

CONCURRENCE IN SENATE AMENDMENTS

AB 1857 (Aguiar-Curry)

As Amended August 21, 2026

Majority vote

SUMMARY

Prohibits, and provides a process for the removal of, any covenant, restriction, or condition that restricts a property from functioning as a grocery store if a grocery store ever existed on the property previously.

Major Provisions

- 1) Deems any covenant, restriction, or condition contained in any deed, contract, security instrument, lease, or other recorded or unrecorded instrument affecting the transfer or sale of any interest in real property that effectively prohibits or restricts the use of that property as a grocery store or supermarket void and unenforceable against an interested party if both of the following conditions are met:
 - a) A grocery store or supermarket previously operated on the property and has ceased operations or *no longer in actual operation within a commercial project or shopping center, as specified*; and
 - b) An approved restrictive covenant modification document has been recorded in the public record, as specified in 3) through 7).
- 2) Entitles an interested party to establish that an existing restrictive covenant is unenforceable by submitting a restrictive covenant modification document pursuant to the existing covenant modification process prescribed in the Government Code that modifies or removes any existing restrictive covenant language that restricts or prohibits the use of the property as a grocery store or supermarket, to the extent necessary to allow the grocery store or supermarket development to proceed under the existing declaration of restrictive covenants.
- 3) Requires the interested party seeking to modify a covenant utilizing the covenant modification process to submit to the county recorder a copy of the original restrictive covenant and any documents the owner believes necessary to establish that a grocery store or supermarket previously operated on the property and that those documents are to be submitted prior to, or simultaneously with, the submission of the request for recordation of the restrictive covenant modification document, and may include, but are not limited to, business license records, health department permits, Alcoholic Beverage Control Act license records, or county assessor records.
- 4) Requires a county recorder, before recording a restrictive covenant modification document, to within five business days of receipt, submit the documentation provided to the county recorder by the owner and the modification document to the county counsel for review.
- 5) Requires, upon receiving the documents specified in 4), the county counsel to determine whether the original restrictive covenant document restricts the property in a manner prohibited by 1) and whether the owner has submitted documents sufficient to establish that the property qualifies as a grocery store or supermarket development under this bill, whether

any notice required under this bill has been provided, whether any exemption provided in 14) applies, and whether the restriction may no longer be enforced against the owner of the grocery store or supermarket development and that the owner may record a modification document pursuant to this bill.

- 6) Requires the county counsel to return the documents in 4) and inform the county recorder of the county counsel's determination within 15 days of submission to the county counsel, as specified.
- 7) Requires, upon being notified that the county counsel has authorized the county recorder to record the modification document, the interested party to either mail, by certified mail to anyone who the interested party knows has an interest in the property or in the restrictive covenant, as specified, or to publish a notice in a newspaper of general circulation.
- 8) Prohibits a county recorder from recording the modification document if the county counsel finds that the original restrictive covenant document does not contain a restriction prohibited by 1) or if the county counsel finds that a grocery store or supermarket did not previously operate on the property.
- 9) Requires a modification document to be indexed in the same manner as the original restrictive covenant document being modified.
- 10) Provides that if an interested party causes to be recorded a modification that modifies or removes a restrictive covenant that is not authorized by this bill, the county is not liable for recording the document.
- 11) Provides that if the property is utilized in any manner that violates the terms of the restrictions required by this bill, the city or county may, after notice and an opportunity to be heard, record a notice of that violation, as specified.
- 12) Requires any lawsuit challenging the validity of a recorded covenant modification to be filed within 35 days of the notice specified in 7).
- 13) Authorizes a prevailing party in an action brought pursuant to 12) to receive litigation costs and reasonable attorney's fees.
- 14) Provides that for restrictions that are otherwise compliant with all applicable laws, this bill does not invalidate local building codes, fire codes, health and safety regulations, or other rules regulating commercial uses of property, including, but not limited to, any of the following:
 - a) The size, height, setback, or design of commercial structures;
 - b) Parking, traffic circulation, loading, or access requirements;
 - c) Signage, lighting, noise, or hours of operation; and
 - d) Health department permitting, food safety, or sanitation requirements applicable to food retail establishments.

- 15) Clarifies that nothing in this bill is be interpreted to authorize any use of property that is not otherwise consistent with the local general plan, zoning ordinances, and any applicable specific plan, conditional use permit, or other land use entitlement that applies to the property, and that nothing in this bill exempts a grocery store or supermarket from obtaining any permit, license, or approval otherwise required by state or local law.
- 16) Provides that the bill is not to be construed to invalidate or render unenforceable, any of the following:
- a) An exclusive-use provision, radius restriction, or similar covenant contained in a lease or sublease between a landlord and a tenant, to the extent that the provision restricts the landlord from leasing other premises within the same commercial project or shopping center to a competing grocery store or supermarket, provided that at least one grocery store or supermarket is in actual operation within the commercial project or shopping center at the time enforcement of the provision is sought;
 - b) A covenant or restriction that limits the number of grocery store or supermarket tenants within a single commercial project or shopping center, but does not prohibit all grocery store or supermarket use of the property;
 - c) A covenant or restriction that limits the number of grocery store or supermarket tenants within a single commercial project or shopping center, but does not prohibit all grocery store or supermarket use of the property;
 - d) A covenant, condition, or restriction that relates to purely aesthetic objective design standards, fees or assessments for the maintenance of common areas, or other obligations that do not have the purpose or effect of prohibiting or restricting the use of the property as a grocery store or supermarket.
- 17) Clarifies that any covenants invalidated by this bill are not to impact otherwise lawful covenants applying to the property.
- 18) *Prohibits the adoption of new covenants, restrictions, or conditions affecting the transfer or sale of any interest in real property that effectively prohibits or restricts the use of that property as a grocery store or supermarket if a grocery store or supermarket either previously operated on the property and has ceased operations or is no longer in actual operation within a commercial project or shopping center, as specified.*

19) *Adopts several definitions.*

20) Makes various findings and declarations

Senate Amendments

- 1) *Adopt prospective prohibitions on covenants limiting a grocery store's future use.*
- 2) *Adopt notice provisions to ensure that interested parties are aware that the covenant modification process will be instituted.*
- 3) *Clarify several definitions.*

COMMENTS

Food deserts are areas that lack access to nutritious or fresh foods within a one to ten mile radius of a person's home, depending on the urban or rural nature of the area. The Food Empower Project suggests that upwards of 23 million Americans live in an area designated as a food desert. (<https://foodispower.org/access-health/food-deserts/>.) This issue is being compounded by consolidation within the grocery industry, which leads to stores being strategically closed to generate better returns for a chain's other locations. One pernicious practice by some grocery chains is to install a restrictive covenant in a closed store's property documents immediately prior to listing the property for sale, thus prohibiting the site from being used as a grocery store in the future. This ensures that another grocer cannot come along and compete with the original owner.

While such practices may make business sense for the original grocer owning the property, these covenants are anti-competitive and exacerbate the food desert crisis plaguing the state. This bill would prohibit such covenants and provide for a means of removing those currently in existence.

Building on prior bills to remove racially restrictive covenants and housing affordability restrictions, this bill would utilize the existing covenant modification process to permit an interested party to remove a restrictive covenant related to grocery stores. The bill outlines the process where a covenant modification form is submitted to the county recorder, reviewed and approved by the county counsel, and recorded if legally compliant. The bill adopts notice requirements for interested parties to contest the modification and provides those parties 35 days from the receipt of the notice to file suit. The bill clarifies that the county is not liable for any improperly recorded covenant modification stemming from the interested parties' errors or omissions. Finally, the bill clarifies that the covenant process does not alter local land use rules, public health and safety laws, or conditions contained within commercial leases. *This bill also prohibits the adoptions of new covenants restricting grocery stores starting in 2027.*

According to the Author

When a grocery store closes and leaves behind a restrictive covenant, it blocks another grocery store from operating in that space for years or even decades. Any new store looking to move into an area would have to start completely from scratch instead of being able to take advantage of existing infrastructure. As a result, communities can lose access to a full-service grocery store, or residents are forced to rely on smaller stores that often lack the capacity to provide fresh produce and other healthy foods. Smaller stores stock fewer healthy options at higher prices, contributing to poor nutrition and higher consumer costs. Given that nearly 3 million low-income Californians live in food deserts, this practice undermines food access, affordability, and community health. AB 1857 prohibits grocery stores from using restrictive covenants that prevent new grocery stores from opening, helping reduce food deserts and restore access to healthy, affordable food in communities across California.

Arguments in Support

This bill is co-sponsored by the California Food and Farming Network and Economic Security California Action and enjoys support from a host of advocates for low-income Californians. A coalition letter in support of the bill states:

AB 1857, which would prohibit restrictive covenants that prevent or limit grocery stores and supermarkets from locating in otherwise suitable commercial properties. Restrictive covenants are clauses in property deeds or leases that prevent a grocery store from opening at a site. These covenants act as private land-use restrictions and anti-competitive tools that

suppress market entry and reduce food access, contributing to the creation of food deserts, higher costs of food, limited consumer choice, and negative health impacts.

AB 1857 is a necessary and timely step toward addressing the structural drivers of hunger and food affordability across the state. California produces more than half of the vegetables and nearly two-thirds of the fruits and nuts grown in the United States, yet more than one in five Californians—approximately 8.8 million people—experience food insecurity. This contradiction is not due to a lack of food, but to persistent barriers to physical and economic access to food, particularly in communities with low income and communities of color. Corporate practices, including grocery chains' use of restrictive covenants, reinforce these barriers by limiting where stores can open, creating and sustaining food deserts, reducing competition, and keeping affordable and healthy food out of reach. For example, after a grocery store in Vallejo closed and placed a restrictive covenant on the property, the community went 15 years without a full-service grocery store—until the restriction expired.

Food insecurity is shaped by long-standing economic and racial inequalities. Black and Latino households are more than twice as likely to experience food insecurity as white households. In the Klamath Basin, 92% of Native American households experience food insecurity, and Pacific Islander communities in southern California also face disproportionately high rates of hunger. Historic redlining, racial segregation, and disinvestment continue to shape where food retailers locate today. Food deserts, areas with limited access to affordable, healthy food, are not naturally occurring, but are the product of decades of policy decisions, land-use planning, and corporate practices that restrict grocery competition and concentrate food access in wealthier neighborhoods. As a result, an estimated 2.7 million low-income Californians live in areas with limited geographic access to full-service grocery stores.

AB 1857 addresses this problem by voiding restrictive covenants that block grocery and supermarket uses, clearing a path for new food retailers to serve communities that have been left without options. By allowing new food retailers to open in previously restricted sites, the bill promotes competition, helps lower prices, improves access to healthy food, supports local jobs and investment, and advances public health and racial equity in communities most affected by these practices. While this bill will not solve food insecurity on its own, it removes a clear and preventable barrier to grocery access.

Arguments in Opposition

This bill is opposed, unless amended, by the California Business Properties Association. They write:

As drafted, AB 1857 would broadly invalidate privately negotiated commercial property agreements between businesses. Restrictive covenants, lease provisions, and other land use controls are common tools used by property owners and tenants to structure retail centers, secure financing, and maintain stable tenant mixes. By voiding these agreements, the bill would insert the state into routine business-to-business lease negotiations and disrupt longstanding contractual arrangements relied upon by property owners, developers, and retailers that are protected under Article 10 of the U.S. Constitution.

Additionally, the bill would apply to both recorded and unrecorded property instruments and defines "grocery store" broadly enough to create uncertainty for many types of retail businesses and shopping centers.

For these reasons, we must respectfully oppose AB 1857 unless amended and welcome the opportunity to continue working with the author and stakeholders to address food access concerns while preserving the integrity of private commercial agreements.

FISCAL COMMENTS

According to the Senate Appropriations Committee, unknown, local costs for county recorders and county counsels. While county recorder costs are fee-supported and not likely to be subject to state reimbursement, county counsel costs could be reimbursable, subject to a determination by the Commission on State Mandates. (General Fund)

VOTES:

ASM JUDICIARY: 12-0-0

YES: Kalra, Macedo, Bauer-Kahan, Bryan, Connolly, Dixon, Harabedian, Pacheco, Papan, Sanchez, Stefani, Zbur

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta

ABS, ABST OR NV: Tangipa

ASSEMBLY FLOOR: 72-0-8

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

ABS, ABST OR NV: Arambula, Chen, Gabriel, Garcia, Lackey, Ramos, Celeste Rodriguez, Tangipa

UPDATED

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CONSULTANT: Nicholas Liedtke / JUD. / (916) 319-2334

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