

SENATE THIRD READING

SB 916 (Ashby)

As Amended June 17, 2026

Majority vote

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.

Major Provisions

- 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.

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) Chapter 285, Statutes of 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.

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.

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.

According to the Author

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 [University of California] (UC), [California State University] (CSU), and [California Community Colleges] (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.

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.

Arguments in Opposition

None on file

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Minor and absorbable General Fund costs to the University of California (General Fund) to bring motions for litigation bonds in the narrow category of cases the bill covers. UC reports that the circumstances in which UC would successfully seek a bond under the bill would be very rare and cannot be reasonably quantified. UC further reports that the bill could produce unknown potential cost savings to the extent the prospect of a bond deters or shortens bad-faith CEQA litigation that delays student housing projects.
- 2) Minor and likely absorbable cost pressures to the trial courts (Trial Court Trust Fund, General Fund) to hear additional bond motions in CEQA challenges to student housing projects. The universe of affected cases is small — UC reports that seven student housing projects were sued under CEQA between 2018 and 2022 — and any added motion workload could be partially offset to the extent the prospect of a bond deters bad-faith litigation.

VOTES**SENATE FLOOR: 36-0-4**

YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Grayson, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Alvarado-Gil, Gonzalez, Grove, Niello

ASM JUDICIARY: 12-0-0

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

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Hoover, Arambula, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Solache, Ta

ABS, ABST OR NV: Calderon, Pellerin, Sharp-Collins, Tangipa

UPDATED

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

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