SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 68	**Hearing Date:**	6/18/2019
Author:	Ting		
Version:	6/12/2019 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Land use: accessory dwelling units

DIGEST: This bill makes a number of changes to existing law governing accessory dwelling units (ADUs).

ANALYSIS:

Existing law:

1) Provides that if a locality adopts an ADU ordinance in areas zoned for single-family or multifamily, it must do all of the following:

   a) Designate areas where ADUs may be permitted.
   b) Impose certain standards on ADUs such as parking and size requirements.
   c) Prohibit an ADU from exceeding the allowable density for the lot.
   d) Require ADUs to comply with certain requirements such as setbacks.

2) Requires ministerial approval of an ADU permit within 120 days.

3) Allows a locality to establish minimum and maximum unit sizes for both attached and detached ADUs.

4) Restricts the parking standards a locality may impose on an ADU.

5) Allows a local agency to require that an applicant be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

6) Provides that an ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

7) Requires a local agency to submit a copy of its ADU ordinance to the Department of Housing and Community Development (HCD) within 60 days of adopting it and authorizes HCD to review and comment on the ordinance.

This bill:

1) Requires a local agency to ministerially approve, in an area zoned for residential or mixed-use, an application for a building permit to create an ADU and a JADU as follows:

   a) The ADU or JADU that is within a proposed or existing structure, or the same footprint as the existing structure, provided the space has exterior access from the proposed or existing structure and the side and rear setbacks are sufficient for fire and safety.
   b) One detached ADU that is within a proposed or existing structure or the same footprint as the existing structure, along with one JADU, that may be subject to a size limit of 800 square feet, a height limit of 16 feet, and side and rear yard setbacks of four feet.

2) Requires a local agency to ministerially approve, on a lot with a multifamily dwelling:

   a) Multiple ADUs within the existing structures that are not used as livable space, if each unit complies with state building standards for dwellings.
   b) Two detached ADUs that are subject to a height limit of 16 feet and rear and side yard setbacks of four feet.

3) Prohibits a local ADU ordinance from:

   a) Imposing standards on ADUs that include requirements on lot coverage or minimum lot size.
   b) Setting a maximum ADU size that does not allow an ADU of at least 800 square feet and 16 feet in height.
   c) Requiring replacement parking when a garage, carport, or covered parking structure is demolished in the creation of an ADU, or is converted to an ADU.
   d) Requiring a setback for ADUs within existing structures, and new ADUs located in the same location and footprint as existing structures, and no more than a four-foot side and rear yard setback.
   e) Allowing more than 60 days to ministerially approve an ADU or JADU permit application if there is an existing single-family or multifamily dwelling on the lot, as specified.

f) Requiring owner occupancy for either the primary dwelling or the ADU.
g) Requiring, as a condition for ministerial approval of an application for creation of an ADU or JADU, correction of nonconforming conditions, defined as a physical improvement on a property that does not conform with current zoning standards.

4) Provides that the total floor area of an attached ADU cannot exceed 50% of the existing primary dwelling.

5) Caps the number of ADUs that must be ministerially approved within an existing multifamily dwelling at one ADU and up to 25% of existing units thereafter.

6) Allows a local agency to require as part of the application for a permit to create an ADU connected to an onsite water treatment system, a percolation test completed within the last five years, as specified.

7) Provides that JADUs must be allowed to be constructed within proposed single-family residences and eliminates certain requirements relating to interior entry to the main living area, waste lines, and electrical service minimums.

8) Requires a local agency to require rental of an ADU to be for a term longer than 30 days.

9) Allows HCD, if it finds a local ADU ordinance is not compliant with ADU law, to provide the local agency up to 30 days to respond to the findings. If the local agency does not either amend its ordinance to comply with HCD's findings, or adopt a resolution explaining why it disputes HCD's findings, HCD may notify the Attorney General, that the locality is in violation of state law.

COMMENTS

1) *Purpose of the bill.* The author states that ADUs have surged in popularity as a way to address California's housing crisis as demand outpaces supply. This bill will remove the remaining barriers to the widespread adoption of ADUs as low-cost, energy-efficient, affordable housing that can go from policy to permit in 12 months.

2) *ADUs and JADUs.* ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to,

or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law. Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom. HCD notes that "ADUs are an innovative, affordable, effective option for adding much-needed housing in California."

3) *Relaxing ADU requirements.* According to a UC Berkeley study, *Yes in My Backyard: Mobilizing the Market for Secondary Units,* second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite existing state law, which requires each city in the state to have a ministerial process for approving second units, the study found that local regulations often impede development. The study, which evaluated five adjacent cities in the East Bay, concluded that there is a substantial market of interested homeowners; cities could reduce parking requirements without contributing to parking issues; second units could accommodate future growth and affordable housing; and that scaling up second unit strategy could mean economic and fiscal benefits for cities. This bill relaxes several requirements to the construction and permitting of ADUs.

4) *Trying again.* This bill is similar to AB 2890 (Ting) of 2018, which died in the Senate last year. Unlike AB 2890, however, this bill requires a local agency to mandate minimum 30-day rental for ADUs. In addition, this bill, unlike AB 2890, does not include a requirement for HCD to create small home building standards; those provisions are included in a separate bill (AB 69, Ting, 2019).

5) *Key provisions*. Major provisions of this bill include:

   a) *Ministerial approval requirements*. Existing law requires a local agency to ministerially approve an application for one ADU per single-family lot if the unit is contained within the existing space of the single-family dwelling or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. This bill instead requires ministerial approval of one ADU and one JADU per lot that is within an existing structure, as specified; one detached ADU within a proposed or existing structure or the same footprint as the existing structure, along with one JADU, as specified; multiple ADUs within existing multifamily structures; or two detached ADUs on a multifamily lot, as specified.

b) *Size of ADUs*. Existing law requires an ADU ordinance that provides for minimum and maximum ADU size, to allow for at least an efficiency unit (150 square feet). This bill instead provides for an ADU of at least 800 square feet and at least 16 feet high.
c) *Zoning*. Existing law applies ministerial approval requirements to ADUs in single-family zones. This bill instead requires ministerial approval in residential and mixed-use zones.
d) *Owner occupancy requirements*. Existing law allows a local ADU ordinance to require owner occupancy for either the primary dwelling or the ADU. This bill eliminates that authority.
e) *Impact fees*. Existing law provides that an ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service. This bill does not directly address impact fees.
f) *Parking requirements*. Existing law allows a local agency to require replacement parking when a garage, carport, or covered parking structure is demolished in the construction of an ADU, or converted to an ADU. This bill eliminates that authority.
g) *HCD oversight*. Existing law requires a local agency to submit its ADU ordinance to HCD for review and allows HCD to provide comments. This bill strengthens oversight over local ADU ordinances by allowing HCD to submit findings to the local agency if it finds the ordinance does not substantially comply with ADU statute. This bill also allows HCD to notify the Attorney General if it finds the ordinance is not compliant and the local agency chooses not to amend it into compliance.

6) *Other ADU bills*. Multiple ADU bills have been introduced again this year. The two bills that overlap the most with this bill are AB 881 (Bloom) and SB 13 (Wieckowski). A comparison of major provisions among the three bills is below:

	AB 68 (Ting) (6/12/19)	**AB 881 (Bloom)** (4/11/19)	**SB 13 (Wieckowski)** (5/17/19)
Ministerial approval	Requires ministerial approval of a permit for one ADU and one JADU per lot; one detached, new, single-story ADU that may be combined with a JADU; multiple ADUs within existing structures; up to two detached ADUs on a lot.	Requires ministerial approval of a permit for an ADU within an existing structure, as specified.	Requires ministerial approval of a permit for one ADU per lot, as specified.
Size requirements	Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 800 sq. ft. ADU and at least a 16-foot high ADU		Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 850 sq. ft. ADU or 1,000 sq. ft. if more than one bedroom
Owner occupancy requirement	Prohibits owner occupancy requirement	Prohibits owner occupancy requirement until Jan. 1, 2025	Prohibits owner occupancy requirement
Impact fees			Provides for a tiered structure of fees based on size of ADU
Parking requirements related to demolition of off-street parking	Prohibits requirement of replacement parking when a garage, carport, or covered parking structure is demolished for, or converted to, an ADU.		Prohibits requirement of replacement parking when a garage, carport, or covered parking structure is demolished for, or converted to, an ADU.
Prohibition on parking requirements near ½ mile of transit		Specifies that the ½ mile shall be measured in walking distance and defines public transit as a bus stop, bus line, light rail, street car, car share drop off or pickup, or heavy rail stop	

7) *Opposition concerns.* A number of cities, along with the League of California Cities, writing in opposition to this bill, cite the following concerns:

   a) This bill circumvents local ordinances that may exclude ADUs for criteria based on health and safety.
   b) By prohibiting a locality from requiring a property owner to live in the main house or one of the accessory structures, this bill could incentivize large-scale investors to purchase many single-family homes and add ADUs.
   c) By prohibiting a city from requiring replacement parking when a garage, carport, or covered parking structure is converted to an ADU, this bill will exacerbate parking conflicts.

8) *Triple referral.* This bill has also been referred to the Committee on Environmental Quality (second) and the Committee on Governance and Finance (third).

RELATED LEGISLATION:

SB 13 (Wieckowski, 2019) — makes a number of changes to law governing ADUs. *This bill is in Assembly Local Government Committee.*

AB 881 (Bloom, 2019) — makes a number of changes to law governing ADUs. *This bill will also be heard in this committee today.*

SB 831 (Wieckowski, 2018) — would have made a number of changes to ADU law. *This bill died in the Assembly Local Government Committee.*

AB 2890 (Ting, 2018) — would have made a number of changes to ADU law. *This bill died on the suspense file of the Senate Appropriations Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

California YIMBY (Sponsor)
AARP California
ADU Task Force East Bay
Association Of Bay Area Governments
Bay Area Council

Bay Area Housing Advocacy Coalition
Bay Area Regional Health Inequities Initiative
Bridge Housing Corporation
Building Industry Association Of The Bay Area
California Apartment Association
California Association Of Realtors
California Community Builders
California Forward Action Fund
California Teamsters Public Affairs Council
cityLAB - UCLA
Community Legal Services In East Palo Alto
EAH Housing
Eden Housing
Emerald Fund
Facebook, Inc.
Greenbelt Alliance
Habitat For Humanity California
Hamilton Families
Hello Housing
Inspired Independence
League Of Women Voters Of California
Metropolitan Transportation Commission
MidPen Housing Corporation
Non-Profit Housing Association Of Northern California
Pico California
Related California
San Francisco Housing Action Coalition
Silicon Valley At Home
Silicon Valley Community Foundation
SPUR
Tent Makers
Terner Center For Housing Innovation At The University Of California, Berkeley
The Casita Coalition
The Two Hundred
TMG Partners
United Dwelling
Urban Displacement Project, UC-Berkeley
Valley Industry And Commerce Association
Working Partnerships USA
12 Individuals

OPPOSITION:

Camarillo; City Of
Cities Association of Santa Clara County
League Of California Cities
Los Alamitos; City Of
Manhattan Beach; City Of
Marin County Council of Mayors and Council Members
Novato; City Of
Rancho Cucamonga; City Of
San Dimas; City Of
San Marcos; City Of
Santa Clarita; City Of
South Bay Cities Council Of Governments

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Bill No: AB 69 **Hearing Date:** 6/18/2019
Author: Ting
Version: 4/4/2019
Urgency: No **Fiscal:** Yes
Consultant: Erin Riches

SUBJECT: Land use: accessory dwelling units

DIGEST: This bill requires the state Department of Housing and Community Development (HCD) to submit proposed small building home standards to the California Building Standards Commission (CBSC), on or before January 1, 2021, for accessory dwelling units (ADUs) and homes of less than 800 square feet.

ANALYSIS:

Existing law relating to building standards:

1) Establishes the CBSC within the Department of General Services and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code.

2) Requires the CBSC to adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings.

3) Requires the State Fire Marshal to develop building standards to implement the state's fire and life safety policy, and transfers any responsibilities of the State Fire Marshal to adopt building standards through a formal rulemaking process to the CBSC.

4) Requires HCD to propose the adoption, amendment, or repeal of building standards to the CBSC and to adopt, amend, and repeal other rules and regulations to protect the health, safety, and welfare of occupants and to the public.

Existing law relating to ADUs and JADUs:

1) Provides that if a locality adopts an ADU ordinance in areas zoned for single-family or multifamily, it must designate areas where ADUs may be permitted; impose certain standards on ADUs such as parking (within certain parameters) and size requirements; prohibit an ADU from exceeding the allowable density for the lot; and require ADUs to comply with certain requirements such as setbacks.

2) Requires a locality to ministerially approve an ADU permit within 120 days.

3) Allows a locality to:

   a) Establish minimum and maximum unit sizes for ADUs.
   b) Require that an applicant to construct an ADU be an owner-occupant.
   c) Require that the ADU be used for rentals of terms longer than 30 days.

4) Provides that an ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

5) Permits local agencies to adopt a JADU ordinance for areas zoned for single-family. The JADU must be no more than 500 square feet in size and contained entirely within an existing single-family structure.

This bill:

1) Requires HCD to submit proposed small home building standards to the CBSC on or before January 1, 2021.

2) Requires the small home building standards to:

   a) Include standards for ADUs of less than 800 square feet and JADUs that include allowances for small kitchens and bathrooms with small appliances.
   b) Be drafted to achieve the most cost-effective construction standards possible. For standards applicable to detached dwelling units less than 800 square feet, the standards shall be similar or more cost-effective than the standards in the 2007 edition of the California Building Standards Code.

3) Defines "small home" as an ADU less than 800 square feet, a JADU, and any other attached dwelling unit less than 800 square feet.

COMMENTS

1) *Purpose of the bill.* The author states that ADUs have surged in popularity as a way to address California's housing crisis. ADUs are much smaller in scale, but they are unnecessarily subject to the same building standards as traditional homes. This bill expedites ADU construction by creating a Small Home Building Code that reflects the unique nature of these units.

2) *ADUs and JADUs.* ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law. Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom. The state Department of Housing and Community Development (HCD) notes that "ADUs are an innovative, affordable, effective option for adding much-needed housing in California."

3) *Why a separate building standards code?* According to a white paper by the UC Berkeley Terner Center for Housing Innovation, *ADU Update, Early Lessons and Impacts of California's State and Local Policy Changes* (December 2017), ADUs can increase the housing supply in areas where there are fewer opportunities for large developments, such as neighborhoods that are predominantly zoned for single-family homes. The Terner Center found a significant increase in interest in ADUs related to the passage of 2017 legislation, which raised the profile of ADUs and removed some specific barriers. However, homeowners interested in construction an ADU still face barriers; the Terner Center notes that the new 2016 building code requirements in many instances do not scale well to small structures, causing added costs and complications to ADU construction. According to the Terner Center, "state leaders should consider an alternative code or classification for ADUs that facilitates energy efficient structures without hindering their construction and proliferation in communities that could benefit from them most." This bill addresses that recommendation.

4) *The building standards adoption process.* The California Building Standards Code (Title 24) serves as the basis for the design and construction of buildings in the state. California's building codes are published in their entirety every

three years. Intervening code adoption cycles produce supplement pages halfway (18 months) into each triennial period. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle. Through this process, relevant state agencies propose amendments to building codes, which the CBSC must then adopt, modify, or reject. HCD is the relevant state agency for residential building codes.

5) *Templates*. The Metropolitan Transportation Commission and Association of Bay Area Governments, writing in support, ask for a "friendly amendment" to require HCD to develop and share template ADU design prototypes consistent with the new standards. It may be more appropriate, however, for localities to develop such templates. For example, the City of Encinitas has developed a Permit-Ready Accessory Dwelling Unit Program (PRADU) that offers eight pre-approved ADU building plans for residents to choose from. By choosing one of these customizable plans, the property owner can dramatically reduce pre-construction costs and receive expedited building permits.

6) *Committee amendments*. This bill directs HCD to draft the standards to be as cost-effective as possible, but explicitly limits standards for units under 800 square feet to the cost-effectiveness level of the 2007 building standards. The CBSC has adopted three sets of standards (2010, 2013, and 2016) since 2007; these standards include additions such as energy efficiency, sprinklers, and wildland-urban interface safety. These additions have resulted in increased construction costs, but at the same time have helped make new homes much safer and more energy-efficient. **For this reason, the author will accept amendments to strike the limitation to the 2007 standards and instead direct HCD to draft standards that are as cost-effective as possible but also take health and safety into consideration. The amendments also add Assemblymember Quirk-Silva as a joint author and Assemblymember Reyes as a coauthor.**

RELATED LEGISLATION:

SB 13 (Wieckowski, 2019) — makes a number of changes to law governing ADUs. *This bill is in the Assembly Local Government Committee.*

AB 68 (Ting, 2019) — makes a number of changes to ADU law. *This bill will also be heard in this committee today.*

AB 587 (Friedman, 2019) — authorizes an ADU to be sold separately from the primary residence under certain conditions. *This bill is in the Governance and Finance Committee.*

AB 670 (Friedman, 2019) — prohibits common interest developments from banning construction of ADUs and JADUs, but allows homeowner associations to impose reasonable restrictions on them, as specified. *This bill is in the Judiciary Committee.*

AB 881 (Bloom, 2019) — makes several changes to ADU law. *This bill will also be heard in this committee today.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

AARP California
ADU Task Force East Bay
American Planning Association, California Chapter
Association Of Bay Area Governments
Bay Area Housing Advocacy Coalition
Bay Area Regional Health Inequities Initiative
Building Industry Association Of The Bay Area
CalAsian Chamber Of Commerce
California Apartment Association
California Association Of Realtors
California Building Industry Association
California Community Builders
California Forward Action Fund
California State Association Of Counties
California YIMBY
Community Legal Services In East Palo Alto
EAH Housing
East Bay Housing Organizations
Eden Housing
Emerald Fund
Enterprise Community Partners, Inc.
Facebook, Inc.
Greenbelt Alliance

Habitat For Humanity California
Hamilton Families
Hello Housing
Keith Carson, Alameda County Supervisor, District 5
League Of Women Voters Of California
Metropolitan Transportation Commission
MidPen Housing Corporation
Non-Profit Housing Association Of Northern California
Northern California Carpenters Regional Council
Oakland Chamber of Commerce
OpenScope Studio
PreFab ADU
San Francisco Housing Action Coalition
Silicon Valley At Home
Silicon Valley Community Foundation
Spur
Tent Makers
Terner Center For Housing Innovation At The University Of California, Berkeley
The Two Hundred
TMG Partners
Transform
Urban Counties Of California
Urban Displacement Project, UC-Berkeley
Working Partnerships USA

OPPOSITION:

California Fire Chiefs Association
Fire Districts Association of California

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 168	**Hearing Date:**	6/18/2019
Author:	Aguiar-Curry		
Version:	5/8/2019		
Urgency:	No	**Fiscal:**	No
Consultant:	Alison Hughes		

SUBJECT: Housing: streamlined approvals

DIGEST: This bill adds the intent for a tribal, cultural resource be added to the list of sites that are ineligible for a streamlined, ministerial approval process.

ANALYSIS:

Existing law:

1) Provides that specified development projects may submit an application subject to a streamlined, ministerial approval process and not subject to a conditional use permit if the development is not on a site that is any of the following:

   a) A coastal zone.
   b) Either prime farmland or farmland of statewide importance, as specified, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
   c) Wetlands, as defined.
   d) Within a very high fire severity zone or within a high or very high fire hazard severity zone, as specified.
   e) A hazardous waste site, as specified.
   f) Within a delineated earthquake fault zone unless the development complies with applicable seismic protection building code standards adopted by the Building Standards Commission and any local building department.
   g) Within a special flood hazard area or regulatory floodway as specified.
   h) Lands identified for conservation, as specified.
   i) Habitat for protected species, as specified.
   j) Lands under conservation easement.

2) Defines "tribal cultural resource" as any of the following:

a) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either (i) included or determined to be eligible for inclusion in the California Register of Historical Resources, or (ii) included in a local register of historical resources.
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be a significant resource to a California Native American Tribe.
c) A cultural landscape, to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

3) Requires the lead agency responsible for reviewing a project under the California Environmental Quality Act (CEQA), prior to the release of certain CEQA reports for a project, to consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, as requested by the tribe. As a part of this consultation, the parties may propose mitigation measures capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource.

4) Declares that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment, and that public agencies must, when feasible, avoid damaging effects to any tribal cultural resource.

This bill:

1) Adds a "tribal cultural resource" as defined under existing law to the list of sites exempt from streamlined, ministerial approval.

2) States legislative intent that the process to determine whether a development is located on a site that is a tribal cultural resource occur before the development proponent submits an application under this section, that the determination process involve a consultation process, and that the determination be made ministerially.

COMMENTS

1) *Purpose of the bill.* According to the author, this bill "is consistent with existing California law, which protects tribal lands. Without this bill, tribal cultural resources may be subject to destruction and desecration. We have lost much of our State's Native history, and once a religious or cultural artifact, site,

or burial ground is lost, it cannot be replaced. To honor California's history and diversity, it is important that we continue to honor the consultation process with Native American tribes and protect tribal cultural resources. Protecting these sacred places will ensure that generations of Californians to come can value the sovereignty of Native American tribes and communities, and facilitate housing development by avoiding litigation."

2) *SB 35 Streamlining.* SB 35 (Wiener, Chapter 366, Statutes of 2017) requires local jurisdictions that have not met their above moderate-income or lower-income regional housing needs assessment (RHNA) to streamline certain developments. A number of lands were exempted from SB 35 streamlining, including the coastal zone, wetlands, a high or very high fire severity zone, a hazardous waste site, an earthquake fault zone, a flood plain or floodway, lands identified for conservation in an adopted natural community conservation plan, and lands under a conservation easement.

3) *Tribal cultural sites.* According to the 2010 Census, California has the highest Native American population in the country, with approximately 720,000 people in the state who identify as Native American. There are currently 109 federally recognized Indian tribes in California and 78 entities petitioning for recognition. California tribes currently have nearly 100 separate reservations or Rancherias.

   The phrase "Tribal Cultural Resources" in California was first legally recognized and defined under AB 52 (Gatto, Chapter 532, Statutes of 2014). The primary intent of AB 52 was to include California Native American Tribes early in the environmental review process and to establish a new category of resources related to Native Americans that require consideration under CEQA, known as tribal cultural resources. The process established by AB 52 is crucial for a tribal community to participate in a consultation process to identify tribal cultural resources and mitigate any impact to those sites.

   Tribal cultural resources are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe. Tribal cultural resources are sometimes referred to as "sacred sites" more generally. Sacred sites may be burial grounds, important archaeological areas, or religious objects. They are like churches, and are often sites of special ceremonies and healing. Tribal cultural resources are of central importance to Native American nations because Native religion and culture is essential to the survival of Native American/American Indian nations as a distinctive cultural and political group. Many Native Americans have land-based religions, meaning they practice their religion within specific geographic locations; their faith renders that land is itself a sacred, living being.

In some instances, tribal cultural resources have been publicly identified, such as those included or determined to be eligible for inclusion in the California Register of Historical Resources or a local registry of historical resources. However, this is not always the case. Identification may require additional analysis and process or a tribe may choose to not publicly disclose locations due to a concerns that the sites may be at risk for desecration, whether purposeful or not.

This bill states the Legislature's intent to exclude housing developments from streamlined, ministerial approval on lands with a tribal cultural resource. In order to maintain the ministerial nature of the SB 35 process, this bill states legislative intent that the process to define a tribal cultural resource must occur before the development proponent submits their application, the determination process involves a consultation process with a California Native American tribe with an affiliation with the area, and the determination be made ministerially.

The author and the committee are in discussions concerning amendments to the bill.

4) *Triple-referred.* This bill is also referred to the Environmental Quality Committee (second) and the Governance and Finance Committee (third).

RELATED LEGISLATION:

SB 35 (Wiener, Chapter 366, Statutes of 2017) — created a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment (RHNA) numbers.

AB 52 (Gatto, Chapter 532, Statutes of 2014) — established procedures and requirements under the California Environmental Quality Act (CEQA) for the purpose of avoiding or minimizing impacts to tribal cultural resources.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

Big Valley Band Of Pomo Indians
Dry Creek Rancheria Band Of Pomo Indians
Fernandeño Tataviam Band Of Mission Indians
Habematolel Pomo Of Upper Lake
Jamul Indian Village Of California

Middletown Rancheria
Mooretown Rancheria
Pala Band Of Mission Indians
Tolowa Dee-Ni' Nation
Tule River Tribe
Wilton Rancheria
Yocha Dehe Wintun Nation

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 338	**Hearing Date:**	6/18/2019
Author:	Chu		
Version:	5/16/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Lizeth Perez		

SUBJECT: Manufactured housing: smoke alarms: emergency preparedness

DIGEST: This bill requires all used mobilehomes that are sold or rented to have a smoke detector and requires mobilehome park owners to post emergency procedures, in multiple languages, as specified.

ANALYSIS:

Existing law:

1) Requires, beginning January 1, 2009, for any used manufactured home, used mobilehome, or used multifamily manufactured home (hereafter referred to as mobilehome) that is sold to have a smoke alarm installed in each room designed for sleeping.

2) Requires all mobilehomes manufactured on or after September 16, 2002 to have smoke alarms that comply with the federal Manufactured Housing Construction and Safety Standards Act.

3) Requires all mobilehomes manufactured prior to September 16, 2002 to have smoke alarms installed in accordance with the terms of their listing and installation requirements. Allows battery-powered smoke alarms when installed in accordance with the terms of their listing and installation requirements. The smoke alarm manufacturer's information describing the operation, method, and frequency of testing, as well as proper maintenance, must be provided to the purchaser.

4) Provides, beginning January 1, 2009, that these requirements shall be satisfied if, within 45 days prior to the date of transfer of title, the transferor signs a declaration stating that each smoke alarm in the mobilehome is installed and operable on the date the declaration is signed.

5) Authorizes the state Department of Housing and Community Development (HCD) to promulgate rules and regulations to clarify or implement these provisions.

6) Requires every mobilehome park to have an individual who is responsible for, and able to respond in a timely manner concerning, the operation and maintenance of the park. For parks of 50 or more units, this individual must live in the park, have knowledge of emergency procedures relating to utility systems and common facilities, and be familiar with the emergency preparedness plans for the park.

7) Requires every park owner or operator to adopt an emergency preparedness plan and to post notice of the emergency preparedness plan in the park clubhouse or in another conspicuous area within the park.

8) Requires an owner or operator of a park to provide notice of how to access the plan and information on individual emergency preparedness information from the appropriate state or local agencies to all existing residents and, upon approval of the tenancy, for all new residents thereafter.

9) Requires an enforcement agency to determine whether park management is in compliance.

10) Provides that a violation of these provisions shall constitute an unreasonable risk to life, health, or safety and shall be corrected by park management within 60 days of notice of the violation.

This bill:

1) Requires for all used mobilehomes that are sold or rented on or after January 1, 2020 to have a smoke alarm that has been approved and listed by the Office of the State Fire Marshal beginning January 1, 2014. Requires that the smoke manufacturer's information of all smoke alarms installed be provided to the renter or purchaser of a used mobilehome.

2) Deems the requirements in (1) satisfied if, within 45 days prior to the date of rental or transfer of title, the lessor or transferor signs a declaration stating that each smoke alarm in the mobilehome is installed properly and is operable on the date the declaration is signed.

3) Requires a park owner or operator to post notice of the emergency preparedness plan in the park clubhouse or in another publicly accessible area within the park.

4) Requires a park owner or operator to provide all existing residents an annual notice of how to access the plan; information on individual emergency preparedness contained within the plan; and how to obtain the plan in a language other than English. Requires park owners and operators to provide the notice to all new residents upon approval of tenancy.

5) Requires the park owner or operator to make the emergency preparedness plan available in English, as well as in all of the languages that HCD is required under existing law to translate its forms and processes into. Requires HCD to provide translation services to the park operator or owner.

6) Requires HCD to translate part II of the "Emergency Plans for Mobilehome Parks", approved by the Standardized Emergency Management System Advisory Board, into the languages mentioned in (5), and to post the translations on its website.

COMMENTS

1) *Purpose of the bill.* According to the author, "This bill came from a tragic fire in a mobilehome in my district. In August of 2017, a fire in a San Jose mobilehome park killed three community members, two of whom were young children. Since then, California has experienced many more fires devastating communities. I introduced AB 338 to make our mobilehome communities safer and improve fire preparedness and safety. This bill will break down language barriers to critical emergency preparedness materials and put more effective smoke detectors in homes."

2) *Smoke detectors.* The author notes that national data indicates that 51% of manufactured homes that have suffered fires had no smoke alarm. Although there are federal requirements for alarms, residents often remove them. In California, despite the update of the State Fire Marshal standards, state law allowed stores to continue selling off their remaining stock of older smoke alarms until 2015. This law also allowed residents to keep their existing smoke detectors until inoperability, leaving many older smoke detectors in manufactured homes. Smoke alarms that meet the current Fire Marshal standards have important features like an alert when the smoke alarm needs to be replaced, and, if the smoke alarm is battery-operated, contains a non-replaceable, non-removable battery that is capable of powering the smoke alarm

for at least 10 years. This bill updates smoke detector requirements to meet current Fire Marshal standards.

3) *Emergency plans*. Existing law requires every park owner or operator to adopt an emergency preparedness plan and to post a notice of this plan in the park clubhouse or other common area. Existing law does not, however, require that the plan be in a language other than English. The author states that language barriers create serious safety risks when residents cannot understand this critical fire and safety information. This bill seeks to address that gap by requiring park owners or operators to provide the emergency preparedness plan in English, as well as any other language that HCD is required to translate its forms and processes into. This bill also requires HCD to post on its website, translations of part II of the "Emergency Plans for Mobilehome Parks" document, which was produced in compliance with the Governor's Executive Order W-156-97 by the Office of Emergency Services. This document provides guidelines for developing individualized emergency plans for parks.

4) *Translation into other languages*. Including English, 220 languages are spoken in California. According to the U.S. Census Bureau, roughly 44% of Californians speak a language other than English at home. The most common languages in California are shown below, with Spanish being the most common, after English. State law requires agencies to translate forms and processes for submitting complaints into all languages spoken by a substantial number of non-English-speaking people served by the state agency. The threshold to determine whether an agency must provide these translations is if 5% of the people they serve belong to a group that does not speak English or cannot communicate effectively in English. As can be seen in the table below, Spanish is the only language that meets the 5% threshold. This means that park owners or operators are only required to provide the emergency preparedness plan in English and Spanish; and they can turn to HCD for translation services for these purposes.

Language	% of Ca Population	
	Speakers	Speak English less than "very well"
English	56%	-
Spanish	28.7%	11.9%
Asian and Pacific Islander Languages	9.9%	4.8%
Indo-European Languages	4.4%	1.4%
Other Languages	1.0%	0.3%

5) *California is not homogeneous.* Even though Spanish is the most common language in the state of California, this is not the case on a local basis. For example, the most common language in the City of Westminster in Southern California is Vietnamese, with 37% Vietnamese speakers and only 17% Spanish speakers. This bill will only require park owners to translate the emergency preparedness plan into Spanish, excluding other languages that may be more common in local mobilehome parks. This bill also only requires HCD to provide translation services to park owners and operators to fulfill the Spanish requirement.

6) *Opposition arguments.* The Western Manufactured Housing Communities Association (WMA) opposes the emergency preparedness plan and translation requirements of this bill. WMA states that mobilehome parks are the only form of non-subsidized housing that require an emergency preparedness plan, with apartments, condominiums or other gated developments not required to provide such a level of detail annually to their residents. They also state that AB 338 is a redundant use of fiscal resources, pointing to the $20 million allocated to public education in the form of grants to local entities to conduct public education campaigns on disaster preparedness under the Governor's 2019-2020 Disaster and Emergency-Related Budget Proposals. WMA also states that there are already several resources available to non-English speakers and that the most important action in the time of a natural disaster is to follow instructions of the local authorities.

7) *Trying again.* This bill is virtually identical to AB 2588 (Chu, 2018), which was vetoed. In his veto message, Governor Brown stated that requiring mobilehome park owners to post annually an emergency preparedness plan and to have HCD provide translation services for the plan is "best addressed by local governments in collaboration with the mobilehome park owners. This partnership would allow for the tailoring of each emergency plan to reflect the unique topography, climate, and conditions of each individual community."

RELATED LEGISLATION:

AB 2588 (Chu, 2018) — requires all used mobilehomes that are sold or rented to have a smoke detector and requires mobilehome park owners to post emergency procedures annually, in multiple languages, as specified. *This bill was vetoed by the Governor.*

SB 1394 (Lowenthal, Chapter 420, Statutes of 2012) — among other things, required, after January 1, 2014, that a smoke alarm must meet specified requirements in order to be approved by the State Fire Marshal.

SB 23 (Padilla, Chapter 551, Statutes of 2009) — required an owner or operator of a mobilehome park or a recreational vehicle park to adopt and post notice of an emergency preparedness plan.

AB 2050 (Garcia, Chapter 737, Statutes of 2008) — required, at the time of sale, all mobilehomes and manufactured homes to have a smoke alarm installed in each room designed for sleeping and to have all fuel-gas-burning water heaters seismically braced, anchored, or strapped.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

San Jose; City Of (Sponsor)
Allstate Insurance Company
American Red Cross California Chapter
California Fire Chiefs Association
California Professional Firefighters
County Of Santa Clara
Fire Districts Association Of California
Golden State Manufactured-Home Owners League, Inc

OPPOSITION:

Western Manufactured Housing Communities Association

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 349	**Hearing Date:**	6/18/2019
Author:	Choi		
Version:	6/10/2019 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Building standards: garage doors

DIGEST: This bill requires the state Department of Housing and Community Development (HCD), with the assistance of the State Fire Marshal, to investigate and propose, if it deems necessary, changes to residential building standards relating to a second method of egress from a residential garage, as specified.

ANALYSIS:

Existing law:

1) Establishes the California Building Standards Commission (CBSC) within the Department of General Services, and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code.

2) Requires the CBSC to adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings, including buildings constructed by the Trustees of the California State University and, to the extent permitted by law, to buildings designed and constructed by the Regents of the University of California.

3) Requires the State Fire Marshal to develop building standards to implement the state's fire and life safety policy, and transfers any responsibilities of the State Fire Marshal to adopt building standards through a formal rulemaking process to the CBSC.

4) Requires the Department of Housing and Community Development (HCD) to propose the adoption, amendment, or repeal of building standards to the CBSC and to adopt, amend, and repeal other rules and regulations to protect the health, safety, and welfare of occupants and to the public.

This bill:

1) Requires HCD, with the assistance of the State Fire Marshal, to investigate possible changes to the building standards in the California Residential Code to require a second method of egress from a newly constructed attached residential garage or a newly constructed detached garage located adjacent to a single-family dwelling.

2) Provides that this investigation shall occur during the next regularly scheduled triennial code cycle occurring on or after January 1, 2020.

3) Provides, for purposes of the investigation in (1), that in the case of an attached residential garage, a doorway that provides a pathway from the garage to the interior of the dwelling shall be considered a second method of egress.

4) Authorizes HCD, if it determines that mandatory changes can be incorporated into the California Residential Code without significantly increasing the cost of construction, to submit proposed building standards to the CBSC.

COMMENTS

1) *Purpose of the bill.* The author states that this bill seeks to create a safety exit route for vulnerable individuals trapped in a garage during an emergency. Ensuring a door to exit from, besides the large garage door itself, will save many lives in situations such as wildfires. Garage doors can cease to work and are often too heavy for elderly or disabled individuals to lift, leaving them trapped without a means to escape. Under this bill, individuals trapped inside a garage can have the option to exit out the garage through the second exit route.

2) *The building standards adoption process.* The California Building Standards Code (Title 24) serves as the basis for the design and construction of buildings in the state. California's building codes are published in their entirety every three years. Intervening code adoption cycles produce supplement pages halfway (18 months) into each triennial period. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle. Through this process, relevant state agencies propose amendments to building codes, which the CBSC must then adopt, modify, or reject. HCD is the relevant state agency for residential building codes.

3) *Garage door openers.* Recent legislation (SB 969, Dodd, 2018) also sought to address safe exits from garages. SB 969 requires automatic garage door

openers to include a backup battery to ensure continued operation during a power outage, which often occurs during a situation such as a fire. SB 969 applies to all automatic garage door openers manufactured for sale, sold, or installed beginning January 1, 2019. This does not, however, mean that every residential garage now has a garage door opener with a backup battery; people may choose not to add a backup battery to their existing garage door opener, and some older automatic garage door openers may not have the capacity to be connected to a backup and would have to be replaced (at a cost of up to several hundred dollars). SB 969 only explicitly requires individuals to install a backup battery if they are replacing their garage door or garage door opener.

4) *Additional protections needed?* The California Building Industry Association (CBIA) notes that beginning in January 2011, all new homes built in California are required to install a sprinkler system throughout the dwelling. Thus, for homes built since January 2011, the door connecting the garage to the house provides egress to an area protected by sprinklers, and the front door to the house provides egress to the outdoors. CBIA states that these requirements, in concert with SB 969, provide ample assurance that newly constructed homes with attached garages are safe in fire situations. CBIA concedes that there may be a need for a secondary exit in cases where the garage is not attached to the primary dwelling. It seems, however, that newly constructed garages with only an overhead door, and no additional regular doorway, will be few in number.

5) *Committee concerns.* The prior version of this bill required the CBSC to adopt building standards relating to a secondary garage door. Typically, however, the Legislature asks agencies to develop and propose standards according to certain guidelines and then submit those to the CBSC for review in its triennial process, rather than simply requiring the CBSC to adopt specific standards. After a state agency proposes standards to the CBSC, the standards undergo a vetting process through which a code advisory committee, composed of experts in a particular scope of code, reviews the proposed standards, followed by public review. The submitting agency considers any feedback generated through this process and can then amend the proposed standards and re-submit them to the CBSC. Placing building standards directly into statute does not allow for expert and public feedback to be taken into consideration, and forces future changes to be made through legislation rather than through the regulatory process.

   To address committee and CBIA concerns, the author has accepted amendments to instead require HCD to work with the State Fire Marshal to determine whether there is a need for new standards, and, if so, to submit proposed new standards to the CBSC for consideration through its triennial process. These amendments remove CBIA's opposition.

RELATED LEGISLATION:

SB 969 (Dodd, Chapter 621, Statutes of 2018) – required residential automatic garage door openers manufactured for sale, sold, or installed in California on or after July 1, 2019, to have a backup battery that is designed to operate during an electrical outage, and prohibits replacement garage doors from being installed to an opener that does not have a backup battery.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

None received.

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 393	**Hearing Date:**	6/18/2019
Author:	Nazarian		
Version:	5/29/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Building codes: earthquake safety: functional recovery standard

DIGEST: This bill requires the California Building Standards Commission (CBSC) to assemble a working group to help determine criteria for voluntary or mandatory "functional recovery standards" for buildings following a seismic event.

ANALYSIS:

Existing law:

1) Establishes the California Building Standards Commission (CBSC) within the Department of General Services, and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code.

2) Requires the CBSC to adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings.

3) Requires the State Fire Marshal to develop building standards to implement the state's fire and life safety policy, and transfers any responsibilities of the State Fire Marshal to adopt building standards through a formal rulemaking process to the CBSC.

4) Requires the Department of Housing and Community Development (HCD) to propose the adoption, amendment, or repeal of building standards to the CBSC and to adopt, amend, and repeal other rules and regulations to protect the health, safety, and welfare of occupants and to the public.

This bill:

1) Requires the CBSC to, by June 30, 2020, assemble a functional recovery working group (working group) comprised of appropriate public and private sector entities, including but not limited to:

    a) HCD.
    b) The Division of the State Architect.
    c) The Office of the State Fire Marshal.
    d) The Structural Engineers Association of California.
    e) California building officials.
    f) The insurance industry.
    g) The Building Owners and Managers Association.
    h) Members of the construction industry.
    i) The Earthquake Engineering Research Institute.
    j) The California Council of the American Institute of Architects.
    k) The Association of Bay Area Governments.
    l) The Southern California Association of Governments.
    m) The American Society of Civil Engineers.
    n) An economic development organization representing a metropolitan region in the state.
    o) The Alfred E. Alquist Seismic Safety Commission.
    p) The California Geological Survey.
    q) The International Code Council.

2) Requires the working group, not later than June 30, 2021, to do all of the following:

    a) Consider whether a "functional recovery" standard is warranted for all of some building occupancy classifications and investigate the practical means of implementing that standard either as a mandate or as a voluntary measure. In doing so, the working group shall take into account, to the extent possible, the findings of the upcoming National Earthquake Hazards Reduction Program committee report. Requires the working group, if it suggests the development of a voluntary or mandatory standard, to assist in preparing the estimated cost of compliance as specified.
    b) Provide advice to the appropriate state agencies regarding whether the work product of (a) should apply only to certain specified seismic design categories or to the entire state.
    c) Advise, subsequent to making its considerations and recommendations, the appropriate state agencies to propose building standards for consideration by the CBSC during the next regularly occurring triennial or intervening code

adoption cycle taking place after the working group recommendations are issued.

3) Authorizes the CBSC to adopt regulations for nonresidential occupancies, and authorizes HCD to adopt regulations for residential occupancies, based upon the recommendations resulting from the working group.

4) Defines "functional recovery standard" as a set of enforceable building code provisions and regulations that provide specific design and construction requirements intended to result in a building for which post-earthquake structural and nonstructural capacity are maintained or can be restored to support the basic intended functions of the building's pre-earthquake use and occupancy within a maximum acceptable time, where the maximum acceptable time might differ for various uses or occupancies.

COMMENTS

1) *Purpose of the bill.* The author states that California has experienced dozens of disastrous earthquakes, which have caused loss of life, injury, and economic loss. The current building code aims to ensure preservation of life in the event of a large earthquake. However, the code does not aim to prevent damage, limiting building closure times, or limiting financial losses. This bill would facilitate the creation of standards for new buildings to make sure they remain functional after an earthquake. New buildings that meet a functional recovery standard would mean people could enter buildings more quickly after a large seismic event, instead of having them closed for months or years at a time.

2) *Time for an upgrade?* California's building codes have been continually improved to reflect current knowledge of seismic risk and building technology. However, the codes are designed to allow occupants to safely escape a building after an earthquake. This bill asks whether that design standard should instead provide for the building to be returned to its original use within a short period of time. This is a much more stringent standard, which would likely entail significant additional costs. The working group established by this bill represents a broad cross-section of public, professional, and industry interests who can analyze the costs versus the public safety benefits.

3) *Residential is different.* This bill requires the working group to consider a functional recovery standards for different types of buildings. The CSBC would then be authorized to adopt standards based on those recommendations for every occupancy except residential. HCD, which is a member of the working group, has separate authority to consider whether a functional recovery

standard should be adopted. If HCD believes it should, it can make a recommendation to CSBC who can then adopt one.

4) *Trying again.* This bill is virtually identical to AB 1857 (Nazarian, 2018). That bill was vetoed by Governor Brown. The veto message stated that "The National Institute of Standards and Technology is in the initial stages of developing an immediate occupancy standard for buildings following a natural disaster. This federal agency is consulting engineers, scientist, and other experts to understand the changes needed to ensure that a building can be used immediately after a natural disaster. Instead of duplicating this federal process at the state level, it would be wise to allow the Institute to finish its work."

   This bill addresses the concern expressed in the veto message by adding a requirement for the working group to take into account, to the extent possible, the findings of the upcoming National Earthquake Hazards Reduction Program committee report. The author notes that this report, which will be produced in early 2020, is expected to be brief and preliminary; this bill will enable California to be prepared to build on the report's findings with recommendations suited to our state's unique earthquake risks and recovery needs.

RELATED LEGISLATION:

AB 1857 (Nazarian, 2018) — would have required the CBSC to establish a working group to consider whether California's building codes should reflect a "functional recovery standard." *This bill was vetoed.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

Structural Engineers Association of California (Sponsor)
American Institute of Architects, California
Earthquake Engineering Research Institute
Personal Insurance Federation of California

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 430	**Hearing Date:**	6/18/2019
Author:	Gallagher		
Version:	6/10/2019 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Housing development: Camp Fire Housing Assistance Act of 2019

DIGEST: This bill creates a streamlined ministerial approval process for specified housing developments in the Cities of Biggs, Corning, Gridley, Live Oak, Orland, Oroville, Willows, and Yuba City.

ANALYSIS:

Existing law:

1) Establishes a ministerial, streamlined approval process for certain infill, multifamily housing projects that are proposed in local jurisdictions that have not met regional housing needs.

2) Provides that supportive housing, in which 100% of units are dedicated to low-income households (up to 80% area median income (AMI)) and are receiving public funding to ensure affordability, shall be a use by-right in all zones where multifamily and mixed uses are allowed, as specified.

This bill:

1) Provides that a development proponent may submit an application for a development that is subject to a streamlined, ministerial approval process and not subject to a conditional use permit if the development satisfies the following objective planning standards:

    a) The development is located in the following cities: Biggs, Corning, Gridley, Live Oak, Orland, Oroville, Willows, and Yuba City.
    b) The development is either a residential development or mixed-use that includes residential units with at least 2/3 of the square footage of the development designed for residential use, not including any land that may be devoted to open-space or mitigation requirements.

c) The development has a minimum density of at least four units per acre.
d) The development is located on a site is either no more than 50 acres and either zoned residential or mixed-use or consistent with the general plan and general plan policies and has a general plan designation that allows residential use or mixed-use, with at least 2/3 of the square footage of the development designated for residential use.
e) The development, excluding any additional density or incentives or concessions from density bonus law, is consistent with objective zoning standards, as specified.
f) The development will achieve sustainability standards sufficient to receive a gold LEED standard.
g) The development is not located on any of the following:

   i. Prime farmland, farmland of prime importance, or land zoned or designated for agricultural protection or preservation.
   ii. Wetlands.
   iii. Within a very high fire severity zone, as specified.
   iv. A hazardous waste site.
   v. Within a delineated earthquake fault zone.
   vi. Within a special flood hazard area, as specified.
   vii. Within a regulatory floodway, as specified.
   viii. Lands identified for conservation in an adopted natural community conservation plan, as specified.
   ix. Habitat for protected species, as specified.
   x. Lands under conservation easement.

h) The development does not require the demolition of a historic structure that was placed on a national, state, or local historic register.

2) Provides that if any units are demolished, the development shall replace those units by providing at least the same number of units of equivalent size, determined by the number of bedrooms, and made available and affordable at affordable housing cost to and occupied persons and families in the same income category as those households in occupancy.

3) Provides that if a local government determines that a development seeking streamlined approval is in conflict with any of the objective planning standards, it shall provide the developer with written documentation of which standard or standards the development conflicts with and an explanation as follows:

   a) Within 60 days of submittal of the development to the local government if the development contains 150 units or fewer

b) Within 90 days of submittal of the development to the local government if the development contains more than 150 units.
c) If the local government fails to provide the required information, the development shall be deemed to satisfy the objective planning standards.

4) Provides that a local government's planning commission may conduct any design review or public oversight, as specified. Design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval as applicable:

   a) Within 90 days of submittal of the development to the local government if the development contains 150 units or fewer.
   b) Within 180 days of submittal of the development to the local government if the development contains more than 150 units.

5) Provides that a development approval shall not expire if the project includes public investment in housing affordability and 50% of the units are affordable to households making below 80% area median income. Otherwise, the development approval shall automatically expire after three years, except that a project may receive a one-time, one-year extension, as specified.

6) Prohibits a local government from adopting any requirement, including, but not limited to, increased fees or inclusionary housing requirements that applies to a project solely or partially on the basis that the project is eligible to receive ministerial or streamlined approval.

7) Provides that the development shall be deemed consistent with the objective zoning standards related to housing density, if applicable if the density proposed is consistent with the allowable residential density within that land use designation.

8) Provides that this bill sunsets on January 1, 2026 and is repealed on that date.

COMMENTS

1) *Purpose of the bill.* According to the author, "The Camp Fire, which started in Butte County in November 2018, is the most destructive and deadliest fire in State History, displacing 50,000 people. The fire destroyed almost 20,000 buildings (14% of Butte County's housing stock), exacerbating the housing crisis in the area and making it difficult for many of the fire victims and others to find affordable housing in surrounding areas. In some areas, the rental market vacancy rate, which was around 3% before the fire, fell to nearly zero

percent after the fire. Many evacuees have had to resort to buying trailers or RVs, renting individual bedrooms, or leaving the area completely. It is essential to build more housing in impacted areas to make up for the massive housing loss from the Camp Fire and to allow evacuees the ability to stay in the area where they have jobs, family, and community ties. [This bill] will authorize housing developments in impacted areas to utilize a streamlined ministerial process at the local level if they meet qualifying criteria. The bill does not encourage urban sprawl, because it requires the development to be located within specified cities or specialized planning areas. Additionally, projects must be consistent with zoning standards and the city's general plan. The bill also disqualifies projects that have detrimental environmental impacts by excluding projects that are located in floodplains and floodways, prime farmland, and lands identified for conservation, among others."

2) *Housing needs and approvals generally.* Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. A community's general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. Seven elements are mandated by state law: land use, circulation, housing, conservation, open-space, noise, and safety. Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years.

   Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors.

   Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects

are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

3) *Prior streamlining proposals.* In recent years, the legislature has passed several measures to streamline approvals for housing. For example, AB 2162 (Chiu, 2018) provided that supportive housing, in which 100% of units are dedicated to low-income households (up to 80% AMI) and are receiving public funding to ensure affordability, shall be a use by-right in all zones where multifamily and mixed uses are allowed, as specified. AB 2162 applies to all areas of the state, urban and rural, and would apply regardless of whether a local government has met its RHNA.

   This bill is substantially similar to SB 35 (Wiener, 2017), which requires local jurisdictions that have not met their above moderate income or lower income regional housing needs assessment (RHNA) to streamline certain infill developments. This bill differs from SB 35 in several ways: a) it is not limited to multifamily developments; b) not limited to infill sites; c) provides no affordable housing requirements; d) is not contingent on the local government's RHNA status; and e) there are no public work/prevailing wage requirements. By placing less stringent requirements on developments to be eligible for streamlining, this bill can help the cities affected by the Camp Fire build as much housing in as little time as possible.

4) *Do local inclusionary ordinances apply?* **The author will accept amendments to clarify that if a local jurisdiction has passed an inclusionary ordinance, that ordinance shall apply to a streamlined development permitted by this bill.**

5) *Opposition.* The City of Chico wrote in opposition to the prior version of the bill "because of the loss of CEQA review, the loss of local control, and the loss of ability of the public to comment on housing development." The City requested to be removed from the bill. The recent set of amendments remove the City from the bill.

6) *Triple referral.* This bill has also been referred to the Environmental Quality Committee and the Governance and Finance Committee.

RELATED LEGISLATION:

AB 168 (Aguiar-Curry, 2019) — adds a site that is a tribal, cultural resource to the list of sites that are not eligible for a streamlined, ministerial approval process under SB 35 (Wiener, Chapter 366, Statutes of 2017). *This bill will be heard today in this committee.*

AB 1485 (Wicks, 2019) — allows for streamlining approval of housing developments that limit 20% of the units to up to 120% of area median income (AMI). *This bill will be heard today in this committee.*

SB 744 (Caballero, 2019) — specifies that an existing streamlined approval process for permanent supportive housing projects also applies to services projects tied to a housing development. *This bill is currently at the Assembly Desk.*

AB 2162 (Chiu, Chapter 753, 2018) — streamlined affordable housing developments that include a percentage of supportive housing units and onsite services

SB 35 (Wiener, Chapter 366, Statutes of 2017) — created a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment (RHNA) numbers.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

Adventist Health
Bay Area Builders Exchange
Biggs; City Of
Build.Com
Butte-Glenn Medical Society
Butte; County Of
California Apartment Association
California Association Of Realtors
California Building Industry Association
California Chamber Of Commerce
Chico Builders Association
Chico Chamber Of Commerce
Civil Justice Association Of California

Corning; City Of
Downtown Chico Business Association
Enloe Medical Center
Gridley; City Of
North Valley Property Owners Association
Orland; City Of
Oroville; City Of
Placer County Contractors & Building Exchange
Rural County Representatives Of California
Sacramento Regional Builders Exchange
San Gabriel Valley Economic Partnership
Shasta Builders Exchange
Sierra North Valley Realtors
Sustainability Management Association
Valley Builders Exchange
Valley Contractors Exchange
Willows; City Of
Yuba City; City Of
Yuba Sutter Chamber Of Commerce

OPPOSITION:

Butte Environmental Council
Chico; City Of
Northern California Environmental Defense Center

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 671	**Hearing Date:**	6/18/2019
Author:	Friedman		
Version:	3/26/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Accessory dwelling units: incentives

DIGEST: This bill requires local governments' housing elements to include plans to encourage affordable accessory dwelling unit (ADU) rentals and requires the state Department of Housing and Community Development (HCD) to develop a list of state grants and financial incentives for affordable ADUs, as specified.

ANALYSIS:

Existing law relating to housing elements:

1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

2) Requires local governments located within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years, following the adoption of every other regional transportation plan. Local governments in rural non-MPO regions must revise their housing elements every five years.

3) Provides that each community's fair share of housing be determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (a) the Department of Finance and HCD develop regional housing needs estimates; (b) COGs allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and (c) cities and counties incorporate their allocations into their housing elements.

4) Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.

5) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.

Existing law relating to ADUs:

1) Provides that if a locality adopts an ADU ordinance in areas zoned for single-family or multifamily, it must designate areas where ADUs may be permitted; impose certain standards on ADUs such as parking (within certain parameters) and size requirements; prohibit an ADU from exceeding the allowable density for the lot; and require ADUs to comply with certain requirements such as setbacks.

2) Requires a locality to ministerially approve an ADU permit within 120 days.

3) Allows a locality to:
   a) Establish minimum and maximum unit sizes for ADUs.
   b) Require that an applicant to construct an ADU be an owner-occupant.
   c) Require that the ADU be used for rentals of terms longer than 30 days.

4) Provides that an ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service.

This bill:

1) Requires a local government to include in its housing element a plan to incentivize and promote the creation of ADUs to be rented to very low-, low-, and moderate-income households.

2) Requires HCD, by December 31, 2020, to develop and post on its website a list of existing state grants and financial incentives for operating, administrative, and other expenses in relation to planning, construction, and operation of an ADU to be rented to very low-, low-, and moderate-income households.

COMMENTS

1) *Purpose of the bill.* The author states that many localities throughout California are turning to affordable incentives for ADUs as a solution to the lack of affordable housing. Financing incentives can be used to promote affordability of ADUs, both for owners to construct and for tenants on an ongoing basis.

This bill requires locals to plan and design for the construction of very low-, low-, and moderate income ADUs and requires HCD to list potential state financing options on its website as a resource for locals. California should support local efforts to plan and identify financing for affordable ADU options.

2) *Background: ADUs.* ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence.

   According to a UC Berkeley study, *Yes in My Backyard: Mobilizing the Market for Secondary Units,* second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite existing state law, which requires each city in the state to have a ministerial process for approving second units, the study found that local regulations often impede development. The study, which evaluated five adjacent cities in the East Bay, concluded that there is a substantial market of interested homeowners; cities could reduce parking requirements without contributing to parking issues; second units could accommodate future growth and affordable housing; and that scaling up second unit strategy could mean economic and fiscal benefits for cities.

3) *Background: housing elements.* Every city and county is required to prepare and adopt a housing element to help plan how to address its share of the regional need for housing. Existing law requires a housing element to include a program that sets forth a schedule of actions during the planning period to provide for the housing needs of all economic segments of the community. This program must meet a number of requirements, including: identifying an inventory of adequate sites on which to provide housing; developing a plan to meet the needs of extremely low-, very low-, low-, and moderate-income households; removing constraints to housing for special needs populations; preserving existing affordable housing stock; promoting and affirmatively furthering fair housing opportunities; and preserving assisted housing developments for low income households. This bill would add a plan to incentive affordable ADUs to this program.

4) *State incentives for ADUs.* This bill requires HCD to post on its website a list of existing state grants and incentives related to ADUs. For example, the California Housing Finance Agency (CalHFA) is currently partnering with Self-Help Enterprises, a community development organization based in the San

Joaquin Valley, to implement a pilot program to provide financing for ADUs in the City of Clovis.

5) *Committee amendment.* To help address concerns about providing flexibility to local governments, **the author will accept the following amendment**:

Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, ~~and~~ ***or*** *moderate-income households.*

RELATED LEGISLATION:

SB 13 (Wieckowski, 2019) — makes a number of changes to law governing ADUs. *This bill is in the Assembly Housing and Community Development Committee.*

AB 68 (Ting, 2019) — makes a number of changes to ADU law. *This bill will be heard in this committee today.*

AB 670 (Friedman, 2019) — prohibits common interest developments from banning construction of an ADU or JADU but allows homeowner associations to impose reasonable restrictions on construction of ADUs or JADUs, as specified. *This bill is in the Senate Judiciary Committee.*

AB 881 (Bloom, 2019) — makes several changes to ADU law. *This bill will be heard in this committee today.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

California Apartment Association
California YIMBY

OPPOSITION:

None received.

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 694	**Hearing Date:**	6/18/2019
Author:	Irwin		
Version:	6/6/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Lizeth Perez		

SUBJECT: Veterans Housing and Homeless Prevention Bond Act of 2019

DIGEST: This bill authorizes, subject to voter approval at the November 3, 2020 general election, the issuance of $600 million in general obligation bonds for the Veterans Housing and Homeless Prevention Program (VHHP).

ANALYSIS:

Existing law:

1) Enacts the Veterans Housing and Homeless Prevention Bond Act of 2014 (Proposition 41), which authorized the issuance of $600 million in general obligation bonds to provide affordable, multifamily housing to veterans at risk of homelessness or experiencing temporary or chronic homelessness.

2) Requires the VHHP program to do the following:

   a) Leverage public, private, and nonprofit funding sources.
   b) Prioritize projects that combine housing and supportive services, including but not limited to: job training, mental health, drug treatment, case management, care coordination, or physical rehabilitation.
   c) Ensure that program guidelines and terms provide requirements or scoring criteria to advance applicants that combine permanent or transitional housing, or both, with supportive services for veterans, or for partnering with housing developers or service providers that offer housing or services to veterans.

This bill:

1) Authorizes $600 million in bonds to be issued and sold to provide housing for veterans and their families through the VHHP.

2) Requires the VHHP Bond Act of 2019 to be submitted to the voters at the November 3, 2020 general election.

COMMENTS

1) *Purpose of the bill.* According to the author, "There are an estimated 12,000 homeless veterans in California, and even more experiencing housing insecurity, or struggling to make ends meet in transition. According to the Department of Housing and Community Development (HCD), approximately 79% of California veterans who rent are spending more than 50% of their income on housing. AB 694 will assist veterans who are homeless or who need affordable rental housing to secure housing for themselves and their families. Over four rounds of funding, the VHHP has provided 2,432 total housing units for veterans and their families. There is now about $290 million remaining for VHHP, at a rate of about $75 million per round, that funding will run out in 2022. This bill ensures that the people of California will have a chance to vote in 2020 to continue funding this successful program."

2) *Veterans and Homelessness.* According to various studies, veterans are more likely to be homeless than the general population. Nearly 38,000 veterans in the U.S. were experiencing homelessness on a single night in January 2018. According to the 2018 Annual Homeless Assessment Report (AHAR) to Congress, veterans make up about 7% of the nation's homeless population. While veterans experience homelessness throughout the U.S., the problem is particularly acute in certain areas, including California, which is home to about 30% of the nation's homeless veterans. Los Angeles alone is home to 3,538 (32%) of the state's homeless veterans.

   In addition to the veterans who are already experiencing homelessness, there are more veterans who have unstable housing situations that place them at risk of homelessness. Numerous studies have shown that providing housing along with the supportive services individuals need to address mental health, substance abuse, and other issues has a net benefit in terms of public costs. For example, in 2009, the Los Angeles Economic Roundtable compared the public costs for individuals in supportive housing compared to similar individuals who were homeless. The study concluded that the typical public cost for a homeless person is $2,897 per month, compared with just $605 per month in public cost for a resident in supportive housing. The stabilizing effect of housing plus supportive services is demonstrated by a 79% reduction in public costs. In short, public costs go down when people are no longer homeless.

3) *VHHP Bond Act of 2014.* Pursuant to AB 649 (Perez, 2013) in November 2014, voters approved the VHHP Bond Act of 2014, also known as Proposition 41, required the California Housing Finance Agency (CalHFA), HCD, and the California Department of Veterans Affairs (CalVet) to establish and implement a program (VHHP) that focuses on veterans at risk of homelessness or experiencing temporary or chronic homelessness. The goal of the program is to fund the acquisition, construction, rehabilitation, and preservation of affordable multifamily supportive housing, affordable transitional housing, affordable rental housing, or related facilities for veterans and their families to allow veterans to access and maintain housing stability. Just over half of the original $600 million allocated to VHHP has been utilized since the first round of funding in 2015. This bill, if ultimately approved by voters, will add another $600 million to the VHHP.

4) *Results of the VHHP Bond Act of 2014.* There have been four rounds of funding under VHHP; draft guidelines for round 5 of funding were released on May 29, 2019. The VHHP program has issued over $309.7 million of the initial $600 million allocated through bonds. A total of 4,432 units have been provided through projects funded by VHHP, with 2,432 of those units designated for veterans, at an average cost of $127,343.75 per VHHP unit. Los Angeles and the Bay Area have received two-thirds of program funds to date. The units created through VHHP fall into the following categories:

   a) Chronically Homeless Veterans: 879 units (36%)
   b) Homeless Veterans with a disability: 550 units (23%)
   c) Homeless: 457 units (19%)
   d) Affordable: 546 units (22%)
   e) Multi-family units (2+bedrooms): 362 (15%)

5) *Triple Referral.* This bill has also been referred to the Veterans Affairs Committee and the Governance and Finance Committee.

RELATED LEGISLATION:

SB 384 (Leyva, 2015) — would have required, on or after January 1, 2017, that a percentage of the state funds under the Veterans Housing and Homeless Prevention (VHHP) Program be reserved for underserved veterans. *This bill held on suspense in the Assembly Appropriations Committee.*

SB 689 (Huff, 2015) — would have required state agencies to prioritize projects under the Veterans Housing and Homeless Prevention Act of 2014. *This bill died in the Transportation and Housing Committee.*

AB 388 (Chang, Chapter 692, Statutes of 2015) — required the Department of Housing and Community Development (HCD), in collaboration with the Department of Veterans Affairs (CDVA), to include specified information in an annual report relating to the effectiveness of the Veterans Housing and Homeless Prevention (VHHP) program.

AB 639 (Perez, Chapter 727, Statutes of 2013) — authorized the issuance of $600 million in general obligation bonds for the construction, rehabilitation, and preservation of multifamily housing for veterans and their families that is affordable, supportive, and transitional.

SB 1572 (Wyland, Chapter 122, Statutes of 2008) — created the Veterans' Bond Act of 2008 to be placed before the voters at the November 4, 2008 statewide general election which will authorize the issuance of $900 million in general obligation bonds to be used to fund the Veterans Farm and Home Loan Program.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

California Apartment Association
California Association of Veteran Service Agencies
Santa Monica; City Of

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 881	**Hearing Date:**	6/18/2019
Author:	Bloom		
Version:	4/11/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Accessory dwelling units

DIGEST: This bill makes a number of changes to existing law governing accessory dwelling units (ADUs).

ANALYSIS:

Existing law:

1) Provides that if a locality adopts an ADU ordinance in areas zoned for single-family or multifamily, it must do all of the following:

   a) Designate areas where ADUs may be permitted.

   b) Impose certain standards on ADUs such as parking and size requirements.

   c) Prohibit an ADU from exceeding the allowable density for the lot.

   d) Require ADUs to comply with certain requirements such as setbacks.

2) Requires ministerial approval of an ADU permit within 120 days.

3) Allows a locality to establish minimum and maximum unit sizes for both attached and detached ADUs.

4) Restricts the parking standards a locality may impose on an ADU.

5) Allows a local agency to require that an applicant be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

6) Provides that an ADU shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of

calculating connection fees or capacity charges for utilities, including water and sewer service.

7) Requires a local agency to submit a copy of its ADU ordinance to HCD within 60 days of adopting it and authorizes HCD to review and comment on the ordinance.

This bill:

1) Limits the criteria by which a local agency may determine where ADUs may be permitted to the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety.

2) Requires local agencies to ministerially approve ADUs on lots with multifamily residences and within existing garages.

3) Removes, until January 1, 2025, existing law authority for local agencies to require ADU applicants to be owner occupants and eliminates existing law authority for local agencies to require owner occupancy of either the ADU or the primary dwelling.

4) Specifies, in the existing law prohibition on a local agency from imposing parking standards within a half-mile of transit, that the half-mile shall be measured in walking distance and defines public transit as a bus stop, bus line, light rail, street car, car share drop off or pickup, or heavy rail stop.

COMMENTS

1) *Purpose of the bill.* The author states that California's housing shortage is well documented and the state currently needs over three million new units to address existing housing need. ADUs are an innovative and affordable housing option for many Californians. Because they are relatively affordable to build and are constructed by homeowners themselves, they also create units without depleting limited affordable housing funds. The ADU permitting process was streamlined significantly in 2016 through AB 2299 (Bloom) and cities around California embraced ADUs, adopting ordinances that have resulted in some confusion and uncertainty that has created unnecessary barriers to the construction of these units. This bill provides much-needed updates and clarifications to ADU statute that will help facilitate the construction of more housing.

2) *ADUs and JADUs.* ADUs, also known as accessory apartments, accessory dwellings, mother-in-law units, or granny flats, are additional living spaces on single-family lots that have a separate kitchen, bathroom, and exterior access independent of the primary residence. These spaces can either be attached to, or detached from, the primary residence. Local ADU ordinances must meet specified parameters outlined in existing state law. Local governments may also adopt ordinances for JADUs, which are no more than 500 square feet and are bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink and stove, but is not required to have a bathroom. The state Department of Housing and Community Development (HCD) notes that "ADUs are an innovative, affordable, effective option for adding much-needed housing in California."

3) *Relaxing ADU requirements.* According to a UC Berkeley study, *Yes in My Backyard: Mobilizing the Market for Secondary Units,* second units are a means to accommodate future growth and encourage infill development in developed neighborhoods. Despite existing state law, which requires each city in the state to have a ministerial process for approving second units, the study found that local regulations often impede development. The study, which evaluated five adjacent cities in the East Bay, concluded that there is a substantial market of interested homeowners; cities could reduce parking requirements without contributing to parking issues; second units could accommodate future growth and affordable housing; and that scaling up second unit strategy could mean economic and fiscal benefits for cities.

4) *Key provisions.* Major provisions of this bill include:

   a) *Ministerial approval requirements.* Existing law requires a local agency to ministerially approve an application for one ADU per single-family lot if the unit is contained within the existing space of the single-family dwelling or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. This bill requires ministerial approval of ADUs on lots with multifamily residences and within existing garages.

   b) *Zoning.* Existing law allows local ADU ordinances to designate areas where ADUs may be permitted, based on criteria including but not limited to the adequacy of water and sewer services and the impact of ADUs on traffic flow and public safety. This bill deletes "including but not limited to," restricting a local agency's location considerations to the water- and sewer-

adequate sites and those that do not overly impact traffic flow and public safety.

c) *Owner occupancy requirements*. Existing law allows a local ADU ordinance to require owner occupancy for either the primary dwelling or the ADU. This bill removes, until January 1, 2025, the authority for local agencies require ADU applicants to be owner occupants and eliminates existing law authority for local agencies to require owner occupancy for either the ADU or the primary dwelling.

d) *Parking requirements*. Existing law prohibits a local agency from imposing parking standards on ADUs that are within one-half mile of transit. This bill specifies that the half-mile shall be measured in walking distance, to account for possible obstacles such as bodies of water or freeways. It also expands the definition of public transit.

5) *Other ADU bills*. Multiple ADU bills have been introduced again this year. The two bills that overlap most with this bill are AB 68 (Ting) and SB 13 (Wieckowski). A comparison of major provisions among the three bills is on the following page.

	AB 68 (Ting) (6/12/19)	**AB 881 (Bloom)** (4/11/19)	**SB 13 (Wieckowski)** (5/17/19)
Ministerial approval	Requires ministerial approval of a permit for one ADU and one JADU per lot; one detached, new, single-story ADU that may be combined with a JADU; multiple ADUs within existing structures; up to two detached ADUs on a lot.	Requires ministerial approval of a permit for an ADU within an existing structure, as specified.	Requires ministerial approval of a permit for one ADU per lot, as specified.
Size requirements	Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 800 sq. ft. ADU and at least a 16-foot high ADU		Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 850 sq. ft. ADU or 1,000 sq. ft. if more than one bedroom
Owner occupancy requirement	Prohibits owner occupancy requirement	Prohibits owner occupancy requirement until Jan. 1, 2025	Prohibits owner occupancy requirement
Impact fees			Provides for a tiered structure of fees based on size of ADU
Parking requirements related to demolition of off-street parking	Prohibits requirement of replacement parking when a garage, carport, or covered parking structure is demolished for, or converted to, an ADU.		Prohibits requirement of replacement parking when a garage, carport, or covered parking structure is demolished for, or converted to, an ADU.
Prohibition on parking requirements near ½ mile of transit		Specifies that the ½ mile shall be measured in walking distance and defines public transit as a bus stop, bus line, light rail, street car, car share drop off or pickup, or heavy rail stop	

6) *Opposition concerns*. A number of cities, writing in opposition to this bill, state that by prohibiting a locality from requiring a property owner to live in the main house or one of the accessory structures, this bill could incentivize large-scale investors to purchase many single-family homes and add ADUs.

7) *Double-referral*. This bill has also been referred to the Governance and Finance Committee.

RELATED LEGISLATION:

SB 13 (Wieckowski, 2019) — makes a number of changes to law governing ADUs. *This bill is in Assembly Local Government Committee.*

AB 68 (Ting, 2019) — makes a number of changes to law governing ADUs. *This bill will also be heard in this committee today.*

SB 831 (Wieckowski, 2018) — would have made a number of changes to ADU law. *This bill died in the Assembly Local Government Committee.*

AB 2890 (Ting, 2018) — would have made a number of changes to ADU law. *This bill died on the suspense file of the Senate Appropriations Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

California YIMBY (Sponsor)
Bay Area Council
California Apartment Association
California Association Of Realtors
California Forward Action Fund
Non-Profit Housing Association of Northern California
United Dwelling

OPPOSITION:

Los Alamitos; City of
Marin County Council Of Mayors And Council Members
San Dimas; City Of
San Marcos; City Of
South Bay Cities Council Of Governments
Thousand Oaks; City Of

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 1290	**Hearing Date:**	6/18/2019
Author:	Gloria		
Version:	4/29/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Lizeth Perez		

SUBJECT: California Housing Finance Agency: stakeholder group: housing

DIGEST: This bill requires the California Housing Finance Agency (CalHFA), in collaboration with the State Treasurer's Office (STO), to convene a stakeholder group that includes nonprofit developers to identify actions that can be taken to streamline the application process for certain housing finance programs.

ANALYSIS:

Existing law:

1) Establishes CalHFA within the Business, Consumer Services and Housing Agency, with a role of making financing opportunities available for the construction, rehabilitation and purchase of housing for persons and families of low to moderate income.

2) Designates the California Debt Limit Allocation Committee (CDLAC) in the STO to administer and allocate tax-exempt, private activity bonds, which include revenue bonds for housing.

3) Requires the Tax Credit Allocation Committee (TCAC) in the STO to administer the state and federal Low Income Housing Tax Credit program (LIHTC) based upon qualifications of the applicant and proposed project.

This bill:

1) Requires CalHFA, in collaboration with the STO, to convene a stakeholder group that includes nonprofit developers to identify actions that can be taken to streamline the application process for the following:

    a) Tax-exempt bonds issued by CDLAC.
    b) State or federal low income housing tax credits issued by TCAC.

c) Funding for mixed-income multifamily housing for lower- to moderate-income households administered by CalHFA.

2) Requires that the stakeholder process be completed by January 1, 2021.

COMMENTS

1) *Purpose of the bill.* According to the author, "Currently, affordable housing developers are chasing funding sources and spend a huge amount of time securing different layers of financing; this drives up the cost of housing. Similarly, many of these pots of money are in different places across different state agencies. For example, grants and loans from federal and state programs are often housed at HCD, tax credits are housed within the STO with the Tax Credit Allocation Committee, and Affordable Housing and Sustainable Communities funds are within the Strategic Growth Council's purview. This bill begins to streamline the application process for tax-exempt bonds issued by CDLAC, low-income housing tax credits administered by TCAC, and programs administered by CalHFA, including the mixed income housing program."

2) *Background.* The state offers funding for affordable housing through different programs, including programs administered by CalHFA, CDLAC, and TCAC. CDLAC and TCAC are both a part of the STO. CDLAC administers the state's tax-exempt bond program, which provides funding for affordable housing developments for low-income Californians. TCAC allocates the federal and state LIHTC program to aid developers of affordable rental housing. CalHFA is an independent state agency that provides funding for the development of housing for people of low to moderate-income. The housing programs administered by these bodies are outlined in the table below.

	Housing Program	Description	Can Couple With:
CDLAC	Qualified Residential Rental Project (QRRP)	Assists developers to construct or rehabilitate multifamily rental units.	LIHTC, MIP
	Single Family First Time Homebuyer Program	Assists first-time homebuyers purchase a home.	
	Home Improvement and Rehabilitation Program	Assists low- to moderate-income households secure home improvement loans.	
	Extra Credit House Purchase Program	Assists credentialed school staff, including teachers, purchase homes.	

TCAC	Low Income Housing Tax Credit (LIHTC) Programs	Promote investment in affordable rental housing for low-income Californians.	QRRP, MIP
CalHFA	Mixed Income Program (MIP)	Provides financing for multifamily housing projects restricting units between 30% and 120% area median income (AMI).	QRRP, LIHTC
	Multifamily Programs	Provide loans for affordable multifamily rental housing projects.	QRRP, LIHTC
	Special Needs Housing Program	Provide financing for permanent supportive rental housing with units for individuals with serious mental illness.	LIHTC

Certain housing programs under one agency may be coupled with funding from programs in another. For example, CalHFA's MIP, which is funded through SB 2 (2017, Atkins), requires applicants to acquire a tax-exempt bond through CDLAC as well as a 4% tax credit through TCAC's LIHTC program. Developers looking to apply for MIP must also coordinate to meet application deadlines for CDLAC and TCAC. Coordination between CalHFA, TCAC, and CDLAC is also required in the application process for programs that are interdependent on each other for funding.

3) *Streamlining Efforts.* There have been efforts to coordinate and streamline the application process for the interdependent programs under CDLAC, TCAC and CalHFA. There is currently a joint application for developers wishing to apply to both the 4% LIHTC program under TCAC and the QRRP program under CDLAC. Some programs also provide a general timeline of their application process on their website that includes deadlines for programs that provide funding that can be coordinated.

4) *Funding for Low Income Housing Units.* Developers of affordable housing must obtain funding from multiple sources to make their projects financially feasible; oftentimes developers will combine federal, state, local, and private funds. In addition to navigating different program applications, developers must balance each program's particular requirements to remain eligible for funding. The construction of affordable housing projects can face delays while waiting to secure funding. For example, since funding typically comes from a variety of sources, a developer may experience delays due to waiting for the approval of funding from one or more sources. Since affordable housing

developers must simultaneously utilize funding from certain programs under CalHFA, TCAC, and CDLAC, a workgroup familiar with the application process under these three bodies could provide valuable input into streamlining the application process, which will help accelerate funding for construction of affordable housing for low income Californians.

5) *Amendments.* This bill requires CalHFA and the STO to convene a stakeholder group to identify actions to streamline the application process for housing programs under CalHFA, TCAC, and CDLAC by January 1, 2021, but does not require a report on the stakeholder group's findings. **The author will accept amendments to specify that the findings of the stakeholder group must be reported to the Legislature by June 30, 2021.**

RELATED LEGISLATION:

AB 434 (Daly, 2019) — requires HCD to develop a single, universal application for various housing programs under HCD. *This bill is currently in this committee.*

SB 1121 (Alarcon, Chapter 637, Statutes of 1999) — consolidated multiple programs at HCD into the Multifamily Housing Program (MHP) and created a standard set of rules applicable to all rental housing programs operated by HCD.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

None received.

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 1399	**Hearing Date:**	6/18/2019
Author:	Bloom		
Version:	6/10/2019 Amended		
Urgency:	No	**Fiscal:**	No
Consultant:	Alison Hughes		

SUBJECT: Residential real property: rent control: withdrawal of accommodations

DIGEST: This bill amends the Ellis Act to: 1) clarify that owners may not pay prior tenants liquidated damages in lieu of offering them the opportunity to re-rent their former unit, and 2) clarify that the date on which the accommodations are deemed to have been withdrawn from the rental market is the date on which the final tenancy among all tenants is terminated.

ANALYSIS:

Existing law:

1) Provides that no public entity shall, by statute, ordinance, or regulation, or by administrative action implementing any statute, ordinance or regulation, compel the owner of any residential real property to offer, or to continue to offer, accommodations in the property for rent or lease.

2) Authorizes a public entity, if it has a rent control ordinance, to provide by statute or ordinance, or by regulation that any accommodations which have been offered for rent or lease and were subject to rent control at the time the accommodations were withdrawn from rent or lease shall be subject to specified requirements.

3) Authorizes a public entity to require by statute or ordinance, or by regulation, that an owner who offers accommodations again for rent or lease within 10 years from withdrawal date shall first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, if that tenant or lessee requests the offer in writing within 30 days after the owner has notified the public entity of an intention to offer the accommodations again for residential rent or lease pursuant to a requirement adopted by the public entity.

4) Requires the owner of the accommodations to be liable to any tenant or lessee who was displaced by that action for failure to comply with the requirements in (3), for punitive damages in an amount which does not exceed the contract rent for six months.

5) Provides that the statute, ordinance, or regulation of the public entity may require that the owner record with the county recorder a notice, as specified, that actions have been initiated to terminate any existing tenancies.

6) Requires, if the tenant or lessee is at least 62 years of age or disabled, and has lived in their accommodations for at least one year prior to the date of delivery to the public entity of the notice of intent to withdraw, then the date of withdrawal of the accommodations of that tenant or lessee shall be extended to one year after the date of delivery of that notice, provided that the tenant or lessee gives written notice of their entitlement to an extension to the owner within 60 days of the date of delivery of the notice. In that situation, the following provisions apply:

    a) The tenancy shall continue with the same terms and conditions as applied on the date of the notice of withdrawal, as specified.
    b) No party shall be relieved of the duty to perform any obligation under the lease or rental agreement.
    c) The owner may elect to extend the date of withdrawal on any other accommodations up to one year after the date of the delivery of the notice to withdraw subject to (a) and (b).
    d) Within 30 days of the notice to the tenant or lessee to the owner of their entitlement to extension, the owner shall give written notice to the public entity of the claim that the tenant or lessee is entitled to stay in their accommodations for one year from the date of the delivery of the notice of intent to withdraw.
    e) Within 90 days of date of delivery of the notice of intent to withdraw, the owner shall give written notice to the public entity and the affected tenant or lessee of the owner's election to extend the date of withdrawal and the new date of withdrawal.

7) States that is not the intent of the Legislature to permit an owner to withdraw from rent or lease less than all of the accommodations.

This bill:

1) Provides that if an owner of the accommodations elects to offer the accommodations again within 10 years, the payment of punitive damages shall

not be construed to extinguish the owner's obligation to first offer the unit to the tenant or lessee displaced from that unit by the withdrawal.

2) Establishes that provisions related to persons 62 years or older apply to those who have lived in their accommodations or unit within the accommodations.

3) Establishes that, in the situation in which a tenant is 62 years or older or disabled and the withdrawal is extended to one year, an owner may elect to extend a tenancy on any other unit within the accommodations up to one year. Within 90 days of date of delivery to the public entity of the notice of intent to withdraw, the owner shall give written notice of the owner's election to extend a tenancy and the revised date of withdrawal to both the public entity and any tenant or lessee whose tenancy is extended.

4) Requires the date of withdrawal for the accommodations as a whole to be the latest termination date among all tenants within the accommodations, as stated in the notices. An owner's further voluntary extension of a tenancy beyond the date stated in the notices shall not exceed the date of withdrawal.

5) States that the legislature does not intend to allow an owner to:

   a) Withdraw from rent or lease less than all of the accommodations.
   b) Decline to make a written re-rental offer to any tenant or lessee who occupied a unit at the time when the owner gave the public notice of its intent to withdraw, and to do so within 30 days of an owner's notifying the public entity of the owner's intent to offer for rent any unit within the withdraw accommodations. The requirements shall not apply to:

      i. A unit that was the principal place of residence of any owner or owner's family member at the time of withdrawal, provided that it continues to be those person's principal place of residence when accommodations are returned to the rental market.
      ii. A unit that is the principal place of residence of an owner when the accommodations are returned to the rental market, if it is the owners' principal place of residence, at the time of the return to the rental market. If the owner ceases to occupy the unit within 10 years of the date of withdrawal, the owner shall, within 30 days, make a written offer to re-rent to the tenant or lessee who occupied a unit at the time when the owner gave the public entity notice of its intent to withdraw the accommodations.

COMMENTS

1) *Purpose of the bill.* According to the author, "Some landlords are evicting all the tenants from rent-stabilized units in a property and claiming that they are leaving the rental market and going out of business when in actuality, they have no other plans for the property. By requiring landlords to permanently go out of the rental business, this will help prevent these more egregious abuses that encourage landlords to empty entire buildings in order to evade rent limitations. This will also reduce the incentive for landlords to "Ellis" a property and then let much-needed housing units lie fallow for more than 5 years simply to re-rent the units at market rates. Landlords are taking advantage of a perceived ambiguity in the law by driving as many tenants out as possible even before any notices of eviction are served. Some landlords believe that this "loophole" allows them to re-rent units that were vacant at the time of the withdrawal at any time without adhering to the law's restrictions on units returned to the market within certain time periods. This amendment would clarify that the Act prohibits the return to the rental market of less than all the units in the same way that the withdrawal of less than all the units is prohibited. In other words, once any unit is returned to the rental market, the entire property is considered back on the rental market for purposes of the Act. Finally, the law should make explicit that the payment of a penalty does not extinguish the landlord's obligation to comply with the law."

2) *Ellis Act.* The Ellis Act (Act) prohibits a public entity, by statute, ordinance, or regulation, from compelling an owner of any residential real property, except for a residential hotel, to continue to offer the rental units for rental housing. The Act maintains the authority for a public entity to regulate the subsequent use of the property and mitigate any adverse impacts on people who are displaced from the withdrawal of a property from the rental market. The Act only applies when an owner seeks to remove all units from rent or lease in a building, or all units on a property with a building containing three or fewer units.

   In rent-control jurisdictions, the Act established procedures that public entities can impose upon owners prior to withdrawing property from the rental market. If a city or county requires the owner to give notice before withdrawing the building from the market, the owner must provide 120 days' notice — or one year's notice in the case of tenants who are disabled or more than 62 years old — before terminating the tenancy. Owners who seek to re-rent the units within two years after withdrawal are liable to displaced tenants for actual and exemplary damages and required to offer the units to displaced tenants under the prior rent-controlled lease terms. Public entities may also require an owner

for up to 10 years to offer re-rented units to displaced tenants. If the owner demolishes the old units and constructs new rental units on the same property within five years of withdrawal, a city or county may subject the new units to its rent-control ordinance.

3) *History of the Ellis Act.* The Act was adopted in response to the California Supreme Court's decision in *Nash v. City of Santa Monica*, 37 Cal.3d 97 (1984). In that case, the court upheld the power of a city, through a land use ordinance, to require a residential real property owner to obtain a removal permit, under specified criteria, before the owner could demolish his or her rental property and cause its removal from the marketplace. The next year, SB 505 (Ellis, Chapter 1509, Statutes of 1985) preempted that ruling by providing that no public entity shall "compel the owner of any residential real property to offer, or to continue to offer, accommodations in the property for rent or lease." Effectively, SB 505 gave landlords a statutory right to exit the rental housing business.

   The Act only applies when an owner seeks to remove all units within a building or all units in a property with a building containing three or fewer units, from the market and only has real effect in cities and counties with rent control and just-cause eviction ordinances. Additionally, the Act authorizes local governments to place restrictions on how property owners can "Ellis" a building and exit the rental housing market.

   Unfortunately, due to the constraints of the housing market, landlords are incentivized to use the Ellis Act to empty buildings of their lower-rent tenants and attempt to re-enter the market by renting to new tenants at market rates.

4) *Clarifying and fulfilling legal obligations.* Under existing law, if a property owner has "Ellised" their property and decides to re-enter the rental market within 10 years, the owner must first offer the unit to the tenant or lessee displaced from that unit by the withdrawal, if that tenant or lessee requests the offer in writing within 30 days after the owner has submitted the property notice to the public entity. Failure to do so can result in punitive damages owed to the prior lessee. According to the author, some landlords try to evade the restrictions that they otherwise cannot skirt by opting to pay the applicable penalty and then claiming that payment satisfies all legal obligations under Ellis. This bill would clarify that payment of punitive damages to the prior lessee does not extinguish the owner's responsibility to offer the unit to the prior lessee.

5) *Timelines for withdrawal of the property.* The Ellis Act permits public entities to enact a number of safeguards to protect tenants. These safeguards generally take the form of rights granted to tenants for a period of time after the date on which accommodations are removed from the rental market, such as the right to re-rent at the previous rental rate if the accommodations are offered for rent again.

   According to the author, before any official notices to withdraw are served, some owners empty their rental property of as many tenants as possible through legal means, such as buyouts, as well as illegal means, such as tenant harassment. Once the owner is left with only a few holdouts, who are typically the most vulnerable, long-term tenants paying the lowest rent, the notice of withdrawal is served on the local entity, which starts the clock on the Ellis process. If a unit is listed as "vacant" on the notice of withdrawal, it is not subject to the current rent-stabilized rent. Some landlords apply different withdrawal dates to different units and claim that returning one unit to the market does not obligate the landlord to re-offer any other units to former tenants. This allows a landlord to effectively withdraw less than all the units from the rental market and, in fact, never actually leave the rental market at all, while still having successfully evicted all the tenants.

   The critical question becomes how to determine the date on which accommodations are withdrawn. Some landlords have been taking advantage of an ambiguity in the Act by removing, and reintroducing, units one-by-one to avoid the Act's restrictions and evade rent control laws. If left unchecked, this allows a landlord to effectively withdraw less than all the units from the rental market and, in fact, never actually leave the rental market at all, while still ultimately evicting all of the tenants. This bill amends the Act to make clear that there is one, and only one, exit date for accommodations removed from the market: the date on which the final tenancy among all of the tenants in the accommodations is terminated.

6) *Opposition.* The California Association of Realtors are opposed to AB 1399. Their letter states the following: "The California Association of Realtors (C.A.R.) respectfully requests a "NO" vote on AB 1399 (Bloom). CAR will oppose AB 1399 until it is amended to address our concerns. Specifically, CAR has concerns with the language that was incorporated into AB 1399 on June 10, 2019. For the reasons above, CAR must oppose AB 1399 until it is amended to address our concerns."

7) *Double referral.* This bill was also referred to the Judiciary Committee.

RELATED LEGISLATION:

AB 2364 (Bloom, 2019) — would have made changes to the Ellis Act including the time period in which a landlord would have to offer a unit that is returned to the rental market after it is withdrawn under the Ellis Act. *The bill died on the Assembly Floor.*

AB 982 (Bloom, 2017) — would have extended the term for withdrawal of accommodations under the Act to one year for all tenants and lessees without regard to age or disability. *This bill died in the Assembly Committee on Housing and Community Development.*

AB 423 (Bonta, 2017) — would have exempted residential hotels in the City of Oakland from the Act beginning January 1, 2018. *This bill failed passage on the Assembly Floor.*

SB 1267 (Allen, 2016) — would have required a city or county by ordinance, when the city or county requires notice of intent to withdraw accommodations pursuant to the Act, to give one year's notice to a tenant with a custodial or family relationship with a pupil enrolled in a primary or secondary school who lives in an accommodation before terminating a tenancy. *This bill died in the Senate Transportation and Housing Committee.*

SB 364 (Leno, 2015) — would have allowed the city and county of San Francisco to prohibit, by ordinance or ballot measure, a rental housing owner from removing a building from the market pursuant to the Act unless all owners in the property have held their ownership interest for at least five years. *This bill failed passage in the Senate Transportation and Housing Committee.*

SB 1439 (Leno, 2014) — would have allowed the city and county of San Francisco to prohibit, by ordinance or ballot measure, a rental housing owner from removing a building from the market pursuant to the Act unless all owners in the property have held their ownership interest for at least five years. *This bill failed passage in the Assembly Housing and Community Development Committee.*

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

City Of Santa Monica (Co-Sponsor)
City Of West Hollywood (Co-Sponsor)
California Rural Legal Assistance Foundation, Inc.
East Bay Housing Organizations
Eric Garcetti, Mayor Of Los Angeles
Legal Aid Foundation Of Los Angeles
Neighborhood Legal Services Of Los Angeles County
Southern California Association Of Nonprofit Housing
Western Center On Law And Poverty

OPPOSITION:

California Association of Realtors

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 1485	**Hearing Date:**	6/18/2019
Author:	Wicks		
Version:	6/5/2019		
Urgency:	No	**Fiscal:**	No
Consultant:	Alison Hughes		

SUBJECT: Housing development: streamlining

DIGEST: This bill allows a project to be subject to streamlined ministerial review, as specified, if the project contains 10 or more units and it dedicates 20% of the total number of units to housing affordable to households making below 120% of the area median income with the average income of the units at or below 100% of the area median income.

ANALYSIS:

Existing law, under SB 35 (Wiener, 2017):

1) Allows a development proponent to submit an application for a development that is subject to the streamlined, ministerial approval process, and not subject to a conditional use permit if the development contains two or more residential units and satisfies all of the following objective planning standards:

   a) The development is located on a site that satisfies all of the following:

      i) A site that is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel of parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the U.S. Census Bureau;
      ii) A site in which at least 75% of the perimeter of the site adjoins parcels that are developed with urban uses;
      iii) A site that is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage designated for residential use; and
      iv) If the development contains units that are subsidized, the development proponent already has recorded, or is required by law to record, a land

use restriction for 55 years for units that are rented or 45 years for units that are owned.

b) The development satisfies both of the following:

   i) Is located in a locality that the California Department of Housing and Community Development (HCD) has determined, based on the last production report submitted by the locality to HCD, is subject on the basis that the number of units that have been issued building permits is less than the locality's share of the regional housing needs, by income category, for that reporting period. Specifies that a locality shall remain eligible until HCD's determination for the next reporting period. Provides that a locality is subject to this if it has not submitted an annual housing element report to HCD for at least two consecutive years before the development submitted an application for approval; and
   ii) The development is subject to a requirement mandating a minimum percentage of below market rate housing based on either one of the following:

      (1) The locality did not submit its latest production report to HCD by the time period required, or that report reflects that there were fewer units of above moderate-income housing approved than were required for the regional housing needs assessment cycle for that year. Requires, if the project contains more than 10 units of housing, the project seeking approval to dedicate a minimum of 10% of the total number of units to housing affordable to households making below 80% of the area median income, or higher as determined by a local ordinance;
      (2) The locality did not submit its latest production report to HCD by the time period required, or that report reflects that there were fewer units of housing affordable to households making below 80% of the area median income that were issued building permits than were required for the regional housing needs assessment cycle for that year, and the project seeking approval dedicates 50% of the total number of units to housing affordable to households making below 80% of the area median income, or higher as determined by a local ordinance; or,
      (3) The locality did not submit its latest production report to HCD by the time period required, or if the production report reflects that there were fewer units of housing affordable to any income level described in clause (1) or (2) above, that were issued building permits than were required for the regional housing needs assessment cycle for

that reporting period, the project seeking approval may choose between utilizing clause (1) or (2), above.

c) The development, excluding any additional density or any other concessions, incentives, or waivers of development standards granted pursuant to the Density Bonus Law, is consistent with objective zoning standards and objective design review standards in effect at the time that the development is submitted to the local government.

d) The development is not located on a site that is any of the following:

   i) A coastal zone;
   ii) Either prime farmland or farmland of statewide importance or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction;
   iii) Wetlands;
   iv) Within a very high fire hazard severity zone or within a high or very high fire hazard severity zone;
   v) A hazardous waste site, unless otherwise specified;
   vi) Within a delineated earthquake fault zone, unless otherwise specified;
   vii) Within a flood plain, unless otherwise specified;
   viii) Within a floodway, unless otherwise specified;
   ix) Lands identified for conservation in an adopted natural community conservation plan;
   x) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies;
   xi) Lands under conservation easement.

e) The development proponent has done both of the following, as applicable:

   i) Certified to the locality that either of the following is true:

      (1) The entirety of the development is a public work or,
      (2) If the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as specified, except that apprentices registered in programs approved by the chief of the division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

   ii) For specified developments, a skilled and trained workforce shall be used to complete the development.

2) Specifies, if a local government determines that a development submitted pursuant to the bill's provisions is in conflict with any of the objective planning standards listed in 1) above, that it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, as follows:

    a) Within 60 days of submittal of the development to the local government if the development contains 150 or fewer housing units; or,
    b) Within 90 days of submittal of the development to the local government if the development contains more than 150 housing units.

3) Provides that the development shall be deemed to satisfy the objective planning standards listed in 2) above, if the local government fails to provide the required documentation pursuant to 2) above.

4) Provides that any design review or public oversight of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. Requires that design review or public oversight to be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, and shall be broadly applicable to development within the jurisdiction. Provides that design review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

    a) Within 90 days of submittal of the development to the local government if the development contains 150 or fewer housing units; or,
    b) Within 180 days of submittal of the development to the local government if the development contains more than 150 housing units.

This bill provides that a developer of a project is eligible for streamlined approval under SB 35 if it meets one of the following requirements:

1) A jurisdiction fails to produce its annual report or that production report reflects that there were fewer units of above moderate-income housing issued building permits than were required for the regional housing needs assessment cycle for that reporting period.

2) The project contains 10 or more units and it dedicates 20% of the total number of units to housing affordable to households making below 120% of the area median income with the average income of the units at or below 100% of the area median income.

    a) A local ordinance adopted by the locality applies if it is greater than 20% of the units be dedicated to housing affordable to households making below 120% of the area median income or requires that any of the units be dedicated at a deeper level than 120%.
    b) In order to comply, the rent charged for units that are dedicated to housing affordable to households between 80% and 120% of area median income shall be at least 20% below the fair market rent for the county at that time.

COMMENTS

1) *Purpose of the bill.* According to the author, "for decades, California has failed to create enough housing, at all income levels, for our growing population. According to the Legislative Analyst Office, California needs to produce approximately 180,000 units of housing per year to keep up with population growth. Right now, our state produces less than half that amount. The extreme cost of housing is more than just price; its cost is affecting our economy, environment, and quality of life for our residents. The need for CEQA reform is well documented in California. Construction costs are so high as to prohibit new housing altogether, we must allow housing that meets our social and environmental goals to be approved in no more than one year."

2) *Housing needs and approvals generally.* Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. A community's general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. Seven elements are mandated by state law: land use, circulation, housing, conservation, open-space, noise, and safety. Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years.

Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors.

Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

3) *SB 35 (Wiener, 2017).* In 2017, SB 35 (Wiener) created a streamlined approval process for infill projects with two or more residential units in localities that have failed to produce sufficient housing to meet their regional housing needs allocation. The streamlined approval process requires some level of affordable housing to be included in the housing development. To receive the streamlined process for housing developments, the developer must demonstrate that the development meets a number of requirements including that the development is not on an environmentally sensitive site or would result in the demolition of housing that has been rented out in the last ten years. Localities must provide written documentation to the developer if there is a failure to meet the specifications for streamlined approval, within specified a period of time. If the locality does not meet those deadlines, the development shall be deemed to satisfy the requirements for streamlined approval and must be approved by right.

   Existing law requires HCD to determine when a locality is subject to the streamlining and ministerial approval process in SB 35 (Wiener) based on the number of units issued building permits as reported in the annual production report that local governments submit each year as part of housing elements. Streamlining can be turned on at the beginning of the term of housing element (generally eight years but in some cases five) and turned off halfway through if a local government is permitting enough units to meet a proportional share of the RNHA at all income levels (low-, moderate-, and above moderate-income). If a local government is not permitting enough units to meet its above moderate

and its lower income RHNA, a development must dedicate 10% of the units to lower income in the development to receive streamlined, ministerial approval. If the jurisdiction is permitting its above moderate income and not the lower income RHNA, then developments must dedicate 50% of the units for lower income to have access to streamlining.

4) *Streamlining for moderate income households.* This bill would allow developments that restrict 20% of the units in a development to 120% of area median income (AMI0 or less to access streamlining in jurisdictions that have not met their above-moderate income RHHA for the prior reporting period. If units in that 20% are rented to households between 80% of AMI or 120% of AMI the rents would be required to be 20% below market rate.

5) *Clarifying changes to the SB 35 process.* As with the creation of any new program, the Legislature was not able to anticipate all scenarios that might arise as the SB 35 process was implemented. Several questions and potential loopholes have arisen since the bill's enactment. **In order to realize the author and Legislature's intent when SB 35 was enacted, as well as help ensure that projects contemplated by this bill are approved, the bill will be amended to make the following changes to the SB 35 process:**

   a) Require that underground space such as garages and basements shall not be considered part of the square footage of the development.
   b) Provide that if other state or local programs require the dedication of affordable housing units or fees, the requirements of those program shall to be treated separately or additively and additionally applied to a housing development project in addition to those already required under SB 35 (*i.e.* no stacking).
   c) Provide that a development shall be deemed consistent with objective planning standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with such objective planning standard.
   d) Allow a permit for a project with fewer than 50% affordable units to remain valid for three years or if litigation is filed challenging the approval, from the date of any final judgement upholding the approval, and shall remain valid so long as vertical construction is in progress.
   e) Require any permits subsequent to the streamlined, ministerial approval, such as demolition, grading, and building permits or, if required, final map, to be processed on a ministerial basis and issued if the application substantially complies with the ministerial and streamlined approval. Upon receipt of the application, the local government shall process subsequent

permits without unreasonable delay and shall apply the same procedures and requirements on all projects.

f) Declare that SB 35 projects are eligible for protections under the Housing Accountability Act.
g) Provide that improvements located on land owned by the local government necessary to implement a project shall receive streamlined ministerial approval and not subject to CEQA.

6) *Double referral.* This bill is also referred to the Governance and Finance Committee.

RELATED LEGISLATION:

AB 168 (Aguiar-Curry, 2019) — adds a tribal, cultural resource to the list of sites that are ineligible for a streamlined, ministerial approval process. *This bill will be heard in this committee today.*

AB 430 (Gallagher, 2019) — creates a streamlined ministerial approval process for specified housing developments in the Cities of Biggs, Corning, Gridley, Live Oak, Orland, Oroville, Willows, and Yuba City. *This bill will be heard in this committee today.*

SB 744 (Caballero, 2019) — specifies that an existing streamlined approval process for permanent supportive housing projects also applies to services projects tied to a housing development. *This bill is pending at the Assembly Desk.*

AB 2162 (Chiu, Chapter 753, 2018) — streamlined affordable housing developments that include a percentage of supportive housing units and onsite services.

SB 35 (Wiener, Chapter 366, Statutes of 2017) — created a streamlined, ministerial approval process for infill developments in localities that have failed to meet their regional housing needs assessment (RHNA) numbers.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

Association Of Bay Area Governments
California Apartment Association

California Association Of Realtors
California Community Builders
California YIMBY
Metropolitan Transportation Commission
Non-Profit Housing Association Of Northern California
Silicon Valley Community Foundation

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 1487	**Hearing Date:**	6/18/2019
Author:	Chiu		
Version:	5/16/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: San Francisco Bay Area: housing development: financing

DIGEST: This bill establishes the Housing Alliance for the Bay Area (HABA) throughout the San Francisco Bay Area. This bill sets forth the governing structure and powers of the HABA Board (Board), allowable financing activities, and allowable uses of the revenues generated.

ANALYSIS:

Existing law:

1) Establishes the Metropolitan Transportation Commission (MTC) as the transportation planning, coordinating, and financing agency for the nine-county San Francisco Bay Area, and specifies its governance structure, duties, and powers.

2) Establishes a number of housing assistance programs for affordable housing.

3) Defines "lower income households" as below 80% area median income (AMI).

4) Defines "persons and families of low- or moderate- income" as persons and families whose income does not exceed 120% AMI.

This bill:

General

1) Defines "San Francisco Bay Area" as the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

2) Defines "low- or moderate-income households" as the same meaning as "persons and families of low- or moderate-income."

3) Establishes the HABA throughout the San Francisco Bay Area. This bill sets forth the governing structure and powers of the Board, allowable financing activities, and allowable uses of the revenues generated.

HABA Governing Board and Powers

1) States that the purpose of HABA is to increase affordable housing in the San Francisco Bay Area by providing for enhanced funding and technical assistance at the regional level for tenant protection, affordable housing preservation, and new affordable housing production. States Legislative intent that HABA complement existing efforts by cities, counties, districts, and other local, regional, and state entities, related to addressing the goals of this bill.

2) Requires HABA to be governed by the Board, staffed by existing staff from the MTC and the Association of Bay Area Governments (ABAG). The Board shall contain members from the MTC and the ABAG Executive Board, appointed by MTC and ABAG, respectively.

3) Requires HABA to form an advisory committee of nine members with knowledge and experience in the areas of affordable housing finance and development, tenant protection, resident service provision, and housing preservation.

4) Requires the Board to set meetings as necessary. Requires HABA to be subject to the Brown Act, the California Public Records Act, and the Political Reform Act of 1974.

5) Permits HABA to do the following:

   a) Raise revenue.
   b) Apply for and receive grants from federal and state agencies.
   c) Solicit and accept gifts, fees, grants, and allocations from public and private entities.
   d) Deposit or invest money in banks and financial institutions of the state.
   e) Sue and be sued.
   f) Engage counsel and other professional services,
   g) Enter into joint powers agreements.
   h) Enter into and perform all necessary contracts.

i) Hire staff, define their qualifications and duties, and provide a schedule of compensation for the performance of their duties.
j) Use staff provided by MTC and ABAG.
k) Assemble parcels and lease or acquire land for affordable housing development.
l) Collect data on housing production and monitor progress on meeting regional and state housing goals.
m) Provide support and technical assistance to local governments in relation to producing and preserving affordable housing.
n) Provide public information about the entity's housing programs and policies.
o) Any other expenses or implied power necessary to carry out the intent and purposes of this title.

6) Prohibits HABA from regulating or enforcing local land use decisions and acquiring property by eminent domain.

7) Requires the Board to provide for regular audits of the accounts and records and to maintain accounting records and report accounting transactions in accordance with generally accepted accounting principles. Annual financial reports shall be available to the public.

HABA Financing Activities

1) Authorizes HABA to do all of the following:

   a) Raise revenues through special taxes, a parcel tax, a gross receipts tax, a special business tax, a transactions and use tax, a commercial linkage fee, and bonds, as specified.
   b) Permits any funding mechanism identified in (a) that requires voter approval to be placed on the ballot in all or a subset of the nine counties in the San Francisco Bay Area. A measure placed on the ballot in a subset of the nine counties shall apply only to those counties in which the measure was submitted to the voters.
   c) Provides that it is the intent of the Legislature that the funding measures authorized distribute the responsibility of addressing the affordable housing needs of the region across developers, businesses above a certain size, taxpayers, and property owners within the region.
   d) Incur and issue indebtedness and assess fees on any debt issuance and loan products for reinvestment of fees and loan payments in affordable housing production and preservation.
   e) Allocate funds to the various cities, counties, and other public agencies and affordable housing projects within its jurisdiction to finance affordable

housing development, preserve and enhance existing affordable housing, and fund tenant protection programs.

2) Permits MTC to propose a measure that will generate revenues and that requires voter approval on the November 3, 2020 statewide general election, as specified.

Expenditures

1) Requires revenue generated under the provisions of this bill to be used as follows:

   a) Requires HABA to distribute the revenues derived from any special tax and the proceeds of bonds for the region over a five-year period once approved by the voters as follows:

      i. A minimum of 60% for production of housing units affordable to lower-income households.
      ii. 5 -10% for tenant protection programs. HABA shall prioritize flexible funding resources for tenant protection programs. Funding may be used for any of the following:
         (1) Legal aid, including representation in eviction proceedings, mediation between landlords and tenants, pre-eviction legal services, and legal education and awareness for communities.
         (2) Emergency rental assistance for lower-income households. Rental assistance shall not exceed 48 months for each assisted household and rent payments shall not exceed two time the current fair market rent for the local area.
         (3) Relocation assistance for lower income households.
         (4) Collection and tracking of information related to displacement risk and evictions in the region.
      iii. 15-20% for preservation of housing affordable to low- or moderate-income households.
      iv. 5-10% for general funds awarded to a local government that achieves affordable housing benchmarks established by the entity. Subject to limitations on the funding source, eligible expenditures include but are not limited to infrastructure needs associated with increased housing production, such as transportation, schools, and parks.

   b) Permits HABA to change the allocations under (a) if it adopts a finding that the regions needs differ from those requirements. The finding shall be

placed on a meeting agenda for discussion at least 30 days before the entity adopts the finding.

c) Requires HABA to distribute the revenues derived from a commercial linkage fee established, increased, or imposed to each city or county in proportion to the amount of fee collected and remitted by each city and county. A city or county that receives commercial linkage fee revenues shall use that revenue solely for the production of housing units necessitated by a commercial development on which the fee was imposed and shall submit an expenditure plan, as specified. These fees shall be distributed as follows:

   i. 75% shall be expended in the county of origin.
   ii. 25% shall be collected by HABA for expenditures consistent with the purposes in (a). These funds can also be leveraged and grown for reinvestment in affordable housing. HABA shall adopt an expenditure plan for the use of the funds by July 1 of each year, beginning in 2021.

d) Allows HABA to allocate funds directly to a city, a county, a public entity, or a private project sponsor, except as provided in (c).

COMMENTS

1) *Purpose of the bill.* According to the author, this bill "empowers the Bay Area to help address its affordable housing needs by enabling the region to raise new revenue and support local jurisdictions, and thereby ensure that the entire Bay Area is on track to end the housing crisis by providing affordable housing efficiently and effectively to all residents."

2) *CASA Process.* From the middle of 2017 to the end of 2018, MTC and ABAG convened a series of structured discussions with certain local government officials, developers, major employers, labor interests, housing and policy experts, social equity advocates and non-profit housing providers. This group was deemed the Committee to House the Bay Area, and nicknamed CASA. CASA identified that, to make housing in the region more affordable, 35,000 new housing units would need to be built annually, including 14,000 new subsidized affordable housing units. Additionally, the region has 30,000 units at risk of losing their affordability, and 300,000 lower-income households who are paying more than 50% of their income in rent. CASA's analysis found that there is still a $2.5 billion funding gap annually between existing resources and what is needed. CASA proposes to meet $1.5 billion of this deficit with regional and local self-help measures, with the remainder being funded from additional state and federal sources.

3) *Regional housing financing entity in the Bay Area.* This bill establishes the HABA throughout the San Francisco Bay Area. Any revenues generated must be used for the production of new affordable housing, affordable housing preservation, tenant protection programs, and general funds made available to local governments as an incentive to achieve affordable housing benchmarks. Specifically, of any special tax generated or bond funds expended, at least 60% must be expended to produce housing affordable to lower-income households; 5-10% must be expended for tenant protection programs, such as legal aid, rental assistance, and data collection related to displacement risk and evictions; 15-20% must be expended for preservation of housing affordable to low- or moderate-income households; and 5-10% must be expended for general funds awarded to local governments that achieve affordable housing benchmarks established by the entity. A city or county that receives commercial linkage fee revenues shall use that revenue solely for the production of housing units necessitated by a commercial development on which the fee was imposed. Of the commercial linkage fees generated, 75% shall return to the city or county of origin. The remaining 25% may be expended for housing construction, preservation, tenant protections, or data collection.

4) *Opposition.* The Alameda County Transportation Commission is opposed unless amended to provide equity in representation and investment of revenue. They are asking to have ABAG as the governing entity to administer the funds. They also want the funds to be based on a jobs/housing imbalance ratio, for funds to come from a jobs/housing imbalance fee that rewards more balanced jurisdictions, and no less than 50% of the revenue be allocated to regional programs. CalTax is opposed to additional taxes imposed bay area residents, which will increase their cost of living and make housing more expensive. New taxes would place additional burdens on working families and the middle class. Howard Jarvis writes that the Legislature should instead lower impact fees, reform inclusionary zoning, remove costly mandates on new development in including rent control and solar panels and remove regulatory burdens to encourage more housing to be built

5) *Double Referral.* This bill is double-referred to the Governance and Finance Committee.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

Support

Enterprise Community Partners, Inc. (Co-Sponsor)
Non-Profit Housing Association Of Northern California (Co-Sponsor)
Bay Area Council
Bay Area Housing Advocacy Coalition
Burbank Housing Development Corporation
California Community Builders
California YIMBY
Chan Zuckerberg Initiative
Community Housing Development Corporation
Ensuring Opportunity Campaign To End Poverty In Contra Costa County
Greenbelt Alliance
Habitat For Humanity East Bay/Silicon Valley
Hamilton Families
Pico California
Silicon Valley At Home
Silicon Valley Community Foundation
SPUR
TechEquity Collaborative
TMG Partners
Urban Displacement Project, UC-Berkeley

Opposition

Alameda County Transportation Commission
California Taxpayers Association
Coalition For San Francisco Neighborhoods
Howard Jarvis Taxpayers Association

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SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 1561	**Hearing Date:**	6/18/2019
Author:	Cristina Garcia		
Version:	4/29/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Erin Riches		

SUBJECT: Planning and zoning: housing element

DIGEST: This bill requires a local government's housing element to include an analysis of governmental constraints upon housing for individuals identified under the Unruh Civil Rights Act to be members of a protected class.

ANALYSIS:

Existing law:

1) Provides, in the Unruh Civil Rights Act, that all persons within the jurisdiction of this state are free and equal, and not matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind.

2) Prohibits, pursuant to the California Fair Employment and Housing Act (FEHA), discrimination through public or private land use practices, decisions, and authorizations because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income, or ancestry. Discrimination includes, but is not limited to, restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law that make housing opportunities unavailable.

3) Defines "affirmatively furthering fair housing" (AFFH) as taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, AFFH means taking meaningful actions that together address segregated living

patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to AFFH extends to all of a public agency's activities and programs relating to housing and community development.

4) Requires a city's or county's housing element to promote AFFH opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the Fair Employment and Housing Act and any other state and federal fair housing and planning law.

5) Requires a city's or county's housing element, in promoting AFFH opportunities, to include an assessment of fair housing in the jurisdiction that shall include all of the following components:

    a) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.
    b) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.
    c) An assessment of the contributing factors for the fair housing issues identified under (b).
    d) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in (c) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.
    e) Strategies and actions to implement those priorities and goals, which may include but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

6) Provides, under the Housing Accountability Act, that a local agency shall not disapprove a housing project containing units affordable to very low-, low-, or

moderate income renters, or conditioning the approval in a manner that renders the housing project infeasible, unless it makes findings as specified.

7) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element. Requires a jurisdiction's housing element to identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

This bill requires a local government's housing element to include an analysis of governmental constraints upon housing for individuals identified under the Unruh Civil Rights Act to be members of a protected class.

COMMENTS

1) *Purpose of the bill.* The author states that California's historic zoning laws and regulations have oppressed and marginalized minority communities. The current plight of minority communities in California is the product of many decades of institutional racism, perpetuated by urban planning bureaucrats, among others, in the 1960s who destroyed minority communities in pursuit of redevelopment. Over time, new or modified regulations, rules, polices, actions, ordinances, and other planning and zoning requirements by cities and counties have led to increased housing costs. These costs have had a disproportionate impact on communities of color. To allow the continuance of these actions only serves to exacerbate the problem and its impact on minorities. This bill is an effort to ensure that cities and counties consider the impact of their decisions on communities of color.

2) *Background: housing elements.* Every city and county is required to prepare and adopt a housing element to help plan how to address its share of the regional need for housing. Existing law requires a housing element to include a program that sets forth a schedule of actions during the planning period to provide for the housing needs of all economic segments of the community. This program must meet a number of requirements, including: identifying an inventory of adequate sites on which to provide housing; developing a plan to meet the needs of extremely low-, very low-, low-, and moderate-income households; removing constraints to housing for special needs populations; preserving existing affordable housing stock; promoting and affirmatively furthering fair housing opportunities; and preserving assisted housing developments for low-income households.

This bill adds a requirement to analyze any government constraints on individuals identified under the Unruh Civil Rights Act to be members of a protected class. Existing law defines constraints as including land use controls, building codes and their enforcement, site improvements, development and impact fees, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development.

3) *California FEHA.* California's FEHA prohibits employment and housing discrimination based on the protected classes and further provides that it is a civil right to be able to pursue and maintain housing or employment without facing discrimination. FEHA prohibits discrimination through public or private land use practices, decisions, and authorizations because of membership in a protected class. Discrimination includes restrictive covenants, zoning laws, denials of use permits, and other actions authorized under the Planning and Zoning Law that make housing opportunities unavailable.

4) *Affirmatively furthering fair housing.* In addition to California FEHA, legislation passed last year (AB 686, Santiago, 2018) requires all public agencies to "affirmatively further fair housing." AB 686 specifically requires a city's or county's housing element to promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by FEHA and any other state and federal fair housing and planning law. AB 686 outlined a specific program that must be included in the housing element to assess fair housing in the jurisdiction, including components such as an assessment of the jurisdiction's fair housing enforcement and outreach capacity, an analysis of integration and segregation patterns, fair housing priorities and goals, and strategies to implement those goals.

5) *Housing Accountability Act (HAA).* The HAA, also known as the "Anti-NIMBY Act," aims to limit the ability of local agencies to reject housing elements, or make them infeasible, without a thorough analysis of the economic, social, and environmental effects of the action. The HAA provides for a judicial remedy that allows a court to issue an order to compel a city to take action on a development project. The 2017 legislative housing package included three bills making significant changes to the HAA. Under identical measures, AB 678 (Bocanegra, 2017) and SB 167 (Skinner, 2017), the HAA was strengthened to increase the burden on local jurisdictions when denying a housing project, imposing fines for a violation of the HAA, and expanding

judicial remedies for HAA violations. AB 1515 (Daly, 2017) changed the standard the court must use in reviewing the denial of a housing development by providing that a project is consistent with local planning and zoning laws if there is substantial evidence that would allow a reasonable person to find it consistent, expanding the number of housing developments that are afforded the protections of the HAA. Last year, AB 3194 (Daly, 2018) strengthened the HAA even further by requiring approval of certain projects that are inconsistent with zoning if the jurisdiction has not brought its zoning ordinance into compliance with the general plan.

6) *Double referral.* This bill has also been referred to the Judiciary Committee.

RELATED LEGISLATION:

AB 686 (Santiago, Chapter 958, Statutes of 2018) — required a public agency to administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing.

AB 3194 (Daly, Chapter 243, Statutes of 2018) — made a number of changes to the HAA.

SB 167 (Skinner, Chapter 368, Statutes of 2017) — made a number of changes to the HAA.

AB 678 (Bocanegra, Chapter 373, Statutes of 2017) — made a number of changes to the HAA.

AB 1515 (Daly, Chapter 378, Statutes of 2017) — established, for purposes of the HAA, a reasonable person standard for deeming consistency, as specified, for a housing development project or emergency shelter.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

California Building Industry Association (Sponsor)
California Apartment Association
California Association of Realtors
California YIMBY

OPPOSITION:

None received.

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Bill No:	AB 1659	**Hearing Date:**	6/18/2019
Author:	Bloom		
Version:	5/8/2019		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Local home financing agencies: cities

DIGEST: This bill expands the definition of "city" to allow a nonprofit public benefit corporation created at the discretion of a city to act as a local housing financing agency.

ANALYSIS:

Existing law:

1) Defines "city" or "county for purposes of local housing finance agencies to include a city and county and also any agency created by a joint powers agreement entered into by cities or counties or both for the express purpose of the joint exercise of powers.

2) Finds and declares that the authority to issue revenue bonds to aid in the financing of home purchase is needed in the cities and counties of the state and that it is in the public interest and serves a public purpose to provide financing for decent, safe, and sanitary housing that people in the lower end of purchasing spectrum can afford and is a function pertaining to the government and affairs of cities and counties of the state.

3) Authorizes a city or county, for purposes of a home financing program, to issue bonds to defray in whole or in part, the costs of acquiring home mortgages or making loans to lending institutions in order to enable them to make home mortgages, to sell or otherwise dispose of any home mortgages, to pledge any revenues or receipts to be received from or with respect to any home mortgages or loans made to lending institutions, to issue its bonds to refund previously issued bonds..

4) Grants any city or county the power to issue revenue bonds for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and for the provision of capital

improvements in connection with and determined necessary to that multifamily rental housing.

This bill redefines "city" to also include any nonprofit public benefit corporation that meets all the following criteria:

a) It is an instrumentality created at the direction of, and so designated by, a city.
b) The members of the board of directors of the nonprofit have financial expertise.
c) The nonprofit, in a form and manner prescribed by the Treasurer, annually completes an audit that it submits to the Treasurer.

COMMENTS

1) *Purpose of the bill.* According to the author, this bill "will provide a solution to the lack of stable funding for affordable housing development without using taxpayer dollars. [This bill] will permit nonprofit public benefit corporations to sell state income tax exempted bonds. The exemption will allow cities, like the City of Los Angeles, to create self-sustaining local housing agencies that use mortgage loan repayments to fund affordable housing projects and support low and middle-income homebuyers. Cities that decide to create their own housing finance agency will be insulated from financial risk. Similar nonprofit finance agencies in New York and Rhode Island have successfully funded thousands of new homes. [This bill] will help the City of Los Angeles and cities across the state mirror those successes by providing a tool for cities to address the housing shortage at the local level.

2) *Background of local housing finance agencies.* A city or county is authorized to issue revenue bonds to provide mortgages or loans for multi-family housing developments. These bonds are exempt from state and federal taxes, which lowers the cost of the debt and allows cities and counties to provide lower-cost financing. The City of Los Angeles (the City) is sponsoring this bill to allow them to create a nonprofit public benefit corporation that can issue bonds that are exempt from state taxes. According to the sponsor, repayment of the bonds will be the sole obligation of the non-profit public benefit corporation and will insulate the City from financial risk and allow it to operate independently from the city's general fund. The new entity, Los Angeles Housing Finance Corporation (LA HFC), would sell tax-exempt bonds to investors, similar to the authority afforded to cities and counties under existing state law. The bond proceeds will be used to finance mortgage loans to affordable housing developers and low- and moderate-income homebuyers. The City would

appoint the Board of Directors of the LA HFC. The mortgages will generate fees that will be used to pay for the cost of staff and overhead. The City anticipates that LA HFC will be able to cover the cost of its operations in three years.

3) *New York model.* This bill would allow the City to replicate a model used in in New York City — the New York City Housing Development Corporation (HDC). In the 1970s, the New York State Legislature created the New York City Housing Development Corporation (HDC) as a public benefit corporation to finance affordable multi-family housing. Authorized to issue bonds with below market interest rates to fund affordable housing, New York's HDC operates on a self-sustaining generation of fees, interest earnings, and bond and mortgage rates. Since its creation, the HDC has financed the production of over 190,000 units, currently manages $16.1 billion of assets, and plans to produce 300,000 affordable apartments by 2026.

   While New York's HDC is called a public benefit corporation, it operates as a quasi-governmental entity (the legislative findings refer to it as a "corporate governmental agency"). Its powers were established by state statute by the New York Legislature and specify the governmental structure of the HDC, annual audit reporting requirements, detailed powers and authorities, remedies for bondholders and noteholders in the event the HDC were to default on its payments, types of bonds that may be issued, accounting and budgeting obligations, relationship to the state and the City's housing agency, and its debt ceiling. New York's HDC is also subject to open meetings, financial disclosures, and oversight by the state Authorities Budget Office.

   According to the sponsor, the non-profit public benefit corporation will be set up as a fully independent, separate legal entity so that it is self-sustaining and does not rely on future general fund revenue to operate. It would be governed by a board of directors selected by the City Council and the Mayor.

   Moving forward, in order to protect public finances, the author may wish to consider placing similar detailed guardrails and transparency measures around any new public benefit corporations created by this bill.

4) *Double-referral.* This bill is double referred to the Governance and Finance Committee, which will consider provisions related to local government revenue mechanisms.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

Eric Garcetti, Mayor of Los Angeles (Sponsor)
West Hollywood; City Of

OPPOSITION:

None received.

-- END --

SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2019 - 2020 Regular

Bill No:	AB 1763	**Hearing Date:**	6/18/2019
Author:	Chiu		
Version:	6/11/2019 Amended		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Alison Hughes		

SUBJECT: Planning and zoning: density bonuses: affordable housing

DIGEST: This bill revises density bonus law (DBL) to require a city or county to award a developer additional density, concessions and incentives, and height increases if 100% of the units in a development are restricted to lower-income households.

ANALYSIS:

Existing law:

1) Defines a "major transit stop" as 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 service intervals of 15 minutes or less during the morning and afternoon peak commute periods.

2) Defines "high quality transit corridor" as a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

3) Requires all cities and counties to adopt an ordinance that specifies how they will implement state DBL. Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

   a) 10% of the total units of a housing development for lower income households;
   b) 5% of the total units of a housing development for very low-income households;
   c) A senior citizen housing development or mobile home park;
   d) 10% of the units in a common interest development (CID) for moderate-income households;

e) 10% of the total units for transitional foster youth, disabled veterans, or homeless persons.
f) 20% of the total units for lower-income students in a student housing development.

4) Requires the city or county to allow an increase in density on a sliding scale from 20% to 35% over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan, depending on the percentage of units affordable low-income, very low-income, or senior households.

5) Provides that upon the request of a developer, a city, county, or city and county shall not require a vehicular parking ratio, inclusive of disabled and guest parking, that meets the following ratios:

   a) Zero to one bedroom — one onsite parking space
   b) Two to three bedrooms — two onsite parking spaces
   c) Four and more bedrooms — two and one-half parking spaces

6) Provides that if a project contains 100% affordable units and is within ½ mile of a major transit stop, the local government shall not impose a parking ratio higher than 0.5 spaces per unit. Provides that if a project contains 100% affordable units and houses persons with special needs or persons who are 62 years or older, the ratio shall not exceed 0.3 spaces or .5 spaces per unit, respectively. The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

7) The applicant shall receive the following number of incentives or concessions:

   a) One incentive or concession for projects that include at least 10% of the total units for lower income households or at least 5% for very low income households.
   b) Two incentives or concessions for projects that include at least 20% of the total units for lower income households or least 10% for very low income households.
   c) Three incentives or concessions for projects that include at least 30% of the total units for lower income households or at least 15% for very low income households.

This bill:

1) Allows a project that includes 100% units affordable to lower income households to be provided the following:

   a) Four incentives or concessions.
   b) 80% density bonus.
   c) If the development is located within ½ mile of a major transit stop, the city, county, or city and county shall not impose any maximum controls on density and shall allow a height increase of up to three additional stories, or 33 feet, and an increase in the allowable floor area ratio up to 55% relative to the underlying limit, or 4.25, whichever is greater.
   d) If the housing development is located within ½ mile of a high quality transit corridor, the city, county, or city and county shall not impose any maximum controls on density and shall allow a height increase of up to two additional stories, or 22 feet, and an increase in the allowable floor area ratio up to 50% relative to the underlying limit, or 3.75, whichever is greater.

COMMENTS

1) *Purpose of the bill.* According to the author, "In the midst of our state housing crisis, AB 1763 would create more affordable housing by giving 100% affordable housing developments an enhanced density bonus. Zoning is often a barrier to housing development. Existing zoning - density and height - are often too low for affordable housing developments to pencil out. After years of no funding for affordable housing, we now have new resources and we need to make every dollar count. For affordable housing developers, more density can make a project financially feasible and give a developer the opportunity to compete for a site against a market rate developer. [This bill] gives 100% affordable housing developments an 80% density bonus above existing zoned density and four incentives or concessions. One-hundred percent affordable housing developments near transit would be eligible for an unlimited density bonus plus an increase in height or the floor area ratios, up to a limit. We need to act quickly to increase the supply of affordable housing. [This bill] gives developers additional density which equals more units."

2) *Housing near transit.* Research has shown that encouraging more dense housing near transit serves not only as a means of increasing ridership of public transportation to reduce greenhouse gases (GHGs), but also a solution to our state's housing crisis. As part of California's overall strategy to combat climate change, the Legislature began the process of encouraging more transit oriented development with the passage of SB 375 (Steinberg, Chapter 728, Statutes of

2008). SB 375 is aimed at reducing the amount that people drive and associated GHGs by requiring the coordination of transportation, housing, and land use planning. The Legislature subsequently allocated 20% of the ongoing Cap and Trade Program funds to the Affordable Housing and Sustainable Communities Program, which funds land use, housing, transportation, and land preservation projects to support infill and compact development that reduce GHGs. At least half of the funds must support affordable housing projects.

A 2016 McKinsey Report, *A Toolkit to Close California's Housing Gap: 3.5 Million Homes by 2025*, found that increasing housing demand around high-frequency public transit stations could build 1.2 – 3 million units within a half-mile radius of transit. The report notes that this new development would have to be sensitive to the character of a place, and recommends that local communities proactively rezone station areas for higher residential density to pave the way for private investments, accelerate land-use approvals, and use bonds to finance station area infrastructure.

Research has also demonstrated a positive relationship between income and vehicle miles traveled (VMT). A study by the Center for Neighborhood Technology, entitled *Income, Location Efficiency, and VMT: Affordable Housing as a Climate Strategy*, created a model to isolate the relationship of income on VMT. This model found that lower-income families living near transit were likely to drive less than their wealthier neighbors. More specifically, in metro regions, home to two-thirds of California's population, identically composed and located low-income households were predicted to drive 10% less than the median, very low-income households 25% less, and extremely low-income households 33% less. By contrast, middle income households were predicted to drive 5% more and above moderate-income households 14% more. The patterns are similar for the other two Regional Contexts, although the differences are slightly reduced in Rural Areas. This research demonstrates the value of encouraging lower-income people to live near transit who are more likely to increase transit ridership.

This bill incentivizes denser housing near transit by reducing zoning controls such as density, parking, height, and floor area ratios, as specified, on projects that contain 100% units affordable to lower-income households. **The author has agreed to eliminate the parking requirements for special needs and supportive housing developments that contain 100% of the units affordable to lower-income households.** This will align with existing law that removes parking for supportive housing developments, that include target populations such as persons with disabilities and persons experiencing homelessness, that

are eligible for streamlined, ministerial approval and within ½ a mile from transit.

3) *DBL.* Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.

   Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards.

   To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing. If one of these five options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a market rate developer gets density increases on a sliding scale based on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units and 20% density for 10% low-income units. The maximum additional density permitted is 35% (in exchange for 11% very low-income units and 20% low-income units). The developer also negotiates additional incentives and concessions, reduced parking, and design standard waivers with the local government. This helps developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

4) *Maximum density.* Zoning often constrains the size of developments and even with a density bonus of 35 percent, a developer is not able to include enough units to make an affordable housing development financially feasible. This bill would give all 100% affordable developments an 80% density bonus and would give 100% affordable developments near transit an unlimited density bonus as

well as an increase of up to three stories in height or an increase in the floor area ratio (FAR) of up to 55% or 4.25. The additional density will make it easier for affordable housing developers to compete against market-rate developments for housing sites. The additional density they can access under density bonus will increase the number of units on the site and help reduce the per-unit cost of the development.

5) *Density vs. FAR:* Density is the allowable number of dwelling units that are allowed per unit of lot area – for example, twenty dwelling units per acre. It is a commonly used metric for residential development. FAR, on the other hand, measures building intensity. It is the ratio of a building or a project's floor area to its lot area, and is typically used to measure the intensity of commercial, office, industrial, and mixed-use projects. To calculate FAR, the gross square footage of a building is divided by the total area of its lot. A FAR of 1.0 means that floor area may equal lot area. A one-story building that covers an entire lot has an FAR of 1.0. A FAR of 2.0 means that the floor area may be up to twice as large as the lot area- for example a 20,000 square foot building on a 10,000 square foot lot has a FAR of 2.0, regardless of the number of stories.

6) *Low- and Moderate-Income Housing Requirements.* The Mixed-Income Loan Program (MIP), created by SB 2 (Atkins, Chapter 364, Statutes of 2017), which allocates 15% of ongoing real estate transaction fee revenues to creating mixed-income housing for low- to moderate-income households. This program provides competitive long-term financing for newly constructed multifamily housing projects restricting units between 30% and 120% AMI. Projects that restrict 10% of the units in a development to moderate income (or 81% to 120 percent of AMI), receive a priority over other projects. The Governor's Budget proposes to invest an additional $500 million to this program for 2019-2020.

   This bill is intended to create incentives to encourage the construction of housing affordable to lower-income households. Few if any jurisdictions in the state, however, are permitting enough moderate-income units to keep up with population growth. **In order to encourage developers to pair with the MIP program and build moderate-income housing units in projects with low-income units, the author has agreed to allow up to 20% of the units in the project to be dedicated to households of moderate-income.**

7) *Opposition.* Several cities are opposed to this bill because it would prohibit them from implementing their respective goals and priorities to address housing goals and objectives. Some cities have taken steps to plan for their communities' housing needs and write that this bill would undermine those plans. Some are working with local non-profits to use existing state and federal

resources to build affordable housing. Others write that this bill is a one-size-fits-all approach that may not work for suburban cities.

8) *Double referral.* This bill was also referred to the Governance and Finance Committee.

RELATED LEGISLATION:

SB 1227 (Skinner, Chapter 937, Statutes of 2018) — required cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least 20% of the total units for lower-income students in a student housing development, as specified.

SB 2 (Atkins, Chapter 364, Statutes of 2017) — established the Building Homes and Jobs Act and imposed a $75 fee on real estate transaction documents, excluding commercial and residential real estate sales, to provide funding for affordable housing.

AB 2501 (Bloom, Chapter 758, Statutes of 2016) — made changes to density bonus law regarding the submission, review, or approval of an application for a density bonus.

AB 1934 (Santiago, Chapter 747, Statutes of 2016) — created a development bonus for commercial developers that partner with an affordable housing developer to construct a joint project or two separate projects encompassing affordable housing.

AB 2442 (Holden, Chapter 756, Statutes of 2016) — required local agencies to grant a density bonus when a developer agrees to construct housing for transitional foster youth, disabled veterans, or homeless persons.

AB 2556 (Nazarian, Chapter 761, Statutes of 2016) — required a jurisdiction, in cases where a proposed development is replacing existing affordable housing units, to adopt a rebuttable presumption regarding the number and type of affordable housing units necessary for density bonus eligibility.

AB 2222 (Nazarian, Chapter 682, Statutes of 2014) — made an applicant ineligible for a density bonus if the proposed housing development will displace units that are affordable to, or occupied by, lower income households.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2019.)

SUPPORT:

California Housing Consortium (Sponsor)
Abode Communities
Affirmed Housing
Aids Healthcare Foundation
C&C Development
California Apartment Association
California Rural Legal Assistance Foundation
Corporation For Supportive Housing
Councilmember Dan Kalb, City Of Oakland
EAH Housing
Eric Garcetti, Mayor Of Los Angeles
Housing California
Kennedy Commission
Many Mansions
Pacific Companies
Palm Communities
San Diego; City Of
Silicon Valley At Home
TELACU
Wakeland Housing And Development Corporation
Western Center On Law And Poverty

OPPOSITION

Beverly Hills; City Of
Burbank; City Of
Clovis; City Of
Encinitas; City Of
Garden Grove; City Of
La Palma; City Of
Los Alamitos; City Of
Palmdale; City Of
San Carlos; City Of
San Dimas; City Of
San Marcos; City Of
Thousand Oaks; City Of

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