
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 1385 (Petrie-Norris) - Unlawfully restrictive covenants: housing developments: Palisades Fire

Version: July 3, 2025

Urgency: No

Hearing Date: August 18, 2025

Policy Vote: JUD. 11 - 1, HOUSING 8 - 2

Mandate: Yes

Consultant: Liah Burnley

Bill Summary: AB 1385 makes recorded restrictive covenants 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, unenforceable against the owners of all housing developments in Los Angeles County and Ventura County.

Fiscal Impact: Costs (local funds, General Fund) to the counties of an unknown but potentially significant amount. This bill requires county counsel to review and evaluate specified restrictive covenant modification documents, and requires a county recorder to record covenant modification documents upon approval by county counsel. Costs for additional workload imposed on county counsel may be reimbursable by the General Fund if the Commission on State Mandates determines these duties constitute a reimbursable state mandate. Actual costs will depend on the number of requests for modification submitted and the amount of time it takes to evaluate each request. Costs for additional workload to county recorders are likely non-reimbursable because county recorders are authorized to charge fees to offset costs.

Background: Under existing law, a property owner can, upon subdivision of the land, record covenants, conditions, restrictions, or other limitations on how the subdivided land may be used. These restrictions are enforceable, through legal action if necessary, by any of the other owners of the subdivided property.

Restrictive covenants have a shadowy history of discrimination. 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. Covenants were also 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.) Undeterred, developers and neighborhood associations found other ways to subvert the *Shelley* ruling. Many developers and homeowners associations adopted 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 restrictive

covenants 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 and the owner follows a specified process.

Proposed Law: Expands the existing statutory procedures to make restrictive covenants unenforceable to include all property “located within a county¹ subject to the state of emergency declared by the Governor on January 7, 2025, related to the Palisades Fire and windstorm conditions.”

Related Legislation: AB 1050 (Schultz) 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. AB 1050 is pending in this Committee.

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¹These counties are Los Angeles and Ventura counties. See, *Proclamation of State of Emergency*. (Jan. 7, 2025). Available at: https://www.gov.ca.gov/wp-content/uploads/2025/01/SOE_Palisades-Fire_1-7-25_Formatted.pdf