

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2021-2022 Regular Session**

AB 1584 (Committee on Housing and Community Development)  
Version: June 30, 2021  
Hearing Date: July 13, 2021  
Fiscal: Yes  
Urgency: No  
TSG

**SUBJECT**

Housing omnibus

**DIGEST**

This bill proposes a series of technical, clarifying, and non-substantive changes to the California code sections related to housing.

**EXECUTIVE SUMMARY**

This is the Assembly Housing and Community Development Committee's biennial housing omnibus bill. Every other year, that committee solicits proposals for technical, clarifying, and non-substantive changes to the code sections related to housing. The proposals are then vetted by a pool of reviewers consisting of bipartisan policy staff, stakeholders, and housing policy experts. Proposals that receive no opposition or concerns from reviewers are then introduced as an omnibus measure. This year's omnibus contains 13 different proposals that: correct drafting errors; fix errant cross-references; restore provisions that were enacted but unintentionally overridden by subsequently passed legislation missing the necessary chaptering out language; and provided uncontroversial but useful clarification of ambiguous statutory language.

The bill is authored by the Assembly Committee on Housing and Community Development. Support comes from some of the housing policy stakeholders impacted by the errors and ambiguities addressed in this bill. There is no opposition on file. The bill passed out of the Senate Housing Committee by a vote of 9-0.

## PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Contains drafting and technical errors.
- 2) Reflects instances in which two or more bills from a previous legislative session amended the same existing code section, but the problem was not identified in time to include the chaptering out amendments to ensure that all of the enacted amendments were ultimately incorporated into the codes.
- 3) Causes confusion when statutory language is insufficiently precise.

This bill:

- 1) Cleans up drafting and technical errors.
- 2) Resurrects statutory changes that were passed by the Legislature and approved by the Governor but that are not in law due to unaddressed chaptering out scenarios.
- 3) Clarifies terms and procedures that are non-controversial but have led to confusion.

## COMMENTS

### 1. Custom and purpose behind housing omnibus bills

By custom, the Assembly Housing and Community Development Committee and the Senate Housing Committee take turns each legislative session shepherding an omnibus bill through to enactment. The purpose of these omnibus bills is to provide a single legislative vehicle for making necessary, but technical, clarifying, and non-substantive modifications to the housing codes. This bill is the Assembly Housing and Community Development Committee's omnibus for 2021. It contains 13 different proposals submitted by a variety of housing policy stakeholders and subsequently vetted by a pool of reviewers. Each of the proposals is briefly discussed in the comments below.

### 2. Technical clean-up to accessory dwelling unit laws

AB 670 (Friedman, Ch. 178, Stats. 2019) voided conditions, covenants, and restrictions (CC&Rs) that unreasonably restrict or prohibit ADU construction, but did not expressly specify whether the rule applies to common interest developments that do not have an undivided interest in a common area. This bill clarifies that it does. This proposal was submitted by the Office of Assemblymember Friedman.

3. Correction of chaptering errors related to the rush to enact COVID-19 eviction protections

Last year, the Legislature rushed late in its session to enact AB 3088 (Chiu, Ch. 37, Stats. 2020) in order to prevent tenants impacted by the COVID-19 pandemic from losing their homes to eviction. As a result of the rush, AB 3088 inadvertently overrode provisions in two pieces of legislation, that the Legislature had already passed and that had already received the Governor's signature. Specifically, AB 3088 chaptered out provisions in AB 2782 (Stone, Ch. 35, Stats. 2020) amending Civil Code Section 798.56 and provisions in AB 3364 (Committee on Judiciary, Ch. 36, Stats. 2020) amending Code of Civil Procedure Section 1161.2. This bill restores the components of those bills that AB 3088 inadvertently wiped out. The proposal was submitted by the Assembly Housing and Community Development Committee.

4. Technical fix to Homeowner Bill of Rights (HBOR)

AB 3088 (Chiu, Ch. 37, Stats. 2020) borrowed a provision from the July 27, 2020 version of SB 1447 (Bradford, 2020). That borrowed provision extended HBOR protections to small landlords. However, SB 1447 (Bradford, 2020) was later amended to include a technical "saving clause" fix that ensures HBOR protections can be accessed if an application is pending prior to the sunset date. Due to the rush to pass AB 3088, the borrowed provision from SB 1447 was never updated to reflect the fix. As a result, the outdated language from SB 1477 remained in AB 3088 when AB 3088 was enacted. This bill corrects the oversight. The proposal was submitted by the Assembly Housing and Community Development Committee.

5. Updating CID governing documents

AB 3182 (Ting, Ch. 198, Stats. 2020) required common interest developments (CIDs) to allow at least 25 percent of their units to be rented or leased. To comply with this law, some CIDs will need to amend their governing documents and such changes typically require a vote of the entire CID membership. In certain circumstances, however, the Legislature has authorized an alternative procedure for amendment of CID governing documents in which a vote of the board of directors is sufficient, provided that notice is given and the action is taken at a board meeting where members can participate. This bill allows such an alternative procedure to be used in order to facilitate compliance with the new renting and leasing thresholds. The proposal was submitted by the Office of Assemblymember Ting.

6. Avoiding retroactive non-compliance with housing element law

AB 725 (Wicks, Ch. 193, Stats. 2020) enacted changes to the housing element law. By the terms of the bill, these changes do not become effective until January 1, 2022. However, due to a technical error in the drafting of Government Code Section 65583.2(c)(4)(F)

("this paragraph shall not apply to a housing element revision that is originally due on or before January 1, 2021..."), an individual could theoretically sue a local jurisdiction in 2022 for a 2021 failure to update its housing element. This bill would correct the drafting error. The proposal was submitted by CA YIMBY.

7. Clarifying the interaction between the Housing Accountability Act and Density Bonus Law

The Housing Accountability Act (HAA) provides that a density bonus does not make a development inconsistent with zoning or local standards. The Housing and Community Development Department (HCD) has clarified its HAA guidance to specify that a density bonus includes any incentives, concessions, or waivers to development standards allowed under the Density Bonus Law, irrespective of whether there is an increase in density. This bill clarifies the statute to reflect that guidance. The proposal was submitted by the California Housing Partnership Corporation.

8. Clarifying affordable rent under AB 2162

AB 2162 (Chiu, Ch. 753, Stats. 2018) streamlined approvals for development of certain supportive housing projects. Under the bill, such projects must be kept affordable for 55 years after the approval, but the statute currently does not define what is affordable. There is some confusion regarding implementation as a result. This bill language clarifies how affordability is to be determined in relation to these supportive housing projects. The proposal was submitted by the Assembly Housing Committee.

9. Technical Corrections to Preservation Notice Law

AB 1521 (Bloom, Ch. 377, Stats. 2017) revised the Preservation Notice Law which requires affordable housing owners to give notice and an opportunity to affordable housing providers to purchase the property before it converts to market rate. This bill includes clean-up and clarification of various provisions, including delaying when the five-year sale prohibition on sale can be recorded in the event an owner rejects a purchase offer until the end of the notice period. The delay accounts for the right of first refusal available in the last six months of the notice period. The proposal was submitted by the California Housing Partnership Corporation.

10. Basing the Preservation Notice Law annual report on fiscal years

The Preservation Notice Law currently requires data reporting based on the calendar year. This conflicts with HCD's preservation report and its general annual report, which are both based on fiscal year data. This bill aligns the Preservation Notice Law data reporting with HCD's other reports. The proposal was submitted by the California Housing Partnership Corporation.

11. Correcting Paragraph References

A clerical error in double-jointing amendments means that both AB 831 (Grayson, Ch. 194, Stats. 2020) and AB 168 (Aguiar-Curry, Ch. 166, Stats. 2020) include incorrect paragraph references. This bill fixes the error. The proposal was submitted by the Office of Assemblymember Grayson.

12. Density Bonus Clean-up

AB 2345 (Gonzalez, Ch. 197, Stats. 2020) contains a drafting error in the “incentive calculation amendments” provisions of the bill. Those provisions are supposed to reference Section 65915(d)(2) subparagraphs (B) and (C), but instead the language accidentally specified subparagraphs (C) and (D). This bill corrects the error. The proposal was submitted by the Office of Los Angeles Mayor Garcetti.

13. Clarifying that two manufactured home ADUs do not a mobilehome park make

A manufactured home built consistent with Health and Safety Code § 18007 can be considered an ADU if it meets specified requirements. However, if two or more manufactured homes are installed as ADU’s on “any area or tract of land” then, by definition, that land becomes a mobilehome park pursuant to Health and Safety Code § 18214. This bill clarifies that a two or more manufactured homes installed as ADUs do not constitute a mobilehome park. The proposal was submitted by the California Manufactured Housing Institute.

14. Housing priority and redevelopment displacement

Existing law gives priority for housing to people who were displaced from their homes by redevelopment agencies. This bill moves those statutes so that they are adjacent to the code sections that pertain to the successor agencies and updates eligibility to include all descendants of the displaced. The proposal was submitted by the City of San Francisco.

15. Arguments in support of the bill

According to the Assembly Housing and Community Development Committee:

Every other year the Assembly Housing and Community Development Committee solicits proposals for technical, clarifying, and non-substantive changes to the code sections related to housing. These proposals are vetted by a reviewer pool. Proposals that receive no opposition or concerns from reviewers are then introduced as an omnibus measure.

**SUPPORT**

California Housing Partnership Corporation  
California Manufactured Housing Institute  
San Francisco Board of Supervisors

**OPPOSITION**

None known

**RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation:

SB 1030 (Committee on Housing, Ch. 165, Stats. 2020) was the most recent prior housing omnibus bill.

**PRIOR VOTES:**

Senate Housing Committee (Ayes 9, Noes 0)

Assembly Floor (Ayes 76, Noes 0)

Assembly Appropriations Committee (Ayes 16, Noes 0)

Assembly Housing and Community Development Committee (Ayes 8, Noes 0)

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