

CONCURRENCE IN SENATE AMENDMENTS

AB 36 (Soria)

As Amended September 04, 2025

Majority vote

SUMMARY

Requires the Department of Housing and Community Development (HCD) to evaluate materials from a small rural jurisdiction's housing element submission for evidence of prohousing local policies and prohibits HCD from requiring those jurisdictions to renew their prohousing designations for at least five years.

Senate Amendments

- 1) Delete references to "nonentitlement jurisdictions" and instead apply the bill to "small rural jurisdictions," as defined.
- 2) Lower the population threshold for cities to be subject to the bill from those with fewer than 50,000 persons to those with fewer than 25,000 persons.
- 3) Include chaptering amendments.

COMMENTS

Adoption and Implementation of Housing Elements: One important tool in addressing the state's housing crisis is to ensure that all of the state's 539 cities and counties appropriately plan for new housing. Such planning is required through the housing element of each community's General Plan, which outlines a long-term plan for meeting the community's existing and projected housing needs. Cities and counties are required to update their housing elements every eight years in most highly populated parts of the state, and five years in areas with smaller populations. Cities must adopt a legally valid housing element by their statutory deadline for adoption. Failure to do so can result in certain escalating penalties, including exposure to the "builder's remedy" as well as public or private lawsuits, financial penalties, potential loss of permitting authority, or court receivership.

It is critical that local jurisdictions adopt legally compliant housing elements on time in order to meet statewide housing goals and create the environment locally for the successful construction of desperately needed housing at all income levels. Unless communities plan for production and preservation of affordable housing, new housing will be slow to build. Adequate zoning, removal of regulatory barriers, protection of existing stock and targeting of resources are essential to obtaining a sufficient permanent supply of housing affordable to all economic segments of the community. Although not requiring the community to develop the housing, housing element law requires the community to plan for housing. Recognizing that local governments may lack adequate resources to house all those in need, the law nevertheless mandates that the community do all that it can and that it not engage in exclusionary zoning practices or perpetuate housing discrimination patterns or impediments to fair housing.

Prohousing Designation: In 2019, the Legislature enacted AB 101 (Committee on Budget), Chapter 26, that required HCD to designate cities and counties as pro-housing if their local policies facilitate the planning, approval, or construction of housing. "Prohousing" jurisdictions receive a competitive advantage – in the form of additional application points or preferences – in

applying for certain state funding programs, including the Affordable Housing and Sustainable Communities Program, Transformative Climate Communities Program, and infill infrastructure programs.

Although AB 101 provided examples of prohousing local policies, HCD had discretion over the final designation criteria, which they adopted via emergency regulations in July 2021 and subsequently converted to permanent regulations in April 2022 (California Code of Regulations, Title 25, Sections 6600-6608). Some examples of prohousing local policies that local jurisdictions can identify as evidence in their applications to HCD to be awarded the prohousing designation include reduction of development impact fees, creating new ministerial approval pathways for housing and mixed-use projects, or creating local housing trust funds. According to HCD, as of March 2025, 52 jurisdictions have been awarded the prohousing designation.

Currently, program regulations require a local governing body to adopt a formal resolution directing the jurisdiction to submit a prohousing designation application. This bill would require HCD, beginning in the seventh housing element cycle, to evaluate the materials in a nonentitlement jurisdiction's housing element submission for evidence of prohousing local policies that would otherwise have to be identified by the local government in a formal application for prohousing status. The requirement would only apply to nonentitlement jurisdictions – either cities with a population fewer than 50,000 or counties with a population fewer than 200,000.

The bill would also prohibit HCD from requiring nonentitlement jurisdictions who have been awarded the prohousing designation to renew their designation for at least five years. The program regulations currently specify that a designation expires three years from the first day of the January following the date of designation and allow a jurisdiction to apply for a renewal no earlier than six months before its designation expires.

The author contends these changes will help more rural and smaller jurisdictions qualify for the prohousing designation and reduce the amount of staff time and capacity taken up by submitting a formal application and renewal every three years. HCD would retain the ability to monitor and revoke a prohousing designation if a jurisdiction takes an action that is inconsistent with the program rules or fails to implement policies it previously had committed to implement or enact.

According to the Author

"In recent years, California has taken a number of steps to ensure cities and counties are doing their part to combat the state's housing crisis, creating penalties to deter bad actors and incentives to reward those doing the right thing and to encourage others to follow their lead. One of the most significant incentives has been the creation of the PDP, which recognizes local governments who are going above and beyond to promote housing development and gives them bonuses when applying for state housing funds. Unfortunately, applying to the PDP is extremely complex and burdensome, putting the program out of the reach of many small, rural cities and counties who are doing all the right things to provide housing for their residents. AB 36 levels the playing field by requiring the Department of Housing and Community Development to use the information cities already provide in their housing elements to determine whether they qualify for the PDP. By minimizing the burden on small cities and counties, AB 36 ensures the PDP rewards those doing the most to house their residents and not only those able to navigate complicated bureaucracy, while incentivizing more small jurisdictions to follow their lead."

Arguments in Support

According to the Rural County Representatives of California, the California State Association of Counties, and the League of California Cities, "The PDP designates local governments going above and beyond the requirements of state housing law to promote housing development in their communities as 'prohousing,' rewarding them with priority access to critical housing and infrastructure programs. However, the application for the PDP is complex and requires extensive documentation, making it difficult for rural jurisdictions with limited staff to apply even when they have adopted strong prohousing policies. AB 36 eases the administrative burden on smaller cities and counties by having HCD analyze the information local governments already provide in their housing elements to determine whether they qualify as prohousing. This minimizes unnecessary duplication of work by local governments with limited resources without lowering the standards to be designated as prohousing. To combat California's housing crisis, we must equitably recognize and incentivize the work local governments of all sizes are doing to promote housing development. This bill achieves our mutual goal of focusing HCD's resources to assist local governments' efforts to meet the state's housing needs."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations, HCD anticipates minor and absorbable costs to adopt new permanent prohousing designation regulations for small jurisdictions and additional monitoring processes.

VOTES:

ASM HOUSING AND COMMUNITY DEVELOPMENT: 12-0-0

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

ASM LOCAL GOVERNMENT: 10-0-0

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

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Hart, Pacheco, Solache, Ta, Alanis

ABS, ABST OR NV: Pellerin

ASSEMBLY FLOOR: 69-0-10

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Bonta, Bryan, Calderon, Caloza, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Fong, Gabriel, Garcia, Gipson, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Jackson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

ABS, ABST OR NV: Arambula, Boerner, Carrillo, Flora, Gallagher, Jeff Gonzalez, Irwin, Celeste Rodriguez, Sanchez, Wallis

UPDATED

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