

Date of Hearing: August 18, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
SB 1120 (Atkins, et al.) – As Amended August 12, 2020

Policy Committee: Local Government Vote: 5 - 1

Urgency: No State Mandated Local Program: Yes Reimbursable: No

SUMMARY:

This bill requires ministerial approval of duplexes and urban lot splits, as specified, and allows the life of subdivision maps to be extended by one year. Among its provisions, this bill:

- 1) Requires a city or county, including a charter city or county, to:
 - a) Provide ministerial approval, not subject to the California Environmental Quality Act (CEQA), of a proposed housing development within a single-family residential zone containing two residential units (a duplex), that meets specified criteria.
 - b) Provide ministerial approval, not subject to CEQA review, of a parcel map or tentative and final map dividing a lot into two equal parts of not less than 1,200 square feet each for residential use (an urban lot split) that meets specified criteria.
- 2) Requires an eligible project be located within an urbanized area or urban cluster, as defined, and not be located on prime farmland, wetlands, a hazardous waste site, certain environmentally protected land, a site on an historic register or in a very high fire hazard zone, earthquake zone or floodplain.
- 3) Prohibits an eligible project from requiring demolition or alteration of housing subject to rent control, restricted to affordable rent levels, or occupied by tenants within the last three years.
- 4) Requires a city or county to restrict the rental term of any unit created under this bill to a term of more than 30 days.
- 5) Specifies a city or county is not required to permit accessory dwelling units (ADUs) on parcels subdivided through an urban lot split and have two residential units on the parcel.
- 6) Requires a city or county to include specified data pursuant to this bill in the annual housing element report submitted to the Department of Housing and Community Development (HCD).
- 7) Allows a city or county to adopt an ordinance to implement the provisions of the bill and provides that such an ordinance is not a project under CEQA.
- 8) Allows a city or county to extend the life of subdivision maps by an additional 12 months, up to a total of four years.

FISCAL EFFECT:

- 1) HCD estimates costs of \$105,000 (GF) in the first year and \$99,000 (GF) annually thereafter for 0.5 PY of staff time to provide technical assistance and outreach education to local agencies and affordable housing developers.
- 2) The state Coastal Commission (Commission) estimates potentially significant costs (GF) for potential litigation due to the bill's disregard for the unique state regulatory, planning and oversight role the Commission plays in local land use approvals subject to the Coastal Act. According to the Commission, this bill raises unintended procedural and regulatory complexities in the coastal zone that will most certainly result in costs, confusion, litigation and uncertainty at the local level with respect to Local Coastal Program (LCP) policies and appeals to the Commission.
- 3) Unknown state-mandated local costs to establish streamlined project review processes for proposed duplex housing developments and tentative maps for urban lot splits, and to conduct expedited design reviews of these proposals. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates.

COMMENTS:

- 1) **Purpose.** This bill seeks to promote small-scale neighborhood residential development by streamlining the process to create a duplex or subdivide an existing lot on residential land.
- 2) **Background.** The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include specified mandatory elements, including a housing element that establishes the locations and densities of housing, among other requirements. Zoning ordinances establish the type of land uses that are authorized in a designated area, as well as other uses that may be allowed if they meet conditions imposed by the local agency.
- 3) **Ministerial Approval.** A project subject to ministerial review requires only an administrative review designed to ensure the project is consistent with existing general plan and zoning rules, as well as meets standards for building quality, health and safety. The local government must approve a ministerial permit if the application is complete. Most large housing projects are not allowed ministerial review. Instead, these projects are discretionary and vetted through both public hearings and administrative review, including design review and appeals processes. Most housing projects that require discretionary review and approval are subject to CEQA review, while projects permitted ministerially are not. This bill requires ministerial approval of duplexes and urban lot splits on land zoned for residential single-family housing.

Existing law requires local agencies to ministerially permit the development of accessory dwelling units (ADUs) on residential parcels, either within the space of an existing single family home or in a new or converted structure in the rear of a property, or both, regardless of local zoning restrictions. ADU law places numerous specified limitations on the ability of local governments to impose requirements on ADUs to encourage small-scale neighborhood development. This bill does not require a local agency to allow an ADU on parcels subdivided through an urban lot split and also have two residential units on the parcel.

- 4) **Subdivision Map Act.** The Subdivision Map Act establishes a statewide regulatory framework for controlling the subdividing of land into parcels for sale, lease, or financing. Local subdivision approvals must be consistent with city and county general plans. For smaller subdivisions that create four or fewer parcels, local officials usually use parcel maps, but they can require tentative parcel maps followed by final parcel maps. Under the Subdivision Map Act, an approved or conditionally approved tentative map expires 24 months after its approval or conditional approval or after any additional period of time as prescribed by local ordinance, not to exceed an additional 12 months. This bill allows a local agency to extend the life of subdivision maps by an additional year, up to a total of four years.
- 5) **Coastal Zones.** Under existing law, until and unless a local government has a certified Local Coastal Plan (LCP), all zoning and development actions are subject to approval by the Commission. All approvals must be consistent with the Coastal Act. Following the certification of an LCP, any changes to the LCP must be approved and certified by the Commission as well. Lot Splits are considered development under the Coastal Act and per case law, and, as such, require the issuance of a coastal development permit. Coastal development permits are not typically issued ministerially. By requiring ministerial approval of lot splits, this bill creates inconsistencies with certified LCPs throughout the coastal zone.
- 6) **Arguments in Support.** The Turner Center for Housing Innovation writes in support:

[This bill] builds off of the success of recent ADU reforms, which have resulted in tens of thousands of new units in recent years. Despite this progress, ADUs are limited in impact given the few financing options available to construct them, largely limiting ADU construction to affluent homeowners who can access cash savings or home equity. SB 1120 intends to significantly increase similarly smaller-scale development by allowing parcels to be split for the purpose of creating two independent structures, thereby opening up new forms of financing opportunities.
- 7) **Arguments in Opposition.** Citizens Preserving Venice writes in opposition:

There is no affordable housing requirement despite this egregious increase in density. Clearly the people of California who are facing dire economic times are in need of affordable housing. But without requirements to include affordable housing, this bill would be a gift to speculators and developers up and down the state who will build high-end units to maximize their profits.
- 8) **Related Legislation.** SB 902 (Wiener), of this legislative session, allows a city or county to pass an ordinance to zone any parcel for up to 10 units of residential density per parcel in transit-rich or jobs-rich areas or urban infill sites, and exempts these ordinances from CEQA. SB 902 is pending in this committee.
- 9) **Prior Legislation.** SB 35 (Wiener), Chapter 366, Statutes of 2017, created a streamlined, ministerial approval process for infill developments in cities and counties that have failed to meet their RHNA production targets.