

## ASSEMBLY THIRD READING

AB 2676 (Gallagher)

As Amended May 22, 2026

Majority vote

**SUMMARY**

Amends the Housing Crisis Act of 2019 (HCA) to expand prohibitions on local actions that constrain housing development in affected cities and counties, including limiting the use of voter initiatives and referenda to impose moratoria or similar restrictions and extending those protections to areas within an affected city's sphere of influence (SOI).

**Major Provisions**

- 1) Defines the following terms:
  - a) "Moratorium or similar restriction or limitation of housing development" to include, but not be limited to, the electorate of an affected city or county exercising its referendum power in a manner that would extend an existing moratorium or similar restriction or limitation on housing development; and
  - b) "Sphere of influence" (SOI) to mean, by reference, a plan for the probable physical boundaries and service area of a local agency, as determined by a Local Agency Formation Commission (LAFCO).
- 2) Relocates the definition of "reducing the intensity of land use" to the general definitions section applicable to the entire article.
- 3) Expands existing prohibitions by providing that an affected city or county shall not enact or impose a development policy, standard, or condition that would violate the HCA.
- 4) Expands the prohibition on imposing a moratorium or similar restriction or limitation on housing development to apply within the sphere of influence of an affected city.
- 5) Prohibits an affected city or county from enforcing an initiative or referendum imposing a moratorium or similar restriction or limitation on housing development unless the measure is submitted to, and approved by, the Department of Housing and Community Development (HCD).
- 6) Requires HCD to approve such an initiative or referendum only if it determines that the measure would not restrict or limit housing development, including mixed-use development; provides that an initiative, referendum, or ordinance denied approval by HCD is deemed void.
- 7) *Provides that, notwithstanding 3)-6), above, this bill does not preclude, limit the enforceability of, or require HCD approval of a referendum or an initiative that requires voter approval of a proposed general plan amendment that would increase the intensity of land use allowed on lands designated for open space, agricultural or rural land uses in the operative general plan in effect at the time the general plan amendment was approved by a local government.*

- 8) *Provides that 7) does not apply where the existing general plan or specific plan identifies the affected areas as a special planning area or other area planned or designated for future residential, mixed-use, or urban development.*
- 9) Applies a three-year statute of limitations, pursuant to California Code of Civil Procedures Section 338(a), to actions or special proceedings brought to enforce these provisions, notwithstanding any other law.
- 10) *States that it is the intent of the Legislature to clarify that the protections of the Housing Accountability Act continue to apply in areas that have been identified through adopted planning processes for future residential growth, but distinguish between unplanned conversion of agricultural, open space, or rural lands and areas that agencies have long designated for coordinated urban development.*
- 11) Makes other nonsubstantive and conforming changes.

## COMMENTS

*Housing Crisis Act of 2019:* The HCA, enacted by SB 330 (Skinner), Chapter 654, Statutes of 2019, establishes a statewide constraint on local land use authority intended to preserve existing housing development capacity. In affected jurisdictions, the HCA requires that local governments maintain at least the level of residential development capacity that existed as of January 1, 2018, effectively creating a statewide "capacity floor." Rather than creating new approval pathways, the statute functions as a backstop, limiting local actions that could reduce housing supply and capacity.

To implement this framework, the HCA broadly applies to "development standards, policies, or conditions," including general plans, zoning, and subdivision regulations, and directs that its provisions be interpreted to favor housing production. Its core operative provisions prohibit jurisdictions from downzoning or otherwise reducing the "intensity of land use," a term defined expansively to include both direct changes (e.g., reductions in allowable density, height, or floor area ratio) and indirect regulatory actions (e.g., increased setbacks, open space requirements, or minimum lot sizes) that would individually or cumulatively reduce residential development capacity.

The statute also restricts other mechanisms that could limit housing production, including development moratoria (absent narrow health and safety findings), caps on housing units or approvals, and population limits. In addition, design standards adopted after January 1, 2020 must be objective, limiting the use of discretionary review to potentially constrain development. Any local action that violates these provisions is deemed void, and the statute is intended to prevail over conflicting laws where necessary to support housing production.

The HCA allows limited flexibility through a "no net loss" framework, under which jurisdictions may reduce capacity on individual sites only if they concurrently offset that reduction elsewhere. Overall, the statute reflects a shift away from local discretion to reduce residential capacity and toward a state-imposed baseline intended to stabilize and preserve zoning capacity over time.

*Sphere of Influence:* In California land use, an SOI is a planning boundary established by a LAFCO that designates the probable future service area and jurisdictional boundary of a city or special district. It is not a regulatory zoning boundary and does not, by itself, change land use

designations or authorize development. Instead, it functions as a long-range planning tool to guide where urban development and public services (e.g., water, sewer, fire protection) are expected to expand over time.

LAFCOs are required to adopt and periodically update SOIs for each city and special district in their county, based on statutory factors such as present and planned land uses, population projections, infrastructure capacity, and the need for orderly development. In practice, an SOI signals where annexations are generally appropriate. Territory outside a city's SOI is typically not eligible for annexation absent an SOI amendment, and LAFCOs are expected to discourage urban sprawl and promote orderly, efficient development by regulating boundary changes and SOIs for cities and special districts.

SOIs do not confer development rights or override local land use authority. Counties retain land use control over unincorporated areas, even if those areas fall within a city's SOI. However, being inside an SOI can shape expectations for future urbanization, infrastructure planning, and housing growth, and it often aligns with long-term general plan and housing element strategies.

*Local Referendums:* In California, local referenda remain a constitutionally protected tool that allows voters to overturn certain legislative land use approvals, such as rezoning actions or specific plan amendments. In the housing context, referenda are typically used to challenge project approvals that require discretionary legislative actions, particularly for larger or more controversial developments. Unlike broader growth control measures, a referendum operates on a project-specific basis by suspending and potentially invalidating an approval after it has been granted.

This use of referenda exists in tension with recent state housing laws but is not directly addressed in the same way as other local constraints on development. For example, the HCA clearly prohibits jurisdictions from adopting policies that reduce residential development capacity, including downzoning, moratoria, and population caps. However, the statute does not explicitly address project-specific referenda that overturn individual approvals, creating a more nuanced legal question when a referendum has the practical effect of preventing housing development.

Recent litigation provides some guidance on how courts may approach this issue. In *NRFP Project Owner LLC v. City of Oceanside* (2021), a trial court held that a voter-approved referendum overturning a rezoning for a housing development violated the HCA, reasoning that the referendum functioned as a "policy, standard, or condition" that imposed a prohibited "moratorium or similar restriction or limitation on housing development." The court further concluded that state housing law preemption may apply to voter actions as well as to local legislative bodies. However, this decision is not a binding appellate precedent and was based on a referendum that directly reversed a rezoning, leaving open questions about how the HCA applies to other types of project-specific referenda.

As a result, while referenda may ultimately be subject to challenge where they conflict with state housing laws, they can still introduce delay, litigation risk, and uncertainty for projects that rely on legislative approvals. In practice, the potential for a referendum may influence project design, timing, or feasibility, even where the underlying legal authority of the referendum is unsettled.

*This Bill:* This bill expands the provisions of the HCA to further limit local actions that constrain housing development and apply it to voter-approved measures. This bill defines "moratorium or similar restriction or limitation on housing development" to include, but not be limited to, the

electorate exercising its referendum power in a manner that extends an existing moratorium or similar restriction, and defines "sphere of influence" by reference to a plan adopted by a LAFCO. It also relocates the definition of "reducing the intensity of land use" to the HCA's general definitions section, and provides that an affected city or county may not enact *or impose* a development policy, standard, or condition that would violate the HCA. This bill further expands the prohibition on imposing a moratorium or similar restriction on housing development to apply within the sphere of influence of an affected city, not just within its jurisdictional boundaries.

This bill addresses the use of local voter measures by providing that an affected city or county shall not enforce an initiative or referendum imposing a moratorium or similar restriction or limitation on housing development unless the measure is submitted to, and approved by, the HCD. HCD may approve such a measure only if it determines that the initiative or referendum would not restrict or limit housing development, including mixed-use development, and a measure denied approval is deemed void. *This bill does not preclude, limit the enforceability of, or require HCD approval of a referendum or an initiative that requires voter approval of a proposed general plan amendment that would increase the intensity of land use allowed on land designated for open space, agricultural, or rural land uses in the general plan.* Finally, the bill applies a three-year statute of limitations, pursuant to California Code of Civil Procedure Section 338(a), to actions or special proceedings brought to enforce the provisions of the HCA.

### **According to the Author**

"The housing crisis in our state has been ongoing for decades. AB 2676 is a step towards tightening up the Housing Crisis Act and encouraging vital housing development in our communities."

### **Arguments in Support**

California YIMBY writes in support: "Government Code 66300, also known as the Housing Crisis Act, stipulates that an affected county or city shall not enact a policy that would impose a "moratorium or similar restriction or limitation on housing development". Although this language does not specify initiatives or referendums, the court ruled in *NRF Project Owner LLC v. City of Oceanside* that a referendum limiting housing was in violation of the Housing Crisis Act. Codifying this precedent will limit confusion, keeping illegal referendums off ballots and preventing unnecessary lawsuits for cities.

AB 2676 will also clarify the statute of limitations for private actions enforcing the Housing Crisis Act. As there has been some confusion here in previous cases, it is vital to provide clarity to ensure the Housing Crisis Act is not impeded by different interpretations and standards related to the statute of limitations. Government Code 66300 and similar statutes are key to addressing the housing crisis, and this important goal should not be held back by unnecessary ambiguity."

### **Arguments in Opposition**

The Equitable Land Use Alliance (ELUA) writes in opposition: "Laws prohibit local agencies from "reducing the intensity of land use" through changes to zoning ordinances, including reductions in building height limits, increases in setback requirements, minimum frontage requirements, increased open space, and any other action that would reduce a site's residential capacity. ELUA objects to this bill's expansion of that state mandate. There may be cases where fire departments are unable to maximally serve such projects due to heights, or where different setbacks are necessary for safety. There is an exception for safety, but the laws explicitly require

that exception to be "construed narrowly," and local jurisdictions, in fear of HCD/builder's remedy, are likely to err on the side of approval as opposed to preserving safety and health.

ELUA opposes the further erosion of local control, because the state does not understand the nuances of every local parcel.

In addition, the bill makes it less likely that responsible local jurisdictions will implement higher density zoning through their normal processes."

## **FISCAL COMMENTS**

According to the Assembly committee on Appropriations: No state costs. Local costs are not reimbursable by the state 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, Ward, Caloza, Garcia, Kalra, Lee, Quirk-Silva, Ta, Tangipa, Wicks, Wilson

**ABS, ABST OR NV:** Patterson

### **ASM LOCAL GOVERNMENT: 9-0-1**

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

**ABS, ABST OR NV:** Ransom

### **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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CONSULTANT: Dori Ganetsos / H. & C.D. / (916) 319-2085

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