













a rent credit or other waiver or deferral of rent in connection with a nontrust lease of seawall lot 337 that results in an effective rent to the port below fair market value, if the commission finds that both of the following conditions are met:

(1) The nontrust lease is for affordable housing. The lease may allow other uses, including, but not limited to, commercial uses and market rate housing, provided that no portion of the rent credit, waiver, or deferral is applied to the rent for those other uses.

(2) The port is entitled to apply the value of the rent credit, waiver, or deferral of rent in connection with a nontrust lease of seawall lot 337 as an offset against fees or other exactions or obligations that would otherwise be levied or imposed by the city on any other development project located on seawall lot 337, if approved by the commission in accordance with this subdivision, relating to the other project's impact on, or demand for, affordable housing, including, but not limited to, fees imposed pursuant to the city's jobs-housing linkage program.

(c) The port shall provide the commission with documentation necessary to support the findings required by Section 3 of this act and subdivision (a) or (b) of this section at or prior to the time the port submits the proposed nontrust lease and other documentation required under subdivision (c) of Section 4 of Chapter 660.

(d) Nothing in this section shall be construed as limiting the port's authority to provide rent credits, waivers, or deferrals under a nontrust lease in exchange for other valuable consideration provided by the lessee that meets the fair market value requirement of Chapter 660.

(e) Nothing in this section shall be construed as limiting the port's authority under the Burton Act to use or lease the designated seawall lots for uses permitted by the Burton Act, subject to any applicable limitations of state law.

SEC. 5. If the port constructs structures other than affordable housing on seawall lot 322-1, the port shall acquire, subject to the approval of the commission and in consultation with the California Coastal Conservancy, land of equal monetary value to seawall lot 322-1 that is adjacent to the water and promotes the public trust in exchange for permanently lifting the trust use restrictions at seawall lot 322-1. If the port is unable to find available and suitable land to acquire, the port shall make a deposit of an amount that is equal to the value of seawall lot 322-1 to the Kapiloff Land Bank Fund pursuant to the Kapiloff Land Bank Act (Division 7 (commencing with Section 8600) of the Public Resources Code).

SEC. 6. Sections 3 to 5, inclusive, of this act shall be inoperative on January 1, 2094, after which date the use of the designated seawall lots shall be consistent with the public trust, the Burton Act trust, and the Burton Act transfer agreement. No later than January 1, 2094, all structures, buildings, and appurtenances on the designated seawall lots not consistent with the purposes of the public trust, the Burton Act trust, and the Burton Act transfer agreement shall be removed or modified, including any necessary restoration or remediation of the seawall lots, to facilitate public trust uses.

SEC. 7. Section 3.3 is added to the Burton Act (Chapter 1333 of the Statutes of 1968), to read:

Sec. 3.3. For purposes of subdivision (e) of Section 3, the preservation or restoration of marine resources consistent with the primary mission of the San Francisco Harbor may include the transfer by the City and County of San Francisco, acting by and through its Port Commission (port), of the port's transferable development rights, as defined in the city's planning code, as may be amended from time to time, in connection with the preservation of a historic pier or historic structure under port jurisdiction. To the extent authorized by the planning code and upon a determination by the port commission that there are no foreseeable public trust needs for the development rights, the port may transfer development rights associated with a historic pier or historic structure on port property, provided that if the affected port property is subject to the public trust and the Burton Act trust, the restriction on the port's development rights following transfer shall be for a period not exceeding 66 years. The port shall use the proceeds from a transfer of development rights solely for the furtherance of the purposes specified by this act, which include the preservation of a historic pier or historic structure. For purposes of effectuating this section, the port is authorized to submit to the procedures for transfer of development rights set forth in the city's planning code.

SEC. 8. The Legislature finds and declares that unique circumstances exist at the San Francisco waterfront as described in Section 2 of this act, and that therefore this act sets no precedent for any other location or project in the state.

SEC. 9. The following map is a part of this act:



SEC. 10. Notwithstanding any other law, for purposes of Chapter 660 and the Burton Act, the terms “historic pier,” “historic structure,” and “preservation” shall have the same meaning as those terms are defined in Section 1 of the act adding this section.

SEC. 11. The Legislature finds and declares that, because of the unique circumstances applicable only to the lands described in this act, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

SEC. 12. If any provision of this act, or its application to any person, property, or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this act or the application of that provision to any other person, property, or circumstance, and the remaining portions of this act shall continue in full force and effect, unless enforcement of this act as so modified by and in response to that invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this act.