

ASSEMBLY THIRD READING

AB 2005 (Ahrens)

As Amended May 7, 2026

Majority vote

SUMMARY

Creates an alternative compliance pathway for the owner-occupancy requirement of SB 9 (Atkins), Chapter 162, Statutes of 2021.

Major Provisions

- 1) Requires the seller of an urban lot split under SB 9 to disclose, in writing, any owner occupancy requirement for three years after the conveyance of an urban lot split if the seller is the managing or authorized member of a limited liability company (LLC) or the trustee of a living trust.
- 2) Requires all applicants for SB 9 urban lot splits to sign an affidavit, under penalty of perjury, stating that they intend to comply with the owner occupancy requirement.
- 3) Adds the option for an applicant of an SB 9 urban lot split to select a different owner occupancy requirement, which shall be imposed as a condition of approval of a parcel map for the lot split, as follows:
 - a) The applicant shall require, as a condition of sale to the homebuyer, that one of the units on each parcel of the lot split remain owner-occupied for three years, beginning on the date the parcel or unit is conveyed to the homebuyer;
 - b) The local agency must record a notice of the owner-occupancy requirement as a condition of ministerial approval of the parcel map for the lot split;
 - c) The parcel or unit being purchased shall be subject to a recorded deed restriction imposing the owner-occupancy requirement on any subsequent homebuyer who purchases the parcel or unit during the three-year period; and
 - d) The homebuyer shall record a notice of owner-occupancy as a condition to acquiring title to a parcel or unit. The notice shall state that the homebuyer, and any subsequent homebuyer who purchases the parcel or unit during the three-year period, is required to occupy the parcel or unit or designate the parcel or unit as their primary residence.
- 4) Allows the managing or authorized member of an LLC or the trustee of a living trust to be the applicant for an urban lot split under SB 9.
- 5) Provides that an applicant for an urban lot split who is the managing or authorized member of an LLC who violates the SB 9 owner occupancy requirements shall be liable for civil penalties.
- 6) Provides that a local agency shall not adopt or impose any requirement, process, practice, or procedure, or undertake any course of conduct, that applies to a project solely or partially on the basis of the project being an SB 9 lot split, including, but not limited to, restricting the eligibility of an applicant for an urban lot split.

COMMENTS

California's Housing Crisis: California's housing crisis is a half-century in the making.¹ After decades of underproduction, supply is far behind demand, and housing and rental costs are soaring. As a result, millions of Californians must make hard decisions about paying for housing at the expense of food, health care, child care, and transportation, directly impacting the quality of life in the state.² One in three households in the state doesn't earn enough money to meet their basic needs.³ In 2024, over 187,000 Californians experienced homelessness on a given night.⁴

To meet this housing need, HCD determined that California must plan for more than 2.5 million new homes, and no less than one million of those homes must be affordable to lower-income households, in the 6th Regional Housing Needs Allocation (RHNA) cycle. By contrast, housing production in the past decade has been under 100,000 units per year – including less than 10,000 units of affordable housing per year.⁵ Increasing the overall supply of housing, both market-rate and deed-restricted affordable, is essential to reducing upward pressure on rents and home prices, and to creating a more stable, accessible housing market for Californians across income levels.

The state's housing crisis is not equally experienced by all Californians. Testimony by the UC Berkeley Turner Center to this Committee showed that the impacts of the housing crisis are significantly more severe for lower-income individuals, single-earner households, Black and Latino Californians, younger and older populations, and those who reside in, or aspire to live and work in, the state's highest-cost regions.⁶ As it pertains to homeownership, homeownership rates have fallen to historic lows. The median home price in California now exceeds \$800,000, effectively locking out many working families from the ownership market.

SB 9: In 2021, the Governor signed SB 9 (Atkins), Chapter 162, Statutes of 2021, which allowed up to four homes on lots where currently only one exists. It did so by allowing existing single-family homes to be converted into duplexes. It also allowed single-family parcels to be subdivided into two lots, while allowing for a new two-unit building to be constructed on the newly formed lot.

SB 9 has the potential to help address the state's multi-million unit housing deficit. According to a 2021 study from the UC Berkeley Turner Center for Housing Innovation, the passage of SB 9 increased the amount of market-feasible homes statewide by 700,000.⁷ However, a 2023 analysis from the Turner Center determined that, in its first year, the effect of the law was relatively limited.⁸ Los Angeles had the most activity, with 211 applications for new units under SB 9 in 2022. The state's other large cities all reported very few applications for lot splits or new units.

¹ California Department of Housing and Community Development, *A Home for Every Californian: 2022 Statewide Housing Plan*. March 2022, <https://storymaps.arcgis.com/stories/94729ab1648d43b1811c1698a748c136>

² IBID.

³ IBID.

⁴ U.S. Department of Housing and Urban Development, Point in Time Counts.

<https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html>

⁵ <https://www.hcd.ca.gov/policy-research/housing-challenges.shtml>

⁶ UC Berkeley Turner Center Testimony by Ben Metcalf, Managing Director, at the State Housing Production Legislation: Actions, Outcomes, and Opportunities Informational Hearing, February 12, 2025

⁷ <https://turnercenter.berkeley.edu/wp-content/uploads/2021/07/SB-9-Brief-July-2021-Final.pdf>

⁸ <https://turnercenter.berkeley.edu/research-and-policy/sb-9-turns-one-applications/>

For example, the City of San Diego reported receiving just seven applications for new SB 9 units in 2022.

There are multiple reasons for this slow uptake. It often takes a few years for construction to catch up with changes to land use policy. Also, higher interest rates greatly increased the cost to finance a second unit, adding a chilling effect to the housing market. SB 450 (Atkins), Chapter 286, Statutes of 2024, amended SB 9 to address some of the early barriers to low utilization of SB 9. SB 450 (Atkins) added a 60-day review period for SB 9 applications, removed the ability of local agencies to deny certain SB 9 projects, prohibited a local agency from imposing standards on SB 9 projects that do not apply to the underlying zoning district, gave HCD explicit enforcement authority over SB 9, and strengthened the statewide concern findings that applied SB 9 to charter cities. The provisions of SB 450 became effective on January 1, 2025, so it is too early to judge the impact of those changes on SB 9 uptake.

SB 9 Owner Occupancy Requirements: SB 9 contains an owner-occupancy requirement for lot splits. Under current law, a local agency must require an applicant for an urban lot split to sign an affidavit stating that they intend to occupy one of the resulting housing units as their principal residence for at least three years following approval of the lot split. This requirement does not apply to applicants that are "community land trusts" or "qualified nonprofit corporations."

HCD has interpreted SB 9's owner-occupancy provision to mean that a living trust, limited liability company, or other legal entity cannot serve as the applicant, even when the beneficiary owner or member is the current owner-occupant of the property. Furthermore, the current statute requires the existing homeowner to serve as the project applicant, who then must be solely responsible for obtaining local approvals, including navigating the subdivision process. This may prove daunting for existing homeowners and may discourage them from pursuing SB 9 projects.

This Bill: This bill revises the provisions of SB 9 related to owner-occupancy requirements for urban lot splits. Specifically, this bill requires a local agency to condition approval of an urban lot split on the applicant selecting one of two owner-occupancy options: either the existing requirement that the applicant occupy one of the units as their principal residence for at least three years, or a new alternative requiring that one of the homes on each lot created through the SB 9 lot split remain owner-occupied for three years following their sale to a homebuyer, enforced through recorded deed restrictions and notice requirements. This three-year owner occupancy requirement would begin on the date a parcel or unit is conveyed to the homebuyer, and stays with the property for three years, meaning if the first purchaser sells the property before that three-year expiration period, the owner occupancy requirement would pass on to the subsequent purchaser.

This bill additionally allows a managing or authorized member of an LLC or a trustee of a living trust to apply for an SB 9 urban lot split, and requires local agencies to record and enforce owner-occupancy requirements associated with this new homebuyer-based owner-occupancy pathway. This bill also requires sellers of units resulting from this new SB 9 owner-occupancy pathway to provide written disclosure of the three-year owner-occupancy restriction upon conveyance, and prohibits local agencies from imposing owner-occupancy requirements beyond those established in statute.

Proponents of this bill maintain that it will improve the usability of SB 9 by allowing homeowners to utilize common ownership structures, such as trusts and LLCs, and by creating a pathway for partnerships with builders, which may increase the number of feasible projects and

expand small-scale homeownership opportunities. The alternative owner-occupancy option may also help ensure that newly created units are ultimately occupied by homeowners, rather than serving as investor rental units. On the other hand, opponents may argue that shifting the owner-occupancy requirement away from the applicant and onto future homebuyers could weaken SB 9's original anti-speculation guardrails and introduce additional complexity in enforcement, particularly with respect to tracking and enforcing deed restrictions over time.

According to the Author

"California's housing shortage—and the growing homeownership crisis—requires solutions at many scales. SB 9 was designed to enable small, incremental housing production led by homeowners, creating opportunities for more attainable, entry-level ownership in existing neighborhoods. It also allows homeowners to unlock value within their own property that is otherwise inaccessible unless they sell and leave their home.

However, implementation has revealed unintended technical barriers that prevent some responsible homeowners from participating, particularly those who use common estate planning tools. AB 2005 clarifies the law, so it works as intended, ensuring these homeowners are not excluded while maintaining strong protections against investor speculation.

By removing these barriers, AB 2005 helps unlock small-scale housing production, expand access to entry-level homeownership, and support long-term wealth building for California families who are increasingly being priced out of the market."

Arguments in Support

The Bay Area Council writes in support: "The practice of placing a single-family home into a living trust or a limited liability company is a common practice in retirement and estate planning. Yet because a trust or LLC cannot sign the required owner-occupancy affidavit, some homeowners are unable to effectively use SB 9. AB 2005 would amend current law to close this gap and allow members of an LLC or trustees of a living trust who are primary residents of a single-family home to apply for urban lot splits.

The bill shifts the owner-occupancy requirement from the applicant to the homebuyer of the newly created unit, removing barriers and increasing opportunities for entry-level homeowners to partner with experienced builders and local developers. AB 2005 clarifies the intent of current law, empowering existing homeowners to build on their current properties and creating scalable solutions for Californians across the state."

Arguments in Opposition

The California Association of Realtors writes in opposition: "AB 2005 (Ahrens) places SB 9 (Atkins, 2021) protections established to ensure homeowners benefit from the generational wealth building opportunity created by streamlining urban lot splits in jeopardy. To enact SB 9 required extended and detailed negotiation among stakeholders. Those discussions resulted in the establishment of guardrails intended to protect homeowners and communities and reduce gentrification risks. Those guardrails reflected the input of members of communities who have been historically subject to policies that resulted in displacement of residents and rapid gentrification."

FISCAL COMMENTS

According to the Assembly Committee on Appropriations:

- 1) HCD estimates minor and absorbable costs.
- 2) Costs to cities and counties of an unknown amount to provide an additional owner-occupancy compliance pathway for urban lot splits proposed under SB 9. These costs are not state-reimbursable because local agencies have general authority to charge and adjust planning and permitting fees to cover their administrative expenses associated with new planning mandates

VOTES

ASM HOUSING AND COMMUNITY DEVELOPMENT: 11-0-1

YES: Haney, Patterson, Ward, Caloza, Garcia, Kalra, Lee, Quirk-Silva, Tangipa, Wicks, Wilson
ABS, ABST OR NV: Ta

ASM LOCAL GOVERNMENT: 10-0-0

YES: Carrillo, Ta, Johnson, Pacheco, Ramos, Ransom, Blanca Rubio, Stefani, Ward, Wilson

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Hoover, Aguiar-Curry, Caloza, Dixon, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa
ABS, ABST OR NV: Arambula

UPDATED

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