

Date of Hearing: January 14, 2026

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Matt Haney, Chair

AB 939 (Schultz) – As Amended January 5, 2026

**SUBJECT:** Housing development: density bonuses: affordability of for-sale units

**SUMMARY:** Revises Density Bonus Law (DBL) to allow qualifying nonprofit corporations to purchase for-sale units developed under DBL without waiting 180 days. Specifically, **this bill** allows nonprofit corporations that receive a welfare exemption to purchase for-sale units developed under DBL without waiting 180 days after the issuance of a certificate of occupancy, if those units are sold by the nonprofit to low-income families participating in a below-market interest rate loan program.

**EXISTING LAW:**

- 1) Establishes DBL, which requires local governments to grant a density bonus when an applicant for a housing development, defined as a development containing “five or more residential units, including mixed-use developments,” seeks and agrees to construct a project that will contain at least one of the following:
  - a) 10% of the total units of a housing development for lower-income households;
  - b) 5% of the total units of a housing development for very low-income households;
  - c) A senior citizen housing development or mobile home park;
  - d) 10% of the units as for-sale units in a common interest development (CID) for moderate-income households;
  - e) 10% of the total units for transitional foster youth, veterans, or persons experiencing homelessness;
  - f) 20% of the total units for lower-income students in a student housing development; or
  - g) 100% of the units of a housing development for lower-income households, except that 20% of units may be for moderate-income households. (GOV 65915)
- 2) Requires for-sale units built using DBL to be initially sold and occupied by a person or family of very low, low, or moderate income. (GOV 65915)
- 3) Provides that if the for-sale unit is not purchased by an income-qualified person or family within 180 days after issuance of a certificate of occupancy, a qualified nonprofit housing corporation meeting the following requirements may purchase the unit:
  - a) The nonprofit corporation is tax-exempt, as verified through determination letter from the Internal Revenue Service, and is not a private foundation;
  - b) The nonprofit corporation is based in California;

- c) All board members of the nonprofit corporation have their primary residence in California; and
- d) The primary activity of the nonprofit corporation is the development and preservation of affordable home ownership housing in California. (GOV 65915)

4) Requires a qualifying nonprofit meeting the definition in 3), above, to sell any for-sale owner-occupied units to families meeting the income levels defined in Health and Safety Code (HSC) Section 50052.5. (GOV 65915)

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

**Author's Statement:** According to the author, "Nonprofit affordable housing organizations across California work directly with lower income households at the community level building awareness, providing first-time buyer education and increasing access to affordable housing opportunities, including maintaining long lists of pre-qualified families ready to purchase affordable homes. These organizations specialize in complex financing, compliance with long-term affordability covenants, and homeowner readiness. Allowing them to acquire affordable units during entitlement, prior to the completion of construction or immediately thereafter would achieve the original intent of the law—ensuring homes are sold to qualified, low-income households, affordably, effectively and efficiently.

AB 939 provides a targeted, no-cost fix to streamline affordable homeownership by removing the 180-day resale restriction in state law, if the developer is under contract with a nonprofit affordable housing organization for the transfer of units to be sold to low- income individuals directly. Under this bill, income-restricted ownership units could be sold immediately to qualified nonprofit affordable housing organizations rather than sitting vacant, after construction for 180 days. This allows developers to reduce holding and marketing costs while ensuring that homes reach income-qualified families more efficiently.

Most importantly, AB 939 maintains all existing affordability covenants and resale restrictions on these low- -income units, guaranteeing that these homes remain affordable for at least 45 years, as already required by existing law. By enabling mission-driven nonprofits and private developers to collaborate more effectively, the bill accelerates the creation of affordable homeownership supply without any fiscal impact to the state."

**Density Bonus Law:** California's Density Bonus Law (DBL), originally enacted in 1979, is a key state policy 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 often struggles to deliver housing that is affordable to low- and moderate-income households without public subsidy.

DBL closes some of the financial gaps associated with building affordable housing by allowing developers to build more units than local zoning codes typically allow, known as a "density bonus," in exchange for reserving a certain percentage of the housing units as affordable. To qualify for a density bonus, a project must include one of several affordability options, including: providing rental units for lower-income or very low-income households, for-sale units for moderate-income households, or homes targeting specific populations such as seniors, transition-

age foster youth, disabled veterans, or lower-income college students. 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 the project's density 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 miles travelled area.

Under DBL, 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 if the concession or incentive would result in identifiable and actual cost reductions for the project and would not have specific, adverse impacts on public health or safety.

This increased density and flexibility provided by DBL allows the fixed costs of development to be spread across more units, helping to offset the lower financial returns from the deed-restricted affordable units, and reducing the need for direct public subsidy. It also helps to mitigate local standards that would render a qualifying DBL project financially infeasible in order to bolster the state's housing production pipeline. 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.

***Qualified Nonprofit Purchase of DBL For-Sale Units:*** All affordable rental units built under DBL must be deed-restricted for at least 55 years to ensure long-term affordability. For-sale affordable units constructed pursuant to DBL are subject to a separate affordability and resale framework that requires each unit used to qualify for the density bonus to be initially sold and occupied by a very low-, low-, or moderate-income household at an affordable housing cost and subject to an equity-sharing agreement that governs resale of the unit regardless of the identity of the purchaser. If the unit is not purchased by an income-qualified household within 180 days of issuance of the certificate of occupancy, DBL allows the unit to be purchased by a qualified nonprofit housing corporation that meets specified federal and state eligibility criteria and whose primary mission is the development and preservation of affordable homeownership housing in California. Units acquired or developed by a qualified nonprofit must be subject to repurchase options or affordability restrictions that preserve the unit as owner-occupied affordable housing for at least 45 years and limit resale to income-qualified households, and, in those cases, DBL permits the local government to contract with the nonprofit to assign responsibility for recapture of the initial public subsidy and proportionate share of appreciation, provided all proceeds are reinvested in lower-income homeownership within the local jurisdiction.

AB 323 (Holden), Chapter 738, Statutes of 2023, limited the ability of developers to sell deed-restricted units intended for owner-occupancy to purchasers who would rent the unit. The bill sought to ensure that low-income families can realize the dream of homeownership, rather than allowing investors to use DBL to change income-restricted owner-occupancy units into rental units. AB 323 (Holden) specified that for-sale units must be sold to, not just occupied by, income-qualified households. AB 323 (Holden) also established the 180-day hold period between issuance of a certificate of occupancy and when a qualified nonprofit could purchase the

for-sale unit under DBL, and added the following more stringent parameters around which nonprofits are qualified to purchase for-sale units:

- The nonprofit must have a determination letter from the Internal Revenue Service affirming its tax-exempt status, and must not be a private foundation.
- The nonprofit must be based in California, and all of the nonprofit's board members must have their primary residence in California.
- The primary activity of the nonprofit is the development and preservation of affordable homeownership housing in California that incorporates within their contracts for initial purchase a repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser pursuant to an equity sharing agreement.

While AB 323 (Holden) intended to ensure that qualified income-restricted buyers have the first opportunity to purchase DBL units without competing with speculative investors or non-certified nonprofits, developers have shared anecdotal evidence that they sometimes struggle to find income-qualified buyers for for-sale units developed through DBL, leaving these affordable for-sale units sitting vacant, generating carrying costs and marketing costs for the homebuilder, before they can transfer the title to a qualified nonprofit to manage the initial sale to a low-income buyer. Sometimes, these restrictions deter developers from pursuing for-sale DBL projects altogether.

This bill would amend DBL to allow nonprofit corporations that receive a welfare exemption to purchase for-sale units developed under DBL without waiting 180 days after the issuance of a certificate of occupancy, so long as those units purchased by the nonprofit are sold to low-income families who participate in a below-market interest rate loan program. These organizations, like Habitat for Humanity and Self-Help Enterprises, are currently prohibited from partnering with market-rate homebuilders early in the planning process to create a pipeline of low-income for-sale homes due to the 180-day hold period. These nonprofit affordable housing organizations across California maintain lists of pre-qualified low-income families with approved financing, and ready to purchase affordable homes, and these units are often built by the nonprofit to be immediately sold to a low-income family upon issuance of the certificate of occupancy.

In doing so, this bill seeks to facilitate the sale and construction of for-sale affordable units under DBL by allowing qualified nonprofits to purchase these units sooner, allowing them to be sold to low-income families who participate in a below-market interest rate loan program, rather than allowing them to sit vacant for approximately half of a year before the unit can be sold if an income-qualified buyer does not buy the unit.

In its attempt to allow certain nonprofits to purchase these for-sale DBL units, this bill does not maintain some of the protections surrounding DBL for-sale units that were enacted by AB 323 (Holden) to ensure that these units are occupied by income-qualified households and remain affordable after the first purchaser sells the home. For example, this bill does not:

- Require units purchased by a nonprofit organization receiving a welfare exemption to remain affordable for 45 years;

- Require these for-sale DBL units to be both sold to *and occupied by* low-income families, just sold to them; or
- Subject these for-sale units to the standard equity sharing agreement established under DBL for for-sale units.

The Committee may wish to consider amendments to ensure those protections established in DBL and as amended by AB 323 (Holden) remain in place to ensure long-term affordability and to promote homeownership (not rental) opportunities. This bill would otherwise maintain the provisions of AB 323 (Holden) to limit the eligibility of who may purchase an income-restricted unit under DBL. Opponents of this measure maintain that allowing nonprofits to purchase the unit at the same time as other prospective buyers may result in owner-occupants having to compete with corporations seeking to purchase units intended for family occupancy.

**Income Levels:** This bill would require qualified nonprofits that receive a welfare exemption to sell these affordable homes to low-income families, but does not define low-income. Under the current DBL ownership framework, as established in Health and Safety Code (HSC) section 50052.5, for-sale units are available to the following households at the following affordable housing costs, adjusted for family size appropriate for the unit:

- For extremely low income households at 30% times 30% of the AMI;
- For very low income households at 30% times 50% of the AMI;
- For lower income households at 30% times 70% of the AMI, with the option to instead use 30% of the household's actual income for households between 70% and 80% of AMI; or
- For moderate income households between 28%–35% times 110% of the AMI, with the option to instead use 35% of the household's actual income for households between 110% and 120% of AMI.

By only specifying that the units are sold to low-income households without a statutory citation for the income and affordability levels of those units, this bill creates ambiguity around the proposed affordability structures. In order to maintain the bill's intent (excluding moderate-income households from this proposal) but better structuring the bill to fit within the state's existing for-sale affordable housing framework, the Committee may wish to consider amendments to require a qualifying nonprofit to sell the homes to extremely low, very low, and lower-income households, as defined in HSC 50052.5.

**Arguments in Support:** The California Home Building Alliance writes in support: “Developers who build income-restricted for-sale units under Density Bonus Law have demonstrated their challenges attempting to sell these units directly to homebuyers. Units are often sitting vacant for months, generating unnecessary market costs for developers who struggle and are not equipped to locate qualified low-income buyers. AB 939 provides a targeted and common sense fix by removing the 180-day resale restriction if the developer is partnering with a qualified nonprofit affordable housing organization for the transfer of units to be sold to low-income individuals with below interest rate mortgages directly. Importantly, AB 939 preserves all existing affordability covenants and resale restrictions, guaranteeing these homes remain affordable for at least 45 years. By enabling earlier collaboration between mission-driven nonprofits and developers, the bill accelerates affordable homeownership opportunities without any fiscal impact to the state.”

**Arguments in Opposition:** According to the California Association of Realtors, “AB 939 seeks to reverse amendments negotiated with the bill’s sponsor to permit corporate nonprofits to purchase deed restricted, density bonus units if a qualified buyer did not purchase the for-sale unit intended for owner occupancy within 180 days of construction. This bill, as amended, proposes to instead allow these corporations to purchase these units ahead of a qualified buyer, effectively undoing the legislation C.A.R. sponsored with Assemblymember Holden in 2023 (AB 323). If enacted, the bill allows corporate nonprofits to control all for sale deed restricted units acting as a developer, dual unlicensed real estate agents and lenders simultaneously for buyers seeking to obtain the dream of homeownership, without independent representation locking them into contracts that result in little to no equity growth for the occupant owner during their term of ownership.”

**Committee Amendments:**

In order to address the aforementioned policy considerations regarding the occupancy of the for-sale units, the ongoing affordability term, the affordability levels, and ensuring these for-sale units are subject to an equity sharing agreement, the Committee may wish to consider the following amendments:

Amend the existing bill text as follows:

(iii) The unit is purchased by a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that receive a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties to be sold to and occupied by extremely low, very low, and lower-income families who participate in a below-market interest rate loan program, that incorporates within their contracts for initial purchase a repurchase option that requires a subsequent purchaser of the property that desires to resell or convey the property to offer the qualified nonprofit corporation the right to repurchase the property prior to selling or conveying that property to any other purchaser pursuant to an equity sharing agreement or affordability restrictions on the sale and conveyance of the property that ensure that the property will be preserved for low income housing for at least 45 years for owner-occupied housing units and will be sold or resold only to persons or families of extremely low, very low, and lower income, as defined in Section 50052.5 of the Health and Safety Code.

Add and amend 65915(c)(2)(C) as follows:

The local government shall enforce an equity sharing agreement required pursuant to clause (i)-~~or~~, (ii), or (iii) of subparagraph (A), unless it is in conflict with the requirements of another public funding source or law or may defer to the recapture provisions of the public funding source. The following apply to the equity sharing agreement:

**Related Legislation:**

*AB 323 (Holden), Chapter 738, Statutes of 2023:* Amended DBL to ensure that qualified income-restricted buyers have the first opportunity to purchase DBL units without competing with speculative investors or non-certified nonprofits.

**REGISTERED SUPPORT / OPPOSITION:**

## **Support**

Habitat for Humanity (Sponsor)  
California Chambers of Commerce  
California Council for affordable Housing  
California Building Industry Association  
California Home Building Alliance  
Circulate San Diego  
Monterey Bay Economic Partnership  
SPUR

## **Opposition**

California Association of Realtors

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