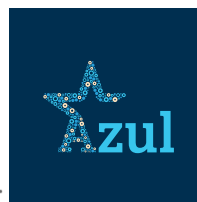


ORANGE COUNTY COASTKEEPER®



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Resource Renewal Institute  
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Citizens Preserving Venice



April 17, 2023

Assemblymember Luz Rivas, Chair  
Assembly Natural Resource Committee  
1020 N St., Suite 164  
Sacramento, California 95814

**RE: AB 1287 (Alvarez) Oppose Unless Amended**

Dear Chairwoman Rivas:

The undersigned organizations represent statewide and national constituencies committed to protecting coastal and ocean resources and upholding California’s landmark coastal protection law: the California Coastal Act of 1976. The Coastal Act protects public access and lower-cost recreational opportunities, wetlands, sensitive habitats, agricultural activities, scenic viewsheds, and the biological productivity of ocean waters. It requires new development to minimize energy use, reduce vehicle miles traveled, and avoid hazardous areas such as unstable bluffs and tsunami runup zones. Fifty years of careful Coastal Act implementation is the reason the California coast is the state’s number 1 tourist draw, and the reason that anyone can still go to the beach, regardless of zip code.

Coastal Act policies are implemented through discretionary Coastal Development Permits issued by the California Coastal Commission (Coastal Commission) or local governments with certified Local Coastal Programs (LCPs). Because density bonus programs are ministerial and by-right, the granting of specific incentives or waivers is not subject to Coastal Act analysis. However, Government Code Section 65915(m), (aka the Coastal Act Savings Clause), makes it clear that density bonus law does not supersede or lessen the effect of the Coastal Act, and that any density bonus, concessions, incentives, waivers, or reductions of development standards which the applicant is requesting shall be permitted in a manner that is consistent with the Coastal Act.

AB 1287 would repeal long-standing language in the Government Code and replace it with a statement that density bonuses shall be permitted notwithstanding the Coastal Act. **This would be the first time that any type of development has been exempted from the Coastal Act.**

Coastal resources such as sensitive habitats, shoreline bluffs, public view corridors, community character, and public access all have the potential to be adversely affected by density bonus programs if incentives offered in exchange for additional density conflict with or eliminate critical resource protection measures. While some density bonus incentives can provide for much-needed housing with no impact to coastal resources, others such as reducing setbacks from wetlands, geologic hazard areas, or coastal bluffs could result in direct impacts to those resources or the siting of new development in a more hazardous location.

This bill is a solution in search of a problem. The Coastal Commission has never denied an affordable housing project in its 50-year history; it has approved numerous density bonus projects over the last decade; and has worked with several local governments to incorporate density bonus policies into their certified LCPs. It has stretched the limits of its authority to preserve density in rapidly gentrifying areas and championed the application of the “no net loss” policy to the construction of single-family residences.

AB 1287 also sets a dangerous precedent, as the Coastal Act Savings Clause can be found in multiple statutes that apply to other types of ministerial approvals and by-right development. Repealing the Savings Clause for density bonus projects would likely lead to repeals elsewhere in statute, eliminating valuable coastal protections.

We fully acknowledge the need for more affordable housing in the Coastal Zone. But we vehemently disagree that exempting density bonus law from the Coastal Act is the way to achieve that goal. Instead, we urge the Legislature to consider reinstating the original Coastal Act policy protecting and providing for affordable housing in the Coastal Zone. From 1973-1981, the Coastal Commission authorized the construction of approximately 5,000 deed-restricted affordable housing units in the Coastal Zone and prevented the demolition of approximately 1,300 existing units. Unfortunately, the Legislature repealed this provision in 1981, and amended the Coastal Act to specifically preclude the Commission from requiring affordable housing policies in LCPs. So, it is ironic that now, more than 40 years after the affordable housing policies were repealed, the Coastal Act is under attack for not providing enough affordable housing.

We urge you to reject the repeal of Government Code Section 65915(m) and stand firm on the principle that affordable housing and coastal resource protection can and should go hand in hand. Thank you for the consideration of our comments.

Sincerely,

Ashley Eagle-Gibbs, Legal and Policy Director  
Environmental Action Committee of West Marin

Sean Bothwell, Executive Director  
California Coastkeeper Alliance

Scott Webb, Advocacy & Policy Director  
Turtle Island Restoration Network

Jennifer Kalt, Executive Director  
Humboldt Baykeeper

Pamela Heatherington, Board of Directors  
Environmental Center of San Diego

Susan Jordan, Executive Director  
California Coastal Protection Network

Kristen Northrop, Policy Advocate  
Coastal Environmental Rights Foundation

Garry Brown, Founder & President  
Orange County Coastkeeper

Linda Krop, Chief Counsel  
Environmental Defense Center

Chance Cutrano, Director of Programs  
Resource Renewal Institute

Michael Stocker, Director  
Ocean Conservation Research

Howard Penn, Executive Director  
Planning and Conservation League

Marce Gutiérrez-Graudiņš, Founder/Executive Director  
Azul

Mari Kloeppe, President  
Friends, Artists and Neighbors of Elkhorn Slough

Robin Rudisill, Board Member  
Citizens Preserving Venice

Lucero Weber, Campaigns Manager  
San Diego Coastkeeper

Michael Warburton, Director  
Public Trust Alliance  
A Project of The Resource Renewal Institute

Jack Eidt, Co-Founder  
SoCal 350 Climate Action

Erin Woolley, Policy Advocate  
Sierra Club California

CC: Assembly Natural Resources Committee Members  
Assemblymember David Alvarez