
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2021 - 2022 Regular

Bill No:	AB 1029	Hearing Date:	7/1/2021
Author:	Mullin		
Version:	2/18/2021	Introduced	
Urgency:	Yes	Fiscal:	Yes
Consultant:	Alison Hughes		

SUBJECT: Housing elements: prohousing local policies

DIGEST: This bill adds preservation of affordable housing units as a pro-housing, local policy that the Department of Housing and Community Development (HCD) can consider in developing a pro-housing designation.

ANALYSIS:

Existing law:

- 1) Requires HCD to establish a pro-housing designation for local jurisdictions.
- 2) Defines “pro-housing local policies” to mean policies that facilitate the planning, approval, or construction of housing. These policies may include, but are not limited to, the following:
 - a) Local financial incentives for housing, including, but not limited to, establishing a local housing trust fund;
 - b) Reduced parking requirements for sites that are zoned for residential development;
 - c) Adoption of zoning allowing for use by right for residential and mixed-use development;
 - d) Zoning more sites for residential development or zoning sites at higher densities than is required to accommodate the minimum existing regional housing need allocation for the current housing element cycle;
 - e) Adoption of accessory dwelling unit ordinances or other mechanisms that reduce barriers for property owners to create accessory dwelling units

- beyond the requirements of current law;
- f) Reduction of permit processing time;
 - g) Creation of objective development standards;
 - h) Reduction of development impact fees; and
 - i) Establishment of a Workforce Housing Opportunity Zone or a housing sustainability district, as defined.
- 3) Requires HCD to adopt emergency regulations to implement this section by July 1, 2021.
- 4) Requires HCD to designate jurisdictions as pro-housing pursuant to these emergency regulations.
- 5) Requires that jurisdictions that have been designated pro-housing by HCD, and that have an adopted housing element that has been found by HCD to be in substantial compliance, must be awarded additional points or preference in the scoring of program applications, as follows:
- a) The additional points must be awarded for award cycles commenced after July 1, 2021;
 - b) The additional points must be awarded for the following programs:
 - i) The Affordable Housing and Sustainable Communities Program;
 - ii) The Transformative Climate Communities Program; and
 - iii) The Infill Incentive Grant Program of 2007.
 - c) Allows additional points and preferences to be awarded to other state programs when already allowable under state law.

This urgency bill:

- 1) Adds to the list of policies that HCD may consider to be a pro-housing policy, the preservation of affordable housing units through the extension of existing project-based rental assistance covenants, if such covenants avoid the

displacement of affected tenants or avoid a reduction in available affordable housing units.

COMMENTS:

- 1) *Author's statement.* “The City of Foster City is facing a major affordable housing challenge with the loss of existing affordable housing units previously developed with long-term affordability covenants funded by the city’s former redevelopment agency. Of most immediate need is the loss of 74 below market rent (BMR) units, with a high proportion of units serving extremely-low and very-low income seniors and disabled tenants.

The City has enacted several programs and committed funding in an effort to assist the affected tenants, including entering into an agreement with the project’s owner to extend the expired term of 50 units until December 31, 2021. But such local actions are of only temporary benefit. Absent state assistance to permanently preserve these units all remaining BMR tenants will be displaced. Fair housing objectives will also be undermined if many of these tenants have to leave the community to obtain replacement housing.”

- 2) *Preservation of Housing Affordability.* Since the 1960s, developers have constructed at least 425,000 units of affordable rental housing in California with the assistance of federal, state, and local subsidies that require owners to maintain rents at affordable levels for specified periods of time. Examples of such subsidy programs include project-based Section 8, Federal Housing Administration (FHA) mortgages, low-income housing tax credits, state housing programs under HCD, and city and county redevelopment funds. The affordability restrictions on assisted units typically last 30 to 55 years, depending on the program. Once affordability obligations expire, owners may preserve the affordability of the units by renewing assistance or by refinancing with new public subsidies, or they may convert the development to market rate. Under some federal programs, owners can also terminate affordability restrictions early by prepaying the underlying mortgage or opting out of the rental assistance contract.

The California Housing Partnership Corporation (CHPC) annually assesses the loss and the risk of loss of affordable rental properties that receive public financing. As of February 2021, between 1997 and 2020, California lost 18,043 affordable homes with project-based rental assistance contracts and/or loans from the US Department of Housing and Urban Development (HUD), the California Housing finance Agency (CalHFA), and HCD, or Low-Income Housing Tax Credits (LIHTC) due to owner decisions to opt out, sell, or allow

their developments to convert to market rate. Another 30,102 affordable rental homes – or 7% of the total current supply -- are at risk of conversion in the next 10 years, and 6,785 homes may no longer be affordable as soon as next year. Homes at very high, high, and moderate risk of losing affordability have the following characteristics: 43% serve seniors, 43% support families, and 34% are concentrated in the counties of Los Angeles, Orange, Santa Clara, San Francisco, and San Diego.

Preserving affordable housing is a key strategy for protecting the state’s limited affordable housing stock and preventing displacement of lower income tenants. Such preservation typically occurs when these units are purchased by a government entity or non-profit that then extends the affordability covenants. CHPC estimates the average cost to purchase an affordable housing unit and maintain the affordability is \$270,000, about half of the cost to build a new affordable housing unit.

- 3) *Pro-housing Local Policies.* In 2019, the Legislature enacted legislation (AB 101, Committee on the Budget), which required HCD to designate cities and counties as pro-housing if their local policies facilitate the planning, approval, or construction of housing. “Pro-housing” jurisdictions will receive a competitive advantage in applying for certain state programs, including but not limited to the Affordable Housing and Sustainable Communities Program, Transformative Climate Communities Program, and the Infill Incentive Grant Program. HCD is required to adopt emergency regulations by July 1, 2021 to implement this requirement.

Although AB 101 provided examples of pro-housing local policies, HCD has discretion over the final policies. This bill would add, to the list of examples of pro-housing policies, the preservation of affordable units through the extension of affordability covenants.

HCD released the text of the emergency regulations for the Prohousing Designation Program on June 7, 2021. Over the next year, a formal rulemaking process, including a public comment period, will take place to adopt permanent regulations. If signed, this bill would likely be enacted after the adoption of HCD’s emergency regulations, and the policies would need to be updated, as necessary, to reflect this legislation in the final adopted regulations.

RELATED LEGISLATION:

AB 101 (Committee on the Budget, Chapter 159, Statutes of 2019) — among other provisions, required HCD to designate cities and counties as pro-housing if

their local policies facilitate the planning, approval, or construction of housing, and enabled HCD to implement these through emergency regulations.

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

POSITIONS: (Communicated to the committee before noon on Friday,
June 25, 2021.)

SUPPORT:

AIDS Healthcare Foundation
City of Belmont
City of Carlsbad
City of Corona
City of Foster City
City of Redwood City
County of San Diego

OPPOSITION:

None received.

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