

SENATE FLOOR ALERT

AB 1783 – OPPOSE



August 3, 2019

TO: Members, California State Senate

SUBJECT: AB 1783 (R. Rivas) Oppose

The undersigned organizations respectfully **OPPOSE AB 1783** (R. Rivas). Agriculture in California is a diverse and vibrant industry that provides food and fiber to our state, nation, and the world. However, our industry continues to face the challenges of a diminishing labor supply which is compelling greater reliance on the federal H-2A program to bring into the U.S. temporary workers for specified farm jobs, such as harvesting. This program requires that the employer provide housing for such employees during their stay in the U.S. The lack of available and affordable safe housing for farmworkers, regardless of their status, has long been a problem in California. Proposition 1 (2018) recognized this and provided \$300 million in state-administered grant and loan funding for farmworker housing, but the need is far greater.

Existing law allows for farmworker housing to be located on land that is zoned for agricultural use as long as it meets strict statutory bed and unit limitations. That housing is subject to a conditional use permitting process that often prevents farmers from obtaining approval for construction.

AB 1783 will not help mitigate the farmworker housing crisis and in fact would make it worse. The bill creates a new ministerial permitting process for farmworker housing located on agricultural land. However, the ministerial permit would not be available unless the farmer turns operation of their housing over to a third party (qualified affordable housing organization) that would then operate under a 35-year deed restriction. Few, if any, farmers would be willing to do this as they would remain ultimately responsible for the housing and any liability claims associated with its operation. In addition, the 35-year deed requirement is too restrictive given

the rapid changes in agriculture on resource availability and other factors. We certainly understand the concern that gave rise to this provision, namely that employees are particularly vulnerable when their employer and landlord is the same person. Nonetheless, we believe there is merit in exploring other ways of providing appropriate protections to employees in such situations. This is a difficult circle to square, if you will, but if our shared objective is to increase the stock of safe and affordable housing for farmworkers in this state, we should commit to the hard work of finding an alternative that does not discourage farmers from deploying their capital, and their land, to meet this urgent and long-neglected need.

We are also very concerned about a mandate in the bill that would prohibit state funding for the planning, development, and operation of housing that would be utilized for H-2A employees. Farmers will now be unable to benefit from the \$300 million that was provided for in Proposition 1 (2018) for farmworker housing. The inclusion of this provision in the bill ignores the reality, noted above, that farmers here and elsewhere in the U.S. are turning to the H-2A program in desperation, in light of the repeated failures of Congress to pass immigration reform that meets the well-documented needs of our nation's food producers. The H-2A program was created by the Immigration and Control Act (IRCA) in 1986 and the most recent substantive amendments to the program were made under President Obama. In fact, the Obama Administration approved the certification of 25,740 H-2A positions in California from 2014-2016. We are also very concerned that this provision in AB 1783 runs directly counter to California's Unruh Civil Rights Act which prohibits discrimination in housing based on immigration status. Furthermore, it is illegal to have discriminatory policies and practices that result in unequal access to housing. The limitations on state funding will harm the housing needs for both H-2A and domestic employees since farmers typically do not have a workforce comprised of 100% H-2A employees. For example, you may have a farm with 100 employees and 10 may be on the H-2A program. AB 1783 would undermine the clear intent of Prop. 1 by denying state farmworker housing funds to projects that would house the 90 domestic workers in this example. Furthermore, a farm today that does not have any H-2A employees and utilizes some state funding for housing will have to reimburse the state if they subsequently have to hire someone through the H-2A program. This essentially creates a lockbox on the state funds since housing investments require commitment and planning. AB 1783's restrictions regarding H-2A are extremely shortsighted and will lead to significantly less housing going in; not more. At minimum, they need to be removed from the bill.

We continue to engage with the author and other stakeholders to try and find workable and reasonable solutions to build more safe and affordable farmworker housing in California. For these reasons, we are **OPPOSED to AB 1783**.

Respectfully submitted,

American Pistachio Growers
California Association of Nurseries and Garden Centers
California Association of Winegrape Growers
California Chamber of Commerce
California Cherry Growers and Industry Association
California Cut Flower Commission
California Farm Bureau Federation
California Pear Growers
California Strawberry Commission
Family Winemakers of California
Grower-Shipper Association of Central California
Western Growers Association