

Memorandum

TO: Joint MTC Legislation Committee and
ABAG Legislation Committee

DATE: March 2, 2018

FR: Executive Director

RE: Summary of the 2018 Housing Landscape

Although 2017 was a banner year for housing legislation – and in particular affordable housing funding – the Legislature appears eager to take further action on housing policy in 2018. Many of the legislators who authored bills that were enacted as part of last year’s housing package have introduced new bills this year. In addition, a number of organizations are pursuing housing-related ballot initiatives to place on the November 2018 statewide ballot.

Staff has provided a summary and analysis of some of the key housing bills, along with housing-related ballot initiatives under consideration, attached. The bills are grouped into the following categories:

- State Zoning Preemption and Housing Production
- Regional Housing Needs Allocation (RHNA)
- Fiscalization of Land Use/Property Taxes
- Rent Control, Tenant Protections and Anti-Displacement

A number of the bills listed here are in spot bill form and are likely to change substantively in the coming months. Staff will provide any additional updates at your March committee meeting.

Discussion Questions

Our 2018 Joint Advocacy Program charts a course for MTC and ABAG to support policy changes in Sacramento that will increase housing production, improve access to affordable housing units for all income levels, encourage transit-oriented development, mitigate displacement of existing residents, and update RHNA. Each of these items is relatively easy to support in the abstract, but much harder when it comes to the details. To help guide staff’s analysis and engagement on housing this year, it would be useful to hear your feedback on the following questions:

- 1) Given the state’s policy and fiscal interest in promoting public transit (e.g. key to state’s greenhouse gas reduction strategy, ongoing and significant investment of state funding), to what extent should the state have a say in zoning-related subjects in close proximity to public transit hubs and corridors in order to maximize ridership (and thereby, all the mobility and environmental benefits of the system)?

- 2) To what extent is ABAG willing to support additional state oversight of the RHNA process? What areas of RHNA reform are non-starters and what are negotiable in exchange for getting reforms that ABAG supports, such as additional flexibility in the types of units that are counted by the State Department of Housing and Community Development (HCD)?
- 3) To what extent would addressing changes to the current property tax system under Proposition 13, such as a so-called “split roll,” (whereby commercial property assessed value would be allowed to adjust with the market, but residential property would remain capped) change the calculus for local governments when thinking about whether to approve new housing? Could new funding for schools or infrastructure be a sufficient “carrot” for some cities to approve additional housing units that would otherwise be rejected out of concern about the financial impact on the local jurisdiction?
- 4) Legislation to repeal the Costa-Hawkins statute pre-empting certain forms of local rent control has stalled in Sacramento. An initiative measure on this subject may appear on a forthcoming statewide ballot. What, if any, role should ABAG play on legislative or initiative measures to enhance tenant protections and anti-displacement strategies?

We know these questions are provocative and may lead to some difficult discussions. We also believe we can't shy away from them as they relate to numerous bills that are actively in play in Sacramento, as described in Attachments A and B. We look forward to hearing your ideas at the March meeting. We plan to return with proposed positions on a subset of these bills at another Joint Legislative Committee meeting in May.



Steve Heminger

Attachments:

- Attachment A: Overview of California's 2018 Housing Policy Landscape
- Attachment B: Overview of 2018 Proposed California Housing Legislation

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Overview of California’s 2018 Housing Policy Landscape

Below is a summary of key housing bills that have been introduced in 2018 and housing-related initiatives that may appear on the statewide ballot this November. Staff’s impact analysis is also included, where applicable. Bills and ballot measures have been grouped as follows:

- State Zoning Preemption and Housing Production
- Regional Housing Needs Allocation (RHNA)
- Fiscalization of Land Use/Property Taxes
- Rent Control, Tenant Protections and Anti-Displacement

State Zoning Preemption and Housing Production

SB 827 (Wiener)

This bill would authorize “transit-rich housing projects,” defined as housing developments located within a ½ mile of a major transit stop or within a ¼ mile of a bus stop on a high-quality transit corridor– to receive a “transit-rich housing bonus.” Projects receiving such a bonus would be exempt from locally-adopted residential density and floor area ratio maximums, parking minimums, and any design standards that restrict the developer’s ability to construct the maximum number of units consistent with any applicable building code. In transit-rich locations, the bill would establish new height maximums of 45 to 85 feet (equivalent to approximately four to eight stories), depending on the width of the street and proximity to a major transit stop or high-quality transit corridor as detailed in the chart below.

Table 1

SB 827 Proposed Minimum Height Limits by Proximity to Transit and Street Width			
Radius Affected	Transit Type	Street Width (Right of Way)	
		≥ 70 feet	< 70 feet
1/4 mile	High-quality transit corridor stop*	85-foot minimum height limit	55-foot minimum height limit
1 block	Major transit stop**		
1/2 mile	Major transit stop	55-foot minimum height limit	45-foot minimum height limit

*A bus stop on a corridor with fixed-route bus service with service intervals no longer than 15 minutes during peak commutes.

**A site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

Senator Wiener recently amended SB 827 to include affordability, anti-demolition and anti-displacement provisions, largely in response to concerns raised by a range of affordable housing developer, tenant advocates and equity organizations. The amendments clarify that locally-adopted inclusionary housing policies and demolition controls would apply to transit-rich housing projects. Additionally, developers would be required to guarantee existing tenants a “right to remain” as a condition of approval of any demolition permit for a transit-rich housing project.

Staff is currently developing a map to identify the locations within the Bay Area that could be affected by SB 827. Based on the presence of major transit stops and high quality transit corridors, they include significant portions of San Francisco and Oakland, areas around major AC Transit corridors and BART stations in the East Bay, Caltrain and Santa Clara VTA corridors in the Peninsula and the South Bay, and North Bay commuter rail stations. The map will be distributed at your March 9 meeting.

SB 831 (Wieckowski)

This bill is aimed at further increasing the state's housing stock by removing remaining barriers to accessory dwelling units (ADU) development. Specifically, the bill would lower the cost of building ADUs by exempting them from local impact fees, connection fees, capacity charges or other fees levied by a local agency, school district, special district or water corporation. In addition, the bill would deem an ADU permit application constructively approved after 120 days. SB 831 would also create a temporary amnesty program to incentivize owners of existing unpermitted ADUs to obtain the building permits and inspections necessary to legalize the units.

Recent reforms to ADU law appear to be having an effect on production levels. A recent report from UC Berkeley's Turner Center for Housing Innovation found that ADU streamlining bills enacted beginning in 2016 contributed to a rise in applications in cities throughout the Bay Area. In Oakland, there were 247 permit applications in 2017 – a sevenfold increase from 2015 – and San Francisco and San Jose saw similar increases. Smaller Bay Area cities like Mountain View also saw a significant gain, with 14 applications submitted in 2017, up from just four in 2015. Despite this increase in production, cost can still be a barrier to ADU development.

SB 1227 (Skinner)

This bill would expand the state density bonus law to include incentives for developers to build student housing in addition to the existing incentives for inclusion of affordable and senior units in a housing development. Eligible projects would be required to reserve at least 20% of the total rental beds would be reserved for students enrolled at an institution of higher education accredited by the Western Association of Schools and Colleges.

AB 2162 (Chiu)

This bill would require that qualified supportive housing developments be approved by right in zones where multiple dwelling uses are permitted, including commercial zones, if the proposed housing development meets specified criteria. Qualified developments would be required to be 100 percent affordable with units available to households earning 80 percent area median income. Additionally, at least 35 percent or 15 units, whichever is greater, would be required to be restricted to residents in supportive housing. The bill would require that a developer of supportive housing provide the planning agency with a plan for providing supportive services, with documentation demonstrating that supportive services will be provided onsite to residents in the project and describing those services. The bill would limit parking minimums to employee parking if a qualified project is located within ½ mile of a public transit stop.

AB 2372 (Gloria)

This bill would authorize a new floor area ratio (FAR) bonus for eligible housing developments located near transit. Jurisdictions would be authorized to adopt an ordinance granting developers of multifamily housing projects that meet certain location and affordability criteria to exceed maximum zoned FARs in lieu of a density bonus awarded on the basis of housing units per acre. In order to utilize an FAR bonus, the bill would require that at least 20 percent of the project's units be affordable, that the project be in an area zoned for high density (minimum of 20 units per acre) and that the project be located within ½ mile of a major transit stop or ¼ mile from a high-quality transit corridor. Parking requirements would be capped at 0.1 or 0.5 parking spaces per unit for affordable and market rate units, respectively.

This bill has the potential to spur more affordable housing production near transit by creating an alternative to the existing state density bonus incentive. Currently, a density bonus may be used to add units to a project meeting certain affordability requirements. The density bonus is capped at 35 percent over the maximum allowable units per acre, regardless of the size of the unit. This FAR bonus would provide flexibility for jurisdictions to incentivize compact, affordable housing units near transit. Whereas the density bonus currently offers a maximum net increase of 35 percent more units per acre, under SB 2372 there would be no FAR cap, but the developer would have to comply with the existing local height requirements. Thus, the proposed FAR bonus has the potential to allow more units per lot than a traditional density bonus.

AB 2923 (Chiu)

This bill would require the Bay Area Rapid Transit (BART) district to establish transit-oriented development (TOD) zoning standards that support established goals for TOD projects on BART-owned land within ½ mile of existing or planned BART stations located in the City and County of San Francisco, Alameda County or Contra Costa County. The bill requires that local zoning for BART-owned land be consistent with these TOD zoning standards within two years of the TOD policy adoption. Residential and mixed-use projects consistent with TOD zoning standards would be eligible for ministerial approval.

TOD projects would need to comply with minimum affordability requirements (20 percent of a project's units would be required to be affordable to very low, low-, and moderate-income households) as well as prevailing wage, skilled and trained workforce requirements, and any other applicable BART labor policies.

The attached map (Attachment A-1), excerpted from [BART's Transit Oriented Development Guidelines](#) adopted in 2017 illustrates the amount of BART-owned property adjacent to its existing stations, providing a snapshot of the land that could be subject to the provisions of AB 2923. BART is working on providing additional details to the Legislature on the bill's potential impact and staff will share those as soon as they are available.

Regional Housing Needs Allocation

SB 828 (Wiener)

This bill aims to make changes to the statewide regional housing needs assessment process. Though SB 828 is still in spot bill form, it is expected to include provisions directing the Department of Housing and Community Development (HCD) to complete a one-time assessment of statewide unmet housing needs and incorporate those unmet needs numbers into regional allocations for the next housing cycle. The bill is expected to require that a local jurisdiction's unmet housing production from the previous allocation cycle (regional housing needs allocation, or RHNA) be added, or "rolled over," to the next allocation and to require localities to zone for 200 percent of their housing obligation each RHNA cycle. SB 828 is also expected to reduce flexibility at the regional level with respect to how the RHNA allocations are distributed to individual local jurisdictions.

AB 1771 (Bloom)

Assemblymember Bloom has also introduced AB 1771, a spot bill, which is expected to make changes to the process of allocating regional housing needs to jurisdictions.

Fiscalization of Land Use/Property Taxes

Proposition 13 Ballot Initiatives and AB 1748 (Steinorth)

As you know, Proposition 13, passed by the state's voters in 1978, caps the statewide property tax rate at 1 percent for residential and commercial property owners and limits annual increases on assessed value. While long considered a "third rail" subject, it appears likely that voters will see at least one Proposition 13-related measure on the ballot in November and a number of measures are under consideration in Sacramento as well.

The California Association of Realtors is gathering signatures for an initiative that would allow senior homeowners, defined as 55 years of age and above, the option to carry their current low assessed value with them anywhere in the state as many times as they move. This expands existing property tax portability provisions that allow seniors to transfer their property tax one time to a new home of equal or lesser value if the new home is either located in the same county, or to another county that has opted in to accept an intercounty property tax transfer. In the Bay Area, Alameda County, Santa Clara County and San Mateo County accept intercounty transfers.

AB 1748 (Steinorth) would take this further by also allowing younger homeowners under the age of 55 a onetime tax base transfer to a new home. Proponents argue that these measures could free up housing stock by removing the strong financial incentive for homeowners to stay put, which is especially high in the Bay Area given the housing market. On the other hand, the fiscal impact could be significant. The state's official estimate for the realtors' more limited measure is \$150 million per year in local property tax losses in the near term, growing to \$1 billion or more per year over time. The property tax loss estimate is the same for school districts.

A “split-roll” proposal, which would assess commercial and residential property values differently, has also been submitted to the Attorney General’s office. The proposal would require annual assessments on commercial and industrial properties to keep pace with market value, while retaining the cap on residential property assessment growth. The state estimates that this initiative would result in a net increase in annual property tax revenues of \$6.5 billion to \$10.5 billion annually, depending on the strength of real estate markets. After paying for county administrative costs and backfilling state income tax losses related to the measure, the remaining \$6 billion to \$10 billion would be allocated to local governments (60 percent) and schools (40 percent).

AB 3037 (Chiu)

This bill is a spot bill intended to authorize a city or county, subject to the approval of the Department of Finance, to form a redevelopment housing and infrastructure agency. The agency would be authorized to exercise similar powers to those previously granted to redevelopment agencies in order to finance housing and infrastructure projects.

Rent Control, Tenant Protections and Anti-Displacement

Rent Control

Tenant advocates and the AIDS Healthcare Foundation are gathering signatures to qualify a 2018 ballot initiative to reinstate authority for localities to adopt rent control ordinances. The measure would repeal the Costa-Hawkins Rental Housing Act, which prohibits cities from applying rent-control policies to multifamily developments built after 1995 or to single-family homes.

Currently, 14 Bay Area jurisdictions utilize rent stabilization policies as an anti-displacement strategy, as shown below. If Costa-Hawkins is repealed, this list could expand.

Table 2: Bay Area Rent Stabilization & Just Cause Eviction Policies

Alameda	Rent Stabilization & Just Cause
Berkeley	Rent Stabilization & Just Cause
Concord	Rent Stabilization
East Palo Alto	Rent Stabilization & Just Cause
Emeryville	Just Cause
Fremont	Rent Stabilization
Hayward	Rent Stabilization & Just Cause
Los Gatos	Rent Stabilization
Mountain View	Rent Stabilization & Just Cause
Oakland	Rent Stabilization & Just Cause
Richmond	Rent Stabilization & Just Cause
San Francisco	Rent Stabilization & Just Cause
San Jose	Rent Stabilization & Just Cause
Sebastopol	Rent Stabilization
Union City	Rent Stabilization & Just Cause

In the beginning of the 2018 legislative session, a Costa-Hawkins repeal proposal – AB 1506 (Bloom) — died in committee. Though this makes it more likely that advocacy efforts around rent control will be focused on the statewide ballot, the prospect of a ballot measure may prompt a legislative compromise.

Tenant Protection and Anti-Displacement Legislation

SB 1182 (Glazer)

This bill would double the state’s renter’s tax credit, raising it to \$240 for households and \$120 for individual filers. The renter’s tax credit has not increased in 25 years, and renters are under increasing financial pressure as housing costs in the Bay Area are at historic highs. The credit is currently available to low-income renters – adjusted gross income limits are approximately \$40,000 for individual filers and \$80,000 for households. The increase in the credit would be subject to appropriation. A substantially similar bill introduced last year (AB 181, Lackey) would have resulted in General Fund losses of approximately \$220 million annually.

AB 2343 (Chiu)

This bill would give tenants more time to respond to eviction proceedings and make other changes to the tenant notice and eviction process. It would extend the time tenants have to pay rent or comply with other terms of a lease from three days to 10 days before a landlord can begin the eviction process. For serious lease violations, such as waste or nuisance, the time would only be extended to five days. The bill would also give tenants two weeks to respond to an eviction court filing, up from the current five-day timeframe.

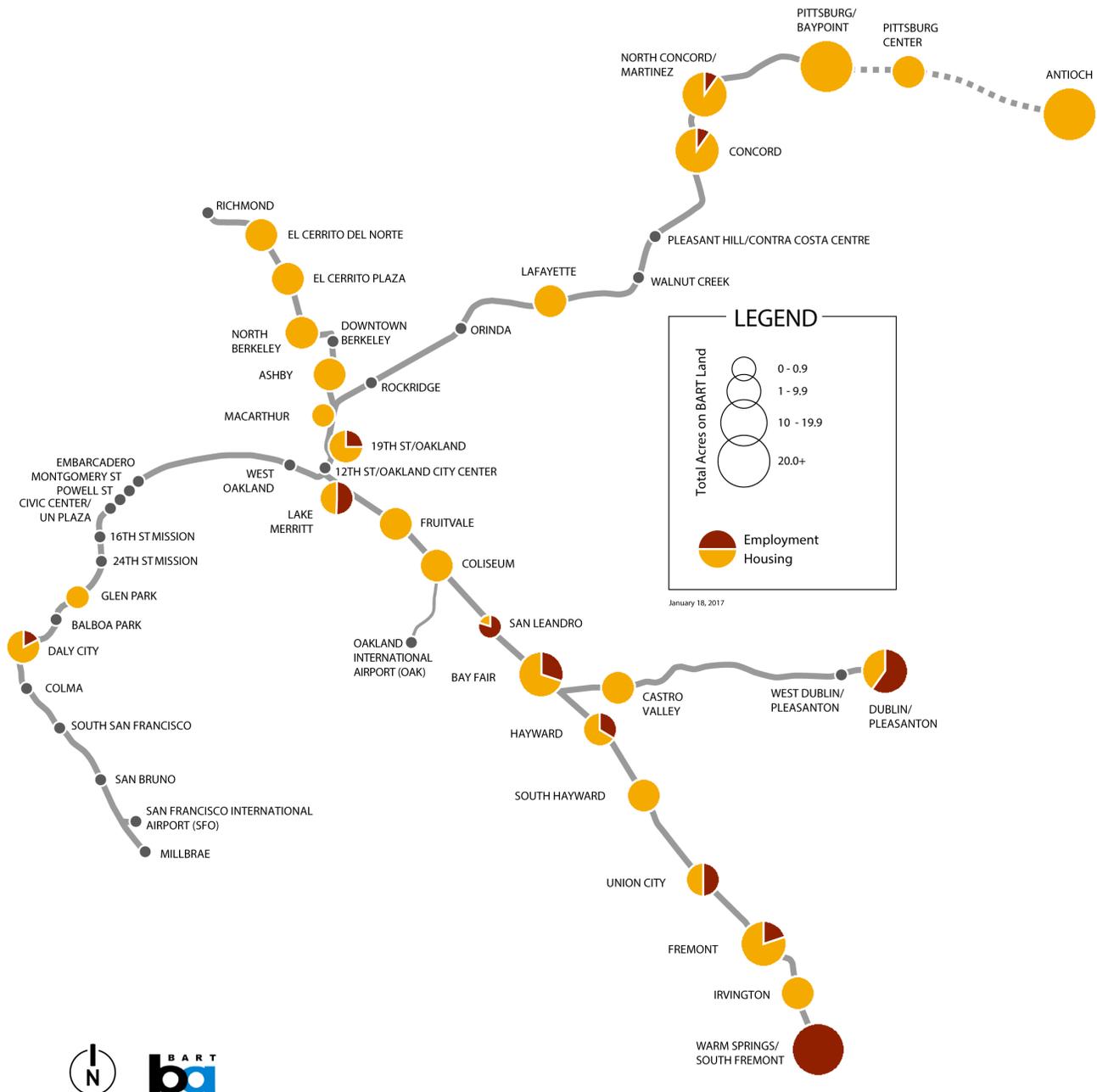
AB 2364 (Bloom)

This bill is a spot bill intended make changes to the Ellis Act, the state housing law that allows landlords to evict tenants from rent-controlled apartments if they are tearing down a building or withdrawing from the rental market. Amendments to the bill are expected that would clarify that landlords may not return vacated units to the rental market and that would make it harder for landlords to evict tenants by extending the amount of notice a landlord must give all tenants when evicting them under the Ellis Act from four months to one year. Currently, elderly and disabled tenants are given one year’s notice.

AB 2925 (Bonta)

This is a spot bill intended to create a statewide “just cause eviction” policy. Just cause eviction policies typically outline conditions or “just causes” under which a tenant can be evicted and require landlords to reference a specific and valid reason for each eviction. For example, a just cause eviction ordinance in East Palo Alto provides a list of reasons that are grounds for an eviction, including not paying rent, causing substantial damage to a unit and creating a nuisance. Assemblymember Bonta intends to introduce more detailed legislative language in the coming weeks, which is expected to include provisions to ensure that local just cause eviction ordinances would continue to apply, so long as those locally-adopted ordinances exceed the state’s baseline just cause eviction policy. As shown on Table 2 on page 5, 11 Bay Area jurisdictions have just cause eviction ordinances in place, including Berkeley, Hayward, Mountain View, Oakland, Richmond, San Francisco and San Jose.

Figure 2. Potential Allocation of Developable BART Land for Employment and Housing



Overview of 2018 Proposed California Housing Legislation

Bill Number/ Ballot Initiative	Summary
State Zoning Preemption and Housing Production	
SB 827 (Wiener)	Authorizes transit-rich housing projects – or qualified housing developments located within ½ mile of a major transit stop or within ¼ mile of a bus stop on a high-quality transit corridor – to receive a “transit-rich housing bonus.” Projects receiving a transit-rich housing bonus would be exempt from locally adopted residential density and floor area ratio maximums and parking minimums. The bill would also establish new minimum height limits for transit-rich housing projects.
SB 831 (Wieckowski)	Removes barriers to accessory dwelling unit (ADU) development, including exempting ADUs from local impact fees and creating an amnesty program for homeowners to legalize existing unpermitted ADUs.
SB 1227 (Skinner)	Expands the state density bonus law to include incentives for developers to build student housing.
AB 2167 (Chiu)	Requires that qualified supportive housing developments be approved by right in zones where multiple dwelling uses are permitted, including commercial zones, if the proposed housing development meets specified criteria.
AB 2372 (Gloria)	Authorizes a new floor area ratio bonus for eligible housing developments located near transit.
AB 2923 (Chiu)	Requires the Bay Area Rapid Transit (BART) district to establish transit-oriented development (TOD) zoning standards that support established goals for TOD projects on BART-owned land within ½ mile of existing or planned BART stations.
Regional Housing Needs Assessment and Allocation	
SB 828 (Wiener)	A spot bill intended to make changes to the statewide regional housing needs assessment processes and revise requirements related to regional housing needs allocations.
AB 1771 (Bloom)	A spot bill intended to make changes to the process of allocating regional housing needs to jurisdictions.
Fiscalization of Land Use/Property Taxes	
AB 1748/ACA 20 (Steinorth)	Amends Proposition 13-related property tax law and constitutional provisions to allow homeowners age 55 and above to carry their current low assessed value with them anywhere in the state as many times as they move. In addition, younger homeowners would be allowed a onetime base tax transfer to a new home.
Proposition 13 Ballot Initiative	The California Association of Realtors is gathering signatures for an initiative that would allow homeowners age 55 and above the option to carry their current low assessed value with them anywhere in the state as many times as they move.
"Split-Roll" Ballot Initiative	A coalition of civil rights groups and community organizations are gathering signatures for an initiative to require annual assessments on commercial and industrial properties to keep pace with market value, while retaining the Proposition 13 cap on residential property assessment growth.
AB 3037 (Chiu)	A spot bill intended authorize a city or county to form a redevelopment housing and infrastructure agency with similar powers to those previously granted to redevelopment agencies in order to finance housing and infrastructure projects.

Rent Control, Tenant Protections and Anti-Displacement	
AB 1506 (Bloom)	Repeals the Costa-Hawkins Rental Housing Act, which prohibits cities from applying rent-control policies to multifamily developments built after 1995 or to single-family homes. The bill died in committee earlier this year.
Rent Control Ballot Initiative	Tenant advocates and the AIDS Healthcare Foundation are gathering signatures to qualify a 2018 ballot initiative to reinstate authority for localities to adopt rent control ordinances.
SB 1182 (Glazer)	Doubles the state's renter's tax credit, raising it to \$240 for households \$120 for individual filers.
AB 2343 (Chiu)	Gives tenants more time to respond to eviction proceedings and make other changes to the eviction process.
AB 2364 (Bloom)	A spot bill intended make it more challenging for landlords to evict tenants under the Ellis Act, the state housing law that allows landlords to evict tenants from rent-controlled apartments if they are tearing down a building or leaving the rental market.
AB 2925 (Bonta)	A spot bill intended to create a statewide "just cause eviction" policy.