

Date of Hearing: May 10, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 1485 (Haney) – As Amended March 28, 2023

Policy Committee:	Housing and Community Development	Vote:	6 - 1
	Judiciary		8 - 3

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

SUMMARY:

This bill grants the Department of Housing and Community Development (HCD) and the Attorney General (AG) an unconditional right to intervene in various civil actions related to the enforcement of state housing law.

Specifically, this bill:

- 1) Provides HCD and the AG an unconditional right to intervene in any legal action brought to enforce any of the following state laws:
 - a) Housing Element Law.
 - b) The Housing Accountability Act.
 - c) “No net loss” policy for implementing housing elements, as specified.
 - d) Density bonus law.
 - e) Fair housing law, as specified.
 - f) The Housing Crisis Act of 2019.
 - g) The obligation to affirmatively further fair housing as specified in Government Code (GC) Section 8899.50.
 - h) Housing streamlining laws, as specified.
 - i) Supportive housing streamlining laws.
 - j) Low-barrier navigation center streamlining laws.
 - k) Laws related to floor area ratio standards, as specified.
 - l) The requirement to submit an annual progress report regarding implementation of local housing elements.
 - m) Laws related to the enforcement of minimum parking requirements on certain developments.

- n) The Affordable Housing and High Road Jobs Act of 2022.
- 2) Provides that the Attorney General's right to intervene is independent of any request, notice, or referral from HCD.

FISCAL EFFECT:

Minor and absorbable costs to HCD and the AG.

COMMENTS:

- 1) **Purpose.** The author of this bill seeks to strengthen the ability of state regulators, specifically HCD and the AG, to intervene in lawsuits seeking to enforce state housing laws. According to the author:

Over the last few years the California Legislature has made responding to the State's housing crisis a top priority. Attorney General Rob Bonta has also made housing law enforcement a top priority for the Department of Justice, taking legal action to prosecute housing law violators. But in order for the Attorney General to represent the State's interests in cases filed by third parties, the Department of Justice is currently required to petition the court for the ability to intervene in the case. This requirement can cause months of delays in housing violation litigation. AB 1485 strengthens the State's ability to enforce our affordable housing goals and to hold violators accountable, by granting the Attorney General the automatic right to intervene in pending housing cases.

- 2) **Background.** According to HCD, the state needs to produce approximately 2.5 million housing units over the next eight years, with roughly one million of those units being set aside for lower income households, for the state to meet the anticipated demand for housing over the same time period. In recent years, the Legislature has implemented many policy changes to address the housing deficit, including creating streamlined, ministerial processes for approval of housing and requiring local governments to plan and zone for more housing via the housing element process.

In addition, AB 72 (Santiago), Chapter 370, Statutes of 2017, requires HCD to notify a local government, and allows HCD to notify the AG, if HCD finds a local government's housing element does not substantially comply with state law, or if any local government has taken an action in violation of specified housing laws. HCD has also established a Housing Accountability Unit (HAU) which, among other duties, provides education and technical assistance to local agencies to help ensure their compliance with state housing laws.

The AG enforces state housing and development laws both in the AG's independent capacity and on behalf of client agencies, including HCD. In 2022 Attorney General Bonta created a Housing Strike Force within the Department of Justice to work with state agencies and partners to enforce statewide housing laws.

While HCD and the AG may bring direct enforcement actions against local governments, in order to intervene in third party housing litigation, HCD and the AG must petition the court to be granted intervener status and join a suit. This can be a lengthy and onerous process.

This bill grants HCD and the AG an unconditional right to intervene in lawsuits arising under 14 different state housing laws. The bill permits the AG to act independently of HCD and seek intervention without requiring HCD to request such an action.

- 3) **Related Legislation.** AB 434 (Grayson) adds several additional housing laws to the list of laws that HCD must enforce. AB 434 is pending in this committee.

SB 450 (Atkins) among other things, adds the provisions of SB 9 to the list of laws HCD must enforce. SB 450 is pending in the Senate Appropriations Committee.

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