

Date of Hearing: June 16, 2026

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
SB 916 (Ashby) – As Amended March 18, 2026

As Proposed to be Amended

SENATE VOTE: 36-0

SUBJECT: CIVIL ACTIONS: HOUSING DEVELOPMENT PROJECTS

SYNOPSIS

The California Environmental Quality Act has long been accused of being the main roadblock to developing more affordable housing and other necessary facilities to help combat homelessness in California. Notwithstanding these contentions, in reality, the rate of actual litigation under the California Environmental Quality Act remains relatively low when compared to the total amount of projects subject to environmental review in the state. Despite the relatively low rate of litigation involving the California Environmental Quality Act, in some parts of the state, residents dedicated to stopping development are repeatedly suing virtually every project approved by their local jurisdiction under CEQA. Seeking to deter these meritless and vexatious cases, in 2024, the Legislature adopted SB 393 (Glazer) Chap. 285, Stats. 2024, which significantly strengthened the existing law that required vexatious litigants in CEQA litigation to obtain a litigation bond in order to proceed with their case.

One notorious example of repeated opposition to development came to light when UC Berkeley was repeatedly sued to stop the development of much-needed student housing and academic facilities. Recognizing that building student housing is critical to ensuring that college students can afford to live in close proximity to academic facilities, this bill would add student housing projects to the list of projects eligible to obtain a litigation bond from a plaintiff should the development be challenged under the California Environmental Quality Act.

This measure is sponsored by the Student Housing Coalition and is supported by student housing advocates from universities across California. The proponents note that affordable housing is critical for students facing the growing cost of attending college in California. This measure has no known opposition and will be referred to the Appropriations Committee upon passage.

SUMMARY: Adds student housing projects to the types of affordable housing projects in which a defendant facing a California Environmental Quality Act claim can seek a litigation bond from a plaintiff that is deemed vexatious. Specifically, **this bill:**

- 1) Provides that if a low- or moderate-income housing development or a student housing project is challenged pursuant to the California Environmental Quality Act a defendant may apply to the court, by noticed motion, for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages or economic hardships that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in carrying out the development project if the defendant can prove the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the project.

- 2) Defines “student housing project” as one or more housing facilities to be occupied by students of one or more campuses and owned by a public university, including dining, academic, and student support service spaces, and other necessary and usual attendant and related facilities and equipment.

EXISTING LAW:

- 1) Establishes the California Environmental Quality Act that, generally, requires a public agency to prepare, or cause to be prepared, and to certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have significant effects. (Public Resources Code Section 21100 *et seq.*)
- 2) Defines a “project” for the purpose of the California Environmental Quality Act as an activity that may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and includes any of the following:
 - a) An activity directly undertaken by any public agency;
 - b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies; or
 - c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies. (Public Resources Code Section 21065.)
- 3) Provides that an action or proceeding to attack, review, set aside, void, or annul the acts or decisions of a public agency on the grounds of noncompliance with the California Environmental Quality Act may be commenced when it is alleged that:
 - a) A public agency is carrying out or has approved a project that may have a significant effect on the environment without having determined whether the project may have a significant effect on the environment;
 - b) A public agency has improperly determined whether a project may have a significant effect on the environment;
 - c) An environmental impact report prepared by, or caused to be prepared by, a public agency does not comply with the California Environmental Quality Act;
 - d) A public agency has improperly determined that a project is not subject to the California Environmental Quality Act; or
 - e) Any other act or omission of a public agency does not comply with the California Environmental Quality Act. (Public Resources Code Section 21167.)
- 4) Requires the superior court and court of appeal to provide lawsuits related to the California Environmental Quality Act preference over all other civil actions therein, in the matter of setting the same for hearing or trial, and in hearing the same, to the end that the action or

proceeding to be quickly heard and determined. (Public Resources Code Section 21167.1 (a).)

- 5) Requires counties with a population of over 200,000 to designate one or more judges to develop expertise concerning the California Environmental Quality Act and related land-use and environmental matters, and then assign such matters to that judge or those judges. (Public Resources Code Section 21167.1 (b).)
- 6) Provides that the California Environmental Quality Act does not apply to urban infill projects, as specified. (Public Resources Code Section 15332.)
- 7) Provides that in civil actions, including those brought by any plaintiff to challenge a housing development project which is a development project which meets or exceeds the requirements for low- or moderate-income housing a defendant may, if the bringing of the action or the seeking by the plaintiff of particular relief including, but not limited to, injunctions, has the effect of preventing or delaying the project from being carried out, apply to the court by noticed motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in carrying out the development project. (Code of Civil Procedure Section 529.9 (a).)
- 8) Requires a defendant seeking a security to demonstrate that the action was brought without merit and that the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the low- or moderate-income nature of the housing development project. (*Ibid.*)
- 9) Requires a plaintiff seeking to contest the imposition of a financial security, as specified in 7), to demonstrate that the plaintiff will suffer undue economic hardship by filing the financial undertaking. (Code of Civil Procedure Section 529.9 (b).)
- 10) Permits in any litigation pending in any court of this state, at any time until final judgment is entered, a defendant to move the court, upon notice and hearing, for an order requiring the plaintiff to furnish security. Requires that the motion for an order requiring the plaintiff to furnish security must be based upon the ground, and supported by a showing, that the plaintiff is a vexatious litigant and that there is not a reasonable probability that they will prevail in the litigation against the moving defendant. (Code of Civil Procedure Section 391.1.)
- 11) Defines a “vexatious litigant” as a person who does any of the following:
 - a) In the immediately preceding seven-year period has commenced, prosecuted, or maintained in propria persona at least five litigations, other than in a small claims court that have been finally determined adversely to the person or unjustifiably permitted to remain pending at least two years without having been brought to trial or hearing;
 - b) After a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate, in propria persona, either the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined or the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant or defendants as to whom the litigation was finally determined;

- c) In any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay; or
- d) Has previously been declared to be a vexatious litigant by any state or federal court of record in any action or proceeding based upon the same or substantially similar facts, transaction, or occurrence. (Code of Civil Procedure Section 391 (b).)

FISCAL EFFECT: As currently in print this bill is keyed non-fiscal.

COMMENTS: The California Environmental Quality Act (CEQA) is frequently held up as a major factor deterring housing development in California. Although the actual rate of CEQA litigation is relatively small when compared to the totality of development across the state, in 2024, the Legislature recognized that a small handful of vexatious litigants generated a large portion of the actual cases filed under CEQA. Accordingly, the Legislature modernized the financial assurances statutes that protect affordable housing projects by adopting SB 393 (Glazer) Chap. 285, Stats. 2024. SB 393 shifted the burden of proving that a vexatious plaintiff could not afford to put up a litigation bond from the defendant to the plaintiff.

One of the most highly publicized recent instances of CEQA being used to try and stop development was a challenge to a UC Berkeley student housing project in which the plaintiffs sought to contend that the students, and the noise they make, were tantamount to pollution. (Ben Christopher, *California's highest court rejects 'people as pollution' argument for UC Berkeley housing*, Cal Matters (June 6, 2024) available at: <https://calmatters.org/housing/2024/06/berkeley-peoples-park-ceqa-supreme-court/>.) That case was brought by a neighborhood group widely known for frequently challenging nearly every development at the UC Berkeley campus. This bill would ensure that university neighbors cannot repeatedly stop the construction of student housing by making such housing eligible for litigation bonds. In support of the bill, the author states:

While California has made meaningful progress in addressing its housing crisis, a significant shortage still persists. Students across the higher education system are among the most severely affected by the housing shortage. An estimated 417,000 students across the UC, CSU, and CCC systems lack stable housing, and more than 30,000 students are on waiting lists for housing provided by these universities.

SB 916 aims to protect student housing by clarifying that courts have discretion to require a bond in lawsuits challenging student housing. While existing law already grants courts this discretion for affordable housing projects, it does not extend the same protection to student housing. By closing this gap, SB 916 will allow much-needed student housing projects to proceed without barriers or unnecessary delays.

The CEQA process and potential court challenges. At its core, CEQA seeks to ensure that public agencies do not approve projects without considering the negative impacts a project may inflict on the environment. Although CEQA is too often, and incorrectly, viewed as a tool to skew outcomes in a manner that favors environmentalists and deters development, in reality, “CEQA operates, not by dictating proenvironmental outcomes, but rather by mandating that ‘decision makers and the public’ study the likely environmental effects of contemplated government actions and thus make fully informed decisions regarding those actions.” (*Citizens Coalition Los Angeles v. City of Los Angeles* (2018) 26 Cal.App.5th 561, 577.) Thus, the primary

objective of the environmental review required by CEQA is to steer agency decision makers into *approving* projects in a manner that utilizes feasible alternatives and mitigation measures to lessen the project's impact on the environment. The consideration of the impacts of a project is to be analyzed in the agency's environmental impact report. The failure to properly consider a project's impacts is what typically results in litigation.

The process of finalizing an environmental impact report requires several steps. First the local lead agency must determine if a project qualifies for one of the many exemptions to CEQA provided in statute and the Office of Planning and Research's regulations, more commonly known as the CEQA Guidelines. If no exemption exists, the lead agency must then begin to initially study the project in order to determine the scope of the project and associated environmental review. At this point if the agency believes no environmental impacts exist they may opt to file a negative declaration stating as much and proceed to approve the project. Once the scope of the project and review is properly determined, the environmental review is conducted and a draft environmental impact report is submitted for public comment. A lead agency must respond to all written comments on the environmental impact report received during the public comment period, and revise the environmental impact report as necessary. The responses to comments should explain why the comments are rejected or if the comment resulted in the adoption of a mitigation measure. Once the public review is completed the agency can certify the final environmental impact report.

Once a final environmental impact report is certified, and a project is subsequently approved, any litigation over the environmental review of the project can begin. Courts require an environmental impact report to make a good faith effort at fully disclosing the impacts of the project, provide a detailed set of information about project impacts and serve as the foundation for agency review. The court must review the environmental impact report in two ways. First a court must determine if the environmental impact report was prepared in a procedurally sufficient manner, as described above, and contains the proper content as required by law. Secondly, the court must determine the substantive aspect of its review and determine whether the conclusions and decisions made by the lead agency are based on substantial evidence in the record. (*Vineyard Area Citizens v. City of Rancho Cordova* (2007) 40 Cal.4th 412.)

Existing laws seek to deter vexatious litigants from clogging the justice system with frivolous lawsuits. Despite anecdotal complaints that California's laws generate significant numbers of "frivolous lawsuits," in practice California maintains a relatively strong set of laws to deter plaintiffs from repeatedly pursuing frivolous litigation. Under existing law, a party is deemed a "vexatious litigant" if they have lost, or failed to make significant progress in, litigating five claims or attempts to relitigate a final judgment against the same defendant over a seven-year period. Once a party is deemed to be a vexatious litigant, they are required to post a security bond at the commencement of litigation to cover all costs and damages incurred by the person who is sued by a vexatious litigant to ensure that if the litigant fails (again) to prove their case, the defendant will not be harmed. Additionally, should the vexatious litigant fail to adhere to specific orders issued by the court, including orders dictating how the litigant may file cases, the litigant can face significant court sanctions.

However, in the CEQA context, simply recovering legal costs and damages may be insufficient, especially if the litigation causes an affordable housing project to be abandoned completely. Accordingly, existing Code of Civil Procedure Section 529.2 permits a judge to impose a security on a plaintiff, at the request of a defendant, if the defendant can show the action is

meritless and brought in bad faith, vexatiously, for the purpose of delay, or to thwart a low- or moderate-income housing development project. Existing law also prohibits the imposition of a financial security if doing so would be financially harmful to the plaintiff. By limiting these provisions to low and moderate-income projects, the existing law also targets those projects most desperately in need of construction, and most likely to be attacked by affluent neighbors.

This process, as it relates to the showing of financial hardship, requires the plaintiff to demonstrate that they will suffer undue economic hardship by posting the bond. This new process reflects the revisions adopted by SB 393 to put more onus on those challenging affordable housing developments to ensure that their claims were meritorious and not simply engage in delay tactics.

This bill would authorize the imposition of litigation bonds when student housing projects are challenged. Recognizing that providing adequate student housing is a critical obligation of California’s public colleges and universities, this bill would authorize a defendant (typically the university) to seek the imposition of a litigation bond from a plaintiff when such projects are challenged under CEQA. The bill defines student housing project as, “one or more housing facilities to be occupied by students of one or more campuses and owned by a public university, including dining, academic, and student support service spaces, and other necessary and usual attendant and related facilities and equipment.”

Like the existing law, the bill would only apply the bond if the court determines that the litigation is brought, “in bad faith, vexatiously, for the purpose of delay, or to thwart” the development. This ensures that a judicial officer can judge the merits of the plaintiff’s case and will not be used as a tool to derail valid CEQA challenges.

Proposed technical amendments. As presently in print, one sentence within the bill’s proposed modifications to subdivision (a) of Code of Civil Procedure Section 529.2 references both low- and moderate-income housing as well as the new reference to student housing. However, a subsequent sentence in that subdivision only references low- and moderate-income housing. To avoid any potential confusion in implementing the bill, the author is proposing to ensure subdivision (a) consistently references both low- and moderate-income housing as well as student housing. Subdivision (a) of Section 529.2 will now read:

(a) In all civil actions, including, but not limited to, actions brought pursuant to Section 21167 of the Public Resources Code, brought by any plaintiff to challenge a housing project which is a development project, as defined by Section 65928 of the Government Code, and which meets or exceeds the requirements for low- or moderate-income housing as set forth in Section 65915 of the Government Code, or which is a student housing project, a defendant may, if the bringing of the action or the seeking by the plaintiff of particular relief including, but not limited to, injunctions, has the effect of preventing or delaying the project from being carried out, apply to the court by noticed motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in carrying out the development project. The motion shall be made on the grounds that the action is without merit and that the action was brought in bad faith, vexatiously, for the purpose of delay, or to thwart the ***student housing or*** low- or moderate-income nature of the housing development project.

ARGUMENTS IN SUPPORT: This bill is sponsored by the Student Home Coalition and its affiliates across numerous California university campuses. In support of the bill, the sponsors write:

The need for more housing on college campuses is dire. UCs and CSUs are only able to house 39% and 14% of their students respectively, while just 16 out of 116 Community Colleges operate any housing at all. The student housing shortage is not due to lack of interest in development, but rather regulatory barriers that render university projects infeasible. Students pay the price both literally and figuratively for outdated housing regulations. Increased construction costs limit supply and raise rents, and the tens of thousands of students who can't keep up with rising costs end up homeless every year.

The weaponization of the California Environmental Quality Act (CEQA) is a major driver of housing unaffordability on our campuses. Interest groups and community members often use CEQA to block campus housing projects, at the expense of California's students. According to the UC Regents, seven UC student housing projects were sued under CEQA in the span of just five years (between 2018 and 2022). Litigation delays projects and drives up housing costs, resulting in fewer available units, increased student homelessness, and even deferred college acceptance for some incoming freshmen. By allowing courts to require bonds in lawsuits involving student housing projects, SB 916 will prevent delays to critical campus housing projects while maintaining California's strong environmental review process.

REGISTERED SUPPORT / OPPOSITION:

Support

Student Homes Coalition (sponsor)
 California Apartment Association
 California State University, Office of the Chancellor
 California YIMBY
 Davis College Democrats
 Sacramento State
 Student Homes at SJSU
 Student Homes At UCLA
 Student Homes At UCSB
 Student Homes At UCSD
 UC Davis Housing, Transportation, and Advocacy Committee
 UC Irvine Democrats
 University Housing Rights Organization at UC Berkeley
 Urban Studies Student Association at UCI
 Youthbridge Housing

Opposition

None on file

Analysis Prepared by: Nicholas Liedtke / JUD. / (916) 319-2334