond measure targeted toward retrofitting state and local buildings, with $50 million reserved for local "essential use" facilities. Essential use facilities are those facilities used in the aftermath of an earthquake and include police stations, fire departments, county hospitals, and courts.

Building standards were also improved. AB 1890 (Cortese), Chapter 951, Statutes of 1989, required all new and replacement water heaters after July 1, 1991 to be braced, anchored, or strapped to prevent them from falling over during earthquakes. SB 304 (Rosenthal), Chapter 98, Statues of 1995, took this

concept further by requiring home sellers to certify to buyers that the water heaters have been braced. AB 631 (Bradley), Chapter 304, Statutes of 1989, required building permits to be issued, and inspections by enforcement agencies, to ensure optional mobilehome earthquake bracing systems are correctly designed and installed.

SB 920 (Rogers), Chapter 988, Statutes of 1989, requires various studies on methods to improve the seismic safety of state buildings. AB 3561 (Cortese), however, which would have required all one- to four-dwelling residential foundations and subfloor cripple walls to be retrofitted to current seismic codes was vetoed.

In 1991, the Legislature passed AB 204 (Cortese), Chapter 173, Statutes of 1991, which required the Building Standards Commission to incorporate Appendix Chapter I of the Uniform Code for Building Conservation into the California Building Standards Code (CBSC). In short, AB 204 contained the minimum standard for URM retrofitting. Appendix Chapter I standards are based on life safety rather than structure preservation. Since then, three other bills have amended this provision to exempt various jurisdictions from its requirements. Unstable cripple walls were again addressed in 1991 by AB 200 (Cortese), Chapter 699, Statutes of 1991, which requires sellers of all pre-1960 homes to disclose whether they have knowledge of structural deficiencies. In addition, AB 1968 (Areias), Chapter 859, Statutes of 1991, requires new purchasers of precast concrete or reinforced masonry structures with wood-frame floors or roofs to seismically retrofit their buildings within three years of purchase or be placed at the "end of the line" for state disaster assistance.

Additional improvements to mobilehome foundations were contained in SB 750 (Roberti), Chapter 240, Statutes of 1994, which requires all new manufactured homes to be tied to the ground to resist wind and seismic damage.

**Fire Prevention**

Numerous wildfires occur every year during the long, rainless California summers. Many fires are suppressed with little or no structural damage; damage by other fires, however, such as the ones in the Oakland Hills and Malibu, have been extremely severe. The Legislature has responded by authorizing local jurisdictions to enact more stringent fire protection standards than those contained in the CBSC. [AB 2666 (Hansen), Chapter 1111, Statutes of 1990].

Statewide fire-safe roofing was also mandated by the Legislature. In addition to requiring extensive fire prevention measures to be performed by property owners in high-risk areas, AB 337 (Bates), Chapter 1188, Statutes of 1992, required the Department of Forestry and Fire Protection to identify very high fire hazard severity zones in local government jurisdictions and required all new roofs in these high-risk zones to meet at least Class B fire-safe roofing requirements. In addition, AB 2131 (O'Connell), Chapter 553, Statutes of 1992, required all other new roofs in the state to meet at least Class C standards.

In 1994, roofing standards were increased again by AB 3819 (W. Brown), Chapter 843, Statutes of 1994, which increases roofing requirements in "moderate" zones of state firefighting responsibility areas from Class C to Class B. AB 3819 also requires jurisdictions with designated very high fire

hazard severity zones to adopt a model fire prevention ordinance developed by the State Fire Marshal by January 1, 1997 or mandate Class A roofing requirements within these high-risk zones.

AB 747 (V. Brown), Chapter 333, Statutes of 1995, reduced natural weathering test requirements from 10 to five years and required treated wood roof products to meet specified testing criteria by specified dates in order to be sold in California.

## Earthquake Insurance

The Northridge Earthquake has had a constricting effect on the homeowner's casualty insurance market. Because state law requires insurance companies to offer earthquake insurance, the largest California insurance companies - fearing future losses - have either reduced the amount of homeowner's insurance they offer or withdrawn from the market entirely. Insurance industry sources state that since 1971 California insurers have collected $3.383 billion in earthquake insurance premiums, but have paid out over $7 billion in claims.

According to the Natural Disaster Coalition - a group composed of the insurance industry, banks, and state emergency managers among others, there had never been a disaster in the United States with insured losses over $1 billion before 1987. Disasters since then have carried much higher price tags: Northridge Earthquake - $6.5 billion, Hurricanes Andrew and Iniki - $20 billion combined, and the Midwest floods - $10 billion.

As the cost of disasters climbs, so does the pressure to find solutions. Because of the huge risk pool needed to spread out fiscal risks of disasters, many believe that a federally-backed disaster insurance program is the only long-term answer to the exorbitant costs of future disasters.

In California, several bills were passed in 1995 to mitigate the homeowner insurance crisis: AB 13 (McDonald) and AB 1366 (Knowles). Both of these bills were heard in the Assembly Insurance Committee. AB 13 establishes the California Earthquake Authority (CEA), a government administered pool of the state's insurance carriers that write at least 75 percent of homeowner policies. The CEA will sell basic earthquake policies with limited coverage, but will not become effective until specified commitments by the insurance industry are made and additional legislation is chaptered by the Legislature. AB 1366 creates a "mini-policy" with limited coverage which insurers may offer to satisfy the state mandated offer requirement.

## Disaster Prepayment Plans

In 1992, the Legislature repealed the California Residential Earthquake Recovery Program (CRER) less than two years after it was enacted in 1990. CRER, operated by the Department of Insurance, required all homeowner insurance policy holders to pay an earthquake surcharge of $12 to $60 per year to obtain up to $15,000 for earthquake damage, with a $1,000 to $3,000 deductible. The repeal was based on the perception that the program was insolvent and expected revenues of $313 million were insufficient to meet annual expected losses of $359 million.

In the 1993-94 Legislative Session, Assembly Member Areias introduced AB 748 and AB 2613 which attempted to redraft the prepayment program. AB 748, a vehicle for prospective changes, was not heard by the Committee and dropped. AB 2613 contained numerous provisions aimed at strengthening weak points of the old CRER program. The bill would have shifted program administration from the Department of Insurance to HCD, increased required homeowner contributions for fiscal soundness, and limited payments from the fund to a pro-rata share of funds available at the time of a disaster. AB 2613, however, died in the Assembly Insurance Committee.

## 1995 Legislation

In 1995, the Committee was assigned two bills relating to disasters: AB 160 (Baca) and AB 5X (Sher). AB 160 created the California Earthquake Recovery Act, while AB 5X proposed various real estate disclosures regarding flood plains. Neither bill was pursued by their authors.

The following is a brief description of disaster recovery bills from the 1995 Session:

**AB 5X (Sher) - Real Estate Disclosures: Flood Plains**

Requires various real estate disclosures regarding homes located in flood plains.

**Status: Assembly Housing Committee, two-year bill.**

**AB 160 (Baca) - California Earthquake Recovery Act**

Creates the California Earthquake Recovery Act.

**Status: Assembly Housing Committee, two-year bill.**

## MOBILEHOMES/MANUFACTURED HOUSING

### Mobilehome Parks

Mobilehome parks are a popular source of affordable housing, especially for seniors and low- and moderate-income families. Statewide, there are 5,750 parks, with 464,778 spaces, housing an estimated 800,000 people.

The mobilehome park industry is facing many changes: few parks are being built; park owners and residents are locked in an internecine struggle of accusations, counter-accusations, lawsuits, counter-lawsuits, and a ballot battle over rent control; residents are buying their parks through the conversion process and becoming park owners; and a growing number of land-lease manufactured home communities are being constructed which offer affordability without the problems of the park owner/resident relationship.

There are numerous problems in mobilehome parks. Most of the problems relate to friction between park owners and park residents. Park owners own land; residents own homes. Owners want returns on their investments; residents want affordable housing and comfortable lifestyles. Owners insist that high land costs, developer fees, government regulation, rent control (or the threat of it), and the existence of more profitable land-use alternatives make the prospects of owning a mobilehome park unattractive to investors. Residents say they are exploited, tricked, and intimidated by unscrupulous park owners who enact extortionate rent increases, fail to maintain parks, and generally harass residents with park rule changes which damage their quality of life.

The caustic battles in mobliehome parks combined with the recent recession have taken their toll on the industry. Only a few years ago, parks had few vacant spaces. Demand was high. Both residents and owners profited from the escalating home values. Now, however, many parks have vacant spaces and foreclosed homes. This has led to some rethinking by park owners. Articles in park-owner magazines are now oriented toward attracting new residents and more reasonable ways to resolve disputes.

The age and location of many parks create other problems. Older mobilehome parks suffer from significant infrastructure deterioration: sewers, utilities, roads, and common areas need to be upgraded and replaced. As cities expand, the areas surrounding the parks are developed for industrial or commercial use. Park owners are tempted to sell their land to developers for higher profits, thereby displacing long-time residents.

The number of senior-only parks has plummeted over the last several years despite the protests of many senior park residents. The 1988 Fair Housing Amendments Act effectively eliminated "adults only" housing and allowed senior housing to exist only if it complied with specific regulations. In 1988, 75 percent of mobilehome parks were either senior- or adult-only parks; by 1994, however, only 25 percent of parks restricted occupancy to seniors. In 1995, under considerable pressure from park residents, the federal Department of Housing and Urban Development (HUD) enacted more flexible regulations to make it easier for senior parks to continue. The new regulations also allow parks that switched from senior to all-age to switch back. As of this writing, there is a bill that is pending in Congress (HR 660) that would go further than the

HUD regulations and eliminate many of the HUD regulations applicable to senior parks. It remains to be seen if this loosening in federal regulations will reverse the tide of recent conversions from senior to all-age parks.

## New Directions For Manufactured Housing

For the last several decades, the manufactured housing industry has been quietly transforming itself - with quality improvements, imaginative designs, and legislative measures on both federal and state levels - from a narrow-niche builder of "trailers" or "mobilehomes" into a broad-band builder of a wide range of housing products. Many of these new housing products compete quality-for-quality and amenity-for-amenity with conventional site-built housing.

Although still the supplier of mobilehome park housing, the industry has been busy creating new markets for its new products. The industry is producing housing for inner-city infill lots; standard single-family subdivision developments; long-term, land-lease manufactured housing communities; and rural property. More than half of all new manufactured homes are being sited outside of mobilehome parks, with approximately 32 percent installed on permanent foundations in urban, suburban, or rural neighborhoods.

The driving force behind the manufactured home industry is the affordability of its products. Through the efficiencies of factory, and finance savings generated from a shorter construction schedule, manufactured housing is the most affordable type of housing available in California today. Construction costs average $9 less per square foot than site-built construction. In 1995, the average cost per square foot for site-built construction was $50.00, compared to manufactured housing with an average per-foot "installed" cost of $41.00. For an average 1500 square foot home, the savings amount to $13,500. Many first-time homebuyers, seniors, and young families turn to manufactured housing and discover that they can purchase well-built, quality homes at affordable prices.

## Legislation

This session, the Committee considered legislation relating to park rules and regulations, rent control, leases, manufactured housing construction standards, park conversions to resident ownership, health and safety, and utility and consumer problems. Agreement and compromise between park owners and residents resulted in a number of bills being passed by the Legislature and signed into law; other bills with polarized opposition either died in the Legislature or were vetoed.

## Mobilehome Park Rent Control

Rent control for mobilehome parks is the most divisive issue between park owners and residents. Since the first mobilehome rent control ordinance was enacted in Vacaville in 1977, the number of parks under rent control has been steadily increasing. Throughout the state, 1,365 parks and 147,209 spaces (approximately 31 percent of the total number of mobilehome spaces) are under

rent control of one form or another. According to the Western Mobilehome Association, the primary organization representing California park owners, the total number of mobilehome rent control ordinances increased from a statewide total of 93 ordinances in 1993, to 102 ordinances in 1995. And there are no signs that the trend is slowing. Residents continue to organize and fight for more ordinances; park owners battle back against them in city councils, the Legislature, the ballot box, and the courts.

Rent control ordinances can be classified in two basic varieties: vacancy control and vacancy decontrol. Under "vacancy control" when a resident vacates a space, the space rent is frozen and is not allowed to be increased for a new resident. Under "vacancy decontrol," rent is frozen until a resident vacates his/her space; the park owner can then raise the rent to market level for a new resident.

For now, residents appear to have the upper hand on the rent control battle following the landmark decision in a vacancy control case by the United States Supreme Court in Yee vs. Escondido. In Yee, the Court declared that a vacancy control ordinance when tested against the Fifth Amendment's "just compensation" clause was not a physical taking of a park owner's property; however, the Court left open the question of "regulatory taking." Park owners have since tested the "regulatory taking" question with other lawsuits, but have not succeeded in overturning the decision.

Park owners groups, however, struck back against Yee by qualifying a ballot initiative, the "Mobilehome Fairness And Rental Assistance Act" for the March, 1996 ballot. The initiative would prevent new mobilehome rent control ordinances from being enacted, impose various restrictions which weaken existing ordinances, and require park operators to offer limited rental assistance to a small portion of low-income residents. Resident groups have dismissed the initiative as a fraud and are fighting the initiative with a well-coordinated, grass roots information network.

Another front in the rent control battle is the issue of long-term leases. Since 1985, the Mobilehome Residency Law (MRL) has granted an exemption from rent control measures to long-term leases. The rationale for this exemption is that the parties have negotiated their own rental rates for extended periods and that, dealing at arms' length, they are the best judges of what constitutes fair rent increases during periods covered by leases. To protect themselves from rent control, park owners often require prospective purchasers to sign long-term leases as a condition of purchasing a home within their parks. As a result of this practice, the value of existing homes in parks in rent-controlled jurisdictions with vacancy control plummets and homes become difficult to sell because incoming purchasers cannot take advantage of lower rent-controlled space rent.

Over the last several years there have been a chain of bills sponsored by resident groups which have attempted to modify the long-term lease provision to enable prospective purchasers to obtain month-to-month rental agreements which enable them to take advantage of rent control. AB 1337 (Sweeney), a resident-backed bill -- which follows in the footsteps of two similar bills from the 1993-94 Session, AB 673 and 3203 (V. Brown) -- prohibits a purchaser of a mobilehome to not be considered an unlawful occupant if management failed to offer a rental agreement shorter than a year.

The most dramatic rent-control bill of the 1995 Legislative Session was SB 1257 (Costa), which was later amended into AB 1164 (Hawkins) and signed into law. The bill establishes the phased-in elimination of vacancy control ordinances applicable to apartments and single-family homes. Although mobilehome residents were excluded from the bill's application, resident groups fought the bill vigorously, viewing it as the first step toward the limitations on mobilehome rent control.

AB 1944 (K. Murray) also generated a lot of attention early in the session. AB 1944 proposes the elimination of any space from the application of mobilehome vacancy control ordinances where a vacancy occurs after January 1, 1996. The bill was pulled from the Committee's agenda by the author prior to hearing and made a two-year bill.

SB 1181 (Haynes) proposed an exemption from rent control for any park space which is not the principal residence of the owner. The focus of the bill is to limit the benefits of rent control to those who need it - the theory being that if a mobilehome is used as a "second" or "resort" home, the owner should not benefit from rent control. This bill is a re-introduction of a concept carried in various bills authored by Assemblyman Ferguson which died in the Legislature in the 1991-92 and 1993-94 legislative sessions. SB 1181 arrived from the Senate too late for a hearing by the Committee, and therefore became a two-year bill.

In summary, the Committee reviewed several bills this session which dealt with rent control in mobilehome parks. These bills reflect the continuing struggle between park residents who seek affordability in their chosen form of housing and park owners who want to receive returns on their investments consistent with what the market will bear. The following is a brief description of 1995 rent control bills:

**AB 1337 (Sweeney) - Rental Agreements/Prospective Tenants**

Provides that an occupant (i.e., purchaser) of a mobilehome shall not be considered an unlawful occupant if management failed to offer a rental agreement for a term of 12 months, a lesser period requested by the occupant or a longer period, mutually agreed upon by the occupant and management.

**Status: Vetoed by the Governor**

**AB 1944 (K. Murray) - Rent Control**

Authorizes park management to establish the initial rental rate for the space on which a vacancy occurs on or after January 1, 1996. Provides that the rental rate shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any city, county, or city and county, which establishes a maximum amount that a landlord may charge a new tenant for rent.

**Status: Assembly Housing Committee, two-year bill.**

**SB 1181 (Haynes) - Rent Control/Second Homes**

1) Exempts mobilehome spaces that are not the principal residence of the owner from rent control.

2) Specifies that a mobilehome shall be deemed to be the principal residence of the owner unless a review of state or county records demonstrates that the mobilehome owner is receiving a homeowner's exemption for another property or mobilehome in this state.

3) Exempts from application of the bill those parks where subletting spaces is not permitted, and mobilehomes that are being actively offered for sale.

**Status: Assembly Housing Committee, two-year bill.**

## Rent and Leases

As with rent control, the process of enacting rent increases and specific details of lease agreements are equally volatile areas of disagreement and mistrust between park owners and residents.

The 1995 Session was relatively quiet in this area. The Committee heard only one bill: SJR 12 (Craven), a resolution relating to Section 8 rents and mobilehome park spaces.

**SJR 12 (Craven) - Mobilehome Rental Space Assistance**

1) Memorializes the President and the Congress of the United States to support modification of proposed rule changes to the Section 8 federal housing assistance program formula relating to manufactured home and mobilehome space rent.

2) Requests, alternatively, the enactment of urgency legislation to clarify that persons receiving Section 8 assistance for manufactured home and mobilehome space rent be treated no differently under federal rules than other program recipients living in other types of rental housing, or to at least provide a more realistic formula in recognition of higher manufactured housing space rents in more populous California counties.

**Status: Chapter 41, Statutes of 1995.**

## Park Conversions To Resident Ownership

Residents are becoming park owners. They are taking control of their lives and reducing future rent increases by buying their parks and controlling them through various forms of ownership, such as nonprofit corporations, cooperatives, subdivisions, and condominiums. Since 1991, 161 parks have converted to resident ownership. Park ownership provides residents with some certainty over their future. Housing costs are stabilized, and rules can be tailored to suit residents' needs.

Residents, however, are usually unable to buy their parks without some kind of government assistance. Financing is obtained through a combination of private loans, local bond issues, or low-interest loans from the Mobilehome Park Resident Ownership Program (MPROP) operated by HCD.

The conversion process, however, is not without its problems. The Committee has received telephone calls from residents of converted parks who have complained about how their newly created resident boards are deciding issues. In addition, questions have developed regarding the methods, qualifications, fees, and disclosure policies of the limited pool (less than 20) of park conversion consultants who help residents negotiate the financial and legal maze of the conversion process.

Since 1985, 40 parks have converted to resident ownership with the assistance of MPROP. The program receives an estimated $2.5 million per year from a $5 per-section surcharge on residents' registration fees. These funds are used to make loans to resident organizations to finance mobilehome park acquisition and conversion costs, as well as to low-income residents to enable them to reduce their monthly housing costs associated with the conversion. Loans carry a three-percent, simple-interest rate. Conversion loans have a three-year term, while permanent blanket and individual loans have terms of up to 30 years.

SB 310 (Craven) made several changes designed to encourage and streamline the park conversion process. One significant change requires a subdivider to make certain disclosures to residents prior to filing a public report. This allows residents to get a better understanding of the costs associated with the conversion of their parks. Another change expands the existing MPROP statutory mitigation scheme for adjusting the rent levels of non-purchasing residents to apply to all resident conversions.

Another bill, SB 53 (Craven), which was heard in the Assembly Revenue and Taxation Committee, extends the time window in which a park may convert to resident ownership without triggering a property tax re-assessment from 18 to 36 months.

Over the last few years, there have been various legislative attempts to obtain additional funding for MPROP, which receives more applications than it can fund. All recent funding efforts have failed. Legislation increasing the existing $5 surcharge was opposed by park residents. In 1992, SB 501 (Craven) proposed a $40 million mortgage revenue bond issue to support the program; the bill was vetoed. In the 1993-94 session, two Senate bills, SB 110 (Craven) and SB 131 (Roberti), sought to generate more money for the conversion process. SB 110 would have required a $75 transfer fee to be paid to HCD upon each sale of a used manufactured home or mobilehome, generating an estimated $3.5 million per year in park purchase funds; however, SB 110 was gutted and became a budget trailer bill. SB 131 (Roberti), a $280 million housing bond issue which contained $5 million for MPROP, was also gutted and converted into a $2 billion seismic safety bond issue. In 1995, SB 502 (Craven) sought to increase the MPROP fee to $10 and expand it to apply to all mobilehome spaces - not just those which pay state Vehicle License Fees; the bill failed to make it out of the Senate and it is now a two-year bill.

The following is a list of bills considered by the Committee relating to conversions:

**SB 310 (Craven) - Park Conversion To Resident Ownership**

1) Permits a nonprofit corporation which wishes to purchase a mobilehome park to include a commercial lender and states that the lender may own more than one membership, as specified.

2) Provides that the subdivider of a mobilehome park, that is proposed to be converted to resident ownership, prior to filing a notice of intent to apply for a public report, shall make a written disclosure to homeowners and residents of the park. Clarifies that this disclosure does not authorize the subdivider to engage in specified prohibited activities prior to the issuance of a public report.

3) Clarifies that the power to require mitigation measures, with respect to displaced residents, by a legislative body when a park is converted to another use, is not applicable to a park converted to resident ownership.

4) Deletes the reference to MPROP with respect to the statutory mitigation scheme, thereby making the existing statutory mitigation provisions applicable to all mobilehome park conversions.

5) Specifies that the subdivider desiring to convert a park to resident ownership shall be subject to a hearing by a legislative body, or an advisory agency which is authorized by local ordinance to approve, conditionally approve, or disapprove the map.

**Status: Chapter 256, Statutes of 1995.**

**SB 360 (Craven) - MPROP/San Marcos**

1) Prohibits HCD from requiring more than a majority of households residing in the park to purchase, or enter escrow to purchase, interests or spaces in their parks prior to releasing funds to certain qualified households.

2) Limits the application of this measure to a park acquired by the City of San Marcos on or after June 1, 1993, and before August 1, 1993, for the purpose of converting the park to resident ownership, where HCD has entered into a binding agreement for the commitment of funds.

3) Declares that the reason for the urgency clause is to avoid delays in the conversion of mobilehome parks to resident ownership.

**Status: Chapter 409, Statutes of 1995.**

## Park Rules and Regulations

Under existing law, management is responsible for creating and enforcing the park rules and residents have the ability to defend their rights by filing civil suits. Management has the authority to amend rules with either a 60-day or six-month notice to residents; this arrangement provides immense power to management, but only token recognition to residents. Residents argue that since they are the ones who must live under these rules, they ought to have a larger role in creating them. Park owners contend that as property owners they have a right to control their property. Furthermore, park owners insist that most rules - such as those that keep a park neat, orderly, and quiet - are for the benefit of the residents.

In 1995, two bills were heard in committee which clarified how Mobilehome Residency Law applied in resident-owned parks: AB 46 (Hauser) and SB 110 (Craven). Both bills sought to clarify that Mobilehome Residency Law only applies to those residents who do not participate in the purchase of their parks and continue to pay rent for their space to the homeowner's association. The provisions relating to this issue were removed from AB 46 in the Senate, while SB 110 went on to be signed by the Governor. These bills were heard by the Committee in 1995 relating to park rules:

**AB 46 (Hauser) - Resident-Owned Park Rules**

Early versions of this bill contained a provision that provided that the MRL does not apply to a tenant or resident in a resident-owned park that is a CID, unless the tenant or resident is not a member of the association. This language was later deleted from the bill, due to similar language contained in SB 110 (Craven). AB 46, however, also contained other provisions relating to the Davis-Stirling Act which are explained in the section of this report dealing with Common Interest Developments.

**Status: Chapter 661, Statutes of 1995**

**SB 110 (Craven) - Resident-Owned Park Rules**

Clarifies that non-purchasing residents of a resident-owned park are entitled to the protections of existing Mobilehome Residency Law (MRL), and that MRL does not apply to residents with an ownership interest in their space, subdivision, cooperative, or condominium in which his or her mobilehome is located or installed.

**Status: Chapter 103, Statutes of 1995.**

## Manufactured Housing Purchase/Construction Standards

Manufactured housing is built to a federal pre-emptive standard. The state, however, has jurisdiction over manufactured housing installation, safety standards, and sales. Each year the Legislature faces several issues governed by state jurisdiction.

AB 431 (Hauser), Chapter 185, Statutes of 1995, dealt with several issues relating to manufactured housing. The key feature of AB 431 allowed public agencies to purchase manufactured homes directly from the factory. This provision will enable public agencies to take advantage of factory-direct prices with their scarce housing funds. Another provision cleared up a long-confusing definition of the word "mobilehome" by creating a new term "multi-unit manufactured housing" to describe manufactured structures of more than one unit.

AJR 7 (Hauser), Chapter 27, Statutes of 1995, petitions Congress to remove an antiquated requirement which requires manufacturers to leave the steel chassis attached to a manufactured home even when the home is installed upon a permanent foundation. Getting rid of this requirement will increase design flexibility as well as eliminate needless costs.

The Committee heard the following bills in the 1995 Legislative Session:

**AJR 7 (Hauser) - Manufactured Homes/Chassis Removal**

Petitions the President and Congress to amend the federal definition of "manufactured home" to allow a manufactured home to be designed to accommodate a removable chassis when the home is placed upon a permanent foundation and the floor system is designed to accommodate appropriate design loads.

**Status: Chapter 27, Statutes of 1995.**

**AB 431 (Hauser) - Factory-Direct Purchase By Public Agencies**

1) Authorized any public agency to purchase manufactured housing directly from the factory for housing acquired for low- and moderate-income households.

2) Authorized manufactured housing designed as a dormitory or a small efficiency unit to be installed on either a mobilehome support system (the way homes are installed in mobilehome parks) or a permanent foundation system (the way site-built homes are installed).

3) Clarified that the term "mobilehome" has the same meaning as "manufactured home" under state law, and creates a new term "multi-unit manufactured housing" to describe the concept of when manufactured housing is used to create a duplex, triplex, dormitory, residential hotel, or efficiency unit.

**Status: Chapter 185, Statutes of 1995**

**AB 1455 (Cortese) - Mobilehomes/Seismic Hazard Information**

Requires seismic safety information on mobilehomes to be included in the existing Homeowner's Guide to Earthquake Safety for manufactured homes and mobilehomes that were installed prior to September 1, 1994. More specifically, this bill:

1) Requires the Seismic Safety Commission (SSC) to revise the guide to include a separate section relating to earthquake safety information regarding manufactured housing and mobilehomes by July 1, 1996.

2) Requires the SSC to consult with the Department of Housing and Community Development and representatives of the manufactured home/mobilehome and real estate industry in developing the separate section.

3) Requires the updated section of the guide to be delivered to the purchasers of manufactured homes and mobilehomes commencing six months after the updated section is printed.

**Status: Senate Committee on Housing and Land Use, two-year bill.**

**SB 577 (Rosenthal) Seismic Gas Shut-off Valves**

Requires the State Architect to adopt standards for gas shut-off valves by 1997. Requires park master-meters to be retrofitted with seismic shut-off valves by the year 2000, and allows 50% of the cost to be passed to residents. Allows HCD to charge up to $180 to inspect these valves.

**Status: Assembly Housing Committee, two-year bill.**

## Failure-To-Maintain Lawsuits

Lawsuits brought by resident groups against park owners for improper maintenance is a key area of disagreement between the two parties. Park owners claim that many of the residents' suits are encouraged by "greedy" attorneys who bring forward a multitude of frivolous claims and encourage park residents to sue owners by promising a big payday when the suits are settled. Park residents, however, argue that in many cases the various deficiencies may have existed in the park for years prior to being corrected by management, and that it is the park owners' responsibility to regularly inspect parks and assure that the facilities for which residents are paying are maintained in good working order and condition.

On issues relating to lawsuits, the Housing Committee shares jurisdiction with the Assembly Judiciary Committee. In 1995, there were two bills relating to this issue: AB 225 (Richter) and AB 1819 (Conroy). AB 225 requires a homeowner to enter into non-binding mediation prior to commencing a failure-to-maintain lawsuit against a park owner. AB 1819 requires a homeowner to mitigate damages by providing notice to management within 20 days of an alleged reduction in service. The Assembly Housing Committee will request double-referral of these bills should they pass the Assembly Judiciary Committee next year.

## Miscellany

A number of bills were heard by the Committee on a broad range of issues important to mobilehome park residents, park owners, and manufacturers.

**AB 283 (Cortese) - Guests Fees**

Expands the definition of "immediate family" to include grandchildren under 18 years of age, thereby prohibiting mobilehome park management from charging a guest fee for a homeowner's grandchildren under 18 years of age.

**Status: Chapter 24, Statutes of 1995.**

**AB 622 (Conroy) - Master-Meter Task Force**

Creates a Master-Meter Task Force consisting of park residents, owners, utility representatives, the Public Utilities Commission, and HCD to research and recommend a phase-in, shared cost program for the takeover by utilities of manufactured housing community and mobilehome park gas and electric systems.

**Status: Assembly Housing Committee, two-year bill.**

**AB 765 (Kaloogian) - Master-Meter/Trust Funds**

Requires park management that provides utility services to homeowners through a master-meter system to deposit any utility rate differential in a trust fund to provide submeter service.

**Status: Senate Judiciary Committee, two-year bill.**

**AB 1511 (V. Brown) - Manufactured Housing/Historic Districts**

Authorizes a local government to exclude manufactured homes from a state-registered or a locally-designated historic district provided that the jurisdiction has an adopted housing element in compliance with state law and that any locally-adopted special architectural standards apply equally to all other buildings within the district.

**Status: Vetoed by the Governor**

**AB 1625 (McDonald) - Mobilehome/Manufactured Home Parks**

Changes the name of Mobilehome Residency Law to Manufactured Home Residency Law, and makes numerous corresponding changes in terminology within the law.

**Status: Assembly Housing Committee, two-year bill.**

**AB 1745 (Campbell) Manufactured Housing/Historic Districts**

Authorizes a local government to exclude manufactured homes from historic districts provided that any special conditions and regulations adopted by the local legislative body contain clear, objective architectural standards that do not arbitrarily discriminate against manufactured housing.

**Status: Assembly Housing Committee, two-year bill.**

**SB 69 (Kelley) - Final Money Judgment**

Authorizes a mobilehome park owner who obtains a final money judgment for unpaid rent against the registered owner of a manufactured home or mobilehome to file a lien against the title of the home with the Department of Housing and Community Development. More specifically, this bill:

1) Requires the park owner with the final money judgment to be treated as a junior lienholder.

2) Requires HCD to accept the lien upon receipt of a certified copy of the final money judgment, as specified.

3) Requires the release of the lien within 20 days of satisfaction of the final money judgment. Establishes penalties for violations.

4) Clarifies that a lien filed under this provision is not subject to execution (court-ordered seizure of the home by the park owner).

5) Clarifies that if the lienholder (bank) pays a portion of the amount owed by the former homeowner, then this amount shall be deducted from the amount owed by the former registered owner.

6) Clarifies that a lien on the title of the home shall be extinguished if the registered owner surrenders his/her ownership interest in the home to the legal owner (bank) and either: (1) The bank sells the home, but is unable to recover the total amount due to satisfy the amount owed under the security agreement, promissory note, or other debt instrument, or (2) The sale of the home generates enough funds to satisfy the bank, but there are no surplus funds available to pay junior lienholders, or (3) Upon payment of any surplus proceeds of the sale to the junior lienholder.

7) Clarifies that nothing in this provision -- other than funds paid to the junior lienholder (park owner) through foreclosure proceedings -- reduces in any way the amount owned by the former registered owner for unpaid rent.

8) Provides that an interest in a mobilehome in an abandonment hearing is established by a right of possession of the mobilehome or a security or ownership interest in the mobilehome.

9) Authorizes a parkowner who is filing notice for a petition for abandonment to send notice of this petition to the registered owner and any other individual holding a lien or a security interest by either certified or registered mail.

**Status: Chapter 446, Statutes of 1995.**

## APPENDIX

**Revised: 10/30/95**

**Assembly Committee on Housing and Community Development**
**1995 Committee Legislation**

**Assemblyman Dan Hauser, Chairman**

**Consultants:**

**Steve Holloway (SH)**
**Daniel Carrigg (DC)**

**Fiscal ($) / Non-Fiscal (N$) / Urgency (Urg.)**

| BILL # | AUTHOR | SUBJECT | CON | AMENDED | ACTION |
|---|---|---|---|---|---|
| **AB 46 N$** | **Hauser** | **Common Interest Developments** | **SH** | **9/01/95** | **Chpt. 661, Stat. of '95** |
| **AB 104 N$** | **Hauser** | **Common Interest Developments** | **SH** | **5/31/95** | **Chpt. 978, Stat. of '95** |
| AB 151 $ Urg. | Baca | Buildings: CPVC Plastic Piping | DC | 9/01/95 | Chpt. 785, Stat. of '95 |
| AB 160 $ | Baca | Housing: California Residential Earthquake Recovery Act | SH | | Ass. Housing 2-year bill |
| **AB 189 N$** | **Hauser** | **Redevelopment Disaster Project Law** | **DC** | **6/13/95** | **Chpt. 186, Stat. of '95** |
| AB 283 N$ | Cortese | Mobilehomes: Guest Fees | DC | 3/30/95 | Chpt. 24, Stat. of '95 |
| AB 368 N$ | Speier | Housing: Redevelopment Agencies: Transitional Housing: Shelters for Battered Women | SH | | Ass. Housing 2-year bill |

| BILL # | AUTHOR | SUBJECT | CON | AMENDED | ACTION |
|---|---|---|---|---|---|
| AB 397<br>$ Tax | Bustamante | Farmworker Housing Incentive Act: Tax Credits | DC | 9/13/95 | Vetoed |
| AB 419<br>$ | Olberg | Redevelopment Agencies: Report of Revenues and Expenditures | DC | 5/09/95 | Chpt. 116, Stat. of '95 |
| **AB 431<br>$** | **Hauser** | **Housing: Multi-Unit Manufactured Housing: Mobilehomes** | **DC** | **6/01/95** | **Chpt. 185, Stat. of '95** |
| AB 457<br>$ | Ducheny | Housing: Substandard Buildings | SH | 9/05/95 | Chpt. 906, Stat. of '95 |
| AB 463<br>N$ | Goldsmith | Common Interest Developments Reserve Funds | SH | 4/04/95 | Chpt. 13, Stat. of '95 |
| AB 489<br>$ Urg. | Goldsmith | Fire Protection: Emergency Procedure Information | SH | 7/29/95 | Ass. Concur. 2-year bill |
| AB 530<br>N$ | Weggeland | Real Estate Transfers Disclosure | SH | 7/03/95 | Chpt. 335, Stat. of '95 |
| AB 616<br>N$ | Morrow | Buildings: Occupancy Levels | SH | | Ass. Housing 2-year bill |
| AB 622<br>$ | Conroy | Electric & Gas Service: Master Meter Customers | DC | 4/24/95 | Ass. Housing 2-year bill |
| AB 717<br>$ | Ducheny | Construction Inspectors Plans Examiners & Building Officials: Certification and Training | DC | 8/22/95 | Chpt. 623, Stat. of '95 |
| AB 747<br>$ Urg. | V. Brown | Wood Roofing Product Standards | DC | 6/13/95 | Chpt. 333, Stat. of '95 |

| BILL # | AUTHOR | SUBJECT | CON | AMENDED | ACTION |
|---|---|---|---|---|---|
| AB 765 N$ | Kaloogian | Mobilehome Residency Law | DC | 7/26/95 | Sen. Judiciary 2-year bill |
| **AB 997 $** | **Housing Cmte** | **Housing Finance** | **SH** | **8/29/95** | **Vetoed** |
| AB 1164 $ | Hawkins | Rent Control | SH | 7/20/95 | Chpt. 331, Stat. of '95 |
| AB 1197 $ | Takasugi | Housing's Housing Bond Credit Committee: CA Housing Finance Agency | SH | 4/17/95 | Sen. Housing 2-year bill |
| AB 1264 N$ | Knight | Community Redevelopment Financial Assistance & Disaster Project Law | DC | | Ass. Housing 2-year bill |
| AB 1314 $ | Sher | Buildings: Straw-bale Structures | DC | 9/01/95 | Chpt. 941, Stat. of '95 |
| AB 1317 N$ | Speier | Common Interest Developments | SH | 9/06/95 | Ass. Concur. 2-year bill |
| AB 1337 N$ | Sweeney | Mobilehome Parks: Sale | SH | 7/28/95 | Vetoed |
| AB 1379 N$ | Thompson | Redevelopment Agencies: Payments to Affected Taxing Agencies: State Water Resources Development System | DC | 5/09/95 | Chpt. 137, Stat. of '95 |
| AB 1424 $ | Isenberg | Redevelopment Agencies: Payments to Affected Taxing Agencies | SH | 5/01/95 | Chpt. 141, Stat. of '95 |
| AB 1455 $ | Cortese | Mobilehomes: Earthquake Protection | DC | 5/09/95 | Sen. Housing 2-year bill |
| AB 1509 $ | Hawkins | Housing: Housing Discrimination | SH | 7/18/95 | Sen. Floor 2-year bill |

| BILL # | AUTHOR | SUBJECT | CON | AMENDED | ACTION |
|---|---|---|---|---|---|
| AB 1511<br>N$ | V. Brown | Manufactured Homes: Historic Districts | DC | 9/01/95 | Vetoed |
| AB 1518<br>N$ | Morrow | Common Interest Developments | SH | | Ass. Housing 2-year bill |
| AB 1625<br>N$ | McDonald | Mobilehomes: Manufactured Homes | DC | 5/01/95 | Ass. Housing 2-year bill |
| AB 1648<br>N$ | Conroy | Military Base Conversion Economic Redevelopment Agencies | DC | 5/02/95 | Ass. Housing Interim Study 2-year bill |
| AB 1658<br>N$ | Battin | Housing | SH | | Chpt. 12, Stat. of '95 |
| AB 1715<br>$ | Goldsmith | Housing Elements: Self-Certification | SH | 8/30/95 | Chpt. 589, Stat. of '95 |
| AB 1731<br>$ Urg. | Goldsmith | Land Use: General Plans | SH | 9/11/95 | Chpt. 662, Stat. of '95 |
| AB 1745<br>N$ | Campbell | Manufactured Housing: Designated Historical Zones | DC | | Ass. Housing 2-year bill |
| AB 1784<br>$ | Speier | Swimming Pools: Safety: Disclosures | SH | | Ass. Housing 2-year bill |
| AB 1820<br>N$ | McPherson | Redevelopment: Replacement Dwelling Units | DC | 6/08/95 | Sen. Housing 2-year bill |
| AB 1944<br>N$ | K. Murray | Rent Control | SH | 4/17/95 | Ass. Housing 2-year bill |
| ABX1 5<br>N$ Urg. | Sher | Flood Plains: Real Estate Transfer Disclosures | SH | | Ass. Housing 2-year bill |
| ACR 11<br>$ | Aguiar | Disabled Access: Signage | DC | 6/12/95 | Res. Chpt. 49, State. of '95 |

| BILL # | AUTHOR | SUBJECT | CON | AMENDED | ACTION |
|---|---|---|---|---|---|
| **AJR 7 N$** | **Hauser** | **Manufactured Housing** | **DC** | **4/26/96** | **Res. Chpt. 27, Stat. of '95** |
| AJR 12 N$ | K. Murray | Rederal Fair Housing Act: Housing for Older Persons | SH | | Ass. Housing 2-year bill |
| **AJR 23 N$** | **Hauser** | **Condominiums: Earthquake Insurance: Federal Home Loan Mortgage Company** | **SH** | **4/27/95** | **Sen. Judiciary 2-year bill** |
| SB 69 $ | Kelley | Mobilehomes: final money judgments | DC | 7/06/95 | Chpt. 446, Stat. of '95 |
| SB 77 N$ | Mello | Redevelopment Agency of Fort Ord | DC | 5/23/95 | Chpt. 45, Stat. of '95 |
| SB 78 N$ | Mello | Redevelopment Agency of Fort Ord | DC | 3/13/95 | Ass. Housing 2-year bill |
| SB 110 N$ | Craven | Mobilehomes: Residency | SH | 6/13/95 | Chpt. 103, Stat. of '95 |
| SB 300 N$ | Petris | Common Interest Developments | SH | 6/29/95 | Chpt. 199, Stat. of '95 |
| SB 304 N$ | Rosenthal | Building Standards: Water Heaters | DC | 6/15/95 | Chpt. 98, Stat. of '95 |
| SB 305 N$ | Polanco | Housing: Employee Housing | DC | 6/29/95 | Chpt. 376, Stat. of '95 |
| SB 310 N$ | Craven | Mobilehome Parks: Conversion to Resident Ownership | SH | 6/22/95 | Chpt. 256, Stat. of '95 |
| SB 332 N$ | Campbell | Senior Citizen Housing Developments | SH | 6/19/95 | Chpt. 147, Stat. of '95 |

| BILL # | AUTHOR | SUBJECT | CON | AMENDED | ACTION |
|---|---|---|---|---|---|
| SB 335<br>N$ | Solis | Untenantable dwellings: door locks | DC | 6/29/95 | Ass. Housing 2-year bill |
| SB 360<br>$ Urg. | Craven | Mobilehome Park Resident Ownership Program | DC | 6/02/95 | Chpt. 409, Stat. of '95 |
| SB 533<br>$ | Hughes | Buildings: buildings in violation of the State Housing Law | SH | 4/06/95 | Died, Assm. Appro. |
| SB 577<br>$ | Rosenthal | Mobilehomes: seismic gas shutoff devices | DC | 5/30/95 | Ass. Housing 2-year bill |
| SB 660<br>$ Urg. | S. Housing | Housing and Land Use Omnibus Act of 1995 | SH | 8/31/95 | Chpt. 686, Stat. of '95 |
| SB 851<br>$ | Costa | Employee Housing inspection reports | DC | 8/21/95 | Chpt. 561, Stat. of '95 |
| SB 895<br>N$ | Leslie | Civil rights: senior housing | SH | 5/08/95 | Ass. Housing 2-year bill |
| SB 936<br>$ | Campbell | Housing: regional housing needs | SH | 9/14/95 | Vetoed |
| SB 1015<br>$ | Mello | Assisted housing developments: termination date | SH | | Chpt. 790, Stat. of '95 |
| SB 1036<br>$ | Mello | Redevelopment Agency of Fort Ord | DC | 7/10/95 | Chpt. 441, Stat. of '95 |
| SB 1100<br>$ | Petris | Housing: termination of government assistance | SH | 6/29/95 | Ass. Housing 2-year bill |
| SB 1109<br>$ Urg. | Leslie | Hospital buildings: building standards | DC | 6/29/95 | Chpt. 543, Stat. of '95 |

| BILL # | AUTHOR | SUBJECT | CON | AMENDED | ACTION |
|---|---|---|---|---|---|
| SB 1181<br>N$ | Haynes | Mobilehome Residency Law: rent control | SH | 9/08/95 | Ass. Housing 2-year bill |
| SB 1257<br>$ | Costa | Rent Control | SH | 5/11/95 | Ass. Housing 2-year bill |
| SB 1325<br>$ Urg. | Polanco | Housing discrimination | SH | 9/11/95 | Chpt. 924, Stat. of '95 |
| SJR 12<br>N$ | Craven | Manufactured Home and Mobilehome Rent Space: | SH | 3/09/95 | Res. Chpt. 41, Stat. of '95 |