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

Bill No: SB 930 **Hearing Date:** 4/27/2022
Author: Wiener
Version: 4/18/22 Amended
Urgency: No **Fiscal:** No
Consultant: Alison Hughes

SUBJECT: Housing Accountability Act

DIGEST: This bill provides protections to projects containing units that are affordable to extremely low-income under the Housing Accountability Act (HAA).

ANALYSIS:

Existing law:

- 1) Prohibits a local agency from disapproving a housing project containing units affordable to very low-, low- or moderate income renters, or conditioning the approval in a manner that renders the housing project infeasible, unless it makes make one of the following findings, based upon a preponderance of the evidence in the record:
 - a) The jurisdiction has adopted an updated housing element in substantial compliance with the law, and the jurisdiction met its share of the regional housing need for that income category.
 - b) The project will have a specific, adverse impact on the public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development unaffordable to very low-, low- or moderate-income renters.
 - c) The denial or imposition of conditions is required to comply with state or federal law, as specified.
 - d) The project is located on agricultural or resource preservation land that does not have adequate water or wastewater facilities.
 - e) The jurisdiction has identified sufficient and adequate sites to accommodate its share of the regional housing need and the project is inconsistent with both the general plan land use designation and the zoning ordinance.
- 2) “Disapprove the housing development project” includes any instance in which the local jurisdiction does either of the following:

- a) Votes on a proposed housing development project application and the application is disapproved.
 - b) Fails to comply with time periods for approving or disapproving of projects under existing law.
- 3) Defines “housing development project” as any of the following:
- a) Residential units only.
 - b) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of the buildings that are two or more stories.
 - c) Transitional or supportive housing.
- 4) “Housing for very low-, low-, or moderate-income households” means that either: (a) At least 20% of the total units shall be sold or rented to lower income households, or (b) 100% of the units shall be sold or rented to persons and families of moderate income or middle-income.
- 5) Defines “extremely low-income” as persons and families whose income does not exceed 30% area median income (AMI).
- 6) Defines “very low-income” as persons and families whose income does not exceed 50% AMI.
- 7) Defines “low-income” as persons and families whose income does not exceed 80% AMI.
- 8) Defines “moderate-income” as persons and families whose income does not exceed 120% of AMI.

This bill:

- 1) Provides that projects containing units affordable to extremely low income households shall receive protections under the HAA.

COMMENTS:

- 1) *Author’s Statement.* “The housing crisis throughout our state impacts nearly every Californian, however those impacts are not felt equally. Those who qualify as extremely low income (ELI) households, or those making incomes at or below 30% AMI, are severely burdened by the costs of housing, with a

shocking 74% of these households spending over half of their income on finding a place to live. These households are far more likely fall into homelessness, as well as sacrifice other necessities like healthy food or healthcare to pay for their rent. It is crucial that we produce units affordable and accessible to individuals in the ELI category to ensure legitimate housing options are available and to minimize the instability these households are facing. SB 930 will expand the Housing Accountability Act to include ELI units under the types of developments that are prohibited from being disapproved in regions that have not met their Regional Housing Need Allocations if the project complies with applicable objective standards, and would not have adverse impacts on public health or safety. This change is crucial to ensuring that ELI developments are not significantly altered, decreased in size, or outright rejected.”

- 2) *Housing Accountability Act*. In 1982, in response to the housing crisis, which was viewed as threatening the economic, environmental, and social quality of life in California, the legislature enacted the Housing Accountability Act (HAA), commonly referred to as the Anti-NIMBY Law. The HAA restricts a city’s ability to disapprove, or require density reductions in, certain types of residential projects. The HAA’s requirement to make findings applies by its terms to any housing development project.

The basis of this statute is that Legislatures finding that the excessive cost of the state’s housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing. The purpose of the legislation is to help ensure that a city does not reject or make infeasible housing development projects that contribute to meeting the housing need determined pursuant to the Housing Element Law without a thorough analysis of the economic, social, and environmental effects of the action and without complying with the HAA.

Specifically, the HAA prohibits a local agency from disapproving a housing development project, including farmworker housing, for very low-, low-, or moderate-income households, or condition approval in a manner that renders the housing development project infeasible, unless the locality has made specified written findings based upon a preponderance of the evidence¹. The HAA does not preclude a locality from imposing developer fees necessary to provide public services or requiring a housing development project to comply

¹ The preponderance of the evidence standard is higher than the substantial evidence standard, and the evidence provided has to convince the decision maker that it is "more likely than not." It is the standard employed in most civil legal cases and is sometimes expressed in statistical terms as 50% plus one.

with objective standards, conditions, and policies appropriate to the localities share of the regional housing needs assessment.

If a locality denies approval or imposes conditions that have a substantial adverse effect on the viability or affordability of a housing development for very low-, low-, or moderate income households, and the denial or imposition of conditions is subject to a court challenge, the burden is on the local government to show that its decision is consistent with its written findings, described above. If a locality considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, policy, ordinance, requirement, or other similar provision, the locality shall provide the applicant with written documentation identifying the relevant provision and an explanation of the reason or reasons, in specified periods of time. If the locality does not provide the documentation with stated reasoning in the specified period of time, the housing development shall be deemed consistent, compliant, and in conformity with the applicable provision of law.

Those who may bring a challenge include a housing development project applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization.

This bill would provide projects containing units affordable to extremely low-income housing units with protections under the HAA.

3) *Opposition.* The opponents are opposed to the bill due to concerns over state housing element statute.

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

POSITIONS: (Communicated to the committee before noon on Thursday, April 21, 2022.)

SUPPORT:

None received.

OPPOSITION:

Catalysts for Local Control
Livable California

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