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UNFINISHED BUSINESS

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Bill No: SB 838  
Author: Durazo (D)  
Amended: 9/5/25 in Assembly  
Vote: 21

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SENATE HOUSING COMMITTEE: 9-2, 4/22/25

AYES: Wahab, Arreguín, Cabaldon, Caballero, Cortese, Durazo, Gonzalez,  
Grayson, Padilla

NOES: Seyarto, Ochoa Bogh

SENATE LOCAL GOVERNMENT COMMITTEE: 5-1, 5/7/25

AYES: Durazo, Arreguín, Cabaldon, Laird, Wiener

NOES: Choi

NO VOTE RECORDED: Seyarto

SENATE FLOOR: 23-11, 6/2/25

AYES: Allen, Archuleta, Arreguín, Becker, Caballero, Cervantes, Cortese,  
Durazo, Gonzalez, Laird, Limón, McGuire, McNerney, Padilla, Pérez,  
Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson,  
Wiener

NOES: Alvarado-Gil, Cabaldon, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh,  
Seyarto, Strickland, Valladares

NO VOTE RECORDED: Ashby, Blakespear, Grayson, Hurtado, Menjivar, Reyes

ASSEMBLY FLOOR: 44-15, 9/11/25 – Roll call not available

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**SUBJECT:** Housing Accountability Act: housing development projects

**SOURCE:** Unite Here

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**DIGEST:** This bill revises the definition of housing development project in the Housing Accountability Act (HAA) to exclude projects that include any hotel or motel space in the commercial portion of a project.

*Assembly Amendments of 9/5/25* (1) Remove language applying this bill's provisions retroactively to project applications submitted prior to January 1, 2025; (2) allows local agencies to approve the residential and commercial portion of a project separate from the portion of the project that includes hotel or motel space; (3), Addresses chaptering conflicts with amendments to the HAA made by the Budget Act of 2025; and, (3) addresses chaptering conflicts with AB 1308 (Hoover).

## **ANALYSIS:**

Existing law:

- 1) Requires cities and counties to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policy objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.
- 2) Provides, pursuant to the HAA that a local government may only disapprove a housing development project under specified circumstances. Specifically, among other provisions, the HAA:
  - a) Prohibits a local agency, from disapproving a housing development project containing units affordable to very low-, low- or moderate-income households (herein after "housing development projects that contain affordable units"), or conditioning the approval in a manner that renders the housing development project infeasible, unless it makes one of the following findings, based upon substantial evidence in the record:
    - i) The jurisdiction has adopted a housing element in substantial compliance with the law, and the jurisdiction has met its share of the regional housing need for that income category;
    - ii) The project will have a specific, adverse impact on public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development unaffordable to very low-, low- or moderate-income households;

- iii) The denial or imposition of conditions is required to comply with state or federal law;
- iv) The project is located on agricultural or resource preservation land that does not have adequate water or wastewater facilities;
- v) The jurisdiction had adopted a revised housing element that was in substantial compliance with this article, and the housing development project or emergency shelter was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan, as specified; or,
- vi) The jurisdiction does not have an adopted revised housing element that was in substantial compliance with the law and the housing development project is not a "builder's remedy project."

This bill:

- 1) Revises the HAA definition of housing development project that are two-thirds residential and one-third commercial to exclude projects that include any hotel or motel space in the commercial portion of the project.
- 2) Allows local agencies to approve the residential and non-hotel/motel commercial portion of a mixed-use project as housing development project.

## **Background**

*HAA.* In 1982, in response to the housing crisis, which was viewed as threatening the economic, environmental, and social quality of life in California, the Legislature enacted the HAA, commonly referred to as the Anti-NIMBY Law. The purpose of the HAA is to help ensure that a city does not reject or make infeasible housing development projects that contribute to meeting the housing need determined pursuant to the Housing Element Law without a thorough analysis of the economic, social, and environmental effects of the action and without complying with the HAA. The HAA restricts a city's ability to disapprove, or require density reductions in, certain types of residential projects. The HAA does not preclude a locality from imposing developer fees necessary to provide public services or requiring a housing development project to comply with objective standards, conditions, and policies appropriate to the localities share of the regional housing needs assessment.

If a locality denies approval or imposes conditions that have a substantial adverse effect on the viability or affordability of a housing development for very low-, low,

or moderate-income households, and the denial or imposition of conditions is subject to a court challenge, the burden is on the local government to show that its decision is consistent with specified written findings.

The HAA was significantly amended last year by AB 1893 (Wick, Chapter 268, Statutes of 2024) which, among other provisions, eliminated some of the legal ambiguity surrounding the applicability of the builder's remedy, reduced the affordability standards projects must meet in order to qualify as a builder's remedy project, and revised the definition of "housing development project" in the HAA to allow additional categories of mixed-use developments to qualify as "housing development projects" eligible for HAA protections.

## Comments

*Author's Statement.* "The Legislature has made significant strides in easing housing development restrictions by providing incentives and streamlining benefits to projects that meet key housing requirements. The HAA, California's flagship housing production law, was designed to accelerate the creation of permanent homes to solve the state's housing crisis. Unfortunately, some developers are taking advantage of the HAA to gain incentives and fast-track approval for hotels and resorts. This undermines the law's core goal—building homes—and erodes public trust in California's housing policies. These hotel developments are diverting critical resources that are desperately needed for housing in California. The HAA was created to accelerate housing development, not commercial hotel projects. This abuse is occurring across the state, including in Sonoma County, Santa Clara County, Santa Monica, and Pacific Beach. Further, while important to the tourism economy, hotels place a unique, ongoing and significant demand on public resources such as water, energy, public safety services, transportation, and parking. Because of these impacts, hotels are better suited to local review. SB 838 restores the HAA's original purpose, reinforces the state's commitment to building housing, and ensures that California's housing laws deliver for the communities they were designed to serve."

*Unwanted housing?* The HAA limits the ability of local agencies to disapprove housing development projects that contain affordable units. By narrowing the definition of mixed-use projects that are even considered a "housing development project," this bill expands the ability of local agencies to disapprove development projects that contain affordable housing units.

The HAA codifies as state policy that local governments shall not reject or make infeasible housing development projects that contribute to meeting the state's housing needs, as expressed in Housing Element Law, without a thorough analysis of the effects of those actions, and without complying with specified criteria in the HAA. By narrowing the definition of housing development project, this bill revises state policy to suggest that the development of mixed-use housing projects that include any hotel or motel space are not a priority for the state.

The active language in the HAA effectuates the intent of codified state policy by prohibiting a local agency from disapproving housing development projects that contain affordable units, unless that jurisdiction can meet one of several specified criteria. For example, a local agency that has a compliant housing element can disapprove a housing development project that contains affordable units if that development is not consistent with the local agency's zoning. This implicitly prohibits a local agency from denying a housing development project that contains affordable units that is consistent with the local agency's zoning; additionally, it limits the ability of local agencies that lack a compliant housing element to deny housing development projects. Under this bill, however a zoning consistent mixed-use housing development project that is 100% to lower income households will no longer be eligible for HAA protection if the project includes any hotel space in the commercial third of the mixed-use project.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: No Local: No

**SUPPORT:** (Verified 9/9/25)

Unite Here International Union, Afl-cio (source)  
Abundance Network  
Alliance of Californians for Community Empowerment  
Asian Pacific American Labor Alliance, Los Angeles  
California Alliance for Retired Americans  
California Federation of Labor Unions, Afl-cio  
California Yimby  
City of Beverly Hills  
Coalition for Economic Survival  
East Bay Alliance for a Sustainable Economy  
Housing Now! CA  
Rise Economy  
Santa Monicans for Renters' Rights  
Strategic Actions for a Just Economy  
Streets for All

Thai Community Development Center  
Unite Here Local 11

**OPPOSITION:** (Verified 9/9/25)

Building Owners and Managers Association of California  
California Association of Collectors  
California Association of Realtors  
California Building Industry Association  
California Business Properties Association  
Lexor Builders  
Naiop California  
South Pasadena Residents for Responsible Growth  
The Two Hundred

**ARGUMENTS IN SUPPORT:** UNITE HERE International Union, and UNITE HERE Local 11, the bill co-sponsors, write in support: “California desperately needs more housing. Over the past few years, the Legislature has taken decisive action to ease restrictions on the development of residential units. Unfortunately, some hotel developers have taken advantage of loopholes created by these changes to develop luxury hotels. These projects are inconsistent with the purpose of housing streamlining laws—which were always intended to create more permanent housing—not hotels.

“SB 838 would close this loophole by amending §65589.5(h)(2) to specify that a project that intends to make use of housing streamlining laws may not include hotel uses. There is no evidence that hotels, as a rule, are needed to make housing projects financially feasible. On the other hand, allowing hotel rooms to be part of the “commercial” percentage of a mixed-use housing project just encourages developers to reduce the number of housing units in a project to replace them with hotel rooms. We believe hotels are added to housing projects opportunistically because the loophole allows it.”

**ARGUMENTS IN OPPOSITION:** The California Building Industry Association (CBIA) writes in opposition: “Our concerns with SB 838 rest in the fact that this policy could limit the financing tools available to make mixed-use development projects feasible. We oppose any policy that may limit viable options on the non-

residential use of any mixed-use project, which could negatively impact the supply of housing and inhibit the development of mixed-use projects...”

Prepared by: Hank Brady / HOUSING / (916) 651-4124  
9/11/25 10:50:03

\*\*\*\* **END** \*\*\*\*