

Date of Hearing: April 25, 2023

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, AND TOURISM

Sharon Quirk-Silva, Chair

AB 812 (Boerner) – As Amended April 10, 2023

SUBJECT: Housing development approvals: reserving affordable units in a cultural district for artists

SUMMARY: Allows a city or county to set aside 10 percent of any locally-required affordable housing units in cultural districts for artists.

Specifically, **this bill:**

- 1) Defines “artist” to mean the creator of any work of visual, graphic, or performing art of any media, including, but not limited to, painting, printing, drawing, sculpture, craft, photography, film, or performance.
- 2) Defines “affordable housing” to mean units dedicated to moderate-income, lower income, very low-income, or extremely low-income households, as specified.
- 3) Allows a city or county to reserve for artists 10 percent of any affordable housing units that the city or county requires as a condition of approval of residential development in a cultural district, if all of the following conditions are satisfied:
 - a) The reserved units are located within a state-designated or locally-designated cultural district;
 - b) The city or county adopts an ordinance for reserving affordable units for artists that does all of the following:
 - i) Is consistent with the Local Tenant Preferences to Prevent Displacement Act;
 - ii) Prohibits an existing tenant from being evicted in favor of an artist; and
 - iii) Contains a fair and comprehensive vetting process that includes status verification of the artist.
- 4) Provides that the Legislature finds and declares that this act addresses a matter of statewide concern rather than a municipal affair. Therefore, this act applies to all cities, including charter cities.

EXISTING LAW:

- 1) Permits the legislative body of any county or city to adopt ordinances that require, as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low-income, or extremely low-income households. (Government Code (GOV) Section 65850)

- 2) Creates the California Arts Council (CAC), consisting of 11-members who serve four-year, staggered terms. Nine members are appointed by the Governor, subject to Senate confirmation, and the Speaker of the Assembly and the Senate Committee on Rules appoint one member each. (GOV 8751)
- 3) Defines a “state-designated cultural district” as a certified geographical area with a concentration of cultural facilities, creative enterprises, or arts venues that do any of the following (GOV 8758):
 - a) Attracts artists, creative entrepreneurs, and cultural enterprises.
 - b) Encourages economic development and supports entrepreneurship in the creative community.
 - c) Encourages the preservation and reuse of historic buildings and other artistic and culturally significant structures.
 - d) Fosters local cultural development.
 - e) Provides a focal point for celebrating and strengthening the unique cultural identity of the community.
 - f) Promotes opportunity without generating displacement or expanding inequality.
- 2) Directs CAC to establish criteria and guidelines for state-designated cultural districts. In executing its powers and duties under this chapter, the council shall do all of the following (GOV 8578):
 - a) Establish a competitive application system by which a community may apply for certification as a state-designated cultural district.
 - b) Provide technical assistance for state-designated cultural districts from, among others, artists who have experience with cultural districts and provide promotional support for state-designated cultural districts.
 - c) Collaborate with other public agencies and private entities to maximize the benefits of state-designated cultural districts.
- 4) Allows a geographical area within the state to be certified as a state-designated cultural district by applying to the CAC for certification. Certification as a state-designated cultural district shall be for a period of five years, after which the district may renew certification every three years. (GOV 8758)
- 5) Provides that it is unlawful for the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of that person. (GOV 12955)

- 6) Allows affordable housing units created with low-income housing tax credits to be dedicated to tenants who are involved in artistic or literary activities. (US Internal Revenue Code Section 42(g)(9))

FISCAL EFFECT: None. This measure is keyed nonfiscal by the Legislative Counsel.

COMMENTS:

- 1) Author's statement. According to the author, "Artists are the lifeblood of our cultural communities and help preserve the cultural footprint of the region. AB 812 would authorize a city and/or county to set aside up to 10 percent of deed-restricted housing units within a state or locally-designated cultural district for eligible artists and cultural workers. This prevents artists from having to move away from the neighborhoods they contribute so much to, simply because they can no longer afford to live there."
- 2) Background. In July 2017, CAC announced the 14 districts that became California's inaugural state-designated cultural districts, highlighting thriving cultural diversity and unique artistic identities within local communities across California.

California's 14 inaugural state-designated cultural districts:

Balboa Park Cultural District, San Diego Region
Barrio Logan Cultural District, San Diego Region
The BLVD Cultural District, Lancaster – Deserts Region
The Calle 24 Latino Cultural District, San Francisco Bay Area Region
Downtown San Rafael Arts District, San Francisco Bay Area Region
Eureka Cultural Arts District, North Coast Region
Grass Valley-Nevada City Cultural District, Gold Country Region
Little Tokyo, Los Angeles Region
Oceanside Cultural District, San Diego Region
Redding Cultural District, Shasta Cascade Region
Rotten City-Emeryville Cultural Arts District, San Francisco Bay Area Region
San Pedro Waterfront Arts, Cultural & Entertainment District, Los Angeles Region
SOMA Pilipinas – Filipino Cultural Heritage District, San Francisco Bay Area Region
Truckee Cultural District, High Sierra Region

- 3) Housing. The housing crisis affects people of all occupations, including artists. There are approximately 93,000 professional artists in California. Their mean hourly income of \$41.26 exceeds the statewide mean wage of \$34.27. However, there is substantial variance in the incomes of artists, and a significant number of artists would qualify for affordable housing, which is typically available to households making less than 80 percent of the area median income.

Many local governments have policies to support the arts and artists. However, besides being broadly supportive of housing production at all income levels, local governments have limited tools for supporting affordable housing for artists.

This bill would allow cities and counties to reserve 10 percent of their locally-required affordable housing units for artists in mixed-income housing projects built in cultural districts. Local governments may already reserve units for artists in mixed-income housing projects. However, no such program exists in the state. This may be because local governments believe reserving units for artists would run afoul of the state's Fair Employment and Housing Law (FEHA). FEHA makes it illegal for the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of that person. The provision against discrimination based on source of income might be interpreted to mean that a unit reserved for an artist would be discriminatory against non-artists. By affirming in state law that it is legal for local governments to reserve units for artists, this bill would clarify that such an action would not interfere with FEHA.

- 4) Arguments in support. According to the California Arts Advocates, "There is a clear need to increase access to affordable housing for artists, cultural workers, and arts organizations within cultural communities. Nationwide, artists are rent-burdened in 80% of cultural districts, pushing out the very core of a cultural district itself.

"Surveys across California indicate the huge demand for affordable housing for artists. Keeping neighborhoods affordable to the culture bearers in our local communities and avoiding the displacement of artists protects our cultural heritage, and it creates robust economic zones. Without them, the special culture of the place leaves with them, dispersed and diluted. A cultural district is no longer a cultural district if those people who made it cannot afford to live and work there themselves."

- 5) Double-referral. This measure was referred to the Assembly Committee on Housing and Community Development and to the Assembly Committee on Arts, Entertainment, Sports, and Tourism. This measure passed the Assembly Committee on Housing and Community Development on a 6 to 2 vote.

- 6) Prior and related legislation:

- a) AB 1382 (Quirk-Silva), of 2023, would direct CAC to create an interdepartmental advisory group to support state-designated cultural districts, and to designate a permanent ongoing staff person to develop, support, and strategically plan the program. (Status: The bill is currently in the Assembly Committee on Appropriations.)
- b) SB 649 (Cortese), Chapter 649, Statutes of 2022: Establishes a state policy supporting local tenant preferences in affordable housing developments to prevent displacement.
- c) AB 1505 (Bloom), Chapter 376, Statutes of 2017: Authorizes the legislative body of a city or county to establish inclusionary housing requirements as a condition of the development of residential rental units.
- d) AB 189 (Bloom), Chapter 396, Statutes of 2015: Requires the California Arts Council to establish criteria and guidelines for state-designated cultural districts, as defined, and

establishes a competitive application system by which a community may apply for certification as a state-designated cultural district.

REGISTERED SUPPORT / OPPOSITION:

Support

California Arts Advocates

Opposition

There is no opposition on file.

Analysis Prepared by: Brian Anderson / A.,E.,S., & T. / (916) 319-3450