

Date of Hearing: January 12, 2022

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 682 (Bloom) – As Amended January 3, 2022

SUBJECT: Planning and zoning: density bonuses: cohousing buildings

SUMMARY: Adds cohousing building as a category within density bonus law. Specifically, **this bill:**

- 1) Includes the following definitions:
 - a) Defines “cohousing unit” to mean one or more habitable rooms, not contained within another dwelling unit, that includes a bathroom, sink, refrigerator, and microwave that:
 - i. Is used for permanent residence; and
 - ii. Complies with the definition of “guestroom” per the California Building Code.
 - b) Defines “cohousing building” to mean a residential or mixed-use structure, with five or more cohousing units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days by tenants. A cohousing building may include:
 - i. Other dwelling units that are not cohousing units, provided that those dwelling units do not occupy more than 25 percent of the floor area of the cohousing building; and
 - ii. Incidental commercial uses, provided that those commercial uses are otherwise allowable and are located only on the ground floor or on the level of the cohousing building closest to the street or sidewalk of the cohousing building.
- 2) Enables a cohousing building to qualify for the density bonus program if at least:
 - a) Ten percent of the total square footage of the co-housing building is provided for lower income households; or
 - b) Five percent of the total square footage of the co-housing building is provided for very low-income households.
- 3) Provides that an applicant for a cohousing building that qualifies for the density bonus must automatically receive certain benefits from the local government, and that these benefits must not reduce nor increase the number of incentives or concessions to which the project is otherwise entitled pursuant to density bonus law. These benefits include the following:
 - a) A minimum unit size;
 - b) A minimum bedroom requirement;
 - c) The provision of private open space; and

- d) No limit on the maximum density.
- 4) Provides that no reimbursement is required by this bill because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this bill.

EXISTING LAW:

Establishes Density Bonus Law (Government Code Section 65915), which includes:

- 1) That cities and counties must grant a density bonus, based on a specified formula, when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain a specified amount of affordable housing, including at least ten percent of the total units of a housing development for lower income households or five percent of the total units of a housing development for very low-income households.
- 2) That cities and counties must grant incentives and concessions that result in identifiable and actual cost reductions to provide for affordable housing, such as a reduction in site development standards, a modification of zoning code requirements or architectural design requirements, and a reduction in required vehicular parking spaces. The applicant must receive the following number of incentives or concessions:
 - a) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low-income households, or at least 10 percent for moderate income persons and families in a common interest development;
 - b) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low-income households, or at least 20 percent for moderate income persons and families in common interest developments;
 - c) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low-income households, or at least 30 percent for moderate income persons and families in common interest developments; and
 - d) Additional concessions for projects that are 100 percent affordable housing or provide child care, as specified.
- 3) That, upon the developer's request, the local government may not require parking standards above specified amounts.

FISCAL EFFECT: Unknown

COMMENTS:

Author’s Statement: According to the author, “Despite its potential, California’s other major cities and major developers have been slow to embrace co-housing buildings. Stringent density requirements limit the number of units developers can build on an already costly parcel of land. Parking requirements add additional construction costs that can make co-housing financially infeasible, especially for projects that aim to house more than 100 units.

AB 682 aims to ease the roadblocks that have long stifled the construction of these affordable housing units. By expanding the state’s density bonus law to incentivize co-housing apartments, AB 682 will provide more affordable units without the need for public subsidies. As the state grapples with the housing shortage, AB 682 will help diversify the housing stock, offering both affordable housing and the option for communal living.”

California Housing Crisis: California is in the midst of a housing crisis. Only 24 percent of households can afford to purchase the median priced single-family home – 50 percent less than the national average, and 33 percent less than at the start of the pandemic.¹ Over half of renters, and 80 percent of low-income renters, are rent-burdened, meaning they pay over 30 percent of their income towards rent. In 2020, there were over 160,000 homeless Californians – a number that, based on anecdotal evidence, is likely to have risen substantially since then.²

A major cause of our housing crisis is the mismatch between the supply and demand for housing. While there are various estimates of the size of this mismatch, they all concur that the deficit is in the millions of units. One such analysis from 2021 determined that, to address this mismatch, California needs approximately 2.6 million units of housing, including 1.2 million units affordable to lower income households.³ And according to HCD, the state needs 180,000 units of housing built a year to keep up with demand – including about 80,000 units of housing affordable to lower-income households. By contrast, production in the past decade has been under 100,000 units per year – including less than 10,000 units of affordable housing, further exacerbating the housing crisis.⁴

Residential Density Bonus Law: Density bonus law was originally enacted in California in 1979 to help address the affordable housing shortage and to encourage development of more low- and moderate income housing units. The density bonus works by providing residential developers an increase in density over a city’s zoned density, as well as a limited number of exemptions (known as “concessions” and “incentives”) from local standards and requirements, in return for inclusion of affordable units in a development. The increase in density and the concessions and incentives are intended to financially support the inclusion of the affordable units, which typically require subsidization by the developer.

Density bonus law provides precise formulas for what the residential developer needs to give in return for what they receive. Specifically, the law details the amount of affordable housing, at specified depths of affordability, that a developer needs to deliver in order to receive a specified increase in the density of their project and a specified number of concessions and incentives. Local governments are required to adopt an ordinance that specifies the concessions and

¹ [California Association of Realtors Housing Affordability Index](#). Data for the 3rd quarter of 2021.

² [The 2020 Annual Homeless Assessment Report \(AHAR\) to Congress \(huduser.gov\)](#)

³ Data from [Roadmap Home 2030](#), California Housing Partnership Corporation and Housing California, 2021.

⁴ <https://www.hcd.ca.gov/policy-research/housing-challenges.shtml>

incentives they will provide to developers seeking the density bonus. Failure to adopt an ordinance does not relieve a local government from complying with state density bonus law.

The density bonus is a widely used tool by both market rate developers and by developers of publicly subsidized housing for lower income households. Based on annual production reports local governments submit to the HCD, from 2018-2020, the density bonus program provided 880 units per year for lower income households.⁵ Presuming a cost of \$500,000 per unit to build affordable housing,⁶ and that 60 percent of that funding requires public subsidy,⁷ the density bonus program therefore is potentially providing over \$250 million of affordable housing annually.⁸

Maximizing Developable Space: In recent years, many state and local governments have enacted policies to increase the production of housing by maximizing the number of units that can be built within the permitted square footage. Cities have adopted “form-based codes” that set parameters on the size and shape of the building, rather than the number of units. AB 352 (Santiago, Chapter 400, Statutes of 2017) prohibits cities from banning or limiting efficiency units in locations near transit or universities.

This bill proposes another approach to maximize the number of units within permitted square footage by creating a new cohousing category within density bonus law. It would automatically confer four concessions to cohousing projects, in that they would not need to meet local requirements regarding minimum unit size, minimum bedroom requirements, provision of private open space, and maximum unit density. These automatic concessions would address the fact that most cohousing projects could not meet local requirements, because of the inherently small nature of the units, their reliance on required common areas, and the increase in density that comes from a development comprised of smaller units. Density bonus law allots up to a maximum of three concessions per project (or four concessions for projects that are 100 percent deed-restricted affordable housing). As such, without making these concessions automatic, most cohousing projects could not feasibly use the density bonus program, potentially resulting in a reduction in deed-restricted affordable housing.

Arguments in Support: Supporters of the bill argue that it would facilitate communal living in areas where there is market demand for such housing, and that communal living is an important part of the “continuum of accommodation” needed to address the state’s housing crisis. According to citylab-UCLA (the sponsor of this bill), “All parts of California have land and/or buildings that can become affordable communal housing through AB 682. The bill will provide cities and counties with a new housing solution that can introduce new opportunities for housing in many neighborhoods.”

Arguments in Opposition: There are no arguments in opposition on file.

⁵ Per HCD’s [APR Dashboard](#), page 13.

⁶ Turner Center for Housing Innovation, [The Costs of Affordable Housing Production: Insights from California’s 9% Low-Income Housing Tax Credit Program](#), Carolina Reid, March 2020, page 13

⁷ Per conversations with affordable housing developers

⁸ More analysis would be required to determine what percent of these units would have otherwise been provided due to local inclusionary housing requirements, and it would be impossible to determine which of these projects would not have moved forward but for the additional density provided.

Related Legislation:

AB 3173 (Bloom, 2020). This bill would have required micro-unit buildings to be permissible where multifamily residential buildings are permitted in cities or counties over 400,000 people. It died in this Committee.

AB 352 (Santiago), Chapter 400, Statutes of 2017. This bill prohibits a city, county, or city and county that adopts an ordinance permitting efficiency units from placing specified limitations on the units.

Double referred: This bill was also referred to the Assembly Committee on Local Government where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:**Support**

cityLAB-UCLA (sponsor)
Abundant Housing LA
California YIMBY
East Bay for Everyone
Turner Center for Housing Innovation at the University of California, Berkeley

Opposition

None on file

Analysis Prepared by: Steve Wertheim / H. & C.D. / (916) 319-2085