

## ASSEMBLY THIRD READING

AB 1287 (Alvarez)

As Amended April 26, 2023

Majority vote

**SUMMARY**

Requires a city, county, or city and county to grant additional density and concessions and incentives if an applicant agrees to include additional low or moderate income units on top of the maximum amount of units for lower, very low, or moderate income units.

**Major Provisions**

- 1) Provides that when an applicant for a density bonus proposes to construct the maximum amount allowed under existing law, meaning 24% of the base density units to lower income households, 15% of the base density units to very low income households, or 44% of the total units to moderate-income households, and an applicant includes additional very low or moderate income units above the maximum thresholds, then the city, county, or city and county is required to provide an additional density bonus, as specified.
- 2) Requires that an applicant for a density bonus shall receive the additional following incentives or concessions:
  - a) Four incentives or concessions for projects that include at least 16% of the units for very low income households or at least 45% for persons and families of moderate income in a development in which the units are for sale.
  - b) Five incentives or concessions for a project in which 100% of all units are for lower income households (current law provides four incentives).

**COMMENTS**

*Density Bonus Law:* DBL was originally enacted in 1979 as an incentive to encourage housing developers to produce affordable units which can be offered at below market-rates. In return for including a certain percentage of affordable units, housing developers receive the ability to add additional units for their project above the jurisdiction's allowable zoned density for the site (thus the term "density bonus"). In order to qualify for a density bonus a developer of multifamily housing (5+ units) must agree to build housing that includes at least one of the following:

- 1) 10% of all units for lower-income households;
- 2) 5% of all units for very low-income households,
- 3) Specified senior housing;
- 4) 10% of all units in a CID for moderate income individuals and families;
- 5) 10% of all units for transition age foster youth, disabled veterans, or individuals experiencing homelessness; or
- 6) 20% of all units for lower-income students within in student housing development.

The affordability requirements for units built via density bonus run for a minimum of 55 years. Additionally, DBL specifies concessions and incentives around development standards (e.g., architectural, height, setback requirements) and reductions in vehicle parking requirements that projects can receive to offset the cost of building affordable units. Both market rate and 100% affordable housing projects can use the provisions and all local governments are required to adopt a density bonus ordinance. However, failure to adopt an ordinance does not exempt a local government from complying with state density bonus law.

*Concessions and Incentives:* Density bonus law provides more density and incentives and concessions to developers the more affordable units provided and the more deeply affordable the units. A developer can get three concessions and incentives for including the maximum amount of lower income (24%), very low income (15%) and moderate income units (44%) in a development. A developer that makes 100% of the units affordable can get four concessions and incentives if located within one-half mile of a major transit stop or a designated low vehicle-miles-travelled (VMT) area.

*Moderate Income:* Density bonus law only applies to moderate income for-sale housing. Although the bill is not currently drafted to apply to moderate income rental housing, the sponsor shared that is their intent. Moderate income is defined as a household that makes 120% of the AMI. In some jurisdictions, moderate income is market rate. The purposes of density bonus is to support the inclusion of affordable housing in a development by providing enough density and concession and incentives to offset the cost of the affordable housing without additional ongoing subsidy – in effect, to "pay for" those additional affordable units. This bill would provide an additional density and concession and incentives if a developer includes the maximum amount of lower, very low and moderate-income units required under density bonus as well as an additional percentage of either very low or moderate-income units.

*Statewide Housing Needs:* According to the California Housing Partnership (CHP), the rate of severe cost burden (paying over half of income in rent) among moderate-income households remains low statewide at just six percent. It jumps to 24% for lower-households, 53% for very low-income households, and 78% for extremely low-income households. In addition, a recent study by CHP found that in most of the state, median-income renters (those at 100% of AMI, the midpoint of the moderate-income range) can afford average rent in 55 out of 58 counties. For very low-income renters there are only four counties where average rent is affordable, and there are no counties affordable to extremely low-income renters. The study further found that median-income households can afford average rent in all but 399 of California's 2,125 ZIP codes. Of those unaffordable ZIP codes, 227 are in Southern California, 67 are on the Central Coast, 47 are in San Diego, 42 are in the Bay Area, 10 are in the San Joaquin Valley, and six are in Greater Sacramento.

According to the Department of Housing and Community Development's (HCD's) Housing Element Data Dashboard, in the 5<sup>th</sup> Regional Housing Needs Allocation (RHNA) cycle so far, jurisdictions across the state have permitted the following:

- 1) 19.9% of the very low-income RHNA
- 2) 29.9% of the low-income RHNA
- 3) 55% of the moderate-income RHNA

4) 142.2% of the above moderate-income RHNA

### **According to the Author**

"While we must continue to support more affordable housing for low-income families, a holistic approach to the housing crisis requires we also tackle housing unaffordability for middle-income earners. AB 1287 does this by creating moderate income benefits, which would stack on top of the existing Density Bonus Law benefits.

Importantly, AB 1287 requires that a project maximizes the production of Very-Low, Low, or Moderate Income units, as allowed by current Density Bonus Law, before they can take advantage of the incentives in AB 1287. This structure ensures that the new Moderate Income Bonus never undermines existing incentives under Density Bonus Law. In fact, it even creates new economic reasons to maximize deeply affordable unit production, by offering an additional sweetener in the form of the stacked bonus and additional concessions."

### **Arguments in Support**

According sponsors of this bill, "AB 1287 creates a new incentive that can only be used when a project maximizes the production of Very Low-, Low-, or Moderate-Income units, as allowed by current Density Bonus Law. Only when those maximums are met, does an additional bonus become available when a project deed-restricts an additional set of Moderate-Income units. This structure ensures that the new Moderate-Income Bonus never undermines existing incentives under Density Bonus Law. In fact, it even creates new economic reasons to maximize deeply affordable unit production, by offering an additional sweetener in the form of the stacked bonus and additional concessions."

### **Arguments in Opposition**

According to the California Contract Cities Association, "Cities have the authority and ability to fashion housing and development policies that will impact local communities. Every city is different and these unique attributes should be a key consideration when developing policies that will impact local communities. In its current form, the Density Bonus Law serves as a robust set of rules and incentives for housing developments across the state. By adding new layers of requirements to Density Bonus Law, AB 1287 would broaden a-one-size-all fit to development affordable housing, limiting cities ability to address the specific housing needs of their citizens."

## **FISCAL COMMENTS**

According to the Assembly Committee on Appropriations, local costs of an unknown amount to local agencies to meet the new density bonus requirements in this bill. These costs are not reimbursable by the state because local agencies have general authority to charge and adjust fees to cover these activities.

## **VOTES**

### **ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0**

**YES:** Wicks, Joe Patterson, Wendy Carrillo, Gabriel, Kalra, Quirk-Silva, Sanchez, Ward

### **ASM NATURAL RESOURCES: 10-0-1**

**YES:** Luz Rivas, Flora, Addis, Friedman, Hoover, Mathis, Pellerin, Ward, Wood, Zbur

**ABS, ABST OR NV:** Muratsuchi

**ASM APPROPRIATIONS: 15-0-1**

**YES:** Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Robert Rivas, Sanchez, Ortega

**ABS, ABST OR NV:** Weber

**UPDATED**

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