ATTACHMENT 7
SENATE BILL 6 (SB 6), The Middle Class Housing Act

(a)

(1) This section shall be known, and may be cited, as the Middle Class Housing Act of 2022.

(2) The Legislature finds and declares all of the following:

(A) Creating more affordable housing is critical to the achievement of regional housing needs assessment goals, and that housing units developed at higher densities may generate affordability by design for California residents, without the necessity of public subsidies, income eligibility, occupancy restrictions, lottery procedures, or other legal requirements applicable to deed restricted affordable housing to serve very low and low-income residents and special needs residents.

(B) The state has made historic investments in deed-restricted affordable housing. According to the Legislative Analyst's Office, the state budget provided nearly five billion dollars ($5,000,000,000) in the 2021-22 budget year for housing-related programs. The 2022-23 budget further built on that sum by allocating nearly one billion two hundred million dollars ($1,200,000,000) to additional affordable housing programs.

(C) There is continued need for housing development at all income levels, including missing middle housing that will provide a variety of housing options and configurations to allow every Californian to live near where they work.

(D) The Middle Class Housing Act of 2022 will unlock the development of additional housing units for middle-class Californians near job centers, subject to local inclusionary requirements that are set based on local conditions.

(b) A housing development project shall be deemed an allowable use on a parcel that is within a zone where office, retail, or parking are a principally permitted use if it complies with all of the following:

(1) The density for the housing development shall meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(2)

(A) The housing development shall be subject to local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development in a zone that allows for the housing with the density described in paragraph (1).

(B) If more than one zoning designation of the local agency allows for housing with the density described in paragraph (1), the zoning standards applicable to a parcel that allows residential use pursuant to this section shall be the zoning

standards that apply to the closest parcel that allows residential use at a density that meets the requirements of paragraph (1).

(C) If the existing zoning designation for the parcel, as adopted by the local government, allows residential use at a density greater than that required in paragraph (1), the existing zoning designation shall apply.

(3) The housing development shall comply with any public notice, comment, hearing, or other procedures imposed by the local agency on a housing development in the applicable zoning designation identified in paragraph (2).

(4) The project site is 20 acres or less.

(5) The housing development complies with all other objective local requirements for a parcel, other than those that prohibit residential use, or allow residential use at a lower density than provided in paragraph (1), including, but not limited to, impact fee requirements and inclusionary housing requirements.

(6) The development and the site on which it is located satisfy both of the following:

(A) It is a legal parcel or parcels that meet either of the following:

(i) It is within a city where the city boundaries include some portion of an urban area, as designated by the United States Census Bureau.

(ii) It is in an unincorporated area, and the legal parcel or parcels are wholly within the boundaries of an urban area, as designated by the United States Census Bureau.

(B)

(i) It is not on a site or adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use.

(ii) For purposes of this subparagraph, parcels only separated by a street or highway shall be considered to be adjoined.

(iii) For purposes of this subparagraph, "dedicated to industrial use" means either of the following:

(I) The square footage is currently being used as an industrial use.

(II) The most recently permitted use of the square footage is an industrial use.

(III) The site was designated for industrial use in the latest version of a local government's general plan adopted before January 1, 2022.

(7) The housing development is consistent with any applicable and approved sustainable community strategy or alternative plan, as described in Section 65080.

(8) The developer has done both of the following:

(A) Certified to the local agency that either of the following is true:

(i) The entirety of the development is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) The development is not in its entirety a public work for which prevailing wages must be paid under Article 2 (commencing with Section 1720) of Chapter 1 of Part 2 of Division 2 of the Labor Code, but all construction workers employed on construction of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. If the development is subject to this subparagraph, then for those portions of the development that are not a public work all of the following shall apply:

(I) The developer shall ensure that the prevailing wage requirement is included in all contracts for the performance of all construction work.

(II) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(III) Except as provided in subclause (V), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(IV) Except as provided in subclause (V), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee though a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this clause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(VII) All contractors and subcontractors shall be registered in accordance with Section 1725.6 of the Labor Code.

(VIII) The development proponent shall provide notice of all contracts for the performance of the work to the Department of Industrial Relations, in accordance with Section 1773.3 of the Labor Code.

(B) Certified to the local agency that a skilled and trained workforce will be used to perform all construction work on the development.

(i) For purposes of this section, "skilled and trained workforce" has the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.

(ii) If the developer has certified that a skilled and trained workforce will be used to construct all work on development and the application is approved, the following shall apply:

(I) The developer shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to construct the development.

(II) Every contractor and subcontractor shall use a skilled and trained workforce to construct the development.

(III) Except as provided in subclause (IV), the developer shall provide to the local agency, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing

with Section 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report provided to the local government pursuant to this subclause shall be a public record under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and shall be open to public inspection. A developer that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars ($10,000) per month for each month for which the report has not been provided. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code, and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.

(IV) Subclause (III) shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subparagraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(iii) Notwithstanding subclause (II) of clause (ii), a contractor or subcontractor shall not be in violation of the apprenticeship graduation requirements of subdivision (d) of Section 2601 of the Public Contract Code to the extent that all of the following requirements are satisfied:

(I) All contractors and subcontractors performing work on the development are subject to a project labor agreement that includes the local building and construction trades council as a party, that requires compliance with the apprenticeship

graduation requirements, and that provides for enforcement of that obligation through an arbitration procedure.

(II) The project labor agreement requires the contractor or subcontractor to request the dispatch of workers for the project through a hiring hall or referral procedure.

(III) The contractor or subcontractor is unable to obtain sufficient workers to meet the apprenticeship graduation percentage requirement within 48 hours of its request, Saturdays, Sundays, and holidays excepted.

(9) Notwithstanding subparagraph (B) of paragraph (8), a contract or subcontract may be awarded without a requirement for the use of a skilled and trained workforce to the extent that all of the following requirements are satisfied:

(A) At least seven days before issuing any invitation to prequalify or bid solicitation for the project, the developer sends a notice of the invitation or solicitation that describes the project to the following entities within the jurisdiction of the proposed project site:

(i) Any bona fide labor organization representing workers in the building and construction trades who may perform work necessary to complete the project.

(ii) Any organization representing contractors that may perform work necessary to complete the project.

(B) The developer seeks bids containing an enforceable commitment that all contractors and subcontractors at every tier will use a skilled and trained workforce to perform work on the project that falls within an apprenticeable occupation in the building and construction trades.

(C) For the purpose of establishing a bidder pool of eligible contractors and subcontractors, the developer establishes a process to prequalify prime contractors and subcontractors that agree to meet skilled and trained workforce requirements.

(D) The bidding process for the project includes, but is not limited to, all of the following requirements:

(i) The prime contractor shall be required to list all subcontractors that will perform work in an amount in excess of one-half of 1 percent of the prime contractor's total bid.

(ii) The developer shall only accept bids from prime contractors that have been prequalified.

(iii) If the developer receives at least two bids from prequalified prime contractors, a skilled and trained workforce must be used by all contractors and subcontractors, except as provided in clause (vi).

(iv) If the developer receives fewer than two bids from prequalified prime contractors, the contract may be rebid and awarded without the skilled and trained workforce requirement applying to the prime contractor's scope of work.

(v) Prime contractors shall request bids from subcontractors on the prequalified list and shall only accept bids and list subcontractors from the prequalified list. If the prime contractor receives bids from at least two subcontractors in each tier listed on the prequalified list, the prime contractor shall require that the contract for that tier or scope of work will require a skilled and trained workforce.**(vi)** If the prime contractor fails to receive at least two bids from subcontractors listed on the prequalified list in any tier, the prime contractor may rebid that scope of work. The prime contractor need not require that a skilled and trained workforce be used for that scope of work and may list subcontractors for that scope of work that do not appear on the prequalified list.

(E) The developer shall establish minimum requirements for prequalification of prime contractors and subcontractors that are, to the maximum extent possible, quantifiable and objective. Only criterion, and minimum thresholds for any criterion, that are reasonably necessary to ensure that any bidder awarded a project can successfully complete the proposed scope shall be used by the developer. The developer shall not impose any obstacles to prequalification that go beyond what is commercially reasonable and customary.

(F) The developer shall, within 24 hours of a request by a labor organization that represents workers in the geographic area of the project, provide all of the following information to the labor organization:

(i) The names and Contractors State License Board numbers of the prime contractors and subcontractors that have prequalified.

(ii) The names and Contractors State License Board numbers of the prime contractors that have submitted bids and their respective listed subcontractors.

(iii) The names and Contractors State License Board numbers of the prime contractor that was awarded the work and its listed subcontractors.

(G) An interested party, including a labor organization that represents workers in the geographic area of the project, may bring an action for injunctive relief against a developer or prime contractor that is proceeding with a project in violation of the bidding requirements of this paragraph applicable to developers and prime contractors. The court in such an action may issue injunctive relief to halt work on the project and to require compliance with the requirements of this subdivision. The prevailing plaintiff in such an action shall be entitled to recover its reasonable attorney's fees and costs.

(c)

(1) The development proponent shall provide written notice of the pending application to each commercial tenant on the parcel when the application is submitted.

(2) The development proponent shall provide relocation assistance to each eligible commercial tenant located on the site as follows:

(A) For a commercial tenant operating on the site for at least one year but less than five years, the relocation assistance shall be equivalent to six months' rent.

(B) For a commercial tenant operating on the site for at least 5 years but less than 10 years, the relocation assistance shall be equivalent to nine months' rent.

(C) For a commercial tenant operating on the site for at least 10 years but less than 15 years, the relocation assistance shall be equivalent to 12 months' rent.

(D) For a commercial tenant operating on the site for at least 15 years but less than 20 years, the relocation assistance shall be equivalent to 15 months' rent.

(E) For a commercial tenant operating on the site for at least 20 years, the relocation assistance shall be equivalent to 18 months' rent.

(3) The relocation assistance shall be provided to an eligible commercial tenant upon expiration of the lease of that commercial tenant.

(4) For purposes of this subdivision, a commercial tenant is eligible for relocation assistance if the commercial tenant meets all of the following criteria:

(A) The commercial tenant is an independently owned and operated business with its principal office located in the county in which the property on the site that is leased by the commercial tenant is located.

(B) The commercial tenant's lease expired and was not renewed by the property owner.

(C) The commercial tenant's lease expired within the three years following the development proponent's submission of the application for a housing development pursuant to this article.

(D) The commercial tenant employs 20 or fewer employees and has an annual average gross receipts under one million dollars ($1,000,000) for the three taxable year period ending with the taxable year that precedes the expiration of their lease.

(E) The commercial tenant is still in operation on the site at the time of the expiration of its lease.

(5) Notwithstanding paragraph (4), for purposes of this subdivision, a commercial tenant is ineligible for relocation assistance if the commercial tenant meets both of the following criteria:

(A) The commercial tenant entered into a lease on the site after the development proponent's submission of the application for a housing development pursuant to this article.

(B) The commercial tenant had not previously entered into a lease on the site.

(6)

(A) The commercial tenant shall utilize the funds provided by the development proponent to relocate the business or for costs of a new business.

(B) Notwithstanding paragraph (2), if the commercial tenant elects not to use the funds provided as required by subparagraph (A), the development proponent shall provide only assistance equal to three months' rent, regardless of the duration of the commercial tenant's lease.

(7) For purposes of this subdivision, monthly rent is equal to one-twelfth of the total amount of rent paid by the commercial tenant in the last 12 months.

(d) A local agency shall require that a rental of any unit created pursuant to this section be for a term longer than 30 days.

(e)

(1) A local agency may exempt a parcel from this section if the local agency makes written findings supported by substantial evidence of either of the following:

(A) The local agency concurrently reallocated the lost residential density to other lots so that there is no net loss in residential density in the jurisdiction.

(B) The lost residential density from each exempted parcel can be accommodated on a site or sites allowing residential densities at or above those specified in paragraph (2) of subdivision (b) and in excess of the acreage required to accommodate the local agency's share of housing for lower income households.

(2) A local agency may reallocate the residential density from an exempt parcel pursuant to this subdivision only if all of the following requirements are met:

(A) The exempt parcel or parcels are subject to an ordinance that allows for residential development by right.

(B) The site or sites chosen by the local agency to which the residential density is reallocated meet both of the following requirements:

(i) The site or sites are suitable for residential development at densities specified in paragraph (1) of subdivision (b) of Section 65852.24. For purposes of this clause, "site or sites suitable for residential development" shall have the same meaning as "land suitable for residential development," as defined in Section 65583.2.

(ii) The site or sites are subject to an ordinance that allows for development by right.

(f)

(1) This section does not alter or lessen the applicability of any housing, environmental, or labor law applicable to a housing development authorized by this section, including, but not limited to, the following:

(A) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(B) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) The Housing Accountability Act (Section 65589.5).

(D) The Density Bonus Law (Section 65915).

(E) Obligations to affirmatively further fair housing, pursuant to Section 8899.50.

(F) State or local affordable housing laws.

(G) State or local tenant protection laws.

(2) All local demolition ordinances shall apply to a project developed pursuant to this section.

(3) For purposes of the Housing Accountability Act (Section 65589.5), a proposed housing development project that is consistent with the provisions of subdivision (b) shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(4) Notwithstanding any other provision of this section, for purposes of the Density Bonus Law (Section 65915), an applicant for a housing development under this section may apply for a density bonus pursuant to Section 65915.

(g) Notwithstanding Section 65913.4, a project subject to this section shall not be eligible for streamlining pursuant to Section 65913.4 if it meets either of the following conditions:

(1) The site has previously been developed pursuant to Section 65913.4 with a project of 10 units or fewer.

(2) The developer of the project or any person acting in concert with the developer has previously proposed a project pursuant to Section 65913.4 of 10 units or fewer on the same or an adjacent site.

(h) A local agency may adopt an ordinance to implement the provisions of this article. An ordinance adopted to implement this section shall not be considered a "project" under Division 13 (commencing with Section 21000) of the Public Resources Code.

(i) Each local agency shall include the number of sites developed and the number of units constructed pursuant to this section in its annual progress report required pursuant to paragraph (2) of subdivision (a) of Section 65400.

(j) The department shall undertake at least two studies of the outcomes of this chapter. One study shall be completed on or before January 1, 2027, and one shall be completed on or before January 1, 2031.

(1) The studies required by this subdivision shall include, but not be limited to, the number of projects built, the number of units built, the jurisdictional and regional location of the housing, the relative wealth and access to resources of the communities in which they are built, the level of affordability, the effect on greenhouse gas emissions, and the creation of construction jobs that pay the prevailing wage.

(2) The department shall publish a report of the findings of a study required by this subdivision, post the report on its internet website, and submit the report to the Legislature pursuant to Section 9795.

(k) For purposes of this section:

(1) "Housing development project" means a project consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential retail commercial or office uses, and at least 50 percent of the square footage of the new construction associated with the project is designated for residential use. None of the square footage of any such development shall be designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel.

(2) "Local agency" means a city, including a charter city, county, or a city and county.

(3) "Office or retail commercial zone" means any commercial zone, except for zones where office uses and retail uses are not permitted, or are permitted only as an accessory use.

(4) "Residential hotel" has the same meaning as defined in Section 50519 of the Health and Safety Code.

(l) The Legislature finds and declares that ensuring access to affordable housing is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

(m)

(1) This section shall become operative on July 1, 2023.**(2)** This section shall remain in effect only until January 1, 2033, and as of that date is repealed.

Ca. Gov. Code § 65852.24

Amended by Stats 2023 ch 196 (SB 143),s 9, eff. 9/13/2023.Amended by Stats 2023 ch 131 (AB 1754),s 96, eff. 1/1/2024(not implemented).Amended by Stats 2023 ch 40 (AB 129),s 7, eff. 7/10/2023.Amended by Stats 2023 ch 39 (AB 130),s 19, eff. 7/10/2023 (Superseded by later chaptered act (ch. 40).Added by Stats 2022 ch 659 (SB 6),s 1, eff. 1/1/2023.