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**SENATE COMMITTEE ON HOUSING**  
**Senator Aisha Wahab, Chair**  
**2025 - 2026 Regular**

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<b>Bill No:</b>	AB 1050	<b>Hearing Date:</b>	7/15/25
<b>Author:</b>	Schultz		
<b>Version:</b>	7/7/2025 Amended		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Erin Riches		

**SUBJECT:** Unlawfully restrictive covenants: housing developments: reciprocal easement agreements

**DIGEST:** This bill authorizes an individual or entity that wants to develop housing on an existing commercial property, to apply to remove any covenants that restrict the density of the housing that may be built on that property.

**ANALYSIS:**

*Existing law:*

- 1) Defines an “affordable housing development” as a development located on property that is the subject of the density restrictive covenant and that meets one of the following requirements:
  - a) The property is subject to a recorded affordability restriction requiring 100% of the units to be made available at affordable rent to, and to be occupied by, lower income households for 55 years for rental housing, as specified.
  - b) The property is owned or controlled by an individual or entity that has submitted a permit application to the relevant jurisdiction to develop a project that complies with a) above.
- 2) Provides that recorded covenants, restrictions, or private limits on the use of private or publicly owned land, that restrict the number, size, or location of the residences that may be built on the property, or that restrict the number of persons or families who may reside on the property (henceforth referred to “density restrictive covenants”), shall not be enforceable against the owner of an affordable housing development if an approved covenant modification document has been recorded in the public record.

- 3) Excludes specified settlements, conservation agreements, and conservation easements, along with specified deed restrictions, public access easements, or similar covenants required by a state agency for purposes of compliance with a state or federal law, as specified.
- 4) Authorizes the owner of an affordable housing development to submit a covenant modification document that modifies or removes any existing density restrictive covenant language, to the extent necessary to allow the affordable housing development to proceed, pursuant to a specified process.
- 5) Provides that this authorization shall not be interpreted to allow any development that is not otherwise consistent with the local general plan, zoning ordinances, and any applicable specific plan that apply to the development, including any requirements regarding the number of residential units, the size of residential units, and any other zoning restrictions relevant to the development.
- 6) Establishes the Affordable Housing and High Road Jobs Act of 2022 (AB 2011), which deems the development of 100% affordable and qualifying mixed-income housing development projects that are located in commercial corridors to be a use by-right and requires local agencies to approve these projects ministerially if specified development and workforce criteria are met.
- 7) Establishes the Middle Class Housing Act of 2022 (SB 6), which makes a housing development project an allowable use on parcels that are principally zoned for office, retail or parking, if the housing development meets specified development and workforce criteria, and the project site is 20 acres or less.

**This bill:**

- 1) Authorizes an individual or entity that has submitted a permit application to develop an existing commercial property for a project that includes residential uses permitted by state housing laws or local land use and zoning regulations, to submit a covenant modification document to remove language restricting the number, size, or location of the residences that may be built on the property, or that restricts the number of persons or families that may reside on the property.
- 2) Provides that this authorization shall not be interpreted to authorize any development that is not otherwise consistent with state housing laws.

## Background

*California's history of restrictive covenants.* California property law enables a property owner to, upon subdivision of the land, place covenants, conditions, restrictions, or other limitations (commonly known as "CC&Rs") on how the subdivided land may be used. These restrictions can then be enforced, through legal action if necessary, by any of the other owners of the subdivided property. The primary purpose of such restrictions is to provide assurance to those purchasing the property that the surrounding area will not develop in ways that they do not expect and do not want. Restrictive covenants can be used, for example, to ensure that all homes in a neighborhood conform to a certain architectural style.

However, restrictive covenants have historically been used to exclude and discriminate against minorities. These covenants were used to prohibit the sale of a property to a person of color, thereby ensuring that a particular neighborhood or area of a city remained inhabited by white residents. The federal government promoted and encouraged racially restrictive covenants, and – accompanied with the practice of red-lining, in which entire sections of a city were designated as too risky for underwriting mortgage guarantees – confined minorities to poorer neighborhoods and denied them the ability to purchase property and accrue wealth. Such covenants were also similarly used to exclude religious minorities.

The United States Supreme Court eventually ruled that such covenants were unenforceable, as they violated the Equal Protection Clause of the Fourteenth Amendment (*Shelley v. Kramer* (1948) 334 U.S. 1.). Yet these covenants still exist in many housing deeds, despite being unenforceable. To address concerns regarding the existence of this discriminatory language, AB 1466 (McCarty, Chapter 359, Statutes of 2021) requires any racially restrictive language to be removed from housing documents when a property changes hands, as well as making it easier for homeowners who purchase their homes under such restrictive covenants to file a covenant modification document.

## Comments

- 1) *Author's statement.* "The COVID-19 pandemic, along with inflation, has hastened changes in the economy and consumer preferences, prompting the closure of commercial spaces in recent years, all while Californians struggle to find housing. With a shortfall of available homes, we must take necessary measures to remove roadblocks to promote the development of mixed-use and mixed-income housing. The redevelopment and revitalization of existing

shopping centers is a key priority for local governments and helps facilitate their economic development programs. AB 1050 will allow proposed mixed-use developments to provide notice to interested parties of the intent to remove a reciprocal easement agreement and proceed to redevelop the property without exposure to litigation at a later date. Importantly, this bill does not alter state housing laws related to project approvals, nor does it change local zoning ordinances or the entitlement process.”

- 2) *Density restrictive covenants.* As racially restrictive covenants were banned, developers and neighborhood associations found new ways to subvert the *Shelley* ruling. Many developers and homeowners associations began adopting covenants that restricted the number or size of the residences that may be built on a property, or that restricted the number of persons who may reside on the property. Although race-neutral on their face, these density restrictive covenants had the practical effect of maintaining white, single-family neighborhoods in California’s affluent suburban communities. Because density restrictive covenants were enforceable, they were used to block affordable housing developments that had otherwise been approved by a city or county.

To address the negative effects of density restrictive covenants, the Legislature passed AB 721 (Bloom, Chapter 349, Statutes of 2021). Under AB 721, any CC&Rs on private or publicly owned land that restrict the number or size of the residences that may be built on the property, or that restrict the number of persons who may reside on the property, are unenforceable if the property will be developed into affordable housing. Specifically, the developer must enter into an agreement with the local government to deed-restrict the 100% affordable housing units for 55 years, and must file a covenant modification document (see Comment #4 below). AB 721 applies to affordable housing being developed on any property, though a narrow band of conservation easements are exempt to ensure preservation of natural, scenic, historic, agricultural, forested, or open space conditions.

- 3) *The AB 721 covenant modification process.* AB 721 created a process for an affordable housing developer to request that the county recorder remove a density restrictive covenant from the property deed, using much the same process that property owners can currently use to remove discriminatory restrictive covenants. This process was clarified and strengthened in AB 911 (Schiavo, Chapter 750, Statutes of 2023).

First, an affordable housing project developer must submit a covenant modification document to the county recorder. The county recorder then has five business days to submit the covenant modification document to the county

counsel for review. The county counsel then has 15 business days to determine whether the modification meets the requirements of AB 721. Once the county counsel authorizes the county recorder to record the modification document, the county recorder must immediately notify the developer. At this point, the developer may notify interested parties of the modification; parties have 35 days from the receipt of this notice, to file any lawsuit to contest the modification.

The AB 721 process allows a developer to file for a covenant modification as soon as they have submitted a permit application for the project; as soon as the modification is approved, the developer may provide notice of the approval to any interested parties. The developer has a strong incentive to provide this notice, because any interested party that receives the notice has only 35 days to file a lawsuit contesting the covenant modification. This helps ensure against lawsuits being filed well into the development process, causing costly delays. It also discourages these lawsuits from being filed at all, because the notice informs the parties that the county counsel has already approved the covenant modification.

- 4) *Authorizing residential development in commercial zones.* In addition to streamlining California Environmental Quality Act (CEQA) review at the project level for specific types of housing developments, the Legislature has recently enacted several bills to facilitate the production of more housing by increasing the sites available for residential development. Notably, AB 2011 (Wicks) --- the provisions of which were substantively amended by AB 2243 (Wicks) --- and the Middle Class Housing Act of 2022 (SB 6, Caballero, Chapter 659, Statutes of 2022) which made certain types of housing developments an allowable use on land zoned for commercial uses; these bills effectively rezoned eligible parcels statutorily and increased the stock of land that could be developed into housing in California. These bills obviated the need for a local government to conduct a CEQA review in order to rezone certain commercial parcels to allow housing development on these parcels.

Additionally, AB 2011 required local governments to ministerially approve housing developments on these parcels if they include specific levels of affordable housing and met other development criteria. Working in tandem, AB 2011's statutory rezoning of commercial parcels, along with its requirement for local governments to approve affordable housing projects ministerially, can dramatically expedite the approval and development of much needed housing in California.

- 5) *Expanding AB 721 to facilitate mixed use development.* As noted above in 4), the AB 721 process currently applies only when a developer plans to build a 100% affordable housing development. This bill aims to expand AB 721 to include any housing built on a commercial property. Specifically, this bill authorizes a developer to file a request to remove language from a reciprocal easement agreement that restricts housing density on a commercial property, if the proposed development will include residential units. Although this bill does not include any affordability requirements, a developer wishing to take advantage of streamlining provisions under AB 2011 would be required to meet certain affordability thresholds.

By enabling a developer to file a covenant modification to remove any density restrictions on a property, the AB 721 process helps remove a hurdle to the development of 100% affordable housing. In turn, by making mixed-use developments eligible for the AB 721 process, this bill aims to help further encourage developers to construct needed housing units on these properties.

- 6) *Incoming!* This bill was heard in the Senate Judiciary Committee on July 1, 2025, which passed it on an 11-2 vote.

### **Related/Prior Legislation**

**AB 1385 (Petrie-Norris, 2025)** – authorizes an individual or entity that wants to develop housing on a property located in a county impacted by the January 2025 wildfires, to apply to remove any covenants that restrict the density of the housing that may be built on that property. *This bill will also be heard in this committee today.*

**AB 911 (Schiavo, Chapter 750, Statutes of 2023)** – strengthens and clarifies the process by which a purchaser of a property can remove a covenant, condition, or restriction limiting the property's use for affordable housing.

**AB 721 (Bloom, Chapter 349, Statutes of 2021)** – provides that covenants, restrictions, or private limits on the density of a property shall not be enforceable against a property owner who is developing a 100% affordable project, as specified.

**AB 1466 (McCarty, Chapter 359, Statutes of 2021)** – requires each county recorder's office to establish a program to proactively identify, catalog, and redact any unlawfully discriminatory restrictive covenants in that county's property records and authorizes the imposition, if approved by the respective county board

of supervisors, of a fee to fund the program. Also modified the procedures for redacting such covenants to facilitate greater use of those procedures.

**FISCAL EFFECT:** Appropriation: No    Fiscal Com.: Yes    Local: Yes

**POSITIONS:** (Communicated to the committee before noon on Wednesday, July 9, 2025.)

**SUPPORT:**

Abundant Housing LA  
Bay Area Council  
California Apartment Association  
Circulate San Diego  
Fieldstead and Company, Inc.  
Housing Action Coalition  
Inner City Law Center  
Lieutenant Governor Eleni Kounalakis  
Spur  
Zillow Group

**OPPOSITION:**

None received

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