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Public Law Update - SB 1037 Provides for Stronger Enforcement of State Housing Laws

Senate Bill 1037 ("SB 1037") was signed into law by Governor Newsom on September 19, 2024, and adds section 65009.1 to the Government Code to provide for stronger enforcement of state housing laws. In addition to general law cities, SB 1037 expressly applies to charter cities, and went into effect on January 1, 2025.

SB 1037 creates new legal remedies in actions brought by the Attorney General or the California Department of Housing & Community Development ("HCD") to enforce the adoption of housing element revisions, or to enforce any state law that requires a local government to ministerially approve any planning or permitting application related to a housing development project. These remedies include a civil penalty of \$10,000 – \$50,000 per month, for each violation, and any other relief the court deems appropriate. If the Attorney General or HCD prevails in a civil action, they are entitled to "all costs of investigating and prosecuting the action," including attorney's fees and costs. These remedies are in addition to any other liability, penalties, and remedies imposed by any other law.

Civil penalties imposed by SB 1037 will be deposited into the Building Homes and Jobs Trust Fund to support affordable housing development in the affected jurisdiction, subject to appropriation by the Legislature. If a local agency fails to pay civil penalties imposed by the court, SB 1037 authorizes the court to require the Controller to intercept any available state and local funds and direct those funds to the Building Homes and Jobs Trust Fund to correct the jurisdiction's failure to pay.

If a local government fails to meet timelines in a court order related to required housing element revisions, SB 1037 requires a court to modify its prior order to impose the maximum penalty of \$50,000 per month and other remedial provisions until the local agency has complied.

SB 1037's penalties only apply when the local agency's acts or omissions are arbitrary, capricious, or entirely lacking in evidentiary support, contrary to established public policy, unlawful, or procedurally unfair.

Burke, Williams & Sorensen, LLP regularly advises clients on legal matters relating to housing law, including housing development

projects and housing element compliance.

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