
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

2025 - 2026 Regular

Bill No: AB 2433

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Fiscal: Yes

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HOUSING DEVELOPMENT: DENSITY BONUS

Requires density bonus law projects that meet specified standards to be approved ministerially, and makes other changes to density bonus law.

Background

The California Constitution allows cities and counties to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

Cities and counties use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations. Zoning ordinances and other development decisions must be consistent with the city or county’s general plan.

Housing streamlining laws. Local governments have broad authority to define the specific approval processes needed to satisfy these considerations. Some housing projects can be permitted by city or county planning staff “ministerially” or without further approval from elected officials, but most large housing projects require “discretionary” approvals from local governments, such as a conditional use permit or a change in zoning laws. This process requires hearings by the local planning commission and public notice and may require additional approvals.

In 2017, the Legislature enacted a substantial package of legislation aimed at addressing the state’s housing crisis. Among others, the Legislature enacted SB 35 (Wiener) to provide for a streamlined, ministerial process for approving housing developments that are in compliance with the applicable objective local planning standards—including the general plan, zoning ordinances, and objective design review standards. SB 35 was intended to enable developments that face local opposition, but are consistent with local objective development standards, to be constructed. To be eligible for streamlining under SB 35, a specified percentage of the total housing units in the development must be affordable to lower-income households and many projects required the use of a skilled and trained workforce.

SB 423 (Wiener, 2023) extended the sunset for SB 35 until January 1, 2036, and made many changes to SB 35’s provisions. Some of the most significant changes included to:

- Allow SB 35 to apply within the coastal zone, beginning January 1, 2025, consistent with the applicable local coastal plan or land use plan, except in areas that are environmentally sensitive or hazardous;
- Require that, in jurisdictions not meeting their housing targets for above moderate-households, projects eligible for SB 35 streamlining must contain at least 10% of the units affordable to very low-income households (i.e., 50% of the area median income or below); and
- Revise the labor standards to narrow the types of projects that must use a skilled and trained workforce.

Density bonus law. The state’s density bonus law grants certain benefits to developers who build affordable units in order to encourage greater affordable housing production. Density bonus law requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a project that will contain at least one of the following:

- 10% of the total housing units reserved for lower income households;
- 5% of the total units for very low-income households;
- A senior citizen housing development or mobile home park;
- 10% of the total units in a common interest development for moderate-income households;
- 10% of the total units for transitional foster youth, disabled veterans, or homeless persons; or
- 20% of the total units for lower income students in a student housing development.

If a project meets one of these conditions, the city or county must allow an increase in density on a sliding scale from 20% to 50% over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan, depending on the percentage of affordable units.

Incentives, concessions, waivers, and other benefits. Density bonus law also grants “incentives or concessions” that can be used to modify development policies that add costs or reduce the number of units that a developer can build on a site. Incentives and concessions can vary widely based on the individual projects, but examples can include waivers of zoning codes, reduced parking requirements, approval for mixed-use zoning, or other reductions of other regulatory requirements on development. The number of incentives or concessions a project may be eligible for is based on the percentage of affordable units contained in the project and other project characteristics, up to a maximum of five.

Density bonus law also allows “waivers” of any development standards that physically prevent the developer from constructing a project at the density allowed to the project, along with the incentives or concessions, under density bonus law. Finally, density bonus law reduces or eliminates the parking that can be required in connection with a project.

Cities and counties must grant the requested incentives, concessions, or waivers except under very limited circumstances:

- If the waiver, incentive, or concession will have a specific, adverse impact upon public health and safety or on any property that is listed in the California Register of Historical Resources that cannot be mitigated;
- If the waiver, incentive, or concession would violate state or federal law; or
- If the city or county finds the concession or incentive does not result in identifiable and actual cost reductions to provide for affordable rents or housing costs.

Recent court cases have expanded density bonus law on the basis that, “if the project were not built, it goes without saying that housing units for lower income households would not be built and the purpose of the density bonus law to encourage such development would not be achieved.”¹ This interpretation means that “a city [or county] may not apply any development standard that would physically preclude construction of that project as designed,”² if the project includes the required number of affordable units. Another court case established a presumption that the requested concessions or incentives will result in a cost reduction that enables construction of affordable units.³ This means that a city or county that wants to deny a concession or incentive must bear the burden of proof that it doesn’t.

Recent legislation on the California Environmental Quality Act. Enacted in 1970, the California Environmental Quality Act (CEQA) requires California’s state and local agencies to evaluate, disclose, and where feasible, mitigate the potential environmental effects of their actions before they approve projects. Statute establishes CEQA’s fundamental purposes to include informing government decision-makers and the public about potential environmental effects, identifying ways to avoid or significantly reduce environmental damage, preventing significant avoidable impacts by adopting feasible mitigation measures or alternatives, and publicly disclosing the rationale for approving projects with unavoidable significant impacts.

To reduce barriers to housing development, last year the Legislature allowed certain housing projects to proceed without CEQA review. Specifically, AB 130 (Committee on Budget, 2025) established a broad new statutory CEQA exemption for housing, centered on qualifying urban infill development projects. The law exempts from CEQA qualifying housing developments located on infill sites in urban areas that are generally consistent with local planning and zoning and not situated on environmentally sensitive, hazardous, or protected lands. The exemption applies to sites up to approximately 20 acres (with smaller limits for certain “builder’s remedy” projects). Unlike previous streamlining efforts, AB 130’s CEQA exemption does not require that the project include any affordable housing nor does it impose wage standards on projects that qualify, with the exception of projects over 85 feet tall or 100% affordable projects.

Usage of Density Bonus Law. According to an April 2026 report by Circulate Planning & Policy, a San Diego-based transportation and land-use policy nonprofit, density bonus law is one of California’s most successful housing streamlining laws in recent years.⁴ Circulate Planning & Policy’s report notes:

“Since the adoption of Assembly Bill 2345, [Density] Bonus Law has become the most widely used streamlining law tracked by the California Department of

¹ *Wollmer v. City of Berkeley* (2011) 193 Cal. App. 4th 1329.

² *Bankers Hill 150 v. City of San Diego* (2022) 74 Cal. App. 5th 755.

³ *Schreiber v. City of Los Angeles* (2021), 69 Cal. App. 5th 549

⁴ Circulate Planning & Policy, “Win-Win Bonus: How California’s Bonus Law quietly transformed housing approvals

Housing and Community Development. It was not understood at the time of its adoption to be a transformative law. Nevertheless, after its adoption [Density] Bonus Law has been used to approve:

- More than 140,000 homes overall;
- More than 69,000 deed-restricted affordable homes;
- In 2024, 47 percent of all homes approved in multifamily projects;
- In 2024, 78 percent of all homes in 100 percent affordable projects; and
- In 2024, ten times more homes than every other tracked streamlining law.”

The report notes that in 2024, 30% of multifamily homes approved by cities and counties were eligible for density bonus law but did not use it. The report identifies several recommendations for legislation to further enhance density bonus law, including, among others, that:

- Projects that are eligible for density bonus law should automatically be granted the law’s benefits, rather than requiring an opt in;
- The law should more concretely apply to the California Coastal Commission, which regulates development in the Coastal Zone; and
- The law should be renamed to reduce the emphasis on “density.”

The author wants to further boost utilization of density bonus law.

Proposed Law

Assembly Bill 2433 makes a housing development project a use by right subject to ministerial review if the project meets:

- The requirements of the CEQA exemption enacted in AB 130; and
- The minimum affordability standards to qualify for density bonus law.

The bill provides that the Coastal Act still applies to projects permitted ministerially.

AB 2433 also expands, notwithstanding any other law, existing provisions of density bonus law that state that granting of a density bonus does not require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval or environmental review under CEQA. It also applies these provisions to the granting of waivers, concessions, and incentives.

The bill also revises the following provisions of density bonus law:

- *Local processes for approvals of density bonus.* AB 2433 requires a city or county, upon receiving an application for a development project that the city or county determines meets the minimum affordability requirements of density bonus law, the city or county must inform the applicant that the project is eligible for density bonus law and identify the amount density bonus that applies.
- *Where on the project site density bonus may be applied.* AB 2433 allows density bonuses, concessions, and incentives to be used anywhere on the site of the development, including areas outside of the areas where the housing units are located.

The bill grants two additional incentives or concessions to a project eligible for density bonus (excluding a student housing development) that proposes for-sale units.

AB 2433 makes additional technical and conforming changes.

Comments

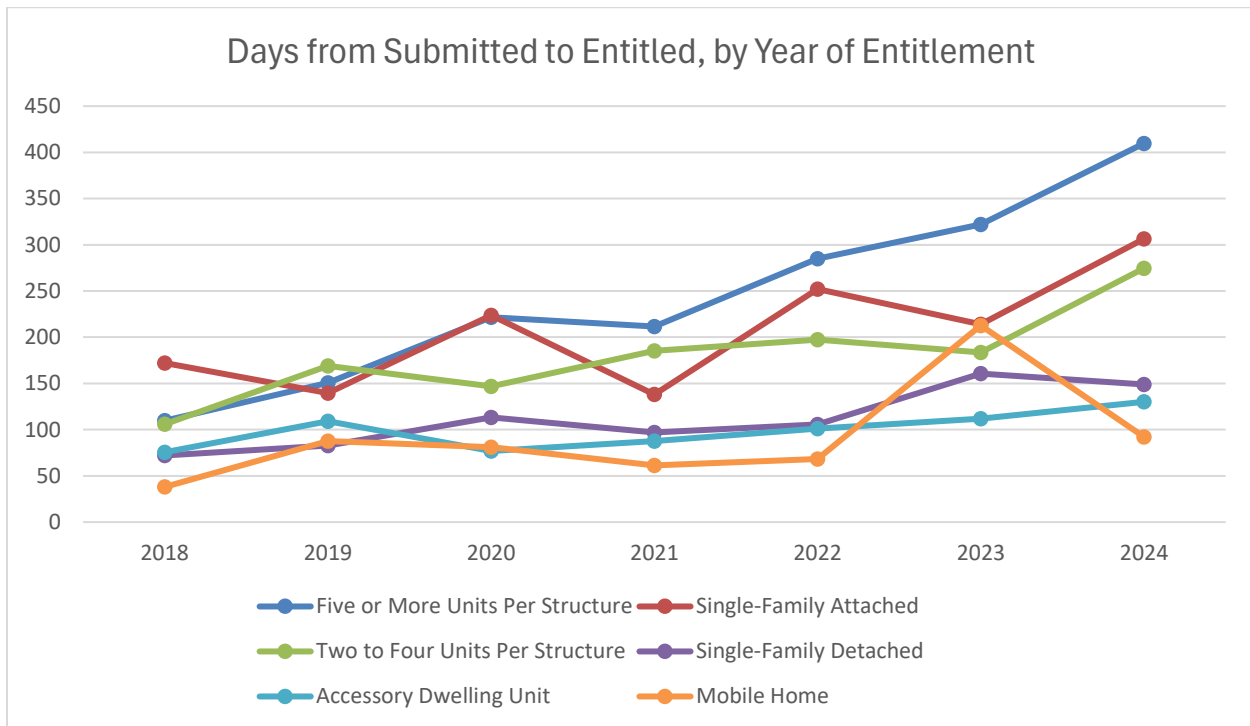
1. Purpose of the bill. According to the author, “Over the past five years, Bonus Law has entitled more than 140,000 homes across the state, making it the most utilized and successful housing streamlining program in California law according to an April 2026 report by Circulate Planning & Policy. In 2024, nearly half of new California townhouses or apartments were in projects that relied on the density bonus. AB 2433, the Affordable Homeownership Bonus Law, builds on that success by making homeownership more attainable for the people who make our communities work. Specifically, the bill modernizes incentives for builders who commit to affordable housing that’s for-sale, holds cities accountable to clear timelines, and removes unnecessary barriers that have slowed or blocked good projects for years. When a homebuilder is willing to do the right thing and build homes working families can afford, state law should not stand in the way. The bill re-affirms existing environmental safeguards that the Legislature adopted in AB 130 (2025) and does not interfere with the Coastal Act. Please join me in making the California dream a reality for more working families. Support the Affordable Homeownership Bonus Law.”

2. Streamlining redux. Current law already provides a streamlined, ministerial approval pathway for density bonus projects through the use of SB 35. Specifically, to qualify for SB 35, a project must be consistent with locally-established objective standards, but may use density bonus law to waive, reduce, or alter those standards. A developer must generally also pay prevailing wages, offer healthcare to construction workers on projects over 50 units, use a skilled and trained workforce for any project over 85 feet tall, and make at least 10% of the units affordable to very-low income households. The Legislature enacted these requirements to balance the benefits to developers with the overall public interest in ensuring the availability of deed-restricted affordable housing and well-paying jobs. AB 2433 grants ministerial approval to density bonus projects, even if they do not meet SB 35’s affordability and wage standards. Instead, a project could qualify for ministerial approval with as little as 10% moderate income housing units if they are offered for sale, and without being required to pay prevailing wages or offer healthcare to workers. The bill also does not require the projects to comply with all local objective standards. As a result, developers may be more likely to use this pathway than others that provide greater public benefits. Supporters of the measure note that SB 35 has been used less frequently than density bonus law, and so providing an alternative pathway for ministerial approval may make more projects with an affordable housing component financially viable for developers. On the other hand, without added requirements for public benefits, the benefits of the bill may principally accrue to developers, rather than getting passed down to homebuyers or otherwise providing public benefits. The Legislature carefully crafted SB 35 to adequately balance these considerations. To the extent that this balance must be revisited to meet the state’s goals for making housing more affordable, changes to streamlining should occur within the already established SB 35 framework. The Committee may wish to consider amending AB 2433 to remove the ministerial provisions of the bill.

3. Other duties as assigned. Density bonus law currently requires a developer to apply for the density bonus and request waivers, concessions, and incentives. AB 2433 flips this requirement to require the city or county, upon receipt of an application that meets the requirements of density bonus law, to tell the developer the density bonus they are eligible for. AB 2433 puts

local planning officials in the position of telling developers the extent to which they may undermine the standards adopted by their city council or board of supervisors. The Committee may wish to consider whether this is an appropriate role for local government employees.

4. Uncle. Legislators have amended density bonus law 23 times in the past decade and authored scores more bills on local land use planning and permitting during that time. Each change requires cities and counties statewide to review and modify their procedures to ensure they are compliant with the law, directing their efforts away from acting on housing project applications. The result has not been faster housing permitting: according to data from HCD’s Annual Progress Report dashboard, permitting times have consistently *increased* from 2018 to 2024 when comparing projects entitled in each of those years, as shown in the chart below.



AB 2433 layers on significant new changes to the procedures for density bonus law that will require local governments to modify procedures for reviewing any development applications. AB 2433 requires this change to increase uptake of density bonus law by developers. But by requiring permitting staff to adjust to new procedures, AB 2433 may, at least in the short term, slow down permitting of density bonus projects. Furthermore, it is unclear whether the application process is a significant obstacle to the use of density bonus law. For example, Circulate San Diego’s report states, “It is notable that there is a declining share of eligible projects that are forgoing the benefits available to them under [Density] Bonus Law. This may indicate that the use of the program is growing not just because of changes to policy, but from growing familiarity with how it can be used. More homebuilders are choosing to use the policy, just as more jurisdictions may be understanding and accepting their obligations under it.” Accordingly, the share of projects using density bonus law may continue to increase absent this measure. Another reason that projects that are eligible for density bonus law are not using it may be that the projects do not need it to be built as designed. This could be the case if local zoning already permits the project as is. AB 2433’s changes, while well intended, may impose costs or other friction in the development process that works counter to the bill’s goals. The Committee

may wish to consider amending AB 2433 to remove the bill’s procedural changes to density bonus law.

5. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because AB 2433 imposes new duties on local officials, Legislative Counsel says that it imposes a new state mandate. AB 2433 disclaims the state’s responsibility for providing reimbursement by citing local governments’ authority to charge for the costs of implementing the bill’s provisions.

6. Charter city. The California Constitution allows cities that adopt charters to control their own “municipal affairs.” In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn’t define “municipal affairs,” the courts determine whether a topic is a municipal affair or whether it’s an issue of statewide concern. AB 2433 says that it applies to all cities, including charter cities. To support this assertion, the bill includes a legislative finding and declaration that that retailers’ role in the state’s economy and tourism industry is a matter of statewide concern.

7. Triple referral. The Senate Rules Committee has ordered a triple referral of AB 2433: first to the Committee on Local Government to hear issues related to local approval processes, second to the Committee on Housing, and finally to the Committee on Environmental Quality.

8. Related legislation. SB 1383 (Arreguin), which the Committee approved at its April 29th hearing on a vote of 5-1, prohibits a density bonus concession or incentive from being used to modify labor standards. SB 1383 is currently pending in the Assembly Committee on Housing and Community Development.

Assembly Actions

Assembly Housing and Community Development Committee:	12-0
Assembly Local Government Committee:	10-0
Assembly Natural Resources Committee:	11-1
Assembly Appropriations Committee:	13-0
Assembly Floor:	67-0

Support and Opposition (6/19/2026)

- Support: Abundant Housing Los Angeles
 Bay Area Council
 California Building Industry Association (CBIA)
 California Hispanic Chambers of Commerce
 California Yimby
 Circulate Planning & Policy
 Fieldstead and Company, INC.
 Habitat for Humanity California
 Housing Action Coalition
 Inner City Law Center
 Leadingage California
 New California Coalition
 San Diego Housing Commission
 San Diego Regional Chamber of Commerce

Spur
Student Homes Coalition
The Two Hundred for Homeownership

Opposition: California Cities for Local Control
City of Belmont
City of Beverly Hills
City of Carlsbad
Families and Homes San Jose
League of California Cities
Marin County Council of Mayors and Councilmembers
Mission Street Neighbors
Neighbors for a Better San Diego
Save Lafayette
State Building & Construction Trades Council of California
Town of Truckee

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