

ASSEMBLY THIRD READING  
AB 2166 (Carrillo and Wicks)  
As Amended April 27, 2026  
Majority vote

## SUMMARY

Establishes the Multifamily Backstop Financing Program at the Governor's Office of Business and Economic Development the California Infrastructure and Economic Development Bank (IBank) with the stated purpose of supporting multifamily projects through the provision of state-backed credit backstops that would enable surety companies to issue payment and performance bonds to offsite housing factories in the state, as specified.

### Major Provisions

- 1) Includes the following definitions:
  - a) "Qualified applicant" means a surety company or surety insurer that issues construction bonds;
  - b) "Qualified factory" means an offsite housing factory, whether volumetric, panelized, or otherwise, in the state that delivers obligations for qualified multifamily projects
  - c) "Qualified multifamily project" means a project located in the state that consists of multifamily residential uses only or a mix of multifamily residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use; and
  - d) "Tail risk" means a risk that occurs either when the frequency of low probability events is higher than expected under a normal probability distribution or when there are observed events of very significant size or magnitude.
- 2) Authorizes IBank to provide credit backstops to qualified applicants in accordance with the following:
  - a) A credit backstop shall be issued only to a surety company or a surety insurer that issues bonds if the backstop will be used by the applicant to issue payment bonds or performance bonds to qualified factories on qualified multifamily projects;
  - b) The credit backstop shall cover an unspecified percentage of the payment or performance bond value, at the discretion of the agency; and
  - c) The credit backstop shall not replace surety underwriting and shall only be used to reduce tail risk. The qualified applicant shall continue to decide the specific details of the payment or performance bond following industry standards.
- 3) Provides that it is the intent of the Legislature to include provisions relating to the prioritization and review of applications received.

## COMMENTS

*Factory-Built Housing:* FBH, often referred to as modular, manufactured, or prefabricated housing, involves the construction or assembly of various components of a housing unit or room in a factory and the transport of those components or structures to the construction site, where they are installed and fixed to a building foundation. This is in contrast to traditional ("site-built" or "stick-built") homes, which are built piece by piece on top of the foundation at the actual construction site. The mass production techniques in a factory environment can sometimes be faster and cheaper than site-built construction methods and are not as impacted by weather constraints that might hamper construction progress on a site, though benefits will vary widely between projects.

HCD has maintained building code and plan approval authority over FBH since the California Factory-Built Housing Law was first enacted in the 1960s. HCD currently contracts with various Design Approval Agencies (DAAs) who perform third-party review and approval of FBH designs according to regulations established by HCD and the building standards governing FBH. Approved FBH must bear a California Insignia of Approval on each FBH system or component in the project. There are also Quality Assurance Agencies (QAAs) approved by HCD that inspect FBH during the production phase in the manufacturing facility or offsite. Local agencies maintain authority over a variety of post-manufacture elements of these projects (for example, snow load, wind pressure, building setback, and architectural requirements) and are also responsible for inspecting and approving the installation of the FBH at the project site.

*Select Committee on Housing Construction Innovation:* In late 2025, the Assembly Select Committee on Housing Innovation (Select Committee) was established to explore how the state can play a role in reducing housing costs by facilitating innovation in housing construction. The Select Committee conducted two hearings in January 2026 and received testimony from industry experts. These experts discussed all of the following: the benefits and risks of industrialized construction methods, including potential cost savings; the ability to reduce project timelines; and, regulatory, labor, and budget considerations. The hearings also explored barriers to opportunities for scaling construction innovation.

The Select Committee requested support from the University of California, Berkeley's Turner Center for Housing Innovation (Turner Center) to conduct research, including interviews with people familiar with the industry. The Turner Center interviewed 65 people representing different perspectives in the industry, including market-rate and affordable housing developers, general contractors, off-site manufacturers, architects, investors, lenders, building trades unions, carpenters union members, state and regional government staff, building code experts, and representatives from companies using 3D printing, artificial intelligence, or other emerging technologies.

The Turner Center published a white paper, titled "Potential Pathways to Scale Innovative Construction Methods in California." The Turner Center's white paper details seven categories of approximately 40 policy proposals identified by stakeholders as potential pathways to reducing barriers to accelerating industrialized construction, including FBH, at scale. These categories of proposals include:

- 1) increase certainty through building code reform;
- 2) increase consistency and certainty through other process reforms;

- 3) reduce financial risk and liability to encourage industry growth;
- 4) support pipeline certainty through demand aggregation;
- 5) increase long-term industry certainty by developing a strong workforce pipeline;
- 6) modify existing state funding stream to better align with the realities of FBH; and
- 7) address negative perceptions of industrialized construction through education and data

This bill incorporates one of the Turner Center recommendations to reduce financial risk and liability to encourage industry growth.

*State Intervention:* Stakeholders that participated in the Turner Center interviews argued that the FBH industry will not grow and reach the scale necessary to help address the state's housing shortage without the state providing access to capital. Financial institutions and insurers view FBH as riskier than site-built construction. This risk results from the fact that FBH is fundamentally different than traditional construction and involves logistics not associated with site-built housing, like the need to sequence delivery of FBH. In addition, some FBH factories and project failures support the lending community's concerns with the risk of backing a new and unproven industry. Stakeholders believe the state could provide several types of financial backing to the FBH industry that would help the industry grow.

First, the state could issue bonds to support factories to guarantee performance and agree to compensate developers, lenders, and subcontractors if a factory were to fail mid-project. State-backed bonds would help the industry to grow, especially in the early stages of growth. Second, the state could provide a loan guarantee program for FBH factories. The state would assume some of the risk from loans originated by the private lenders on specific projects. If the factory failed mid-project, the state would be on the hook for some portion of the loans. Stakeholders liken this proposal to federally backed loan guarantee programs. Finally, the state could create a revolving loan or credit facility that could support predevelopment costs, including deposits or financing gaps that private lenders are reluctant to cover. A surety company ensures risks generally through bonds, which are issued for public works construction projects. If the contractor fails to fulfill the contractual terms, the owner can compel the surety to complete the project.

This bill proposes that the state, through IBank, provide a "credit backstop" to a surety company or a surety insurer that issues payment bonds or performance bonds to support production of FBH to qualified factories on qualified multifamily projects. IBank would have the authority to determine how much of the total bond the surety insurer will back. This amount is unspecified in the bill. According to this bill, the credit backstop provided by IBank will not replace surety underwriting and shall only be used to reduce tail risk. Tail risk is defined as the risk that occurs either when the frequency of low probability events is higher than expected under a normal probability distribution or when there are observed events of very significant size or magnitude. The surety company would decide the specific details of the payment or performance bond following industry standards.

#### **According to the Author**

"We all know California is in the midst of a housing crisis. The cost of building homes is high, leading to a construction shortage, that ultimately passes on these costs to homeowners and

renters. This is especially true with affordable housing, which struggles even more than market-rate housing to find developers willing to build. A large part of that is just the cost of the building itself, which is the largest percentage of the cost of a new development. One way to significantly reduce that cost is by using factory-built housing. These homes are constructed in a factory and then brought to the project site to be propped up or put together, allowing lower costs due to their mass production. Unfortunately, these factories struggle in California, as they are unable to receive insurance coverage, preventing developers, lenders, and general contractors from using this cheaper alternative. AB 2166 creates a state-backed credit backstop, to allow these factories to be insured, subsequently creating a more affordable option for housing development. To build more affordable housing, we have to make it more affordable to build, AB 2166 will do that."

### **Arguments in Support**

According to the California Housing Consortium, "Lenders, developers, and general contractors often need factories to be bonded to protect against factory failure. However, insurance providers, or sureties, are reluctant to issue bonds to scaling factories. Without bonding, developers and their lenders must take on additional risk of financial loss to work with factories or opt to move forward with conventional construction methods instead. To promote industry growth, reduce financial risk, and address liability gaps, AB 2166 creates a fund that covers a percentage of the surety bond, enabling surety companies to insure more modular housing factories. By creating a state bonding mechanism for modular housing factories, AB 2166 will support factory growth, help stabilize the industry, and lead to lower construction costs over time."

### **Arguments in Opposition**

None on file.

## **FISCAL COMMENTS**

According to the Assembly Committee on Appropriations:

- 1) The IBank estimates General Fund costs in the hundreds of millions of dollars for an initial allocation to provide the financial backstops for qualifying applicants. This funding would be used to cover any failure of a housing manufacturer to perform or pay others for downstream workload.
- 2) The IBank estimates costs in the high millions to low-tens of millions of dollars for external consultants and 10 to 14 permanent staff positions to implement the new program. For context, to establish a recent startup, the Transmission Revolving Fund program, IBank has requested funding of \$3.6 million for seven staff positions and \$11 million for non-staff expenses. IBank estimates double the costs for implementing the proposed program given the lack of familiarity with the industry, greater complexity and as noted below the structural differences between existing IBank loan guarantee programs.
- 3) The IBank notes this program requires a different structure than IBank's existing Small Business Loan Guarantee Program, which is supported by a network of seven Financial Development Corporations and 158 participating lenders and has been built over 30 years. Without this kind of supporting infrastructure which funds IBank's Small Business Financing Center (SBFC) staffing, the IBank expects to need significantly more staffing than the existing SBFC team.

This program also represents a new type of funding program in IBank to support qualified applicants through guarantees or backstops to provide specified construction surety bonds. It is difficult to fully determine a fiscal estimate to implement the provisions of this bill and as such, the IBank would need to perform an assessment of the market to understand associated risks and opportunities as well as to set up the program rules and requirements. To date, the IBank has not been involved with industries related to housing or the building of housing.

According to the Legislative Analyst's Office, the General Fund faces a structural deficit in the tens of billions of dollars over the next several fiscal years.

## VOTES

### **ASM HOUSING AND COMMUNITY DEVELOPMENT: 11-0-1**

**YES:** Haney, Patterson, Ávila Farías, Caloza, Garcia, Kalra, Lee, Quirk-Silva, Ta, Wicks, Wilson

**ABS, ABST OR NV:** Tangipa

### **ASM APPROPRIATIONS: 13-0-2**

**YES:** Wicks, Hoover, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta

**ABS, ABST OR NV:** Dixon, Tangipa

## UPDATED

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