

Date of Hearing: June 22, 2021

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SB 290 (Skinner) – As Introduced February 1, 2021

SENATE VOTE: 33-4

SUBJECT: Density Bonus Law: qualifications for incentives or concessions: student housing for lower income students: moderate-income persons and families: local government constraints

SUMMARY: Makes various changes to density bonus law, including providing additional benefits to housing developments that include moderate-income rental housing units.

Specifically, **this bill:**

- 1) Requires a planning agency to report in the housing element annual progress report (APR) the number of units for lower income students that were included in a student housing development for which a developer received a density bonus.
- 2) Makes a student housing development containing at least 20 percent of the units for lower-income students, as defined, eligible for one incentive or concession.
- 3) Expands the types of for-sale moderate-income housing units that can benefit from a density bonus by deleting the existing law requirement that the units be in a "common interest development."
- 4) Allows moderate-income housing developments that include 40 percent moderate income for-sale housing and are within one-half mile of a major transit stop to receive a parking reduction of 0.5 parking spaces per bedroom.
- 5) Defines "total units" or "total dwelling units" as the calculation of the number of units that:
 - a) Excludes a unit added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus; and
 - b) Includes a unit designated to satisfy an inclusionary zoning requirement of a local agency.
- 6) Makes findings and declarations that it is intent of the Legislature to make modifications to the Density Bonus Law to further incentivize the construction of very low-, low-, and moderate-income housing units. States that it is further the intent of the Legislature in making these modifications to the Density Bonus Law to ensure that any additional benefits conferred upon a developer are balanced with the receipt of a public benefit in the form of adequate levels of affordable housing. States that the Legislature further intends that these modifications will ensure that the Density Bonus Law creates incentives for the construction of more housing across all areas of the state.

EXISTING LAW:

- 1) Requires cities and counties to 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 at least any one of the following:
 - a) Ten percent of the total units of a housing development for low-income households;
 - b) Five percent of the total units of a housing development for very low-income households;
 - c) A senior citizen housing development or mobile home park;
 - d) Ten percent of the units in a common interest development (CID) for moderate-income households;
 - e) Ten percent of the total units for transitional foster youth, disabled veterans, or homeless persons; and
 - f) Twenty percent of the total units for lower income students in a student housing development, as specified.
- 2) Provides that, upon the developer's request, the local government may not require parking standards greater than the following (the developer may, however, request additional parking incentives or concessions):
 - a) Zero to one bedrooms: one onsite parking space per unit;
 - b) Two to three bedrooms: one and one-half onsite parking spaces per unit; and
 - c) Four or more bedrooms: two and one-half parking spaces per unit.
- 3) Provides that, if a rental development is 100 percent affordable to lower income families, then, upon the request of a developer, a city, county, or city and county must eliminate parking minimums if the development is any of the following:
 - a) Located within one-half mile of a "major transit stop" and there is unobstructed access to the major transit stop from the development;
 - b) For-rent housing development for individuals who are 62 years of age or older; and
 - c) A special needs housing development.
- 4) Requires applicants to 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 five 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 17 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; and
 - c) Three incentives or concessions for projects that include at least 24 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.
- 5) Permits an applicant to submit to a local government a proposal for the specific incentives or concessions that the applicant requests, as specified, and allows the applicant to request a meeting with the local government.
- 6) Defines “concession or incentive” as:
- a) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable and actual cost reductions, to provide for affordable housing costs;
 - b) Approval of mixed-use zoning in conjunction with the housing project, as specified; and
 - c) Other regulatory incentives or concessions proposed by the developer or the local government that results in identifiable and actual cost reductions to provide for affordable housing.

FISCAL EFFECT: Unknown.

COMMENTS:

Author’s statement: “California’s Density Bonus Law is a unique tool that incentivizes developers to build more affordable housing. However, unintended flaws in the program result in many cities underutilizing the density bonus tool or not using it at all. SB 290 improves and clarifies the state’s Density Bonus statute to ensure it achieves its intended outcome of increasing affordable housing production.”

Density bonus law: Density bonus law was originally enacted in 1979, to help address a shortage of affordable housing. Over 40 years later, the state faces the same if not worse affordable housing challenges. Density bonus is a tool to encourage the production of affordable housing by market rate developers, although it is used by developers building 100 percent affordable developments as well. In return for including affordable units in a development, developers are given an increase in density over a city’s zoned density, concessions and incentives, and reductions in parking. The increase in density and concessions and incentives are intended to financially support the inclusion of the affordable units.

All local governments are required to adopt an ordinance that provides concessions and incentives to developers that seek a density bonus on top of the zoned density in exchange for

including extremely low-, very low-, low-, and moderate-income housing. In addition to an increase in density, a developer can request concessions and incentives under density bonus law to reduce the cost of the development and support the inclusion of the affordable housing units. Failure to adopt an ordinance does not relieve a local government from complying with state density bonus law.

Statewide housing needs: According to the California Housing Partnership Corporation, the state currently has an estimated 1.3 million-unit shortfall of rental units affordable to very low- and extremely low-income households. Four out of five extremely low-income households pay over half of their income in rent, as do nearly half of very low-income households. In October 2019, the California Housing Partnership Corporation published a report that compared the median asking rent data on Craigslist for two-bedroom apartments with regionally adjusted 2019 area median incomes. The report found that very low-income households earning 50 percent AMI can afford modest rents in only one county in California; households earning 60 percent AMI could afford modest rents in 11 counties; 80 percent AMI could afford modest rents in 29 counties; and households earning 100 percent AMI (e.g., at median income level) could afford modest rents in all but 6 counties, primarily in the State's high-cost coastal regions. In addition, census data reveals that only about 10 percent the state's workforce makes between 80 and 120 percent of AMI. In many parts of the state, teachers, licensed vocational nurses, and paralegals, for example, earn less than 80 percent AMI. This is particularly true in high cost and coastal areas of the state.

Moderate-income housing and density bonus: State density bonus law allows a developer to receive a density bonus for moderate-income for-sale housing. Developers can receive a density bonus if they offer 10 percent of the units in a common interest development for-sale to moderate-income owners. This bill would expand the types of housing options that could utilize density bonus by eliminating the reference to common interest developments. In addition, the bill expands the existing parking incentives for lower income housing to moderate income housing. A developer that restricts 40 percent of the units in a development to moderate income could reduce parking to 0.5 spaces if the development is within one-half mile of transit.

Incentives for student housing: Existing law (SB 1227 of 2018) requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units agrees to construct a student housing development that will set aside at least 20 percent of the total units for lower-income students, as specified. This bill seeks to further incentivize housing for lower-income students by additionally making such a development eligible for one incentive or concession.

Related legislation: SB 1085 (Skinner) (2020) was almost identical to SB 290. SB 1085 died on the Senate Floor because the Senate ran out of time to concur in the Assembly amendments.

Arguments in support: Supporters argue that this bill will incentivize the production of much needed moderate income housing.

Arguments in opposition: Opponents argue that this bill undermines existing local control, incentivizes moderate income housing over lower income housing by creating similar parking reductions to lower income housing density bonus developments.

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

American Planning Association, California Chapter
Bridge Housing Corporation
CalChamber
California Association of Realtors
California Community Builders
California YIMBY
Casita Coalition
CBIA
Chan Zuckerberg Initiative
Circulate San Diego
Council of Infill Builders
Fieldstead and Company
Generation Housing
Greenbelt Alliance
Habitat for Humanity California
Habitat for Humanity Greater San Francisco
Hello Housing
LISC San Diego
Non-profit Housing Association of Northern California
San Francisco Bay Area Planning and Urban Research Association
San Jose-evergreen Community College District
Sand Hill Property Company
Santa Barbara Women's Political Committee
Silicon Valley Community Foundation
South Pasadena Residents for Responsible Growth
SV@Home Action Fund
Turner Center for Housing Innovation at the University of California, Berkeley
The Two Hundred
TMG Partners
Zillow Group

Opposition

City of Pleasanton
California Cities for Local Control
Catalysts
Grayburn Avenue Block Club
Livable California
Mission Street Neighbors
Riviera Homeowners Association
Sustainable TamAlmonte
West Torrance Homeowners Association

Oppose Unless Amended

Pacific Palisades Community Council

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