

CONCURRENCE IN SENATE AMENDMENTS

CSA1 Bill Id:AB 87 Author:(Boerner)

As Amended Ver:August 27, 2025

Majority vote

SUMMARY

This bill provides that a local government is not required to grant a concession or incentive under Density Bonus Law (DBL) to a hotel or motel as part of a housing development project, as specified.

Senate Amendments

- 1) Resolve chaptering conflicts with SB 92 (Blakespear).
- 2) Amend the bill so that local governments are not required to grant the aforementioned concessions or incentives to hotel or motel uses under DBL, rather than prohibiting a local government from granting them, and make other technical changes.

COMMENTS

Density Bonus Law: California's Density Bonus Law (DBL), originally enacted in 1979, is a key state policy tool aimed at addressing the financial challenges of building affordable housing, particularly in high-cost markets. Given the state's elevated land and construction costs, the private market struggles to deliver housing that is affordable to low- and moderate-income households without public subsidy. An analysis by the California Housing Partnership compares the cost of market rate developments with the median cost of developing affordable rental homes. In the four regions analyzed, the study found that the cost of developing one unit of affordable housing ranged from approximately \$480,000 to \$713,000, while the cost of developing one unit of market rate housing in the state ranged from approximately \$508,000 to \$637,000.¹ The increased cost for the affordable units can be attributed, in part, to the difficulty associated with assembling a capital stack for affordable housing development, the complex regulations that these affordable units must comply with, and the added cost of labor requirements tied to certain funding sources used by affordable housing developers.

DBL seeks to close some of the financial gaps associated with building affordable housing by allowing developers to build more units than local zoning laws typically permit, known as a "density bonus," in exchange for reserving a certain percentage of the housing units as affordable. This increased density allows the fixed costs of development to be spread across more units, helping to offset the lower returns from the affordable units, and reducing the need for direct public subsidy. Under current law, any housing development proposing five or more units, including mixed-income developments, can take advantage of the provisions of DBL.

¹ Mark Stivers, *Affordable Housing Compares Favorably to Market-Rate Housing From a Cost Perspective*, California Housing Partnership, January 2024: <https://chpc.net/affordable-housing-compares-favorably-to-market-rate-housing-from-a-cost-perspective/#:~:text=It%20turns%20out%20that%20costs,market%20rate%20developments%20do%20not.>

Under DBL, when a mixed-income housing development includes a minimum percentage of affordable units, such as 5% very low-income or 10% lower-income, it becomes eligible for a density bonus starting at 20%, with the potential to increase up to 50%, depending on the proportion of affordable units provided. 100% affordable projects can qualify for up to an 80% density bonus, or unlimited density if the proposed development is within ½ mile of a major transit stop, or located in a very low vehicle travel area. Developers are also entitled to receive additional benefits, including up to five regulatory incentives or concessions, such as relaxed design standards, increased floor area ratio (FAR), and reduced parking requirements. These incentives are critical for making affordable housing projects financially feasible.

To qualify for a density bonus, a project must include one of several affordability options, including providing units for lower-income, very low-income, or moderate-income households, or targeting specific populations such as seniors, transition-age foster youth, disabled veterans, or lower-income college students. All affordable units built under DBL must be deed-restricted for at least 55 years to ensure long-term affordability. Importantly, even if a local government has not formally adopted a density bonus ordinance, it is still legally obligated to comply with state law and grant the bonuses and concessions to qualifying projects as requested by developers.

In practice, DBL plays a critical role in the state's housing strategy, both by reducing development costs and by increasing the overall supply of housing at all income levels, particularly in communities that might otherwise see little affordable housing development. By leveraging regulatory flexibility instead of direct public funding, DBL offers a cost-effective mechanism to stimulate the production of both mixed-income and 100% affordable housing projects throughout California.

Tower at the Beach: In recent years, as DBL has been expanded to increase its efficacy and the amount of bonuses, incentives, and concessions, it has come under increased scrutiny regarding its intersection with local planning regulations. In San Diego, a proposed 22-story project at 970 Turquoise Street serves as an interesting case study on the intersection of state and local laws. The project developer is taking advantage of the project vesting provisions established under SB 330 (Skinner), Chapter 654, Statutes of 2019, in combination with DBL, a local San Diego density bonus program, and a unique-to-San Diego hotel provision to propose a 239' tall building where ordinarily a 30' height limit would apply. The site's 30' height limit was established by a 1972 voter initiative, Proposition D, which created San Diego's Coastal Height Limit Overlay Zone (not to be confused with California's Coastal Zone).

The site is locally zoned CC-4-2, which permits high-density commercial uses and limited residential development. Under this zoning, only 31 residential units would typically be allowed on the 0.67-acre site. However, by designating 15% of those base units (five units) for very-low-income households, the developer qualifies for a 50% density bonus under DBL, allowing for 16 additional market-rate units. A second 50% bonus, enabled by AB 1287 (Alvarez), Chapter 775, Statutes of 2023, which went into effect on January 1, 2024, was granted for the inclusion of another five units for moderate-income households. This added 16 more market-rate units. In total, DBL increased the project's residential count by 32 units, in exchange for 10 affordable units, raising the unit count from 31 to 63 units. Additionally, the project leverages local incentives under San Diego's municipal code to access 11 more residential units, through a local density bonus, because the proposal includes three-bedroom units. This brings the total number of residential units to 74.

The remaining 139 "units" included in the proposed development at 970 Turquoise Street are hotel rooms, classified as "visitor accommodations," which are allowed by-right under San Diego's commercial zoning for the site. The developer requested an incentive to the Floor Area Ratio (FAR) requirements of the City's municipal code to increase the project size and financial feasibility, and applied the entirety of that FAR incentive to the "commercial" component of the site (the hotel rooms). This is how the nearly 240' development in a zone with a 30' height limit came to be.

Notably, these hotel units are not intended for short-term tourist stays. Under the version of San Diego's local municipal code in effect at the time the developer submitted its preliminary application, visitor accommodations could legally be rented for more than 30 days, essentially allowing them to be used as housing units. The developer intends to use this provision to operate the hotel rooms, which will include kitchens, as long-term market-rate rental housing. Although San Diego has since updated its development code to prohibit the long-term rental of visitor accommodations, the project is vested under the prior rules under SB 330. As such, the new restrictions on using hotel rooms for long-term rentals do not apply to 970 Turquoise.

In total, the combination of DBL, San Diego's local bonus program, and San Diego's unique provision which previously allowed for the long-term rental of hotel units, resulted in this "213 residential unit" proposal that was not contemplated under San Diego's local planning regulations, in exchange for 10 affordable units under DBL. DBL directly unlocked an extra 32 market-rate units in exchange for the 10 affordable units. San Diego's own bonus program provided an extra 11 units. Finally, the provisions of San Diego's municipal code that allowed hotel units to function as apartment units unlocked an extra 139 "units" once the FAR incentive provided under DBL was applied to the hotel use.

Reining in DBL: In direct response to the aforementioned development proposal at 970 Turquoise Street in San Diego, two bills were introduced this legislative session by San Diego members to limit the applicability of DBL. This bill is one of those. This bill provides that a local government is not required to grant an incentive or concession granted under Density Bonus Law (DBL) to a hotel, motel, bed and breakfast inn, or other visitor-serving use as part of a housing development project. In doing so, this bill proposes a precise policy adjustment to DBL to address the outsized hotel development at Turquoise Street that the current provisions of DBL facilitated. Through this tailored policy approach, this bill could preserve the integrity and flexibility of DBL for residential builders while addressing the factor that enabled the outsize hotel development in San Diego.

According to the Author

"AB 87 ensures Density Bonus Law is being applied as it was intended, to increase California's affordable housing stock to meet increasing needs. Density Bonus Law is a tool that is meant to encourage the construction of units for low income Californians. However, there is currently a loophole in DBL that allows developers to gain incentives while not meaningfully contributing to affordable housing. In my district, a project application was submitted that allowed the development to exceed the city's height limit, a proposed 238-foot tower adding 139 hotel rooms and only 10 affordable units. California needs affordable housing options, and we need to hold developers using DBL to the intent of the law, which is to increase access to affordable housing for hard-working Californians."

Arguments in Support

The City of Carlsbad writes in support: "AB 87 represents a critical step in addressing the state's ongoing housing affordability crisis by ensuring that development incentives are appropriately targeted to support long-term residential housing, particularly for low- and moderate-income households."

Arguments in Opposition

None on file for current bill version.

FISCAL COMMENTS

None.

VOTES:

ASM HOUSING AND COMMUNITY DEVELOPMENT: 10-0-2

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

ABS, ABST OR NV: Ta, Tangipa

ASM LOCAL GOVERNMENT: 9-0-1

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

ABS, ABST OR NV: Ta

ASSEMBLY FLOOR: 75-0-4

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

ABS, ABST OR NV: Castillo, Sanchez, Stefani, Tangipa

SENATE FLOOR: 40-0-0

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNeerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Reyes, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

UPDATED

VERSION: August 27, 2025

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FN: 0001539