SENATE COMMITTEE ON HOUSING
Senator Jesse Arreguín, Chair
2025 - 2026 Regular

Bill No:	AB 782	**Hearing Date:**	6/30/2026
Author:	Quirk-Silva		
Version:	6/2/2026 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Unlawfully restrictive covenants: redevelopment of commercial property for residential uses

DIGEST: This bill authorizes certain charter cities to preclude the removal of recorded covenants on commercial sites that preclude housing development, as specified.

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) 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.

7) Provides that the authorization in (6) shall not be interpreted to authorize any development that is not otherwise consistent with state housing laws.

8) 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.

9) 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) Limits the housing developments that qualify for removing use restrictions on an existing commercial property, as described above in (6), by excluding a development project within a charter city that meets the following criteria:
   a) Has a population size between 200,000 and 400,000;
   b) Has adopted a housing element that is in substantial compliance with housing element law; and,
   c) Issued residential building permits that, on an average annual basis during the current regional housing needs allocation cycle applicable to the charter city, allow for a total of more than 500 residential units.

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.* "California needs more housing, and we should continue removing barriers that prevent underutilized commercial sites from becoming homes for families. AB 782 makes a narrow, targeted adjustment to ensure jurisdictions already delivering housing and maintaining compliant housing plans are not unintentionally swept into a process that was designed to address a different problem. This bill preserves the original intent of AB 1050 while recognizing and supporting cities that are already doing the work to meet our housing goals. California's housing crisis demands urgency, but it also demands precision. This bill delivers both."

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 the100% 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. Last year, the Legislature passed AB 1050 (Schultz, Chapter 504), which expanded AB 721 to include any housing built on a commercial property. Specifically, that 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 that 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/AB 1050 processes helps remove a hurdle to the development of 100% affordable housing or housing on commercial land eligible for AB 2011. In turn, by making mixed-use developments eligible for the AB 721 process, those bills further encourage developers to construct needed housing units on these properties.

6) *...but not here!* This bill would exempt certain charter cities from the AB 721 process for commercial properties to develop housing. Specifically, this limitation would apply to charter cities with populations between 200,000 – 400,000 people that have adopted a compliant housing element and have issued more than 500 building permits on average per year during the current housing element cycle. In effect, it would allow current barriers to developing housing on commercial sites that have been deemed appropriate for housing development by existing housing streamlining laws, including SB 2011 (Wicks) and SB 6 (Caballero).

   According to the sponsors, the law "unintentionally captures commercial properties in high performing markets and master planned communities." According to the Irvine Company, one of the supporters, this bill is intended to preclude increased density in and around master planned communities in specific jurisdictions, and that increased density would be "disruptive" to those communities. They were not able to provide answers as to why these specific jurisdictions were included in the bill; these numbers must have been selected to preclude increased density from impacting specific cities.

The Irvine Company also asserts that AB 1050 was intended to have a narrower scope and that the communities in this bill were unintentionally included. The author's AB 1050 factsheet and analysis of that bill released by this committee make clear, however, that AB 1050 was intended specifically to facilitate and remove barriers to multifamily housing developments on sites contemplated by AB 2011 and SB 6.

Here are the charter cities within the population size or near to it that could now be exempt from the AB 1050 process – and thus AB 2011/SB 6 housing development projects, along with the number of permits issued in this HE cycle and progress towards meeting their RHNA targets:

Bakersfield 411,986 – 1,776 permits in 2 years
- 25% through HE cycle
- Progress towards RHNA: 0% VLI, 1.2% LI, 0% Mod, and 12% Above mod)

Anaheim 344,521 – 2,390 permits in 4 years
- 50% through HE cycle
- Progress towards RHNA: 10.6% VLI, 10.5% LU, 7.4% Mod and 17.9% Above mod)

Stockton 322,326 – 837 permits in 2 years
- 25% through HE cycle
- Progress towards RHNA: 10% VLI, 2% LI, 0.6% mod, and 9% Above mod)

Riverside 319,069 – 2,500 permits in 4 years
- 50% through HE Cycle
- Progress towards RHNA: 0% VLI, 8.4% LI, 0% Moderate income, and 31.4% Above moderate income

Santa Ana 312,534 – 3,707 permits in 4 years
- 50% through HE cycle
- Progress: 50% VLI, 82% LI, 35% Mod, 180% above mod

Irvine 311,690 – 5,201 permits issued in 4 years
- 50% through HE Cycle

- Progress towards RHNA: 4% VLI, 2% LI, 3% mod, 55% Above mod

Chula Vista 276,375 – 5, 446 permits in 5 years
- 62.5% through HE cycle
- Progress towards RHNA: 6% VLI, 25% LI, 22% Mod, 95% Above mod

San Bernardino 222,724 – 952 permits in 4 years
- 50% through HE cycle
- Progress towards RHNA: 2% VLI, 47% LI, 3% Mod, 9% Above mod

Modesto 219,215 – 389 permits in 2 years
- 25% through HE cycle
- Progress towards RHNA:2% VLI, 8% LI, 0% Mod, 4% Above Mod

Huntington Beach 195,240 – 1,014 permits in 4 years
- 50% through HE cycle
- Progress towards RHNA: 5% VLI, 9% LI, 4% Mod, 10% above mod

Glendale 190,748 – 1,747 permits in 4 years
- 50% through HE cycle
- Progress towards RHNA: 7% VLI, 16% LI, 0% Mod, 21% Above mod

Ontario 180,547 – 3,532 permits in 4 years
- 50% through HE cycle
- Progress towards RHNA: 0.5% VLI, 0.6% LI, 0% Mod, 41% Above Mod

7) *Permits ≠ Housing.* Jurisdictions are required to report housing data to HCD annually in the APR. This data is required to include the number of housing permits issued as well as the number of certificates of occupancy (COE), or equivalent final approval, issued annually. It is not uncommon for a property owner or developer to submit a permit for a housing development that they never build, or to submit multiple building permit requests for the same parcel. For example, a parcel in the City of Paradise was issued a permit for a single-family development in 2021, again in 2022, and finally a third permit was issued in June of 2023 and a certificate of occupancy was issued for the manufactured home on that parcel in September of 2023.[1] For this parcel,

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[1] California Department of Housing and Community Development, "APR Table A2," *Housing Element Annual Progress Report (APR) Data by Jurisdiction and Year*, California Open Data Portal, last modified March 6, 2026, https://data.ca.gov/dataset/housing-element-annual-progress-report-apr-data-by-jurisdiction-and-year/resource/fe505d9b-8c36-42ba-ba30-08bc4f34e022/download/tablea2.csv.

three permits were issued, but only one was acted on, and only one unit of housing was ultimately developed. The City of Paradise did not misreport the data or mislead the state by reporting that it issued three permits for this parcel. In each successive APR from 2021-2023 the city factually reported that a permit was issued for the parcel that year, however it was not until 2023 that the property owner acted on an approved permit and received a certificate of occupancy for a completed unit. Using the formula proposed in this bill, all three building permits count toward the total number of permits issued by the City of Paradise.

The committee may wish to consider why these specific cities should be exempt from allowing housing to be developed on sites that the Legislature have carefully considered as appropriate for multifamily housing development, particularly in jurisdictions that are largely falling short of meeting their RHNA targets, and in particular, lower-income targets.

8) *Opposition.* Writing as a coalition, the opposition note that this bill would exempt cities from AB 1050 merely six months after its effective date. They note that AB 2011 (Wicks) was passed to allow for mixed-income housing on properties zoned for commercial use, and that AB 1050 was sought to remove roadblocks to those projects from being developed.

9) *Incoming!* This bill was heard in the Senate Judiciary Committee on June 23^{rd}, 2026, which passed it on an 8-4 vote.

Related/Prior Legislation

AB 1050 (Schultz, Statutes of 2025, Chapter 504) – 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 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, June 24th, 2026.)

SUPPORT:

Apartment Association of Greater Los Angeles
Apartment Association of Orange County
Berkeley Property Owner's Association
Building Industry Association of Southern California
California Business Properties Association
California Rental Housing Association
East Bay Rental Housing Association
Nor Cal Rental Property Association
North Valley Rental Property Association
Santa Barbara Rental Property Association
Small Property Owners of San Francisco Institute
Southern California Rental Housing Association

OPPOSITION:

Abundant Housing Los Angeles
Bay Area Council
California Apartment Association
Housing Action Coalition
Inner City Law Center
San Francisco Bay Area Planning and Urban Research Association (SPUR)
Student Homes Coalition

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