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Public Law Update - California's New Housing Element Compliance Bill (AB 2023)

Assembly Bill 2023 (2024) ("AB 2023") is part of a broader effort in California to address the housing crisis by enforcing strict accountability measures for local governments. It introduces meaningful consequences for jurisdictions that fail to comply with housing element requirements and gives the California Department of Housing and Community Development ("HCD") a stronger role in ensuring that cities meet their housing obligations.

AB 2023 establishes a "rebuttable presumption of invalidity" for any city or county housing element that HCD finds noncompliant. By creating a presumption of invalidity for noncompliant housing elements, AB 2023 discourages cities from ignoring HCD's recommendations and strengthens the State's ability to push forward housing development, especially in areas with restrictive zoning.

- **Stricter Accountability Standards:** The bill creates a legal framework that holds local governments accountable if they fail to act in compliance with HCD findings. This is a shift from previous standards, which gave noncompliant housing elements the same validity presumption as compliant ones.
- **Revised Rezoning Timelines:** Under AB 2023, cities and counties that fail to submit a compliant housing element by the statutory deadline now have only one year to complete necessary rezoning. Jurisdictions that meet compliance benchmarks within specific timelines can extend this period to three years.
- **Requirement for Early Submission:** To be eligible for the extended rezoning timeframe, jurisdictions must submit a draft housing element to HCD at least 90 days before the statutory adoption deadline and receive written compliance findings from HCD by the deadline. Local governments then have 120 days post-deadline to adopt a compliant plan.
- **Enhanced Compliance Enforcement:** HCD gains more authority to enforce compliance by monitoring local government actions and reporting noncompliance findings to the Attorney General's office, which may lead to further legal action.

Burke, Williams & Sorensen, LLP regularly advises clients on legal matters relating to land use, zoning, and planning issues, including

regional housing needs allocations and housing element implementation.

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