THE CALIFORNIA HOMEOWNERSHIP AFFORDABILITY ACT

SECTION 1. This measure shall be known and may be cited as "The California Homeownership Affordability Act."

SECTION 2. The people of California find and declare the following:

(a) Despite hundreds of changes to housing laws since the Legislature first declared a severe housing shortage in 1982, California continues to suffer from a housing affordability and supply crisis that has harmed millions of hard working Californians who cannot afford to buy a home, live where they grew up near parents and grandparents, afford the ever increasing cost of living in California, or pay for housing "solutions" that worsen homelessness, substance abuse disorders, and perpetuate crime and public disorder.

(b) According to the state's own calculations, only six percent (6%) of California is developed with homes, businesses, and paved roadways. Even though California has by far the largest population of any state, unelected state bureaucrats insist all new homes must be located inside existing communities, mostly including high density rental apartments crammed into former parking lots and shuttered job sites, and not even carpool lanes and offramp improvements approved by voters should be built on congested and unsafe roads. California's land costs are also far higher than the national average. Allowing local government and voters to authorize new communities on vacant land with no endangered species and no irrigated agriculture- still far less than the approximately 12% of land developed for people in every other high population state except Texas -will substantially reduce housing costs.

(c) The combined effects of decades of California's laws and regulations has made it about three times more expensive to build a home in California than the rest of the country. California homeownership for middle income families, including households with union members, teachers and nurses, small business owners and their employees, has become increasingly unattainable. Only 16% of California households can afford to buy a home, even though homeownership has for more than a century helped families build multi generational wealth.

(d) Affordable rental housing, including for lower income households, has largely vanished from many communities. Taxpayer-subsidized, deed-restricted affordable housing units, often allocated by lottery after multi-year delays, have never exceeded even 5% of the state's housing supply. The cost of building even one new "affordable" apartment for a low-income family now exceeds $1 million in many of California's most wealthy communities. California's hard working families should not have to win a lottery to have a home.

(e) California's housing policies have failed, and caused a housing policy crisis that has made housing and homeownership too expensive for too many for too long.

(f) Beginning in 1972, California also adopted thousands of strict environmental laws and regulations to protect air and water quality, endangered species and wetlands, forests and deserts, rivers and beaches, the health and safety of our communities and workforce, and more recently to address climate change. Elected law enforcement officials, including the California Attorney General and the independent district attorneys of each county, enforce these important laws in civil and criminal court actions.

(g) But in 1970, before any of these strict environmental protection laws and regulations were adopted, the California Environmental Quality Act ("CEQA") was enacted by a bi-partisan, nearly unanimous vote of the Legislature and signed into law by Governor Reagan. As originally intended, CEQA required agencies to analyze, disclose to the public, and avoid or minimize if feasible, the adverse environmental impacts of newly-approved infrastructure and public service projects like roadways and transit, libraries and fire stations, water and wastewater facilities.

(h) Then in 1972, the California Supreme Court expanded CEQA to apply to housing in a CEQA lawsuit filed by the state Attorney General. Over the next 50 years, CEQA was repeatedly expanded by court decisions which made changing the view from a parking lot, removing dead vegetation, and making park trails accessible for wheelchairs and strollers, adverse "environmental" impacts. Unlike almost all of California's other environmental laws, anyone can sue to block a project by filing “private” CEQA enforcement lawsuits. CEQA’s ever-expanding privatized lawsuit enforcement scheme differs dramatically from other environmental enforcement lawsuits by independently-elected county district attorneys and the state Attorney General.

(i) Over the decades, thousands of these privatized CEQA lawsuits have been filed, including by groups that aren't even required to disclose their real identity, even if they are economic competitors. The majority of these lawsuits seek to delay or derail the construction of new homes, and the infrastructure and public services like parks, roadways and schools that both existing and new residents need, even though these new homes and public facilities cannot be built unless they comply with thousands of stringent environmental, public health, and worker safety laws and regulations. In just one year—2020—CEQA lawsuits challenged approved plans authorizing about 1,000,000 more homes to be built statewide, and challenged construction of about 48,000 approved homes (which is almost half of the state's annual housing production). Blocking housing is the top target of privatized CEQA lawsuits, followed by blocking infrastructure.

(j) Even courts have begun to recognize that while CEQA was "originally intended to protect the environment," it has been "manipulated to be a formidable tool of obstruction, particularly against proposed projects that will increase housing."

(k) Lawyers, consultants, and special interests have a field day, and make a fortune, manipulating CEQA lawsuits to delay and derail projects, or extract cash settlements that just increase housing and infrastructure project costs. Increased infrastructure costs are funded by taxpayers; increased housing costs result in even higher housing costs for California's hard working families and residents.

(l) CEQA lawsuits often take five or more years to resolve; one lawsuit seeking to block a single family home renovation on an existing lot that was unanimously supported by adjacent neighbors, and unanimously approved by a local planning commission and city council, was held up in court for eleven years. The gadfly who sued ultimately lost, but eleven years of delay killed the project—and the homeowner spent money paying lawyers instead of improving his family's home.

(m) Once a CEQA lawsuit is filed, even if it has no legal merit, the approved project is delayed or derailed. Judicial expansions of CEQA never approved by the Legislature make lawsuit outcomes unpredictable, and losing a CEQA lawsuit most often means losing the project approval and being required to complete another multi-year CEQA process to get a new approval, which can be then sued again (and again—one project was sued more than 30 times!). Bank loans and government grants fund actual construction, but in most cases until the lawsuits get resolved, the construction doesn't start.

(n) California loses tens of billions of dollars in federal grants to other states—for transportation, water, schools, manufacturing, and electricity projects that get bogged down by CEQA—because other states don't let anyone sue to block any project for any reason like California allows with CEQA. Californians pay a lot more federal taxes than other states, but does not get its fair share of infrastructure funding because other states have "shovel-ready" approved infrastructure projects while California is mired in decades-long CEQA delays. Even critical projects that taxpayers vote to approve, like carpool lanes, get held up for decades by CEQA bureaucracy and lawsuits. CEQA litigation abuse undermines democracy: lawyers and special interests can block for many years any kind of project, whether approved by voters or official elected by voters, in any location for any reason, such as impacts to birds from potential window crashes, "potential" health risks to future residents from future carpets that comply with strict federal and state environmental and health protection standards, or "harm" to playgrounds partially shaded for a few extra minutes for a few days a year. Housing delayed or derailed by CEQA lawsuits is housing denied to Californians who cannot afford to buy a home or even rent an apartment in their own communities. Critical public infrastructure and quality jobs that are delayed or derailed by CEQA lawsuits harm existing residents who need our transportation, water, schools and parks to work instead of getting progressively worse from decades of bickering in endless CEQA lawsuits.

(o) California agencies have also imposed unprecedented levels of fees and other regulatory compliance costs on new housing: California housing fees are also nearly three times the

national average. New homes and apartments can be charged hundreds of thousands of dollars in fees and costs, on top of the cost of land, labor, and building materials. These fees and regulatory costs can make housing unaffordable to middle income families even without CEQA lawsuits, but like CEQA litigation abuse, these excessive bureaucratic fees and regulatory costs are a major driver of California's chronic shortage of housing for the vast "missing middle" of Californians who are neither wealthy nor poor, but simply want to be able to buy or rent a home they can afford.

(p) Increasing the supply of housing by blocking and reducing regulatory housing costs is needed to restore the California Dream of homeownership for middle income families, and restore rents to levels affordable to all (not just lottery winners languishing on multi-year waiting lists).

(q) Based on the foregoing, the people of California find that the CEQA lawsuits and exorbitant and unpredictable agency-imposed fees and costs is a crisis that has worsened notwithstanding decades of new laws and regulations, has harmed the state's construction workforce and other had-working Californians by delaying and derailing critical housing, public service and infrastructure projects, and has imposed significant burdens on communities and local governments which have the authority, under the California Constitution, to adopt and implement land use and zoning requirements.

SECTION 3. Section 21189.80 is added to the Public Resources Code to read as follows:

§ 21189.80(a) Ending Anti-Housing CEOA Lawsuit Abuse. Restoring affordable homeownership opportunities to middle income Californians is harmed by lawsuits that delay or derail construction of new homes, and the infrastructure, utilities and public services used by residents, especially since these projects must already comply with exceptionally strict environmental laws and regulations.

(1) A lawsuit alleging non-compliance with the California Environmental Quality Act (Division 13 of the Public Resources Code, commencing with section 21000), for such housing and related infrastructure, utility and public service projects may be filed solely by the independent elected top law enforcement official, the District Attorney, of the County in which the project is located, except that for projects located in multiple counties a CEQA lawsuit may be filed solely by the California Attorney General.

(2) This Act does not change the authority and responsibility of voters and local governments, under the California Constitution and other laws, to exercise local control of land use plans and projects. This Act does not create any exemption, or alter any enforcement authority, for any environmental, labor, housing, transportation, or other law or regulation other than CEQA. This Act does not change the private property right of any party, including the right to file a lawsuit alleging an unlawful act or omission by a

government agency, including by way of example a lawsuit alleging an unlawful taking of private property or a due process violation.

(b) Capping Expensive Government Fees.

(1) Fees, as defined in paragraph (b) of Section 66000 of the Government Code, imposed by any local agency as a condition of approval, mitigation measure, or payment obligation, on the authorization, construction, or initial occupancy of new homes, may not cumulatively exceed a two-percent (2%) Fee Cap of the construction costs (labor and material) of new homes. Local agency fees shall be used solely for the benefit of local communities. Local agency fees shall be due upon the initial occupancy of the new home.

(2) Regulatory compliance costs imposed on a residential, infrastructure, utility or public service project by any state agency as a condition applicable solely to that project in any permit, license, or other form of project authorization, may not cumulatively exceed a Cost Cap of one percent (1%) of the construction costs (labor and material) of these projects. This State agency regulatory cost cap does not apply to regulatory compliance costs that are expressly authorized by statute, in an amount that is expressly identified as either a fee amount or a fee calculation formula based solely on objective factors (such as number of new homes, or acres under construction) applicable uniformly.

(3) The local agency Fee Cap and state agency Cost Cap does not apply to fees lawfully assessed by school districts, debt repayments for public financing disclosed to prospective homeowners, renters, or other occupants, or to the actual cost of providing utility service connections and roadway access to new homes. Notwithstanding regulations imposed by unelected bureaucrats, no levy, charge, or exaction regulating or related to vehicle miles traveled may be assessed, or be otherwise required or charged, as a condition of approval, mitigation measure, or other levy, on any new home, infrastructure, or public service project.

SECTION 4. General Provisions

A. If any provision of this Act or application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of the Act are severable.

B. This Act is intended to be comprehensive. It is the intent of the people that in the event this Act or Acts relating to the same subject shall appear on the same statewide ballot, the provisions of the other Act or Acts shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other Act or Acts shall be null and void.