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Public Law Update - AB 1061: Amendments to SB 9 Historic Resource Provisions

Summary and Context

Assembly Bill 1061 clarifies how historic resource designations affect ministerial approvals for two-unit developments and urban lot splits. The bill was signed into law on October 10, 2025, and takes effect January 1, 2026. It updates the existing SB 9 framework by specifying when historic property status may limit a local agency’s ministerial review obligations under state housing law.

Background

Since 2022, SB 9 has required cities and counties to approve certain two-unit housing projects and two-parcel “urban lot splits” ministerially, without discretionary hearings, unless certain exclusions apply.^[1] The ministerial approval mandate, while subject to objective local standards,^[2] does not apply to properties with recognized historical significance, such as those located within a designated historic district, listed on the State Historic Resources Inventory, or designated as local landmarks.^[3]

Some jurisdictions applied this historic resource exclusion broadly to all parcels within large districts, even when individual properties had no recognized historic value. This broad interpretation limited where ministerial SB 9 projects could proceed.

In 2022, the Attorney General advised that such a broad “landmark district” ordinance adopted to avoid SB 9 violates state law.^[4] The Legislature subsequently enacted AB 1061 to clarify how historic designations interact with ministerial housing approvals.

Substantive Changes

AB 1061 narrows the SB 9 historic resource exclusion. Under Government Code § 65852.21, a two-unit development is disqualified from SB 9’s ministerial approval requirement only if the parcel is (1) individually listed as a historic resource in the State Historic Resources Inventory^[5] or within a landmark property, or (2) contains a “contributing structure” within a State Historic Resources Inventory historic district or local historic district or property. The bill does not define “contributing structure,”^[6] although the term typically refers to a structure that contributes to historical, architectural, or cultural

significance under state and federal historic preservation laws.

The bill's parallel amendment to Government Code § 66411.7, governing urban lot splits, adopts similar but slightly different language. An urban lot split is not subject to SB 9's ministerial approval requirement if it involves a parcel within a State Historic Resources Inventory historic landmark property or local landmark site. The lot split is also excluded if it requires demolition or alteration of either: (i) a contributing structure within a California Register of Historical Resources historic district or local historic district; or (ii) an existing exterior structural wall in a structure within a California Register of Historical Resources or local historic district.

Local governments may still adopt objective zoning, subdivision, and design review standards "for the purposes of maintaining the historical value of a historic district listed in the California Register of Historical Resources."^[7] Such standards may regulate measurable factors such as height, setbacks, exterior materials, or lot size. "Objective" criteria do not require personal or subjective judgment and can be applied uniformly using measurable or observable standards.^[8] Subjective standards remain impermissible for qualifying SB 9 projects.

Implementation for Local Agencies

Local agencies should review their regulations to ensure that "contributing structure" definitions are clear, objective, and publicly accessible. When processing an SB 9 application for a two-unit development or urban lot split, staff should determine whether any AB 1061 historic resource exclusion applies that would make the project ineligible for ministerial approval under SB 9.

Relationship to CEQA

Recall that qualifying SB 9 projects remain ministerial and exempt from California Environmental Quality Act ("CEQA") review.^[9] Any potential historic resource concerns should be addressed through objective standards applicable on a local agency-wide basis, not through discretionary project-level environmental review.

Practical Implications

AB 1061 clarifies and narrows the SB 9 historic resource exclusion, focusing eligibility on parcel-specific criteria while preserving local authority to apply objective standards. Once the amended statutory language takes effect on January 1, 2026, it will supersede any conflicting local provisions.

^[1] Gov. Code, §§ 65852.21, 66411.7.

[2] Subject to certain limitations.

[3] Gov. Code, §§ 65852.21(a)(6), 66411.7(a)(3)(E).

[4] Cal. Dept. of Justice, Off. of the Attorney Gen., Letter to City of Pasadena (Mar. 15, 2022).

[5] Pub. Resources Code, § 5020.1.

[6] The legislative materials describe “[c]ontributing properties” as “those built during the district’s period of significance, retain their historic integrity, and contribute to the overall historical, architectural, or cultural character of the district.” (Assem. Floor Analysis, 3d reading of Assem. Bill No. 1061 (2025–2026 Reg. Sess.) as amended July 10, 2025, pp. 3.)

[7] Gov. Code, §§ 65852.21(j)(2), 65852.21(m)(1).

[8] *Ibid.*

[9] Pub. Resources Code, § 21080(b)(1).

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