
UNFINISHED BUSINESS

Bill No: SB 92
Author: Blakespear (D), et al.
Amended: 7/7/25 in Assembly
Vote: 21

SENATE HOUSING COMMITTEE: 9-1, 3/18/25

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

NOES: Ochoa Bogh

NO VOTE RECORDED: Caballero

SENATE LOCAL GOVERNMENT COMMITTEE: 6-0, 4/30/25

AYES: Durazo, Arreguín, Cabaldon, Laird, Seyarto, Wiener

NO VOTE RECORDED: Choi

SENATE FLOOR: 31-3, 5/28/25

AYES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon,
Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird,
Limón, McGuire, McNerney, Menjivar, Niello, Padilla, Pérez, Richardson,
Rubio, Seyarto, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson,
Wiener

NOES: Alvarado-Gil, Ochoa Bogh, Strickland

NO VOTE RECORDED: Choi, Dahle, Grove, Jones, Reyes, Valladares

ASSEMBLY FLOOR: 75-0, 9/3/25 - See last page for vote

SUBJECT: Housing development: density bonuses

SOURCE: City of San Diego

DIGEST: This bill limits the ability of development proponents to apply concessions, incentives, and development waivers under Density Bonus Law (DBL) to nonresidential uses, including hotel uses, as specified.

Assembly Amendments of 7/7/25 provide that a concession or incentive granted under DBL shall not result in a proposed project with a commercial floor area ratio that is greater than two and a half times the current allowed base zone commercial floor area ratio, as specified.

ANALYSIS:

Existing law:

- 1) Requires each city and county to adopt an ordinance that specifies how it will implement state DBL.
- 2) Requires cities and counties to grant a density bonus when an applicant for a housing development — defined as “five or more 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 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.
- 3) Requires a city or county to allow an increase in density on a sliding scale from 20% to 80%, depending on the percentage of units affordable to low- and very low-income households, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan. Requires the increase in density, on a sliding scale, for moderate-income for-sale developments from 5% to 50% over the otherwise allowable residential density.

- 4) Authorizes an applicant to a specified number of concessions and incentives, depending on the percentage of affordable housing units included in the project. “Concessions and incentives” means the following:
 - a) A reduction in site development standards, or a modification of zoning code requirements, or architectural design requirements, that exceed the minimum building standards, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required — resulting in identifiable and actual cost reductions, to provide for affordable housing costs, as specified.
 - b) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
 - c) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable and actual cost reductions to provide for affordable housing costs, as specified.
- 5) Precludes a local government from imposing any development standards that have the effect of physically precluding the construction of a density bonus project eligible for specified densities or concessions and incentives.

This bill:

- 1) Specifies that a concession or incentive granted under DBL shall not result in a proposed project with a commercial floor area ratio (FAR) that is more than 2.5 times the premises’ current allowed base zone commercial FAR.
- 2) Provides that 1), above, does not apply to proposed projects that have submitted a preliminary application or an entitlement application prior to January 1, 2026.
- 3) Provides that DBL does not require a local government to approve, grant a concession or incentive requiring approval of, or waive or reduce development standards for a hotel, motel, bed and breakfast inn, or other transient lodging, other than a residential hotel, component of a mixed-use housing development project.

Background

Density bonus law. Given California's high land and construction costs for housing, it is extremely difficult for the private market to provide housing units that are affordable to low- and even moderate-income households. Public subsidy is often required to fill the financial gap on affordable units. DBL allows public entities to reduce or even eliminate subsidies for a particular project by allowing a developer to include more total units in a project than would otherwise be allowed by the local zoning ordinance, in exchange for affordable units. Allowing more total units permits the developer to spread the cost of the affordable units more broadly over the market-rate units. The idea of DBL is to cover at least some of the financing gap of affordable housing with regulatory incentives, rather than additional subsidy.

Under existing law, if a developer proposes to construct a housing development with a specified percentage of affordable units, the city or county must provide all of the following benefits: a density bonus; incentives or concessions (hereafter referred to as incentives); waiver of any development standards that prevent the developer from utilizing the density bonus or incentives; and reduced parking standards. To qualify for benefits under DBL, a proposed housing development must contain a minimum percentage of affordable housing. If one of these options is met, a developer is entitled to a base increase in density for the project as a whole (referred to as a density bonus) and one regulatory incentive. Under DBL, a developer is entitled to a sliding scale of density bonuses, up to a maximum of 50% of the maximum zoning density and up to four incentives, as specified, depending on the percentage of affordable housing included in the project. At the low end, a developer receives 20% additional density for 5% very low-income units or 20% density for 10% low-income units. The maximum additional density permitted is 50%, in exchange for 15% very low-income units or 24% low-income units. Additionally, specified 100% affordable housing projects may receive up to an 80% density bonus. The developer also negotiates additional incentives, reduced parking, and design standard waivers, with the local government. This helps developers reduce costs while enabling a local government to determine what changes make the most sense for that site and community.

Comments

970 Turquoise Street project. In August 2024, the City of San Diego received an application for a project located at 970 Turquoise Street that is a mixed-use project containing 74 residential units, 10 of which have affordability restrictions. The project is eligible for three incentives or concessions under density bonus law, and the developer wanted to use one of those incentives to increase the floor-area ratio

for the commercial component of the development to accommodate 139 hotel rooms. To fit those hotel rooms and the bonus units that the project is entitled to under density bonus law, the developer requested a waiver of the city's 30 foot height limit to construct a 240-foot tall structure. The City of San Diego requested technical assistance from the Department of Housing and Community Development, which issued a letter on December 12, 2024, stating among other things that:

- a) "A requested incentive or concession must not just reduce costs (*i.e.*, support the economic feasibility of the project); that reduction in cost must be for the purposes of *providing affordable housing for lower-income or moderate-income households.*"
- b) "The purpose of incentives is to support the economic feasibility of *lower-income housing* specifically."
- c) Hotel rooms are not an "amenity" but rather a separate land use in a mixed-used project.
- d) "While [density bonus law] contains no explicit requirement for a minimum percentage of residential floor area in a mixed-use development, an interpretation that a project with the minimum of five residential units is essentially entitled to a theoretically infinite amount of non-residential floor area could result in an absurd outcome that does not further the fundamental purpose of [density bonus law]."

Narrowing the application of benefits of DBL in mixed income projects. This bill is intended to ensure that projects that benefit from density bonus law are primarily residential. This bill would amend DBL so that local governments are not required to approve incentives, concessions, or waivers for hotel, motel, bed and breakfast inn, or other transient lodging components, in mixed-use projects using DBL. It further provides that a concession or incentive shall not result in a proposed project with a commercial floor area ratio that is greater than two and a half times the premises' current allowed base zone commercial floor area ratio. The limits on commercial FAR expansion would only apply to projects that submit a preliminary application or entitlement application on or after January 1, 2026.

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

SUPPORT: (Verified 9/3/25)

City of San Diego (source)

City of Alameda

City of Carlsbad

State Building & Construction Trades Council of California

OPPOSITION: (Verified 9/3/25)

Abundant Housing LA
Bay Area Council
California Association of Realtors
California Building Industry Association
East Bay Leadership Council
Housing Action Coalition
Inner City Law Center
Spur
The Two Hundred

ARGUMENTS IN SUPPORT: According to the author, “The California Legislature created the density bonus law to encourage private market developers to include deed-restricted affordable housing in their projects in exchange for zoning waivers and concessions. Legislators carefully constructed this law to require a fair exchange between developers and the communities they were building in. A project application submitted last fall to the City of San Diego exposed a loophole that, in the words of the Department of Housing and Community Development, leads to “... An absurd outcome that would not further the fundamental purpose of the law.” The project application in question requests waivers that would allow the project to override the community’s 30 foot height limit to build a 239-foot tower, consisting mostly of luxury hotel rooms, while only providing 10 deed-restricted affordable housing units to the community. This is an unacceptable abuse of the law. Considering the dire need for affordable housing, it is incumbent upon us to ensure our housing laws are working as intended. SB 92 will close the loophole brought to light by this project and ensure density bonus law provides the fair bargain it was designed to deliver.”

ARGUMENTS IN OPPOSITION: Writing to a substantially different and prior version of the bill, the opposition was opposed to narrowing the focus of the kinds of projects that were eligible for the benefits under density bonus law. They were concerned that narrowing the eligibility for DBL to only certain mixed-use projects would unduly restrict the ability to make those mixed-use projects pencil out.

ASSEMBLY FLOOR: 75-0, 9/3/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Chen, Connolly, Davies, DeMaio, 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, Stefani, Ta, Valencia, Wallis, Ward, Wicks, Wilson,
Zbur, Rivas

NO VOTE RECORDED: Castillo, Dixon, Sanchez, Tangipa

Prepared by: Alison Hughes / HOUSING / (916) 651-4124
9/3/25 18:38:07

****** END ******